



**HOUSE OF REPRESENTATIVES
FEDERAL REPUBLIC OF NIGERIA**

AD-HOC COMMITTEES ON PETROLEUM INDUSTRY BILLS

REPORT ON

**A BILL FOR AN ACT TO PROVIDE FOR THE GOVERNANCE AND INSTITUTIONAL
FRAMEWORK FOR THE PETROLEUM INDUSTRY AND FOR OTHER RELATED
MATTERS (HB. 477)**

PETROLEUM INDUSTRY GOVERNANCE BILL 2018



PROVISIONS OF ORIGINAL BILL	JOINT COMMITTEE RECOMMENDATION	REMARKS
ARRANGEMENT OF SECTIONS	RETAINED	
SECTION	RETAINED	
PART I – OBJECTIVES	RETAINED	
1. Objectives	RETAINED	
PART 2 - THE MINISTER	RETAINED	
2. Functions and powers of the Minister	RETAINED	
3. Rights of pre-emption	RETAINED	
PART 3 - NIGERIA PETROLEUM REGULATORY COMMISSION	RETAINED	
4. Establishment of the Nigeria Petroleum Regulatory Commission	RETAINED	

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5. Objectives of the Commission	RETAINED
6. Functions of the Commission	RETAINED
7. Powers of the Commission	RETAINED
8. Regulations	RETAINED
9. Decisions and orders made by the Commission	RETAINED
10. Commission to give notice to interested parties	RETAINED
11. Engagement of expertise support	RETAINED
12. Question of law may be referred to the Federal High Court	RETAINED
13. Governing Board of the Commission	RETAINED
14. Functions of the Governing Board	RETAINED
15. General policy directions	RETAINED
16. Remuneration and allowances of members of the Board	RETAINED
17. Disqualification and cessation of	RETAINED

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appointment		
18. Resignation of a member of the Board	RETAINED	
19. Vacancy on the Board	RETAINED	
20. The Chief Executive Commissioner and Executive Commissioners	RETAINED	
21. Appointment, tenure, remuneration and conditions of service of the Chief Executive Commissioner and the Executive Commissioners	RETAINED	
22. Disqualification from appointment	RETAINED	
23. Other staff, etc.	RETAINED	
24. Pensions	RETAINED	
25. Financial provisions	RETAINED	
26. Funding	RETAINED	
27. Power to accept grants	RETAINED	
28. Accounts and audit	RETAINED	
29. Mid-year and annual reports	RETAINED	

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30. Exemption from income tax	RETAINED	
31. Limitation of suits against the Commission, etc.	RETAINED	
32. Service of court process on the Commission	RETAINED	
33. Restriction on execution against the Commission's property	RETAINED	
34. Special Investigation Unit	RETAINED	
35. Indemnity of Board members and employees	RETAINED	
	PART 4 - ESTABLISHMENT OF PETROLEUM EQUALISATION FUND	
	36. Establishment of the Petroleum Equalisation Fund	
	37. Objectives of the Petroleum Equalisation Fund	
	38. Functions of the Equalisation Fund	
	39. Decisions and orders made by the Equalisation Fund	

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	40. Equalisation Fund to give notice to interested parties	
	41. Engagement of Expertise Support	
	42. Question of law may be referred to the Federal High Court	
	43. Governing Board of the Equalisation Fund	
	44. Functions of the Governing Board.	
	45. General policy directions	
	46. Remuneration and allowances of members of the board	
	47. Disqualification and cessation of appointment	
	48. Resignation of a non-executive member of the board	
	49. Vacancy on the board	
	50. The Executive Secretary and Executive Directors	
	51. Appointment, tenure, remuneration and conditions of service of the Executive Secretary and the Directors	

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	52. Disqualification from appointment	
	53. Other staff, etc.	
	54. Pensions	
	55. Financial provisions	
	56. Utilisation of the fund	
	57. Power to accept grants	
	58. Accounts and audit	
	59. Mid-year and annual reports	
	60. Exemption from income tax	
	61. Limitation of suits against the Equalisation Fund, etc.	
	62. Service of court process on the Equalisation Fund	
	63. Restriction on execution against the Equalisation Fund's property	

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	64. Indemnity of board members and employees	
	65. Executive Secretary	
	66. Responsibilities of the Executive Secretary	
	67. Other officers of the Board	
	68. Collection of net surplus revenue	
	69. Bridging and equalisation allowances	
	70. Claims by petroleum products marketing companies	
	71. Calculation of surplus revenue recoverable	
	72. Prescribed dates for payment and penalty for non-payment	
	73. Certificate as evidence	
	74. Reporting obligations	
	75. Dispute resolution	
PART 4 - Establishment of Commercial	PART 5 - Establishment of Commercial	Paragraph amended to correct

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Entities	Entities	numbering.
36. Establishment of the Ministry of Petroleum Incorporated	75. Establishment of the Ministry of Petroleum Incorporated	
37. Incorporation of the Nigeria Petroleum Assets Management Company and the National Petroleum Company	76. Incorporation of the Nigeria Petroleum Assets Management Company and the National Petroleum Company	
PART 5 - Nigeria Petroleum Assets Management Company	PART 6 - Nigeria Petroleum Assets Management Company	Paragraph amended to correct numbering.
38. The Nigeria Petroleum Assets Management Company.	77. The Nigeria Petroleum Assets Management Company.	
39. Business or objects of the Management Company	78. Business or objects of the Management Company	
40. Engagement of technical support	79. Engagement of technical support	
41. Transfer of assets and liabilities	80. Transfer of assets and liabilities	
42. Conclusive evidence	81. Conclusive evidence	
43. Release from liability or obligation	82. Release from liability or obligation	
44. Enforcement or continuation of any cause of action or proceedings	83. Enforcement or continuation of any cause of action or proceedings	

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45. Transfer not deemed to constitute a breach of contract	84. Transfer not deemed to constitute a breach of contract
46. Guarantee or surety	75. Guarantee or surety
47. Dividend policy	76. Dividend policy
48. Funding	77. Funding
49. Provision of records etc. to the Management Company	78. Provision of records etc. to the Management Company
50. Further order amending a Transfer Order	79. Further order amending a Transfer Order
51. Directions to the NNPC on matters related to transition	80. Directions to the NNPC on matters related to transition
52. Transfer of employees to the Management Company and conditions of service of transferred employees	81. Transfer of employees to the Management Company and conditions of service of transferred employees
53. Exemption from stamp duty and other charges	82. Exemption from stamp duty and other charges
54. Certain exemption from rates	83. Certain exemption from rates
55. Composition and appointment of the Board	84. Composition and appointment of the Board
56. Terms of office of members of the Board	85. Terms of office of members of the Board

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57. Management and governance of the Management Company	86. Management and governance of the Management Company	
58. Matters reserved for the shareholders	87. Matters reserved for the shareholders	
59. Publication of annual report and annual accounts of the Management Company	88. Publication of annual report and annual accounts of the Management Company	
60. Protection of land belonging to the Management Company	89. Protection of land belonging to the Management Company	
PART 6 - NATIONAL PETROLEUM COMPANY	PART 7 - NATIONAL PETROLEUM COMPANY	Paragraph amended to correct numbering.
61. Shareholding of the National Petroleum Company	90. Shareholding of the National Petroleum Company	
62. Exemption from certain laws	91. Exemption from certain laws	
63. Initial funding of the National Petroleum Company	92. Initial funding of the National Petroleum Company	
64. Assessment and offset of liabilities of the National Petroleum Company	93. Assessment and offset of liabilities of the National Petroleum Company	
65. Retention of revenue and dividend policy	94. Retention of revenue and dividend policy	
66. Divestment of shares of the National	95. Divestment of shares of the National	

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Petroleum Company	Petroleum Company	Petroleum Company
67. Transfer of employees, assets and liabilities	67. Transfer of employees, assets and liabilities	
68. Conclusive evidence	68. Conclusive evidence	
69. Release from liability or obligation	69. Release from liability or obligation	
70. Enforcement or continuation of any cause of action or proceedings	70. Enforcement or continuation of any cause of action or proceedings	
71. Transfer not deemed to constitute a breach of contract	71. Transfer not deemed to constitute a breach of contract	
72. Guarantee or surety	72. Guarantee or surety	
73. Provision of records etc. to the National Petroleum Company	73. Provision of records etc. to the National Petroleum Company	
74. Further order amending a transfer order	74. Further order amending a transfer order	
75. Directions to NNPC on matters related to transition	75. Directions to NNPC on matters related to transition	
76. Transfer of employees to the National Oil Company	76. Transfer of employees to the National Oil Company	Amended for consistency
77. Delisting of assets	77. Delisting of assets	

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78. Exemption from stamp duty and other charges	107. Exemption from stamp duty and other charges
79. Composition and Appointment of the Board	108. Composition and Appointment of the Board
80. Management and governance of the National Petroleum Company	109. Management and governance of the National Petroleum Company
81. Terms of office of members of the Board	110. Terms of office of members of the Board
82. Matters reserved for the Shareholders.	111. Matters reserved for the Shareholders.
83. Publication of annual report and annual account of the National Petroleum Company	112. Publication of annual report and annual account of the National Petroleum Company
84. Certain exemption from rates	113. Certain exemption from rates
85. Protection of National Petroleum Company's land	114. Protection of National Petroleum Company's land
PART 7 - REPEALS, TRANSITIONAL AND SAVINGS PROVISIONS	PART 8 - REPEALS, TRANSITIONAL AND SAVINGS PROVISIONS
86. Adaptation of laws	115. Adaptation of laws
87. Repeals	116. Repeals
88. Saving provisions	117. Saving provisions

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89. Transfer of staff, etc.	118. Transfer of staff, etc.	
90. Cessation of employment	119. Cessation of employment	
91. Application of subsisting contracts	120. Application of subsisting contracts	
92. Interpretation	121. Interpretation	
93. Short Title	Short Title	
SCHEDULES	RETAINED	
First Schedule	RETAINED	
Second Schedule	RETAINED	
Third Schedule	RETAINED	
Fourth Schedule	RETAINED	
Fifth Schedule	RETAINED	
EXPLANATORY MEMORANDUM	RETAINED	
A Bill for: An Act to Provide for the Governance and Institutional Framework for the Petroleum Industry	RETAINED	

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and for Other Related Matters			
[Commencement Date		RETAINED	
Enacted by the National Assembly of the Federal Republic of Nigeria		RETAINED	
PART I - OBJECTIVES		RETAINED	
1. Objectives		RETAINED	
The objectives of this Act shall be to: -		RETAINED	
(a) create efficient and effective governing institutions with clear and separate roles for the petroleum industry;		RETAINED	
(b) establish a framework for the creation of commercially oriented and profit driven petroleum entities that ensure value addition and internationalization of the petroleum industry;		RETAINED	The word "that" is replaced with "to" for clarity
(c) promote transparency and accountability in the administration of petroleum resources of Nigeria; and		RETAINED	
(d) foster a conducive business environment for petroleum industry operations.		RETAINED	
PART 2 - THE MINISTER		RETAINED	

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<p>2. Functions and powers of the Minister</p>	<p>RETAINED</p>	
<p>(1) The Minister shall-</p>	<p>RETAINED</p>	
<p>(a) be responsible for the determination, formulation and monitoring of Government policy for the petroleum industry;</p>	<p>RETAINED</p>	
<p>(b) exercise general supervision over the affairs and operations of the petroleum industry subject to the provisions of this Act;</p>	<p>RETAINED</p>	
<p>(c) report developments in the petroleum industry to the Federal Executive Council;</p>	<p>DELETED</p>	<p>Deleted as this is already a core responsibility of the Minister</p>
<p>(d) advise the Government on all matters pertaining to the petroleum industry;</p>	<p>RETAINED</p>	
<p>(e) promote the development of local content in the Nigerian petroleum industry;</p>	<p>RETAINED</p>	
<p>(f) represent Nigeria at international organisations that are primarily concerned with the petroleum industry;</p>	<p>RETAINED</p>	
<p>(g) negotiate and execute international petroleum treaties and agreements with other sovereign countries, international organizations and other similar bodies on behalf of the Government;</p>	<p>(g) negotiate and execute international petroleum treaties and agreements with other countries, international organizations and other similar bodies on behalf of the Government;</p>	<p>The word sovereign deleted for superfluity.</p>

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<p>(h) upon the recommendation of the Commission, grant, amend, renew, extend or revoke any licence or lease required for petroleum exploration or production pursuant to the provisions of this Act or any other enactment; and</p>	<p>DELETED</p>	<p>Function transferred to the Commission.</p>
<p>(i) do all such other things as are incidental to and necessary for the performance of the functions of the Minister under this Act.</p>	<p>RETAINED</p>	
<p>(2) The Minister may in writing delegate to any other person or institution any power or function conferred on him by or under this Act.</p>	<p>(3) The Minister may in writing delegate to any senior officer of the Ministry or institution any power or function conferred on him by or under this Act.</p>	<p>Subsection amended to provide clarity on who the Minister may delegate to</p>
<p>3. Rights of pre-emption</p>	<p>RETAINED</p>	
<p>(1) In the event of a state of national emergency as specified in the Constitution of the Federal Republic of Nigeria, 1999, the Minister shall have the right of pre-emption of all petroleum products obtained, marketed or otherwise dealt with under any license or lease granted under this Act or any other enactment.</p>	<p>In the event of a state of national emergency as specified in the Constitution of the Federal Republic of Nigeria, 1999, as amended, the Minister shall have the right of pre-emption of all petroleum and petroleum products obtained, marketed or otherwise dealt with under any license or lease granted under this Act or any other enactment.</p>	<p>Subsection amended to provide accurate citation of constitution.</p>
<p>(2) The provisions of the First Schedule to this Act shall have effect in relation to the rights referred</p>	<p>RETAINED</p>	

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<p>to in subsection (1) of this section.</p> <p>(3) Any person, who fails or neglects to comply with a requisition made by or on behalf of the Minister under paragraphs 1, 2 or 7 of the First Schedule to this Act, or fails to conform or to obey a direction issued by the Minister under paragraph 8 of the First Schedule to this Act, commits an offence and is liable on conviction to a fine not above N10,000,000.00 or to imprisonment for a period not exceeding six months or both.</p>	<p>(3) Any person, who fails or neglects to comply with a requisition made by or on behalf of the Minister under paragraphs 1, 2 or 7 of the First Schedule to this Act, or fails to conform or to obey a direction issued by the Minister under paragraph 8 of the First Schedule to this Act, commits an offence and is liable on conviction to forfeiture of the petroleum product and facilities subject of the offence and to imprisonment for a period not exceeding ten years.</p>	<p>The subsection is amended to require forfeiture of the petroleum product and facilities subject of the offence and to increase the term of imprisonment to 10 years in order to properly reflect the gravity of the offence as an economic sabotage</p>
<p>(4) Any person who obstructs or interferes with the Minister, his servants or agents in the exercise of the powers conferred on the Minister under paragraph 8 of the First Schedule to this Act, shall be liable to a fine not above N5,000,000.00 or to imprisonment for a period not exceeding six months or to both.</p>	<p>(4) Any person who obstructs or interferes with the Minister, his servants or agents in the exercise of the powers conferred on the Minister under paragraph 8 of the First Schedule to this Act, shall be liable to forfeiture of the petroleum products and facilities subject of the offence and to imprisonment for a period not exceeding ten years.</p>	<p>The subsection is amended to require forfeiture of the petroleum products and facilities subject of the offence and to increase the term of imprisonment to 10 years in order to properly reflect the gravity of the offence as an economic sabotage</p>
<p>(5) The Minister may by regulation increase the financial penalties imposed under subsections 3 and 4 of this section.</p>	<p>DELETED</p>	<p>Subsection deleted since the prior amendment removes the option of fine.</p>
<p>PART 3 - NIGERIA PETROLEUM REGULATORY COMMISSION</p>		

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<p>4. Establishment of the Nigeria Petroleum Regulatory Commission</p>	<p>RETAINED</p>	
<p>(1) There is established under this Act the Nigeria Petroleum Regulatory Commission ("the Commission") as a body corporate with perpetual succession and a common seal and which may sue or be sued in its corporate name.</p>	<p>RETAINED</p>	
<p>(2) The Commission shall have power to -</p>	<p>RETAINED</p>	
<p>(a) enter into contracts and incur obligations;</p>	<p>RETAINED</p>	
<p>(b) acquire, hold, mortgage, purchase and deal with property, whether movable or immovable, real or personal; and</p>	<p>RETAINED</p>	
<p>(c) do all such things as are necessary for or incidental to the carrying out of its functions and duties under this Act.</p>	<p>RETAINED</p>	
<p>(3) From the date of the commencement of this Act, without further assurance, the Commission shall be vested with all assets, funds, resources and other movable and immovable properties which immediately before the commencement of this Act were held by the Petroleum Inspectorate, the Department of Petroleum Resources and the Petroleum Products Pricing Regulatory Agency.</p>	<p>(3) From the Effective Date, without further assurance, 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 <i>Petroleum Inspectorate</i>, the <i>Department of Petroleum Resources</i> and the <i>Petroleum Products Pricing Regulatory Agency</i>.</p>	<p>Subsection amended to use the defined term "Effective Date".</p>

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	RETAINED	
	RETAINED	<p>(a) the rights, interests, obligations and liabilities of the Petroleum Inspectorate, Department of Petroleum Resources and the Petroleum Products Pricing Regulatory Agency existing immediately before the Effective Date under any contract or instrument or law or in equity shall by virtue of this Act be assigned to and vested in the Commission;</p>
	RETAINED	<p>(b) any such contract or instrument covered by subsection 4(a) of this section shall be of the same force and effect against or in favour of the Commission and shall be enforceable as fully and effectvely as if instead of the Petroleum Inspectorate, Department of Petroleum Resources or the Petroleum Products Pricing Regulatory Agency, the Commission had been named therein or had been a party thereto; and</p>
	RETAINED	<p>(c) the Commission shall be subject to all the obligations and liabilities to which the Petroleum Inspectorate, Department of Petroleum Resources and the Petroleum Products Pricing Regulatory Agency were subject immediately before the Effective Date and all other persons shall as from the Effective</p>

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<p>Date have the same rights, powers and remedies against the Commission as they had against the Petroleum Inspectorate, Department of Petroleum Resources and the Petroleum Products Pricing Regulatory Agency immediately before the Effective Date.</p>		
<p>(5) The Commission shall be structured into departments as its Board may, from time to time, deem appropriate for the effective discharge of its functions under this Act.</p>	<p>RETAINED</p>	
<p>5. Objectives of the Commission</p>	<p>RETAINED</p>	
<p>The Commission shall -</p>	<p>RETAINED</p>	
<p>(a) promote the healthy, safe and efficient conduct of all petroleum operations in an environmentally friendly and sustainable manner;</p>	<p>RETAINED</p>	
<p>(b) promote the efficient, safe, effective and sustainable infrastructural development of the petroleum industry;</p>	<p>RETAINED</p>	
<p>(c) ensure compliance with all applicable laws and regulations governing the petroleum industry;</p>	<p>RETAINED</p>	
<p>(d) determine and ensure the implementation and maintenance of technical standards, codes and</p>	<p>RETAINED</p>	

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specifications applicable to the petroleum industry in line with global best practice;			
(e) subject to the provisions of this Act, execute Government policies for the petroleum industry assigned to it by the Minister;	RETAINED		
(f) promote an enabling environment for investments in the petroleum industry;	RETAINED		
(g) ensure that regulations are fair and balanced for all classes of lessees, licensees, permit holders, consumers and other stakeholders;	RETAINED		
(h) in consultation with the Ministry of Environment, ensure strict implementation of environmental policies, laws and regulations as pertains to oil and gas operations; and	(h) ensure strict implementation of environmental policies, laws, regulations and standards as pertains to oil and gas operations; and		Paragraph amended to remove the requirement for consultation with the Ministry of Environment to domicile environmental matters for the petroleum industry in the Commission and to include the term "standards" which is missing in the provision.
(i) implement such other objectives as are consistent with the provisions of this Act.	RETAINED		
6. Functions of the Commission	RETAINED		
(1) The Commission shall -	RETAINED		
(a) administer and enforce policies, laws and regulations relating to all aspects of petroleum	RETAINED		

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<p>operations which are assigned to it under the provisions of this Act or any regulations made in pursuance of this Act or under any other enactment;</p>		
<p>(b) monitor and enforce compliance with the terms and conditions of all leases, licences, permits and authorisations issued in respect of any petroleum operations;</p>	<p>RETAINED</p>	
<p>(c) define and enforce approved standards for design, construction, fabrication, operation and maintenance for all plants, installations and facilities utilized or to be utilized in petroleum operations;</p>	<p>RETAINED</p>	
<p>(d) in consultation with the Ministry of Environment, ensure adherence to applicable national and international environmental and other technical standards by all persons involved in petroleum operations;</p>	<p>(e) in consultation with the Ministry of Environment or any other agency in charge of environmental issues, ensure adherence to applicable national and international environmental and other technical standards by all persons involved in petroleum operations;</p>	<p>Paragraph amended to include the requirement for consultation with the Ministry of Environment and any other agency in charge of environmental matters.</p>
<p>(f) establish, monitor, regulate and enforce health and safety measures relating to all aspects of petroleum operations;</p>	<p>RETAINED</p>	
<p>(g) keep public registers of all leases, licences, permits and other authorizations issued by the</p>	<p>RETAINED</p>	

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<p>Commission or the Minister and any renewals, amendments, extensions, suspensions and revocations thereof;</p>		
<p>(h) monitor the activities of the holders of leases, licences, permits and other authorizations issued by the Commission or the Minister to secure and enforce compliance with the terms and conditions thereof and carry out enquiries, tests, audits, investigations and any other undertakings deemed necessary for performance of this responsibility;</p>	<p>RETAINED</p>	
<p>(i) publish reports and statistics on the petroleum industry;</p>	<p>RETAINED</p>	
<p>(j) develop and publish methodologies for tariffs and pricing relating to third party access to petroleum facilities from time to time by regulation ;</p>	<p>RETAINED</p>	
<p>(k) establish the framework for the validation and certification of national hydrocarbon reserves; and</p>	<p>RETAINED</p>	
<p>(l) advise the Minister on fiscal and other issues pertaining to the petroleum industry.</p>	<p>RETAINED</p>	
<p>(m) undertake evaluation of national reserves and reservoir management studies;</p>	<p>RETAINED</p>	

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(n) conduct regular audits of the activities of operators engaged in petroleum operations and oil service companies in order to ensure compliance with Nigerian laws and requirements for petroleum operations;	RETAINED	
(o) maintain a petroleum industry data bank comprising all data acquired by or given to the Commission in the exercise of its statutory functions;	RETAINED	
(p) supervise and ensure accurate calibration and certification of equipment used for fiscal measures for upstream petroleum operations;	(o) supervise and ensure accurate calibration and certification of equipment used for fiscal measures for upstream and downstream petroleum operations;	Paragraph amended to include the term "downstream" for accuracy.
(q) issue licences or permits and any other authorisations necessary for all activities connected with, but not limited to the following:	RETAINED	
(i) Seismic.	RETAINED	
(ii) Drilling.	RETAINED	
(iii) Design, fabrication, construction, commissioning and decommissioning of all facilities for upstream petroleum operations, and	Design, fabrication, construction, commissioning and decommissioning of all facilities for upstream and downstream petroleum operations, and	Paragraph amended to include the term "downstream" for accuracy.

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(iv) Maximum efficiency rate test and other well test/production related activities;	RETAINED	
(r) manage and administer all unallocated acreage of crude oil and natural gas and all upstream petroleum data;	RETAINED	
(s) conduct bid rounds or other processes for the award of any licence or lease required for petroleum exploration or production;	RETAINED	
(t) make recommendations to the Minister for the issuance, modification, amendment, extension, suspension, review, cancellation and reissuance, revocation and / or termination of upstream licences made in compliance with applicable laws and regulations;	(s) issue, modify, amend, extend, suspend, review, cancel and reissue, revoke and / or terminate upstream licences made in compliance with applicable laws and regulations;	Paragraph amended to domicile the power for issuing and revoking licences in the Commission.
(u) approve all field development programmes;	RETAINED	
(v) allocate petroleum production quotas;	(u) allocate petroleum production quotas in a non-discriminatory manner;	Paragraph amended by adding the phrase "in a non-discriminatory manner" to ensure transparency in quota allocation process.
(w) develop benchmarks and cost management strategies for petroleum operations performance monitoring;	(v) RETAINED	
(x) compute, assess and ensure payment of	(w) RETAINED	

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royalties, rentals, fees, and other charges for upstream petroleum operations; and		
(y) issue clean certificates of inspection at the oil terminals to exporters of crude oil upon satisfaction that the requirements as to quality and quantity have been complied with.	(x) RETAINED.	
(z) regulate and co-ordinate the activities of the industry in a non-discriminatory and transparent manner;	RETAINED	
(aa) establish the methodology for determining appropriate tariffs for gas processing; gas transmission; and transportation of crude oil; and bulk storage of oil and gas.	(z) establish the methodology for determining appropriate tariffs for gas processing, gas transportation, transmission and transportation of crude oil and bulk storage of oil and gas.	Paragraph amended to correct mistake in punctuation to improve grammatical accuracy.
(bb) develop cost benchmarks for key elements of midstream & downstream petroleum operations;	RETAINED	
(cc) regulate bulk storage, transportation and transmission of crude oil and gas and set rules for the common carrier systems for crude oil and gas;	RETAINED	
(dd) promote the principles of sustainable infrastructural development;	RETAINED	

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(ee) promote competition and private sector participation;	RETAINED	
(ff) ensure that all economic and strategic demands for gas in the domestic economy are met;	RETAINED	
(gg) monitor and enforce the actual application of tariffs and pricing frameworks;	RETAINED	
(hh) monitor market behaviour including the development and maintenance of competitive markets;	RETAINED	
(ii) arrest situations of abuse of dominant power and restrictive business practices;	RETAINED	
(jj) provide the standard for metering, inspect the metering of pumps and all other facilities and ensure their compliance with safety standards as prescribed by the Commission;	RETAINED	
(kk) grant, issue and renew licences, permits and authorisations including but not limited to licences, permits or authorisations for downstream gas, petroleum products, storage depots, retail outlets, transportation and distribution facilities and the design, fabrication, construction, commissioning and decommissioning of all facilities including those	(jj) grant, issue and renew licences, permits and authorisations including but not limited to licences, permits or authorisations for downstream gas, petroleum products, storage depots, retail outlets, transportation and distribution facilities for the petroleum industry and the design, fabrication, construction, commissioning, and decommissioning of all	Paragraph amended for accuracy.

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for gas and petrochemicals and prescribe requirements to be satisfied by applicants for these purposes.	facilities and prescribe requirements to be satisfied by applicants for these purposes.	
(ll) modify, amend, extend, suspend, review, cancel and reissue, revoke and / or terminate licences, permits and authorisations;	RETAINED	
(mm) establish methodology for calculating the fair market value of petroleum products;	(ll) establish framework for calculating the fair market value of petroleum products;	The word "methodology" is replaced with "framework" for accuracy.
(nn) regulate and set rules for petroleum products distribution, petroleum product pipelines, retail outlets and storage depots;	(mm) regulate and set rules for petroleum products distribution, petroleum product pipelines, retail outlets, trucking of petroleum products and storage depots;	Paragraph amended to extend the coverage of Commission's regulatory powers to the trucking of petroleum products.
(oo) ensure security of petroleum products supply, market development and the development of competition;	RETAINED	
(pp) develop market rules for trading in wholesale gas supplies to downstream gas distributors;	RETAINED	
(qq) establish customer protection measures;	RETAINED	
(rr) undertake consultation with customers, licensees and other industry participants, where necessary, for purpose of:	RETAINED	
(i) promoting and protecting the interests of	RETAINED	

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<p>consumers; and (ii) (iii) promoting the principles of sustainable resource and infrastructural development through the efficient supply and use of downstream gas and other petroleum products;</p>	<p>RETAINED</p>	
<p>(rr) regulate and ensure the supply, distribution, marketing and retail of petroleum products;</p>	<p>RETAINED</p>	
<p>(ss) administer and monitor the national operating and strategic stocks as set by the Minister;</p>		
<p>(tt) monitor and enforce the actual application of petroleum product pricing formulae or framework for petroleum products;</p>	<p>RETAINED</p>	
<p>(uu) enforce consumer rights in relation to petroleum products and services;</p>	<p>RETAINED</p>	
<p>(vv) establish appropriate dispute settlement mechanisms relating to the commercial rights and obligations of operators and customers pursuant to the provisions of this Act or any other enactment or; regulation, provided that operators and customers shall reserve the right to resolve disputes in accordance with the terms of their contracts or approach a court with jurisdiction in the matter;</p>	<p>RETAINED</p>	

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(ww) inspect the metering of pumps and any other facilities at downstream retail outlets to ensure compliance with safety standards;	(ww) inspect the metering of pumps and any other facilities at downstream retail outlets to ensure compliance with safety, measurement and technical standards;	Paragraph amended to include "measurement and technical" after safety to improve accuracy.
(xx) establish, monitor and regulate health, environmental and safety measures relating to the management of downstream assets, including but not limited to refineries, petrochemical plants, lube plants, petroleum depots & pipelines and downstream gas plants;	RETAINED	
(yy) monitor and ensure the quality and process of conversion or blending of whatever material by whatever method to fuels, bio-fuels or other petroleum derivatives for automotive use in Nigeria;	RETAINED	
(zz) Monitor and ensure the quality of petroleum products sold in Nigeria.	(zz) Monitor and ensure the quality of petroleum products sold in Nigeria.	Paragraph amended for accuracy
(2) In addition to the functions specified above, the Commission shall:	RETAINED	
(a) develop open access rules applicable to crude oil and petroleum products and natural gas transportation pipelines, strategic depots, loading facilities, transportation, transmission and bulk storage facilities;	RETAINED	

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(b) notwithstanding the provisions of any other law or regulations, exclusively supervise and ensure accurate calibration and certification of equipment used for fiscal measures in the industry;	RETAINED	
(c) undertake by itself or through qualified expertise such other activities as are necessary or expedient for giving full effect to the provisions of this Act; and	RETAINED	
(d) do such other things as are necessary and expedient for the effective and full discharge of any of its functions under this Act.	RETAINED	
(3) The Commission shall, in addition to its other functions:	RETAINED	
(a) promote the exploration of the frontier basins of Nigeria;	RETAINED	
(b) develop exploration strategies and portfolio management for the exploration of unassigned frontier acreages in Nigeria;	RETAINED	
(c) identify opportunities and increase information about the petroleum resources base within all frontier acreages in Nigeria; and	RETAINED	
(d) undertake studies, analyse and evaluate all	RETAINED	

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unassigned frontier acreages in Nigeria;			
(4) Collaboration and Consultation with other Agencies	RETAINED		
(a) In performing its functions as provided in this section, the Commission shall, where applicable, collaborate with other relevant Government agencies.	RETAINED		
(b) Notwithstanding the provisions of any other law or regulation, no Government agency shall exercise any powers and functions in relation to the petroleum industry in conflict with the powers and functions of the Commission.	RETAINED		
(c) All Government agencies exercising any lawful powers and functions in relation to the petroleum industry shall consult with the Commission in the issuance of any regulations, orders or directives which may impact the petroleum industry.	RETAINED		
(5) Responsibility for the Environment	(5) Responsibility for Environmental Matters in the Petroleum Industry	Title amended to reflect actual provision of subsection.	
(a) Without prejudice to the overall responsibility of the Federal Ministry of Environment, the Commission shall have responsibility over all	(a) The Commission shall have responsibility over all aspects of health, safety and environmental matters in respect of the	Full responsibility for environmental matters in the petroleum industry is vested in the Commission.	

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aspects of health, safety and environmental matters in respect of the petroleum industry.	petroleum industry.		
(b) The Commission shall at all times ensure that any regulation or directive in respect of the petroleum industry, made in pursuance of subsection (5)(a) of this section, shall not conflict with any regulation or directive issued by the Federal Ministry of the Environment.	DELETED		Deleted to bring the Bill into alignment with the justification above.
(c) For the avoidance of doubt the Commission shall, in consultation with the Federal Ministry of Environment, make regulations and issue directives specifically relating to environmental aspects of the petroleum industry.	DELETED		Deleted to bring the Bill into alignment with the justification above.
(d) In exercising the functions in subsections (5)(a) to (c), the Commission may in conjunction with the Federal Ministry of Environment establish a joint committee to facilitate collaboration in this regard.	(b) In exercising its functions in subsection (5)(a) of this section, the Commission may in conjunction with the Federal Ministry of Environment establish a joint committee to facilitate collaboration.		Paragraph amended to facilitate collaboration with the Ministry of Environment
7. Powers of the Commission	RETAINED		
In carrying out its functions under this Act, the Commission shall have power to	RETAINED		
(a) modify, extend, renew, suspend and revoke any licence or permit issued by it pursuant to the provisions of this Act;	RETAINED		

Comment [AA1]: Perhaps this should be deleted as well. If the Commission has full powers, what is it collaborating on?

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<p>(b) in accordance with the provisions of this Act, designate facilities in the petroleum industry as third party access facilities, determine tariff methodology and pricing framework applicable to same, monitor and enforce the application of such tariff and pricing framework and mediate disputes in respect of third party access as may be determined by any regulation made pursuant to this Act;</p>	<p>RETAINED</p>	
<p>(c) request and obtain any information or any document concerning licensed activities in the petroleum industry from any licensee, lessee or permit holder;</p>	<p>RETAINED</p>	
<p>(d) where it considers it to be in the public interest;</p>	<p>RETAINED</p>	
<p>(i) publish information relating to petroleum operations provided by lessees, licensees and permit holders; and</p>	<p>RETAINED</p>	
<p>(ii) require lessees, licensees and permit holders to publish particular information relating to petroleum operations subject to the provisions of Regulation 7(5) of the National Data Repository Regulation 2007;</p>	<p>RETAINED</p>	
<p>(e) enforce relevant lease, licence or permit</p>	<p>RETAINED</p>	

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conditions and the specific requirements of this Act or any other enactment or regulation;			
(f) issue penalties and fines in accordance with the provisions of this Act or any other enactment or regulation;	RETAINED		
(g) enforce the provisions of any enactments or regulations applicable to petroleum operations made prior to the commencement of this Act or any other enactment or regulation;	(g) enforce the provisions of any enactments or regulations applicable to petroleum operations made prior to the Effective Date or any other enactment or regulation;	Subsection amended to use the defined term "Effective Date"	
(h) institute legal proceedings against any lessee, licensee or permit holder for failure to comply with lease, licence or permit conditions or other requirements of this Act or any other enactment or regulation;	RETAINED		
(i) make and enforce regulations and prescribe fees in line with the provisions of this Act or any other enactment or regulation; and	RETAINED		
(j) issue guidelines in line with the provisions of this Act or any other enactment or regulation.	RETAINED		
8. Regulations	RETAINED		
(1) The Commission may subject to the provisions of subsections (2) and (3) of this section, make regulations necessary to give proper effect to	RETAINED		

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the provisions of this Act.		
(2) The Commission shall prior to making any regulation under this Act, conduct a public hearing in the manner specified in subsection (4) of this section on the subject matter of the proposed regulation.	RETAINED	
(3) The Commission shall, in making any regulation, take into consideration the findings of the public hearing conducted in pursuance of subsection (2) of this section.	RETAINED	
(4) Before holding a public hearing in pursuance of subsection (2) of this section, the Commission shall publish in at least two national newspapers and its website, notice of:	RETAINED	
(a) the fact that it is holding the public hearing;	RETAINED	
(b) invitation to members of the public to participate in the public hearing;	(b) invitation to major stakeholders and members of the public to participate in the public hearing;	Paragraph amended by adding "major stakeholders" to ensure that the relevant stakeholders are invited.
(c) the venue and period during which the public hearing is to be held;	RETAINED	
(d) the nature of the matter to which the public hearing relates;	RETAINED	

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(e) the matters that the Commission would like the submissions to deal with;	RETAINED	
(f) the form in which members of the public are to make submissions to the Commission on the subject matter of the public hearing;	(f) the form in which members of the public are to make submissions to the Commission on the subject matter of the public hearing;	Paragraph amended by adding "major stakeholders" to ensure that the relevant stakeholders are included.
(g) the period of public notice for the commencement of the public hearing, which shall not be less than twenty-one days; and	RETAINED	
(h) the address or addresses to which the submissions may be sent.	RETAINED	
(5) Notwithstanding the provision of subsection (2) of this section, the Commission may, due to the exigency of the circumstances, make any regulation without conducting a public hearing, where it deems it necessary to do so.	RETAINED	
(6) Any regulation made pursuant to sub-section (5) of this section shall be valid for not longer than six months with effect from its commencement date, unless it is confirmed after a public hearing.	RETAINED	
(7) For the purpose of this section, a public hearing may take the form of an electronic consultation. After such consultation, the Commission shall issue a summary of the views		

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expressed and how it has addressed them in the proposed regulations.		
9. Decisions and orders made by the Commission	RETAINED	
(1) The Commission shall ensure that any decision or order made by the Commission:	RETAINED	
(a) contains the basis for the decision or order;	RETAINED	
(b) are properly recorded in writing; and	RETAINED	
(c) are accessible to the public at reasonable times and places.	RETAINED	
(2) The Commission shall issue written reasons in respect of any decisions or orders affecting the existing rights of any person, if the affected person requests such written reasons.	RETAINED	
(3) The Commission may issue written reasons in respect of any other decision or order as the Commission deems necessary.	RETAINED	
(4) Every recommendation, declaration, decision or order of the Commission, if purporting to be signed by a person describing himself as the Chief Executive Commissioner of the Commission or by a person describing himself	RETAINED	

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<p>as a Commissioner acting in the capacity of the Chief Executive Commissioner, shall unless the contrary is shown, be deemed to be made by the Commission and to have been so signed and may be proved by the production of a copy thereof purporting to have been so signed.</p>		
<p>(5) The Commission may make interim orders pending the final disposition of a matter before it.</p>	<p>RETAINED</p>	
<p>10. Commission to give notice to interested parties</p>	<p>RETAINED</p>	
<p>(1) The Commission may hold a hearing on any matter, which under this Act or any other enactment is required or permitted to be conducted or on which it is required or permitted to take any action and the Commission shall hold public hearing on matters which the Commission determines to be of significant interest to the general public.</p>	<p>RETAINED</p>	
<p>(2) Where the Commission is required to or otherwise decides to hold a hearing, all persons having an interest in such matter shall, as far as reasonably practicable, be notified of the questions at issue and given opportunities to make representations, if they so wish.</p>	<p>RETAINED</p>	

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<p>(3) The Commission shall take into consideration the findings of any public hearing conducted in pursuance of subsection (1) of this section.</p>	<p>RETAINED</p>	
<p>11. Engagement of Expertise Support When any matter arises which entails the consideration of any professional or technical question, the Commission may consult such persons as may be qualified to advise thereon.</p>	<p>RETAINED When any matter arises which entails the consideration of any professional or technical question, the Commission may consult such persons or institutions as may be qualified to advise thereon.</p>	<p>Paragraph amended to include the phrase "or institutions" for more effective inclusion of entities to be consulted.</p>
<p>12. Question of law may be referred to the Federal High Court</p>	<p>RETAINED</p>	
<p>(1) If any question of law arises from an order or decision of the Commission, the Commission may, on its own initiative or at the request of any person directly affected by such order, reserve that question for the decision of the Federal High Court.</p>	<p>RETAINED</p>	
<p>(2) Where a question has been reserved under subsection (1) of this section, the Commission shall state the question in the form of a special case and file it with the Registrar of the Federal High Court.</p>	<p>RETAINED</p>	
<p>13. Governing Board of the Commission</p>	<p>RETAINED</p>	
<p>(1) There shall be established for the Commission a governing Board (in this Act referred to as the</p>	<p>RETAINED</p>	

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<p>"Board") which shall, be responsible for the policy and general administration of the Commission.</p>		
<p>(2) The Board shall consist of the following members:</p>	<p>RETAINED</p>	
<p>(a) a non-executive Chairman;</p>	<p>RETAINED</p>	
<p>(b) one non-executive Commissioner;</p>	<p>(b) two non-executive Commissioners;</p>	<p>Paragraph amended to increase the total number of commissioners from 9 to 11 and to increase the number of non-executive commissioners from one to two in order to strengthen the Board.</p>
<p>(c) the Chief Executive Commissioner;</p>	<p>RETAINED</p>	
<p>(d) three other Executive Commissioners;</p>	<p>(d) four other Executive Commissioners;</p>	<p>Paragraph amended to increase the total number of commissioners from 9 to 11 and in order to increase the number of executive commissioners to ensure proper coverage of the industry regulatory functions.</p>
<p>(e) a representative of the Ministry of Petroleum Resources who shall not be below the rank of director;</p>	<p>RETAINED</p>	
<p>(f) a representative of the Ministry of Finance</p>	<p>RETAINED</p>	

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<p>who shall not be below the rank of director;</p> <p>(B) a representative of the Ministry of Environment who shall not be below the rank of director;</p>	<p>RETAINED</p>	
<p>(3) The appointment to the Board in respect of persons appointed pursuant to subsections 2(a) to (d) of this section shall be made by the President subject to confirmation of the Senate.</p>	<p>The appointment to the Board in respect of persons appointed pursuant to paragraphs (a) to (d) of subsection (2) of this section shall be made by the President subject to confirmation of the Senate.</p>	<p>Amended for clarity of the cross referencing.</p>
<p>(4) The board members shall be persons of high integrity and relevant experience;</p>	<p>(4) The board members shall be persons of high integrity and relevant experience and their appointment or replacement shall be in accordance with the principles of Federal Character.</p>	<p>Subsection amended to include the principle of Federal Character.</p>
<p>(5) In appointing the Chairman and the non-executive Commissioner, the President shall have due regard to a fair representation of technical, legal and commercial experience.</p>	<p>(5) The Commissioners shall be persons chosen for their expertise, experience or professional qualifications in the following fields or areas of competence:</p> <ul style="list-style-type: none"> (a) the planning, development, production, gathering, processing, transportation, distribution or supply of petroleum, petroleum products and gas; or (b) the generation, transmission or distribution of electricity or other forms of power; or (c) law, regulation, accountancy, economics, finance, engineering or geo-sciences particularly 	<p>Subsection amended to ensure that the Board is manned with the best hands.</p>

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	where such qualifications have been developed in connection with activities related to the petroleum industry; provided that a person shall not be appointed as a Commissioner unless he has graduated from a tertiary institution and possesses a university degree and a minimum of fifteen (15) years post-qualification experience.	
	RETAINED	
(6) The persons appointed in paragraphs (a) and (b) of subsection (2) of this section shall hold office for a term of four years in the first instance, which term may be renewed for another term of four years only on such terms and conditions as may be specified in their letters of appointment.		
(7) Appointment to the Board in respect of persons appointed pursuant to subsection 2 (a) and (b) of this section shall be in a non-executive and part-time basis.		Amended for clarity of the cross referencing.
(8) For the avoidance of doubt, the non-executive commissioners shall not participate in the day to day operations of the Commission;	(7) Appointment to the Board in respect of persons appointed pursuant to paragraphs (a) and (b) of subsection (2) of this section shall be in a non-executive and part-time basis.	Amended to provide clarity on who the non-executive commissioners are
(9) The proceedings of the Board and other ancillary matters shall be in accordance with	(8) For the avoidance of doubt, the non-executive commissioners appointed pursuant to paragraphs (a) and (b) of subsection (2) of this section and nominated under paragraphs (e) to (g) of subsection (2) shall not participate in the day to day operations of the Commission;	
	RETAINED	

Comment [AA2]: Should we specify that the decisions of the commission on day to day matters are to be taken by a majority decision of the Executive Commissioners?

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the provisions of the Second Schedule to this Act.			
(10) Subject to subsection (5) of this section, the Board shall have the power to make standing orders for the regulation of its proceedings and meetings and acts of the Board shall be deemed to be acts of the Commission.	(10) Subject to subsection (5) of this section, the Board shall have the power to make standing orders for the regulation of its proceedings and meetings.		Paragraph amended to delete unnecessary phrase and acts of the Board shall be deemed to be acts of the Commission;
(11) The conflict of interest provisions contained in the Third Schedule to this Act shall apply to all members of the Board.	RETAINED		
14. Functions of the Governing Board.	RETAINED		
(1) The Board shall:	RETAINED		
(a) be responsible for the general direction and supervision of the Commission;	RETAINED		
(b) oversee the operations of the Commission;	DELETED		Deleted to avoid the impression that the Board is to be involved in the day to day operations of the Commission.
(c) provide general guidelines for the carrying out of the functions of the Commission;	RETAINED		
(d) review and approve the business, strategic and operating plans of the Commission;	RETAINED		

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(e) consider and approve the budget of the Commission and monitor its performance;	(e) consider and approve the budget of the Commission prior to the submission to the National Assembly for appropriation and monitor its performance;	Paragraph amended to include the phrase "prior to the submission to the National Assembly" after Commission to provide for accuracy of process.
(f) approve the audited accounts and management accounts of the Commission and undertake consideration of the management letter from the external auditors;	(f) approve the management accounts and audited accounts of the Commission and undertake consideration of the management letter from the external auditors;	Provisions reordered for clarity.
(g) determine the terms and conditions of service of employees of the Commission;	RETAINED	
(h) stipulate remuneration, allowances, benefits and pensions of staff and employees of the Commission in consultation with the National Salaries, Incomes and Wages Commission;	RETAINED	
(i) structure the Commission into such number of departments as it deems fit for the effective discharge of the functions of the Commission; and	RETAINED	
(j) carry out such other functions and undertake such other activities which in the opinion of the Board are necessary to ensure the efficient and effective administration of the Commission in accordance with the provisions of this Act or as may be delegated to the Commission by the Minister.	RETAINED	

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	<p>(2) In carrying out their functions all members of the board shall have a duty to exercise independent judgment.</p>	<p>RETAINED</p>
<p>15. General policy directions</p>	<p>(1) The Minister may issue general policy directions to the Commission on matters concerning the petroleum industry and the Commission shall implement such directions provided that the directions are not in conflict with the provisions of this Act.</p>	<p>RETAINED</p>
	<p>(2) The Minister shall cause a copy of any directions given to the Commission in pursuance of subsection 1 of this section to be published in the Gazette.</p>	<p>RETAINED</p>
	<p>(3) The Commission shall, subject to subsection (1) of this section, be independent in the performance of its functions, duties and the exercise of its powers.</p>	<p>RETAINED</p>
<p>16. Remuneration and allowances of members of the board</p>	<p>(1) Members of the Board shall be paid from the funds of the Commission such remuneration and allowances as the Commission may from</p>	<p>RETAINED</p>

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time to time determine, in consultation with the National Salaries, Incomes and Wages Commission.		
(2) While making recommendations, the National Salaries, Incomes and Wages Commission shall have due regard to the following principles:	RETAINED	
(a) the specialised nature of work to be performed by the Commission;	RETAINED	
(b) the need to ensure the financial self-sufficiency of the Commission; and	RETAINED	
(c) the remuneration and allowances paid in the private sector to individuals with equivalent responsibilities, expertise and skills.	RETAINED	
17. Disqualification and cessation of appointment	RETAINED	
(1) A member of the Board may be suspended or removed from office by the President if the member:	RETAINED	
(a) is found to have been unqualified for appointment as a member of the Board pursuant to the provisions of section 22 of this Act or is in a breach of the conflict of	(a) is found to have been unqualified for appointment as a member of the Board pursuant to the provisions of section 22 of this Act, or becomes so unqualified subsequent to	Subsection amended to ensure that Board members that become disqualified subsequent to appointment may be removed by the President

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<p>interest provision set out in the Third Schedule to this Act after his appointment;</p>	<p>his appointment, or is in a breach of the conflict of interest provision set out in the Third Schedule to this Act after his appointment;</p>	
<p>(b) if he ceases to be an employee of the ministry which he represents on the Board;</p>	<p>RETAINED</p>	
<p>(c) has demonstrated inability to effectively perform the duties of the office;</p>	<p>RETAINED</p>	
<p>(d) has been absent from three consecutive meetings of the Board without the consent of the Chairman or when the Chairman is involved without the consent of the President except good reason is shown for such absence;</p>	<p>RETAINED</p>	
<p>(e) is guilty of serious misconduct;</p>	<p>RETAINED</p>	
	<p>(2) The suspension of a Commissioner under subsection (1) of this section shall not exceed ninety days.</p>	<p>Subsection added to provide timeline for duration of suspension.</p>
<p>(2) Prior to the suspension or removal of a Commissioner under subsection (1) of this section, the President shall inform the Commissioner by written notice, as soon as practicable, of his intention to suspend or remove the Commissioner from office and the</p>	<p>(3) The removal of a Commissioner under subsection (1) of this section shall be subject to the approval of the Senate.</p>	<p>Subsection amended to subject the removal of the Commissioner to Senate approval.</p>

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<p>reasons therefor.</p>	<p>DELETED</p> <p>(3) The affected Commissioner under subsection (1) of this section shall be given a reasonable opportunity to make written submissions to the President within a time period specified in the notice and such time period shall not be less than 14 days from the date of the notice.</p>	<p>Subsection deleted in view of the changes made above.</p>
<p>(4) The affected Commissioner may, within the time period specified in the notice, submit a written submission and the President shall consider the submission in making his final decision on the Commissioner's suspension or removal from office.</p>	<p>DELETED</p>	<p>Subsection deleted in view of the changes made above.</p>
<p>18. Resignation of a non-executive member of the board</p> <p>A non-executive member of the Board may resign his appointment by giving two months' written notice addressed to the President.</p>	<p>RETAINED</p>	
<p>19. Vacancy on the board</p> <p>(1) A vacancy on the Board shall occur if a member of the Board—</p>	<p>RETAINED</p>	

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(a) dies;	RETAINED	
(b) is removed from office in accordance with section 17 of this Act;	RETAINED	
(c) resigns from office; or	(c) resigns from office;	Paragraph amended to enhance accuracy.
(d) completes his tenure of office.	(d) completes his tenure of office, or	Paragraph amended to enhance accuracy.
	(e) where the member is incapacitated.	Paragraph added to include omitted item.
(2) A vacancy on the Board shall be filled by the appointment of another person by the President in accordance with section 13 of this Act.	RETAINED	
(3) if a member of the Board dies, resigns or otherwise vacates his office before the expiry of the term for which he has been appointed, there shall be appointed a fit and proper person in the manner prescribed by section 13 of this Act to take his place on the Board.	DELETED	Paragraph deleted to avoid duplication; provision already contained in subsection (2) hereinabove.
20. The Chief Executive Commissioner and Executive Commissioners		
(1) There shall be for the Commission a Chief	RETAINED	

Comment [AA3]: Should we put a timeline to when the President must do this?

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<p>Executive Commissioner who shall be the chief executive and accounting officer of the Commission responsible for the day-to-day running of the affairs of the Commission.</p>		
<p>(2) There shall be for the Commission three Executive Commissioners who shall be specifically assigned with the responsibility for leading the regulation of upstream, midstream and downstream activities in the sector.</p>	<p>(2) There shall be for the Commission four Executive Commissioners.</p>	<p>Subsection amended to reflect the increase in executive commissioners and to allow flexibility in the assignment of roles.</p>
<p>(3) The persons to be appointed Chief Executive Commissioner and Executive Commissioners shall have extensive technical or professional knowledge of the petroleum industry with a minimum of fifteen years' experience with relevant cognate experience at management level.</p>	<p>RETAINED</p>	
<p>21. Appointment, tenure, remuneration and conditions of service of the Chief Executive Commissioner and the Executive Commissioners</p>	<p>RETAINED</p>	
<p>(1) The Chief Executive Commissioner and Executive Commissioners shall be appointed by the President subject to confirmation by the Senate on such terms and conditions as may be set out in their respective letters of appointment.</p>	<p>RETAINED</p>	
<p>(2) The Chief Executive Commissioner shall be appointed in the first instance for a term of five</p>	<p>RETAINED</p>	

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<p>years and shall be eligible for re-appointment for another term of five years, and no more.</p>		
<p>(3) The Executive Commissioners shall be appointed in the first instance for a term of four years and shall be eligible for re-appointment for another term of four years and no more.</p>		
	<p>(4) No later than three months prior to the expiration of the tenure of the Chief Executive Commissioner or any of the Executive Commissioners, the President shall appoint or re-appoint such Chief Executive Commissioner or Executive Commissioners in accordance with the provisions of section 13.</p>	<p>Subsection included to avoid vacancies in positions of Executive Commissioners that will affect the operation of the Commission.</p>
<p>22. Disqualification from appointment</p>	<p>RETAINED</p>	
<p>A person shall not be appointed as a Commissioner if he or she:</p>	<p>RETAINED</p>	
<p>(a) has a financial interest in any business connected, either directly or indirectly with the Nigerian petroleum industry, or is engaged in any activity (whether for remuneration or otherwise) connected with the petroleum industry, provided that such person may be appointed if he or she declares their interest and makes the appropriate arrangements that ensures the avoidance of a conflict of interest, or is a relative of a person who</p>	<p>RETAINED</p>	

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<p>has such an interest or is engaged in such an activity, unless the President is satisfied that the interest or activity is in effect passive and will not interfere with the person's impartial discharge of his duties as a Commissioner or unless the financial interest is terminated prior to the appointment taking effect, or</p>		
<p>(b) has, in terms of the laws in force in any country:</p>	<p>RETAINED</p>	
<p>(i) been adjudged or declared bankrupt or insolvent and has not been rehabilitated or discharged, or</p>	<p>RETAINED</p>	
<p>(ii) made an assignment to or arrangement or composition with his creditors which has not been rescinded or set aside;</p>	<p>RETAINED</p>	
<p>(iii) been declared to be of unsound mind;</p>	<p>RETAINED</p>	
<p>(iv) been convicted of any criminal offence by a court of competent jurisdiction, except for traffic offences or contempt proceedings arising in connection with the execution or intended execution of any power or duty conferred under this Act; or</p>	<p>RETAINED</p>	
<p>(v) been disqualified or suspended from practising his profession by the order of a</p>	<p>RETAINED</p>	

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competent authority made in respect of him personally.		
23. Other staff, etc.	RETAINED	
(1) The Board may appoint for the Commission such number of persons as employees of the Commission as it may deem necessary.		
(2) The employment of the Commission's staff shall be subject to such terms and conditions as may from time to time be stipulated by the Board and contained in the respective employment contracts.	RETAINED	
(3) The Board shall determine and review from time to time, the remuneration and allowances payable to the Commission's staff, having regard to the recommendation of the National Salaries, Incomes and Wages Commission.	RETAINED	
(4) While making recommendations, the National Salaries, Incomes and Wages Commission shall have due regard to the following principles:	RETAINED	
(a) the specialised nature of work to be performed by the Commission;	RETAINED	
(b) the salaries paid in the private sector to individuals with equivalent responsibilities,	RETAINED	

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expertise and skills.		
(5) The Board shall make staff regulations generally relating to the conditions of service of its employees and, in particular, but without prejudice to the generality of the foregoing, such regulations may provide for -	RETAINED	
(a) the appointment, promotion, dismissal and discipline of employees;	RETAINED	
(b) appeals by the employees against dismissal or other disciplinary measures; and	RETAINED	
(c) the grant of pensions, gratuities and other retirement allowances to the employees;	RETAINED	
(6) Staff of the Commission shall be public officers as defined in the Constitution of the Federal Republic of Nigeria, 1999.	RETAINED	
(7) For the purpose of this section, appointment shall include secondment, transfer and contract appointments.	RETAINED	
24. Pensions	RETAINED	
(1) Employment in the Commission shall be subject to the provisions of the Pensions Reform Act and officers and employees of the Commission	RETAINED	

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<p>shall be entitled to pension and other retirement benefits as prescribed under the Pensions Reform Act.</p>		
<p>(2) Nothing in subsection (1) of this section shall prohibit the Commission from appointing a person to any office on terms that preclude the grant of a pension or other retirement benefits in respect of that office.</p>	<p>RETAINED</p>	
<p>(3) Subject to the Pensions Reform Act, and notwithstanding the provisions of this section, the Commission shall continue to fulfil all obligations in respect of pensions schemes to which the Department of Petroleum Resources and the Petroleum Products Price Regulatory Agency were obliged in respect of its employees, prior to the transfer of assets and liabilities to the Commission.</p>	<p>RETAINED</p>	
<p>25. Financial provisions</p>	<p>RETAINED</p>	
<p>(1) The Commission shall not later than 30th September or such other date to be determined by the Ministry responsible for Budgets in each financial year, prepare and present for appropriation to the National Assembly through the Federal Ministry responsible for Budgets, a statement of estimated income and expenditure for the following financial year.</p>	<p>RETAINED</p>	

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<p>(2) Notwithstanding the provisions of subsection (1) of this section, the Commission may also, in any financial year, submit to the National Assembly through the Federal Ministry responsible for Budgets, supplementary or adjusted statements of estimated income and expenditure for appropriation.</p>	<p>RETAINED</p>	
<p>(3) The financial year of the Commission shall be a period of twelve calendar months commencing on the 1st of January in each year.</p>	<p>RETAINED</p>	
<p>26. Funding</p>	<p>RETAINED</p>	
<p>(1) The Commission shall establish and maintain a fund ("the Fund") from which all expenditures incurred by the Commission shall be defrayed.</p>	<p>RETAINED</p>	
<p>(2) The Fund shall comprise monies derived from the following sources:</p>	<p>RETAINED</p>	
<p>(a) Such moneys which shall be a percentage of the revenue generated by the Commission for the Government of the Federation as may be determined and appropriated to the Commission from time to time by the National Assembly;</p>	<p>DELETED</p>	<p>Paragraph moved to form a new subsection below</p>
<p>(b) fees charged for services rendered to holders of licences, permits or other authorizations;</p>	<p>(a) Such moneys as may be determined and appropriated to the Commission from time to time by the National Assembly for its personnel</p>	<p>Paragraph amended to specify the exact items covered by other funds to be appropriated.</p>

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	cost:		
(c) penalties and fines levied by the Commission;	(c) fees charged for services rendered to holders of licences, permits or other authorizations;	Paragraph amended to delete the retention of fines and levies by the Commission and to allow it to retain funds from services it provides.	
(d) income derived from publications produced by the Commission and from reviews, and other related activities;	RETAINED		
(e) fees for services rendered to non-petroleum producing companies and service companies and for other services performed generally;	RETAINED		
(f) fees charged for sale of data acquired by the Commission; and	DELETED	Paragraph deleted since data repository is funded by industry.	
(g) grants, loans, grants-in-aid or grants of land from communities for facilities for use by the Communities.	RETAINED		
	(3) Such moneys which shall be ten percent of the revenue generated by the Commission for the Government of the Federation as may be determined and appropriated to the Commission by the National Assembly;	Paragraph moved here to form a new subsection such and amended to specify the exact percentage of funding for the Commission.	
	(4) without prejudice to subsection 1, 2 and 3 of this section, the Commission may from time to	Subsection included to provide special funding execution of strategic projects	

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	time impose a special levy on licensees and / or lessees for the implementation of any project that is of common benefit and value to the oil and gas industry;	that are for the common benefit and value to the industry.
(3) The Commission shall apply the proceeds of the Fund established pursuant to subsection (1) of this section:	(5) The Commission shall apply the proceeds of the Fund established pursuant to subsection (1) of this section:	Subsection numbering amended.
(a) to meet the administrative and operating costs of the Commission;	RETAINED	
(b) to provide for the payment of salaries, wages, fees or other remuneration or allowances, pensions and other retirement benefits payable to staff or employees of the Commission;	RETAINED	
(c) for the acquisition and maintenance of property acquired by or vested in the Commission;	RETAINED	
(d) for purposes of investment, as prescribed by the Trustee Investments Act, or any other relevant legislation subject to the approval of the Minister responsible for Budgets; and	(d) for purposes of investment, as prescribed by the Trustee Investments Act, or any other relevant legislation subject to the approval of the Minister responsible for finance; and	The term "Budget" is replaced with "finance" to provide for accuracy of term.
(e) generally, in connection with the carrying out of any of its functions under this Act.	RETAINED	
(4) The Commission shall ensure that all monies	(4) The Commission shall ensure that all monies	Subsection amended to remove the

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<p>accruing from upstream leases, bonuses, lease renewal fees, assignment fees and concession rentals charged under this Act or any subsidiary legislation or regulation made pursuant to this Act are paid into the Federation Account. The Commission shall also ensure that all other monies accruing from its activities including but not limited to fines and penalties are paid into the Consolidated Revenue Fund.</p>	<p>accruing from upstream leases, bonuses, lease renewal fees, assignment fees and concession rentals charged under this Act or any other enactment, or any subsidiary legislation or regulation made pursuant to such legislation are paid into the Federation Account.</p>	<p>requirement for paying all monies from its operations into the Consolidated Revenue Fund as it is inconsistent with the rights given above to retain its funds.</p>
<p>(5) For any particular year, if monies accruing to the Fund from appropriation established pursuant to subsection (2) of this section, have not been fully applied for the purposes provided for in subsection (3) of this section, such monies shall be paid into the Consolidated Revenue Fund.</p>	<p>RETAINED</p>	
<p>27. Power to accept grants</p>	<p>RETAINED</p>	
<p>(1) The Commission may accept grants of money or other property upon such terms and conditions as may be specified by the person or organisation making the gift provided, such gifts are not:</p>	<p>RETAINED</p>	
<p>(a) inconsistent with the objectives and functions of the Commission under this Act.</p>	<p>RETAINED</p>	
<p>(b) accepted from persons or organizations</p>	<p>RETAINED</p>	

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regulated by the Commission.			
(2) Nothing in subsection (1) of this section or in this Act shall be construed to allow any member of the Board or staff of the Commission to accept grants for their personal use.	RETAINED		
28. Accounts and audit	RETAINED		
The Commission shall keep proper accounts of its income and expenditure in respect of each financial year and shall cause its accounts to be audited within six months after the end of each year by auditors appointed by the Commission from a list and in accordance with the guidelines supplied by the Auditor-General of the Federation.	RETAINED		
29. Mid-year and annual reports	RETAINED		
(1) The Commission shall submit to the Minister, a mid-year report of its operations and finances not later than 31st August of each year and an annual report of its operations, performance and audited financial report of the preceding year not later than 31st May of the following year.	The Commission shall submit to the Minister, a mid-year report of its operations and finances not later than 31st August of the following year and an annual report of its operations, performance and audited financial account of the preceding year not later than 31st March of the following year.		Subsection amended for accuracy and conformity to the provisions of the Public Procurement Act.
(2) A summary of the annual report and audited financial report of the Commission shall be	A summary of the annual report and audited financial account of the Commission for the		Subsection amended to require submission of annual report and

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<p>published on the website of the Commission for public notice not later than 31st of July of each year.</p>	<p>preceding year shall be published on the website of the Commission for public notice not later than 31st of March of following year and submitted to the National Assembly.</p>	<p>audited account to the National Assembly and for accuracy and conformity to the provisions of the Public Procurement Act.</p>
<p>30. Exemption from income tax</p>	<p>RETAINED</p>	
<p>The provisions of any enactment relating to the taxation of companies or trust funds shall not apply to the Commission.</p>	<p>RETAINED</p>	
<p>31. Limitation of suits against the Commission, etc.</p>	<p>RETAINED</p>	
<p>(1) Subject to the provisions of this Act, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against the Commission, any member of the board, an officer or employee of the Commission.</p>	<p>(1) The provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against the Commission, any member of the board, an officer or employee of the Commission.</p>	<p>The phrase "Subject to the provisions of this Act" is removed for accuracy.</p>
<p>(2) No suit shall lie against the Commission, any member of the board, or any other officer or employee of the Commission for any act done in pursuance or execution of this Act or any other law or enactment, or of any public duty or authority in respect of any alleged neglect or default in the execution of this Act or any other law or enactment, duty or authority, or be instituted in any court unless it is commenced —</p>	<p>RETAINED</p>	

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(a) within twelve months next after the act, neglect or default complained of; or	RETAINED	
(b) in the case of a continuation of damage or injury, within 6 months next after the ceasing thereof.	RETAINED	
(3) No suit shall be commenced against the Commission, any member of the board, or any official or employee of the Commission before the expiration of a period of one month after written notice of the intention to commence the suit shall have been served on the Commission by the intending plaintiff or his agent.	RETAINED	
(4) The notice referred to in subsection (3) of this section shall clearly and explicitly state the cause of action, the particulars of the claim, the name and address of the intending plaintiff and the relief which he claims.	RETAINED	
32. Service of court process on the Commission	RETAINED	
A notice, summons or other document required or authorised to be served on the Commission under the provisions of this Act or any other law or enactment may be served by delivering it to the office of the Chief Executive Commissioner of the Commission or any of its Commissioners.	RETAINED	
33. Restriction on execution against the		

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<p>Commission's property</p>	<p>(1) In any action or suit against the Commission, no execution or attachment of its physical property shall be issued. Any judgment against the Commission may be enforced through garnishee proceedings provided that not less than three months' notice of the intention to commence the garnishee proceedings shall have been given to the Commission.</p>	<p>RETAINED</p>	
<p>(2) Any sum of money which may by the judgment of any court be awarded against the Commission shall, subject to any direction given by the court where no notice of appeal against the judgment has been given, be paid from the Fund of the Commission.</p>	<p>RETAINED</p>		
<p>34. Special Investigation Unit</p>	<p>RETAINED</p>		
<p>(1) For the effective conduct of its functions, the Commission shall have a Special Investigation Unit.</p>	<p>RETAINED</p>		
<p>(2) The Special Investigation Unit or an officer authorized on its behalf shall have powers, with respect to matters under the authority of the Commission in this Act, to:</p>	<p>RETAINED</p>		
<p>(a) investigate acts which may constitute</p>	<p>RETAINED</p>		

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offences under this Act or any other law relating to petroleum operations;		
(b) collaborate with other Government agencies and persons in relation to the detection or prosecution of offences under this Act or any other law relating to petroleum operations;	RETAINED	
(c) keep surveillance on oil and gas installations, premises and vessels where it has reason to believe that illegal petroleum operations are going on; and	RETAINED	
(d) in conjunction with the Nigerian Police and other relevant law enforcement agencies arrest with a warrant obtained from a judicial officer, any person reasonably believed to have committed an offence under this Act.	RETAINED	
35. Indemnity of board members and employees	RETAINED	
(1) Every member of the Board and every employee of the Commission shall be indemnified out of the assets of the Inspectorate against any liability incurred in defending any proceeding against the Commission, whether civil or criminal, if such proceedings are brought against the person in the person's capacity as a member of the Board or employee.	RETAINED	

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<p>(2) Notwithstanding the provisions of subsection (1) of this section, the Commission shall not indemnify any member of the Board or employee of the Commission for any liability incurred as a result of the wilful negligence of the member or employee, as the case may be, or conduct or acts which such person knew or ought to have known to be unlawful.</p>	<p>RETAINED</p>	
	<p>PART 4 - ESTABLISHMENT OF PETROLEUM EQUALISATION FUND</p>	
	<p>36. Establishment of the Petroleum Equalisation Fund</p>	
	<p>(1) There shall be established the Petroleum Equalisation Fund ("the Equalisation Fund") into which shall be paid all monies payable to the Equalisation Fund:</p>	
	<p>(a) by way of a fuel levy in respect of all fuel sold and distributed within the Federation which shall be charged subject to the approval of the Minister;</p>	
	<p>(b) all subventions, fees and charges for services rendered or publications made by the Fund; and</p>	
	<p>(c) all other funding which may, from time to</p>	

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	time, accrue to the Fund.	
	(d) any net surplus revenue recovered from petroleum products marketing companies pursuant to this Act; and	
	(e) such sums as may be provided for purpose of the Equalisation Fund by the Federal Government.	
	(2) The Equalisation Fund shall be a body corporate with perpetual succession, a common seal and may sue and be sued in its corporate name.	
	(3) The Equalisation Fund shall have power to -	
	(a) enter into contracts and incur obligations;	
	(b) acquire, hold, mortgage, purchase and deal with property, whether movable or immovable, real or personal; and	
	(c) do all such things as are necessary for or incidental to the carrying out of its functions and duties under this Act.	
	(4) From the date of the commencement of this Act, without further assurance, the Equalisation Fund shall be vested with all assets, funds,	

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	resources and other movable and immovable properties which immediately before the commencement of this Act were held by the Petroleum Equalisation Fund.	
	(5) As from the date of commencement of this Act –	
	(a) the rights, interests, obligations and liabilities of the Petroleum Equalisation Fund existing immediately before the commencement Date under any contract or instrument or law or in equity shall by virtue of this Act be assigned to and vested in the Equalisation Fund;	
	(b) any such contract or instrument covered by subsection 4(a) of this section shall be of the same force and effect against or in favour of the Equalisation Fund and shall be enforceable as fully and effectively as if instead of the Petroleum Equalisation Fund, the Commission had been named therein or had been a party thereto; and	
	(c) the Equalisation Fund shall be subject to all the obligations and liabilities to which the Petroleum Equalisation Fund were subject immediately before the commencement Date and all other persons shall as from the Effective	

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	Date have the same rights, powers and remedies against the Equalisation Fund as they had against the Petroleum Equalisation Fund immediately before the commencement Date.
	(6) The Equalisation Fund shall be structured into departments as its Board may, from time to time, deem appropriate for the effective discharge of its functions under this Act.
	37. Objectives of the Petroleum Equalisation Fund
	The objectives of the Equalisation Fund shall be to:
	(a) enhance development of all regions of the federation by ensuring economic balance in the price of petroleum products;
	(b) collect and provide funding for infrastructural development throughout the federation;
	(c) ensure efficient distribution of petroleum products throughout the federation.
	38. Functions of the Equalisation Fund
	The Equalisation Fund shall perform the following functions:
	(a) collecting all revenues and levies charged pursuant to the provisions of this Act;

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	(b) determining, at such intervals as the Board may direct, the net surplus revenue recoverable from any oil marketing company and accruing to that company from the sale by it of petroleum products at such uniform prices as may be fixed by the Minister;
	(c) determining the amount of reimbursement due to any oil marketing company for purposes of equalisation of price of products;
	(d) the payment of all disbursements authorised under or by virtue of this Act;
	(e) accounting for all moneys collected, paid or otherwise expended under this Act;
	(f) carrying out such other duties as may, from time to time be specified by the Board.
	39. Decisions and orders made by the Equalisation Fund
	(1) the Equalisation Fund shall ensure that any decision or order made by it:
	(a) contains the basis for the decision or order;
	(b) are properly recorded in writing; and
	(c) are accessible to the public at reasonable

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	times and places.	
	(2) the Equalisation Fund shall issue written reasons in respect of any decisions or orders affecting the existing rights of any person, if the affected person requests such written reasons.	
	(3) the Equalisation Fund may issue written reasons in respect of any other decision or order as it deems necessary.	
	(4) Every recommendation, declaration, decision or order of the Equalisation Fund, if purporting to be signed by a person describing himself as the Executive Secretary of the Equalisation Fund or by a person describing himself as a Director acting in the capacity of the Executive Secretary, shall unless the contrary is shown, be deemed to be made by the Equalisation Fund and to have been so signed and may be proved by the production of a copy thereof purporting to have been so signed.	
	The Equalisation Fund may make interim orders pending the final disposition of a matter before it.	
	40. Equalisation Fund to give notice to interested parties	

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	<p>(1) The Equalisation Fund may hold a hearing on any matter, which under this Act or any other enactment is required or permitted to be conducted or on which it is required or permitted to take any action and the Equalisation Fund shall hold public hearing on matters which the Equalisation Fund determines to be of significant interest to the general public.</p>	
	<p>(2) Where the Equalisation Fund is required to or otherwise decides to hold a hearing, all persons having an interest in such matter shall, as far as reasonably practicable, be notified of the questions at issue and given opportunities to make representations, if they so wish.</p>	
	<p>(3) The Equalisation Fund shall take into consideration the findings of any public hearing conducted in pursuance of subsection (1) of this section.</p>	
	<p>41. Engagement of Expertise Support</p>	
	<p>When any matter arises which entails the consideration of any professional or technical question, the Equalisation Fund may consult such persons or institutions as may be qualified to advise thereon.</p>	
	<p>42. Question of law may be referred to the</p>	

	<p>Federal High Court</p> <p>(1) If any question of law arises from an order or decision of the Equalisation Fund, the Equalisation Fund may, on its own initiative or at the request of any person directly affected by such order, reserve that question for the decision of the Federal High Court.</p>	
	<p>(2) Where a question has been reserved under subsection (1) of this section, the Equalisation Fund shall state the question in the form of a special case and file it with the Registrar of the Federal High Court.</p>	
	<p>43. Governing Board of the Equalisation Fund</p>	
	<p>(1) There shall be established for the Equalisation Fund a governing Board (in this Act referred to as the "Equalisation Fund Board") which shall, be responsible for the policy and general administration of the Equalisation Fund.</p>	
	<p>(2) The Board shall consist of the following members:</p>	
	<p>(a) the chairman who shall be a representative of the ministry in charge of petroleum resources and shall be appointed by the Ministry;</p>	

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	(b) a representative of the Federal ministry in charge of Industry, Trade and Investment;
	(c) a representative of the Federal Ministry in charge of Industry, Trade and Investment;
	(d) a representative of the Commission;
	(e) three representatives of petroleum marketing associations;
	(f) three other executive directors;
	(g) two persons to be appointed by the President who shall possess a minimum of fifteen years relevant professional experience ten of which shall be at senior management level.
	(h) the Executive Secretary of the Equalisation Fund.
	(3) Membership of the Board shall be on a part-time basis.
	(4) Appointment to the Board in respect of persons appointed pursuant to subsection 2 (a) and (b) of this section shall be in a non-executive and part-time basis.
	(5) The provisions of the Second Schedule to this

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	Act shall have effect with respect to the proceeding of the Board and other matters contained therein.
	44. Functions of the Governing Board.
	(1) The Board shall:
	(a) be responsible for the general direction and supervision of the Equalisation Fund;
	(b) oversee the operations of the Equalisation Fund;
	(c) provide general guidelines for the carrying out of the functions of the Equalisation Fund;
	(d) review and approve the business, strategic and operating plans of the Equalisation Fund;
	(e) consider and approve the budget of the Equalisation Fund and monitor its performance;
	(f) approve the audited accounts and management accounts of the Equalisation Fund and undertake consideration of the management letter from the external auditors;
	(g) determine the terms and conditions of service of employees of the Equalisation Fund;

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	(h) stipulate remuneration, allowances, benefits and pensions of staff and employees of the Equalisation Fund in consultation with the National Salaries, Incomes and Wages Equalisation Fund;	
	(i) structure the Equalisation Fund into such number of departments as it deems fit for the effective discharge of the functions of the Equalisation Fund; and	
	(j) carry out such other functions and undertake such other activities which in the opinion of the Board are necessary to ensure the efficient and effective administration of the Equalisation Fund in accordance with the provisions of this Act or as may be delegated to the Equalisation Fund by the Minister.	
	(k) In carrying out their functions all members of the board shall have a duty to exercise independent judgment.	
	45. General policy directions	
	(1) The Minister may issue general policy directions to the Equalisation Fund on matters concerning the functions of the Equalisation Fund and the Commission shall implement such	

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	directions provided that the directions are not in conflict with the provisions of this Act.	
	(2) The Minister shall cause a copy of any directions given to the Equalisation Fund in pursuance of subsection 1 of this section to be published in the Gazette.	
	(3) The Equalisation Fund shall, subject to subsection (1) of this section, be independent in the performance of its functions, duties and the exercise of its powers.	
	46. Remuneration and allowances of members of the board	
	(1) Members of the Board shall be paid from the funds of the Equalisation Fund such remuneration and allowances as the Equalisation Fund may from time to time determine, in consultation with the National Salaries, Incomes and Wages Equalisation Fund.	
	(2) While making recommendations, the National Salaries, Incomes and Wages Equalisation Fund shall have due regard to the following principles:	
	(a) the specialised nature of work to be performed by the Equalisation Fund;	

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	(b) the need to ensure the financial self-sufficiency of the Equalisation Fund; and	
	(c) the remuneration and allowances paid in the private sector to individuals with equivalent responsibilities, expertise and skills.	
	47. Disqualification and cessation of appointment	
	(1) A member of the Board may be suspended or removed from office by the President if the member:	
	(a) is found to have been unqualified for appointment as a member of the Board pursuant to the provisions of section 44 of this Act or is in a breach of the conflict of interest provision set out in the Third Schedule to this Act after his appointment;	
	(b) if he ceases to be an employee of the ministry which he represents on the Board;	
	has demonstrated inability to effectively perform the duties of the office;	
	(c) has been absent from three consecutive meetings of the Board without the consent of the Chairman or when the Chairman is involved	

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	without the consent of the Minister except good reason is shown for such absence;
	(d) is guilty of serious misconduct;
	(2) Prior to the suspension or removal of a director under subsection (1) of this section, the President shall inform the Director by written notice, as soon as practicable, of his intention to suspend or remove the Director from office and the reasons therefor.
	(3) The affected Equalisation Fund under subsection (1) of this section shall be given a reasonable opportunity to make written submissions to the Minister within a time period specified in the notice and such time period shall not be less than 14 days from the date of the notice.
	(4) The affected Director may, within the time period specified in the notice, submit a written submission and the Minister shall consider the Director's suspension or removal from office.
	48. Resignation of a non-executive member of the board
	A non-executive member of the Board may

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	resign his appointment by giving two months' written notice addressed to the President.	
	49. Vacancy on the board	
	(1) A vacancy on the Board shall occur if a member of the Board—	
	(a) dies;	
	(b) is removed from office in accordance with section 47 of this Act;	
	(c) resigns from office; or	
	(d) completes his tenure of office.	
	(2) A vacancy on the Board shall be filled by the appointment of another person by the President in accordance with section 44 of this Act.	
	(3) if a member of the Board dies, resigns or otherwise vacates his office before the expiry of the term for which he has been appointed, there shall be appointed a fit and proper person in the manner prescribed by section 44 of this Act to take his place on the Board.	
	50. The Executive Secretary and Executive Directors	

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	(1) There shall be for the Equalisation Fund an Executive Secretary who shall be the chief executive and accounting officer of the Equalisation Fund responsible for the day-to-day running of the affairs of the Equalisation Fund.	
	(2) There shall be for the Equalisation Fund three Executive Directors who shall be specifically assigned with the responsibility for core activities of the Equalisation Fund	
	(3) The persons to be appointed Executive Secretary and Executive Director shall have a minimum of ten years relevant cognate experience at management level.	
	51. Appointment, tenure, remuneration and conditions of service of the Executive Secretary and the Directors	
	(1) The Executive Secretary and Executive Directors shall be appointed by the President on such terms and conditions as may be set out in their respective letters of appointment.	
	(2) The Executive Secretary shall be appointed in the first instance for a term of four years and shall be eligible for re-appointment for another	

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	term of four years, and no more.	
	(3) The Executive Directors shall be appointed in the first instance for a term of four years and shall be eligible for re-appointment for another term of four years and no more.	
	52. Disqualification from appointment	
	(1) A person shall not be appointed as an Executive Secretary or Executive Director if he;	
	(2) has a financial interest in any business connected, either directly or indirectly with the functions of the Equalisation Fund or is engaged in any activity (whether for remuneration or otherwise) connected with the functions of the Equalisation Fund, provided that such person may be appointed if he declares their interest and makes the appropriate arrangements that ensures the avoidance of a conflict of interest or if the President is satisfied that the interest or activity is in effect passive and will not interfere with the person's impartial discharge of his duties as Executive Secretary or Executive Director, or	
	(3) has, in terms of the laws in force in any country:	

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	(a) been adjudged or declared bankrupt or insolvent and has not been rehabilitated or discharged, or	
	(b) made an assignment to or arrangement or composition with his creditors which has not been rescinded or set aside;	
	(c) been declared to be of unsound mind;	
	(d) been convicted of any criminal offence by a court of competent jurisdiction except for traffic offences or contempt proceedings arising in connection with the execution or intended execution of any power or duty conferred under this Act; or	
	(e) been disqualified or suspended from practising his profession by the order of a competent authority made in respect of him personally.	
	53. Other staff, etc.	
	(1) The Board may appoint for the Equalisation Fund such number of persons as employees of the Equalisation Fund as it may deem necessary.	
	(2) The employment of the Equalisation Fund's staff shall be subject to such terms and	

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	conditions as may from time to time be stipulated by the Board and contained in the respective employment contracts.	
	(3) The Board shall determine and review from time to time, the remuneration and allowances payable to the Equalisation Fund's staff, having regard to the recommendation of the National Salaries, Incomes and Wages Equalisation Fund.	
	(4) While making recommendations, the National Salaries, Incomes and Wages Equalisation Fund shall have due regard to the following principles: the specialised nature of work to be performed by the Equalisation Fund;	
	(5) the salaries paid in the private sector to individuals with equivalent responsibilities, expertise and skills.	
	(6) The Board shall make staff regulations generally relating to the conditions of service of employees of the Equalisation Fund and, in particular, but without prejudice to the generality of the foregoing, such regulations may provide for -	
	(a) the appointment, promotion, dismissal and discipline of employees;	

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	(b) appeals by the employees against dismissal or other disciplinary measures; and	
	(c) the grant of pensions, gratuities and other retirement allowances to the employees;	
	(7) Staff of the Equalisation Fund shall be public officers as defined in the Constitution of the Federal Republic of Nigeria, 1999.	
	(8) For the purpose of this section, appointment shall include secondment, transfer and contract appointments.	
	54. Pensions	
	(1) Employment in the Equalisation Fund shall be subject to the provisions of the Pensions Reform Act and officers and employees of the Equalisation Fund shall be entitled to pension and other retirement benefits as prescribed under the Pensions Reform Act.	
	(2) Nothing in subsection (1) of this section shall prohibit the Equalisation Fund from appointing a person to any office on terms that preclude the grant of a pension or other retirement benefits in respect of that office.	

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	<p>(3) Subject to the Pensions Reform Act, and notwithstanding the provisions of this section, the Equalisation Fund shall continue to fulfil all obligations in respect of pensions schemes to which the Petroleum Equalisation Fund was obliged in respect of its employees, prior to the transfer of assets and liabilities to the Equalisation Fund.</p>	
	<p>55. Financial provisions</p>	
	<p>(1) The Equalisation Fund shall not later than 30th September or such other date to be determined by the ministry responsible for finance and budgets in each financial year, prepare and present for appropriation to the National Assembly through the Federal ministries responsible for finance and budgets, a statement of estimated income and expenditure for the following financial year.</p>	
	<p>(2) Notwithstanding the provisions of subsection (1) of this section, the Equalisation Fund may also, in any financial year, submit to the National Assembly through the Federal ministry responsible for Budgets, supplementary or adjusted statements of estimated income and expenditure for appropriation.</p>	
	<p>56. Utilisation of the fund</p>	

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	(1) the Equalisation Fund shall utilise the funds received pursuant to section 36 in the following manner:	
	(a) for reimbursement of oil marketing companies for any loss sustained by them solely and exclusively as a result of the sale by them of petroleum products at uniform prices throughout Nigeria as may be fixed by the Minister pursuant;	
	(b) for the provision of financing for infrastructural development throughout the federation;	
	(b) for the provision of financial and other financial support as may from time to time be determined by the Minister;	
	(3) The financial year of the Equalisation Fund shall be a period of twelve calendar months commencing on the 1st of January in each year.	
	57. Power to accept grants	
	(1) The Equalisation Fund may accept grants of money or other property upon such terms and conditions as may be specified by the person or organisation making the gift provided, such gifts	

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	are not:	
	(a) inconsistent with the objectives and functions of the Equalisation Fund under this Act.	
	(b) accepted from persons or organizations regulated by the Equalisation Fund.	
	(2) Nothing in subsection (1) of this section or in this Act shall be construed to allow any member of the Board or staff of the Equalisation Fund to accept grants for their personal use.	
	58. Accounts and audit	
	The Equalisation Fund shall keep proper accounts of its income and expenditure in respect of each financial year and shall cause its accounts to be audited within six months after the end of each year by auditors appointed by the Equalisation Fund from a list and in accordance with the guidelines supplied by the Auditor-General of the Federation.	
	59. Mid-year and annual reports	
	(1) The Equalisation Fund shall submit to the Minister, a mid-year report of its operations and finances not later than 31st August of each year and an annual report of its operations,	

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	performance and audited financial report of the preceding year not later than 31st March of the following year.
	(2) A summary of the annual report and audited financial report of the Equalisation Fund shall be published on the website of the Equalisation Fund for public notice not later than 31st of July of each year.
	60. Exemption from income tax
	The provisions of any enactment relating to the taxation of companies or trust funds shall not apply to the Equalisation Fund.
	61. Limitation of suits against the Equalisation Fund, etc.
	(1) Subject to the provisions of this Act, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against the Equalisation Fund, any member of the board, an officer or employee of the Equalisation Fund.
	(2) No suit shall lie against the Equalisation Fund, any member of the board, or any other officer or employee of the Equalisation Fund for any act done in pursuance or execution of this Act or any

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	other law or enactment, or of any public duty or authority in respect of any alleged neglect or default in the execution of this Act or any other law or enactment, duty or authority, or be instituted in any court unless it is commenced —	
	(a) within twelve months next after the act, neglect or default complained of; or	
	(b) in the case of a continuation of damage or injury, within 6 months next after the ceasing thereof.	
	(3) No suit shall be commenced against the Equalisation Fund, any member of the board, or any official or employee of the Equalisation Fund before the expiration of a period of one month after written notice of the intention to commence the suit shall have been served on the Equalisation Fund by the intending plaintiff or his agent.	
	(4) The notice referred to in subsection (3) of this section shall clearly and explicitly state the cause of action, the particulars of the claim, the name and address of the intending plaintiff and the relief which he claims.	
	62. Service of court process on the Equalisation Fund	

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	<p>A notice, summons or other document required or authorised to be served on the Equalisation Fund under the provisions of this Act or any other law or enactment may be served by delivering it to the office of the Executive Secretary of the Equalisation Fund or any of its Executive Directors.</p>	
	<p>63. Restriction on execution against the Equalisation Fund's property</p>	
	<p>(1) In any action or suit against the Equalisation Fund, no execution or attachment of its physical property shall be issued. Any judgment against the Equalisation Fund may be enforced through garnishee proceedings provided that not less than three months' notice of the intention to commence the garnishee proceedings shall have been given to the Equalisation Fund.</p>	
	<p>(2) Any sum of money which may by the judgment of any court be awarded against the Equalisation Fund shall, subject to any direction given by the court where no notice of appeal against the judgment has been given, be paid from the Fund of the Equalisation Fund.</p>	
	<p>64. Indemnity of board members and employees</p>	

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	<p>(1) Every member of the Board and every employee of the Equalisation Fund shall be indemnified out of the assets of the Inspectorate against any liability incurred in defending any proceeding against the Equalisation Fund, whether civil or criminal, if such proceedings are brought against the person in the person's capacity as a member of the Board or employee.</p>	
	<p>(2) Notwithstanding the provisions of subsection (1) of this section, the Equalisation Fund shall not indemnify any member of the Board or employee of the Equalisation Fund for any liability incurred as a result of the wilful negligence of the member or employee, as the case may be, or conduct or acts which such person knew or ought to have known to be unlawful.</p>	
	<p>65. Executive Secretary</p>	
	<p>(1) There shall be for the Equalisation Fund an Executive Secretary, appointed by the President on the recommendation of the Minister.</p>	
	<p>(2) The Executive Secretary shall be a person with vast knowledge and cognate professional experience in management and selected through a transparent merit-based recruitment process.</p>	

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	<p>The Executive Secretary shall be the chief executive and accounting officer of the Board and shall be responsible for running the day-to-day administration of the Equalisation Fund under the direction of the Board.</p>	
	<p>66. Responsibilities of the Executive Secretary</p>	
	<p>The Executive Secretary shall –</p>	
	<p>(a) determine the net surplus revenue recoverable from any petroleum products marketing company and accruing to such company from the sale by the company of petroleum products at such prices, as may be sold in accordance with the methodology established by the Agency;</p>	
	<p>(b) determine the amount of reimbursement due to any petroleum products marketing company which has suffered loss as a result of the operation of any enactment or law;</p>	
	<p>(c) ensure the disbursements of all authorized payments under of this Act;</p>	
	<p>(d) account for all monies collected, paid or otherwise expended under this Act and publish same in the way and manner prescribed by the</p>	

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	Board in consultation with the Agency; and	
	(e) carry out such other functions as may, from time to time, be specified by the Board.	
	67. Other officers of the Board	
	The Board may, on the advice of the Executive Secretary, appoint as employees of the Equalisation Fund such number of persons as may be necessary for the administration of the Equalisation Fund, who shall be subject to the general control of the Executive Secretary and perform such duties as the Executive Secretary may direct.	
	68. Collection of net surplus revenue	
	(1) Net surplus revenue due and payable by petroleum products marketing companies shall be payable to the Equalisation Fund in accordance with directives issued by the Board from time to time,	
	(2) The Equalisation Fund shall have no obligation to issue a demand notice in respect of the outstanding net surplus revenue and the failure to issue a demand notice shall not constitute a defence for non-payment of outstanding sums.	

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	<p>69. Bridging and equalisation allowances</p> <p>Nothing in section 103 of this Act shall derogate from the right of any petroleum products marketing company maintaining storage facilities to collect bridging and equalization allowances prior to the release of petroleum products to petroleum products marketing companies and to remit same to the Board in accordance with such directives as may be issued by the Board.</p>	
	<p>70. Claims by petroleum products marketing companies</p> <p>(1) Petroleum products marketing companies may, as necessary, bring claims for the recovery of losses sustained under paragraph (b) of section 106 of this Act in the manner prescribed by the Board.</p> <p>(2) Where a company brings a claim under sub-section (1) of this section, the Board shall with the written request of the Executive Secretary, and with or without notice, have the right to enter upon, inspect and inquire about any activity relating to the movement or storage of petroleum products and to that event, to inspect books and facilities, take measurements, and inquire into the correctness of information.</p>	

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	provided in support of claims for reimbursement.	
	(3) The Board shall have the power to-	
	(a) demand details of production, supplies, loading and dispatches from refining companies, import terminals and storage facilities; and	
	(b) gain unimpeded access to information relating to petroleum product imports, refining and sales collated and maintained by any government agency, including third party monitoring agencies, with authority to monitor or inspect petroleum products.	
	(4) The power provided under subsection (3) of this section is limited to refining facilities, reception terminals, storage facilities and retail outlets.	
	(5) Decisions as to payment of claims shall be made by the Board within thirty days from the date on which the claim was first made and where the claim is successful, payments shall be made within ten working days from the date of the decision.	
	(6) Where a claim is successful and the Board fails to pay the claim to the company in	

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	accordance with the terms and conditions of this section, the Board shall pay a penalty to be prescribed by the Minister.	
	71. Calculation of surplus revenue recoverable	
	The net surplus revenue recoverable, from a petroleum products marketing company under this Act shall be calculated by reference to the volume of the affected products sold on zonal basis and to the amount by which the uniform prices at which the products were sold exceeded, or were less than, the prices of those products prevailing immediately before the fixing of the uniform prices of the products.	
	72. Prescribed dates for payment and penalty for non-payment	
	(1) The Board shall by notice served on the petroleum products marketing company concerned, specify the date on which any surplus revenue due from that petroleum products marketing company shall be paid to the Board.	
	(2) If any sum is not paid within twenty-one days of the specified date, a sum equal to ten per centum of the amount unpaid shall be added for each month or part of a month after	

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	the date on which payment should have been made.
	(3) The Board may for just cause, waive in whole or in part any penalty imposed under this section.
	(4) Where the Board waives a penalty under the provisions of subsection (3) of this section, the Board shall give its reasons in writing.
	73. Certificate as evidence
	A copy of an entry in the accounts of the Board or other extract from the records of the Board shall, when certified by the Executive Secretary, be received in all courts as prima facie evidence of the truth of the contents thereof and as the case may be, of the debt to the Board by any petroleum products marketing company.
	74. Reporting obligations
	(1) All petroleum product importers, including the National Oil Company, and petroleum products marketing companies shall, prior to but not later than twenty- one days following each importation, report details of all petroleum products imported into Nigeria to the Equalisation Fund, and the reports shall include

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	quantities, date of delivery and place of discharge.	
	(2) All licensed petroleum product storage facilities, including storage facilities belonging to the National Oil Company, shall on a monthly basis, deliver to the Board:	
	(a) logs of product movements into and out of the facilities; and	
	(b) returns of bridging and equalization allowances collected from petroleum products marketing companies and remitted to the Board.	
	(3) Marketing companies shall deliver quarterly statements of all petroleum products lifted and discharged, including details of load and discharge points, dates and times of loading and discharge to the Board.	
	(4) The Executive Secretary may, with the approval of the Board -	
	(a) require any petroleum products marketing company to furnish returns and keep records or any other relevant information as may be determined to be necessary for the proper administration of the provisions of this Act; and	

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	(b) produce the records for examination by the Executive Secretary or any authorized officer of the Board necessary for the proper administration of the provisions of this Part.	
	75. Dispute resolution	
	(1) Disputes between a company and the Equalisation Fund in respect of any matter under this Part shall be referred to the Agency and shall be subject to the dispute resolution mechanism referred to in subsection (2) of this section.	
	(2) Where the Equalisation Fund is a party to a dispute under this Part, the relevant provisions of the Arbitration and Conciliation Act, shall apply.	
PART 3 - ESTABLISHMENT OF COMMERCIAL ENTITIES	PART 4 - ESTABLISHMENT OF COMMERCIAL ENTITIES	Part numbering changed
36. Establishment of the Ministry of Petroleum Incorporated ("MOPI")	76. Establishment of the Ministry of Petroleum Incorporated ("MOPI")	Section numbering changed
(1) The Ministry of Petroleum Incorporated is hereby established as a corporation sole.	RETAINED	
(2) The Ministry of Petroleum Incorporated may sue and be sued in its said name and shall have	RETAINED	

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<p>perpetual succession and a corporate seal which may from time to time be broken, changed, altered and made anew as the Ministry of Petroleum Incorporated seems 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.</p>		
<p>(3) The Ministry of Petroleum Incorporated shall hold on behalf of the Government shares in the successor commercial entities incorporated pursuant to the provisions of this Act.</p>	<p>RETAINED</p>	
<p>(4) The Ministry of Petroleum Incorporated shall have powers to do all such other things as are incidental to and necessary for the performance of its functions under this Act.</p>	<p>RETAINED</p>	
<p>(5) All deeds and other instruments requiring the seal of the corporation shall be sealed, with the seal of the Ministry of Petroleum Incorporated 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 Ministry of Petroleum Incorporated.</p>	<p>RETAINED</p>	
<p>(6) Any other document requiring the signature</p>	<p>RETAINED</p>	

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<p>of the Ministry of Petroleum Incorporated shall be signed by the Permanent Secretary.</p>		
<p>(7) The Minister may, by order, vest in any other authority or company any property, movable or immovable, for the time being vested in the Ministry of Petroleum Incorporated and, upon the coming into operation of any such order, the property to which such order relates shall, without any conveyance, assignment or transfer whatever, vest in such company 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.</p>	<p>RETAINED</p>	
<p>PART 4 – NIGERIA PETROLEUM ASSETS MANAGEMENT COMPANY</p>	<p>PART 5 – NIGERIA PETROLEUM ASSETS MANAGEMENT COMPANY</p>	
<p>37. Incorporation of the Nigeria Petroleum Assets Management Company and the National Petroleum Company</p>	<p>77. Incorporation of the Nigeria Petroleum Assets Management Company and the National Petroleum Company</p>	<p>Part numbering changed Section numbering changed</p>
<p>(1) The Minister shall, within six months after the Effective Date, take such steps as are necessary under the Companies and Allied Matters Act to incorporate two entities – the first may be called the Nigeria Petroleum Assets Management Company, or such other name as may be available</p>	<p>RETAINED</p>	

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<p>and the other may be called the National Petroleum Company, or such other name as may be available, as companies limited by shares, which shall be vested with certain assets and liabilities of the Nigerian National Petroleum Corporation ("NNPC").</p>		
<p>(2) Upon incorporation and the transfer of assets pursuant to this Act:</p>	<p>RETAINED</p>	
<p>(a) the Nigeria Petroleum Assets Management Company (hereinafter called the "Management Company" in this Act) shall be responsible for the management of the assets detailed in the Fourth Schedule to this Act;</p>	<p>(a) the Nigeria Petroleum Assets Management Company (hereinafter called the "Management Company" in this Act) shall be responsible for the management of assets currently held by the Nigeria National Petroleum Corporation (NNPC) under the Production Sharing Contract and back-in right assets;</p>	<p>Paragraph amended for clarity on the assets to be transferred to the Management Company.</p>
<p>(b) the National Petroleum Company shall operate the assets transferred to it as a fully commercial entity.</p>	<p>(b) the National Petroleum Company shall be responsible for the management of all other assets held by NNPC except the Production Sharing Contract assets currently held by the NNPC;</p>	<p>Paragraph amended for clarity on the assets to be transferred to the National Petroleum Company.</p>
<p>(3) The Minister may, in addition to the incorporation of the entities above, incorporate other entities, as may be necessary to assume and manage some of the liabilities of the NNPC.</p>	<p>DELETED</p>	<p>Subsection deleted for superfluity. Nigeria Petroleum Liability Management Company has been established in section 86 of this Bill. Secondly, the Minister should not have powers to create any further companies</p>

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			suo motu.
(4) The provisions of this Section 37(4) shall apply to any other successor entities created by the Minister pursuant to Section 37(3) above;	DELETED		Subsection rendered irrelevant since Minister shall have no powers to create further companies.
(a) The initial shares or other ownership interest of such other entities shall be held in the ratio of 51% by the Ministry of Petroleum Incorporated and 49% by the Bureau of Public Enterprises on behalf of the Government.	DELETED		Subsection rendered irrelevant since Minister shall have no powers to create further companies.
(b) The entities shall be governed and managed on the basis of the provisions of the Companies and Allied Matters Act and the Securities and Exchange Commission's Codes of Corporate Governance.	DELETED		Subsection rendered irrelevant since Minister shall have no powers to create further companies.
(c) The annual reports and annual accounts submitted to the annual general meeting shall be published on the entity's website and at least 3 widely circulating National Newspapers.	DELETED		Subsection rendered irrelevant since Minister shall have no powers to create further companies.
(d) The Minister shall cause the Articles of Association of such other entities to provide for the composition and appointment of the Board of the entity on terms similar to the composition and appointment of the Board of the Management Company with such modifications as may be necessary or desirable.	DELETED		Subsection rendered irrelevant since Minister shall have no powers to create further companies.

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<p>(5) The Minister shall ascertain outstanding liabilities, including the amounts of cash call arrears and shall within 12 months of the Effective Date layout a plan for the settlement of the liabilities.</p>	<p>DELETED</p>	<p>Subsection rendered irrelevant since Minister shall have no powers to create further companies.</p>
<p>(6) The Minister shall put in place a clear plan and timeline for transitioning into the new entities to prevent disruption of industry operations.</p>	<p>RETAINED</p>	
<p>38. Shareholding of the Nigeria Petroleum Assets Management Company</p>	<p>78. Shareholding of the Nigeria Petroleum Assets Management Company</p>	<p>Section numbering changed</p>
<p>(1) At the time of its incorporation, the initial shares of the Management Company shall be held in the ratio of 51% by the Ministry of Petroleum Incorporated and 49% by the Bureau of Public Enterprises on behalf of the Government.</p>	<p>At the time of its incorporation, the initial shares of the National Petroleum Company shall be held in the ratio of 20% by the Bureau for Public Enterprises, 40% by the Ministry of Finance Incorporated and 40% by the Ministry of Petroleum Incorporated on behalf of the Government.</p>	<p>Subsection amended to vest shares in BPE, MOFI & MOPI.</p>
<p>(2) The Minister shall cause an order to be published in the Gazette stating the date on which the assets of the Management Company are transferred.</p>	<p>RETAINED</p>	
<p>39. Business or objects of the Management Company</p>	<p>79. Business or objects of the Management Company</p>	<p>Section numbering changed</p>

Comment [AA4]: This is not irrelevant as it does not relate to the creation of new entities but to the liabilities of NNPC

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<p>The Minister shall ensure that the Memorandum of Association of the Management Company includes the following objects:</p>	<p>RETAINED</p>	
<p>(a) to hold and manage certain petroleum assets on behalf of the government of the Federation.</p>	<p>RETAINED</p>	
<p>(b) to ensure maximum value (in terms of return on investments) for the government of the Federation through prudent management of the assets.</p>	<p>RETAINED</p>	
<p>(c) to negotiate and enter into new exploration and production agreements with other petroleum companies as may be required by the government of the Federation.</p>	<p>RETAINED</p>	
<p>(d) to monitor the revenue and cost elements of the operation and the production output of its petroleum contracts and undertake the sale of crude oil or other petroleum derivatives produced from the assets.</p>	<p>RETAINED</p>	
<p>40. Engagement of technical support</p>	<p>80. Engagement of technical support</p>	<p>Section numbering changed</p>
<p>In carrying out its business or objects, the Management Company shall have the power to enter into any arms-length arrangement with the National Petroleum Company incorporated pursuant to the provisions of this Act, or any other</p>	<p>RETAINED</p>	

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<p>reputable petroleum company or service company to provide the Management Company with technical support and expertise in relation to the performance of its functions including the marketing and sale of the Management Company's share of petroleum received in kind, pursuant to the provisions of its petroleum contracts.</p>			
<p>41. Transfer of employees, assets and liabilities</p> <p>(1) The Minister shall, within twelve months of incorporation of the Management Company, by an order as provided in subsection (2) of section 38, require the NNPC to transfer some employees, assets, liabilities, rights and obligations of the NNPC to the Management Company, as specified in the order.</p>	<p>81. Transfer of employees, assets and liabilities</p> <p>(1) The Minister shall, within twelve months of incorporation of the Management Company, by an order as provided in subsection (2) of section 78, require the NNPC to transfer some employees, assets, liabilities, rights and obligations of the NNPC to the Management Company, as specified in the order.</p>	<p>Section numbering changed</p> <p>Subsection amended to changed section numbering.</p>	
<p>(2) A transfer order shall be binding on the NNPC, the Management Company and all other persons.</p>	<p>RETAINED</p>		
<p>(3) Subsection (2) of this section applies despite any general or special Act or any rule of law, including an Act or rule of law that requires notice or registration of transfers.</p>	<p>RETAINED</p>		
<p>(4) A transfer order may specify and describe employees, assets, liabilities, rights or obligations to be transferred:</p>	<p>RETAINED</p>		

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(a) by reference to specific employees, assets, liabilities, rights or obligations;	RETAINED	
(b) by reference to any class of employees, assets, liabilities, rights or obligations; or	RETAINED	
(c) partly in accordance with subsection (4)(a) of this section and partly in accordance with subsection (4)(b) of this section.	RETAINED	
(5) With effect from the date specified in the relevant transfer order, all bonds, loans, financing agreements, alternative financing agreements, joint operating agreements, Production Sharing Contracts, participation agreements, hypothecations, securities, deeds, contracts, instruments, documents and such other working arrangements subsisting prior to the transfer date and relating to the assets to be transferred pursuant to this section and to which the NNPC was a party shall, on and after the Effective date, be as fully effective and enforceable against or in favour of the Management Company as if, instead of the NNPC, the Management Company had been named therein.	(5) With effect from the date specified in the relevant transfer order, all bonds, loans, financing agreements, alternative financing agreements, Production Sharing Contracts, hypothecations, securities, deeds, contracts, instruments, documents and such other working arrangements subsisting prior to the transfer date and relating to the assets to be transferred pursuant to this section and to which the NNPC was a party shall, on and after the Effective date, be as fully effective and enforceable against or in favour of the Management Company as if, instead of the NNPC, the Management Company had been named therein.	Subsection amended to delete joint operating agreements and participation agreements as they are not appropriate in the context of the assets to be transferred to the Asset Management Company.
(6) A transfer order may:	RETAINED	
(a) specify the date that the transfer takes effect	RETAINED	

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<p>and any interest in property that is transferred by the order shall vest in the Management Company on that date;</p>		
<p>(b) provide that the transfer shall be deemed to have taken effect on a date earlier than the date the transfer order is made, but the Effective Date shall not be earlier than the day on which the Management Company was incorporated;</p>	<p>(b) provide that the transfer shall be deemed to have taken effect on a date earlier than the date the transfer order is made, but the transfer date shall not be earlier than the day on which the Management Company was incorporated;</p>	<p>Paragraph amended to avoid confusion with the use of Effective Date, which is a defined term.</p>
<p>(c) provide that the transfer specified in the order and other transactions associated with the transfers shall be deemed to have occurred in a sequence and at times specified in the order;</p>	<p>RETAINED</p>	
<p>(d) require the NNPC or the Management Company;</p>	<p>RETAINED</p>	
<p>(i) to enter into any written agreement or execute any instrument specified in the order; and</p>	<p>RETAINED</p>	
<p>(ii) to register in accordance with the order any agreement or instrument entered into or executed under subsection 6(d)(i) of this section;</p>	<p>RETAINED</p>	
<p>(e) provide that any liability or obligation that is transferred by the order may be enforced against the NNPC or any relevant successor, the Management Company, or both of them; and</p>	<p>RETAINED</p>	

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<p>that any right that is transferred by the order may be enforced against the NNPC, the Management Company or both of them; or</p>	<p>RETAINED</p>		
<p>(f) impose conditions on the exercise of powers by the Management Company that are related to employees, assets, liabilities, rights or obligations transferred by the transfer order.</p>	<p>RETAINED</p>		
<p>(7) A transfer order may contain provisions dealing with other matters not specifically referred to in this Part that the Minister considers necessary or advisable in connection with a transfer.</p>	<p>RETAINED</p>		
<p>(7) The Government may thereafter vest in the Management Company any further assets as the Government may from time to time deem fit.</p>	<p>RETAINED</p>		
<p>(8) The Minister may by order require the NNPC to transfer certain employees, assets, liabilities, rights and obligations to any other successor entity incorporated by the Minister pursuant to subsection (3) of Section 37 of this Act. Such transfer order shall be binding on the NNPC, such successor entities and all other persons.</p>	<p>RETAINED</p>		
<p>42. Conclusive evidence</p>	<p>82. Conclusive evidence</p>		<p>Section numbering changed</p>
<p>(1) A statement, in a registered document to which the Management Company is a party, that land</p>	<p>RETAINED</p>		

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<p>described in the document was transferred to it from the NNPC by or pursuant to a transfer order, or any other statement in the document relating to the transfer order, shall be deemed to be conclusive evidence of the facts stated.</p>		
<p>(2) Nothing in subsection (1) of this section shall create for any person an interest in land that the NNPC did not have.</p>	<p>RETAINED</p>	
<p>43. Release from liability or obligation</p>	<p>83. Release from liability or obligation</p>	<p>Section numbering changed</p>
<p>Subject to subsection (6) (e) of section 41 of this Act, the transfer of liability or obligation under this section without any further assurance other than this section releases the NNPC from any further liability or obligation in respect of the assets or liabilities.</p>	<p>Subject to subsection (6) (e) of section 81 of this Act, the transfer of liability or obligation under this section without any further assurance other than this section releases the NNPC from any further liability or obligation in respect of the assets or liabilities.</p>	<p>Provision amended to change section numbering changed</p>
<p>44. Enforcement or continuation of any cause of action or proceedings</p>	<p>88. Enforcement or continuation of any cause of action or proceedings</p>	<p>Section numbering changed</p>
<p>(1) Subject to subsection (6) (e) of Section 41 of this Act, the Management Company shall without further assurance be entitled to enforce or defend all obligations for or against the NNPC in respect of the portion of interests transferred pursuant to section 41(1) as if the Management Company were the original party to such obligations.</p>	<p>(1) Subject to subsection (6) (e) of Section 81 of this Act, the Management Company shall without further assurance be entitled to enforce or defend all obligations for or against the NNPC in respect of the portion of interests transferred pursuant to section 81(1) as if the Management Company were the original party to such obligations.</p>	<p>Provision amended to change section numbering changed</p>