

Extraordinary



National Assembly Journal

No. 13

Abuja - 7th July, 2021

Vol. 18

CONTENTS

INDEX TO LEGISLATIVE INSTRUMENTS

<i>Bill No.</i>	<i>Long Title</i>	<i>Page</i>
SB. 511	A Bill for an Act to Repeal the Electric Power Sector Reform Act, 2005, consolidate the laws relating to the Nigerian Electricity Supply Industry and enact the Electricity Act, 2021 to provide a comprehensive legal and institutional framework for the post privatization phase of the power sector in Nigeria in the areas of generation, transmission, distribution, supply, trading and use of electricity generally and regulatory measures conducive to a phase-wide development of the Nigerian electricity supply industry across the Transitional and Medium and Long Term Market stages protect interest of consumers, ensure stable supply of electricity to all areas of Nigeria by promoting cost reflective and service reflective tariffs and ensure gradual elimination of cross of subsidies within a specified timeframe, stimulate the contribution of renewable energy to Nigeria's energy mix and establish the Nigerian Electricity Regulatory Commission, the Rural Electrification and Renewable Energy Agency, Nigerian Electricity Management Services Agency and the Electricity Disputes Appeal Tribunal to enhance quick resolution of disputes in the electricity industry; and for Related Matters	C 429 - 610

Printed and Published by the National Assembly Press, Abuja, Nigeria

NASSP 13/77/2021/900

Subscribers who wish to obtain the Journal after 1st January should apply to the Clerk, National Assembly, Abuja for amended Subscriptions.

ELECTRICITY BILL, 2021
ARRANGEMENT OF SECTIONS

Sections:

PART I - PRELIMINARY PROVISIONS

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

PART II - NATIONAL INTEGRATED ELECTRICITY POLICY

AND STRATEGIC IMPLEMENTATION PLAN

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

PART III - DEVELOPMENT OF A COMPETITIVE ELECTRICITY MARKET

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

PART IV - INCORPORATION AND LICENSING OF INDEPENDENT

SYSTEM OPERATOR

16. Incorporation and licensing of Independent System Operator ("ISO").

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

PART V - ESTABLISHMENT, FUNCTIONS AND POWERS OF THE NIGERIAN

ELECTRICITY REGULATORY COMMISSION

34. Establishment of the Nigerian Electricity Regulatory Commission
35. Functions and powers of the Commission
36. Appointment of Commissioners
37. Terms of office and conditions of service of Commissioners
38. Conditions for appointment of commissioners
39. Vacation of office by Commissioner
40. Dismissal or suspension of Commissioners
41. Filling of vacancies in the Commission
42. Chairman and Vice Chairman of the Commission.
43. Meetings and procedure of the Commission.
44. Remuneration and expenses of Commissioners.

45. Commissioners to disclose certain connections and interests
46. No invalidity of decisions and acts of the Commission
47. Proceedings of the Commission.
48. Decisions and orders of the Commission.
49. Commission to give notice to interested parties
50. Commission to consult experts on technical questions
51. Questions of law may be referred to the Tribunal
52. Rehearing and Appeals
53. Annual programmes and budgets of the Commission
54. Funds of the Commission.
55. Surplus funds of the Commission
56. Financial year of the Commission
57. Accounts of the Commission
58. Audit of the Commission's account.
59. Powers of auditors.
60. Execution of contracts and instruments by the Commission
61. Reports of the Commission
62. Staff of the Commission
63. Exemption from liability for the Commission

PART VI - LICENSING

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

- 75. Amendment of licenses
- 76. Cancellation of licenses
- 77. Enforcement of licenses
- 78. Sale of undertakings of licensees
- 79. Vesting of undertakings in the purchaser
- 80. Provision where no purchase takes place

PART VII - GENERATION OF ELECTRICITY

- 81. Promotion of generation from Renewable Energy.
- 82. Directions to generation companies.
- 83. Establishment of the Hydroelectric Power Producing Areas Development Commission.

PART VIII - TRANSMISSION OF ELECTRICITY

- 84. Demarcation of Transmission into National Control Centres, etc
- 85. Private sector investment in transmission undertaking.
- 86. Fair spread of private sector investment in undertaking.
- 87. Commission to issue directions to transmission licensee
- 88. Public - Private partnerships to facilitate transmission of Electricity within a State.

PART IX - DISTRIBUTION OF ELECTRICITY

- 89. Distribution and supply network and renewable energy.
- 90. Installation of meters, etc.
- 91. Disconnection of supply in default of payment.

PART X - TARIFFS AND SUBSIDIES

- 92. Activities subject to tariff regulation.
- 93. Provision of electricity subsidies by government.

PART XI - ACQUISITION OF LAND AND ACCESS TO LAND

- 94. Procedure for acquisition of land for generation, transmission, and Distribution, etc, of electricity

PART XII - CONSUMER PROTECTION AND LICENSEE PERFORMANCE
AND LICENSEE PERFORMANCE STANDARDS

- 95. Consumer protection standards

96. Performance standards and codes
- PART XIII - COMPETITION AND MARKET POWER
97. Competition and market power
- PART XIV - THE POWER CONSUMER ASSISTANCE FUND.
98. Establishment of the Power Consumer Assistance Fund.
99. Contribution rates for the Power Consumer Assistance Fund.
100. Contribution payments for the Power Consumer Assistance Fund.
101. Payments from the Power Consumer Assistance Fund.
102. Fine for non-payment of money owed.
- PART XV - RURAL ELECTRIFICATION AND RENEWABLE
ENERGY AGENCY.
103. Establishment of the Rural Electrification and Renewable Energy
Agency.
104. Objectives of the Agency
105. Functions and powers of the Agency
106. Establishment and Composition of the Governing Board of the
Agency
107. Tenure of members of the Board
108. Cessation of membership of the Board
109. Allowances of the Chairman and non-Executive members of the
Board.
110. Powers of the Board
111. Meetings and proceedings of the Board
112. Secretary of the Board
113. Managing Director of the Agency and Chief Executive Officer of
the Agency.
114. Other staff of the Agency
115. Pensions and gratuity, etc
116. Structure of the Agency
117. Functions of Executive Directors and Directorates of the Agency.

118. Establishment of the Rural Electrification and Renewable Energy Fund
119. Purpose of the Fund
120. Management of the Fund
121. Contribution rates for the Rural Electrification Fund
122. Contribution payment for Rural Electrification Fund
123. Criteria for allocation of the Rural Electrification Fund
124. Fine for non -payment for amount owed.
125. Expenditure of the Agency.
126. Exemption from income tax
127. Supervisory powers of the Minister
128. States Rural Electrification Boards and Local Government Implementation Committees
129. Relationship between the Agency, and the States Rural Electrification Board and Local and Government Implementation Committees.
130. Progress Report
131. Monitoring of Rural Electrification Schemes in States and Local Governments.
132. Power to accept gifts
133. Power to borrow
134. Estimates of the Agency
135. Accounts and Audits
136. Annual Reports
137. Limitation of suits against the Agency.
138. Service of documents
139. Restriction on execution against the property of the Agency
140. Indemnity

PART XVI - RENEWABLE ENERGY AND ENERGY EFFICIENCY.

141. Commission to promote the development and utilization of renewable energy
142. Commercial activities for renewable energy.

143. Renewable energy incentives and standards.
144. Considerations for renewable purchase obligation.
145. Feed - in tariffs rates
146. Approval of feed - in tariffs rates.
147. Publication of feed -in tariffs rates
148. Connection to transmission and distribution systems.

PART XVII - NIGERIAN ELECTRICITY MANAGEMENT

SERVICES AGENCY

149. Establishment of Nigerian Electricity Management Services Agency
150. Establishment and membership of the Governing Board
151. Tenure of office
152. Powers of the Board
153. Management Team
154. Objectives and functions Agency
155. Appointment of the Managing -Director and Chief Executive Officer of the Agency and other staff of the Agency.
156. Service to be subject to the Pension Reform Act, 2014
157. Funds of the Agency
158. Annual Reports
159. Access to premises and other enforcement powers
160. Supervisory powers of the Minister.
161. Regulations.
162. General provisions

PART XVIII - DISPUTE RESOLUTION

163. Establishment of the Electricity Disputes Appeal Tribunal.
164. Composition of the Tribunal.
165. Qualification for appointment as member of the Tribunal.
166. Term of office.
167. Resignation and removal of members of the Tribunal
168. Allowances and Conditions of Service of the Tribunal

169. Filling of vacancies
170. Secretary to the Tribunal.
171. Other staff of the Tribunal.
172. Jurisdiction of the Tribunal.
173. Criminal Prosecution.
174. Appeals from decisions of the Commission.
175. Appeals to the Tribunal.
176. Ministry, Commission, etc, to refer question of law to the Tribunal.
177. Procedure before the Tribunal.
178. Procedure following the decision of the Tribunal.
179. Appeals to the Federal High Court.
180. Right to legal representation.
181. Tribunal to encourage Alternative Dispute Resolution.
182. Powers and procedure of the Tribunal.
183. Minister to make rules and regulations.
184. Costs.
185. Further Appeals.

PART XIX - OFFENCES AND PENALTIES

186. Theft of electricity.
187. Theft of electric lines and materials.
188. Offence of receiving stolen electricity materials.
189. Interference with meters or works of licensee.
190. Negligently breaking or damaging works.
191. Intentionally disrupting power supply.
192. Offence relating to damage to public streetlights.
193. Contravention of regulations, orders, directions, etc
194. False declaration
195. Offences by companies
196. Abetment
197. Unlawful use of information by inspector, etc.
198. Obstruction and impersonation.

- 199. Power to prosecute .
- 200. Power to compound offences
- 201. Jurisdiction to try offences
- 202. Establishment of the Federal Power Task Force

PART XX - MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS

- 203. Exemption of electric lines or electric plants from attachment in certain cases
- 204. Protection of action done in good faith by members of the Tribunal, etc. Power of licensee to enter premises and to remove fittings or other apparatuses of licensee.
- 205. Power of the licensee to enter premises and to remove fittings, etc.
- 206. Power of the Commission to make Regulations.
- 207. Local content in the power sector.
- 208. Protection of investments in the power sector.
- 209. Gender mainstreaming.

PART XXI - FINAL PROVISIONS

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

Schedules

First Schedule - Successor Companies

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

Third Schedule - Establishment of the Federal Power Task Force.

Fourth Schedule - Acts repealed

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

A BILL
FOR

AN ACT TO REPEAL THE ELECTRIC POWER SECTOR REFORM ACT, 2005, CONSOLIDATE THE LAWS RELATING TO THE NIGERIAN ELECTRICITY SUPPLY INDUSTRY AND ENACT THE ELECTRICITY ACT, 2021 TO PROVIDE A COMPREHENSIVE LEGAL AND INSTITUTIONAL FRAMEWORK FOR THE POST PRIVATIZATION PHASE OF THE POWER SECTOR IN NIGERIA IN THE AREAS OF GENERATION, TRANSMISSION, DISTRIBUTION, SUPPLY , TRADING AND USE OF ELECTRICITY GENERALLY AND REGULATORY MEASURES CONDUCTIVE TO A PHASE-WIDE DEVELOPMENT OF THE NIGERIAN ELECTRICITY SUPPLY INDUSTRY ACROSS THE TRANSITIONAL AND MEDIUM AND LONG TERM MARKET STAGES PROTECT INTEREST OF CONSUMERS, ENSURE STABLE SUPPLY OF ELECTRICITY TO ALL AREAS OF NIGERIA BY PROMOTING COST REFLECTIVE AND SERVICE REFLECTIVE TARIFFS AND ENSURE GRADUAL ELIMINATION OF CROSS OF SUBSIDIES WITHIN A SPECIFIED TIMEFRAME, STIMULATE THE CONTRIBUTION OF RENEWABLE ENERGY TO NIGERIA'S ENERGY MIX AND ESTABLISH THE NIGERIAN ELECTRICITY REGULATORY COMMISSION, THE RURAL ELECTRIFICATION AND RENEWABLE ENERGY AGENCY, NIGERIAN ELECTRICITY MANAGEMENT SERVICES AGENCY AND THE ELECTRICITY DISPUTES APPEAL TRIBUNAL TO ENHANCE QUICK RESOLUTION OF DISPUTES IN THE ELECTRICITY INDUSTRY; AND FOR RELATED MATTERS

Sponsored by Senator Gabriel Suswam

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria;

- 1
- PART I - PRELIMINARY PROVISIONS
- 2
1. The primary objective of this Bill is to provide a comprehensive
- 3
- legal and institutional framework that will guide the operation of a

Objectives of
the Bill

1 privatized, contract and rule-based competitive electricity market in Nigeria
2 and attract through transformative policy and regulatory measures private
3 sector investments in the entire power value chain of the Nigerian electricity
4 supply industry. Specifically, the Bill seeks to achieve the following
5 objectives-

6 (a) provide an ideal legal and institutional framework that will
7 leverage on the modest gains of the privatization phase of electric power sector
8 in Nigeria to accelerate growth in power generation capacity and improve
9 utilization of generated power through increased investment in new
10 technologies that would enhance transmission and distribution of generated
11 power;

12 (b) promote policy and regulatory measures that would ensure the
13 expansion of power transmission networks in Nigeria to address any in
14 imbalance in the existing transmission infrastructure;

15 (c) stimulate policy and regulatory measures that will generally scale
16 up efficient power generation, transmission, and distribution capabilities of the
17 power sector in Nigeria with view to achieving national electricity access
18 targets and attaining the highest per capita power consumption in Africa within
19 a reasonable time frame;

20 (d) stipulate consequential, transitional and savings provisions
21 regarding reforms made pursuant to the provisions of Electric Power Sector
22 Reform Act, 2005 (in this Bill referred to as the "repealed Act"), the Market
23 Rules, Grid Code and other subsidiary legislations made there under;

24 (e) provide clear guide and legal basis for a phase-wide development
25 of the Nigerian electricity supply industry since the conclusion of the
26 privatization phase as implemented pursuant to the provisions of the repealed
27 Act and the Market Rules and other subsidiary legislations made there under;

28 (f) ensure clarity and unanimity of purpose between the statutory and
29 regulatory stipulations on the preconditions for the declaration and
30 establishment of Medium-Term electricity Market and the Long-Term Market

1 at the conclusion of the Transitional electricity Market stage in Nigeria
2 declared by the Minister under the repealed Act;

3 (g) stimulate policy measures that will attract private sector
4 investments across the Nigerian Electricity Supply Industry to re-energize
5 economic growth, drive job creation and improve the living conditions of
6 Nigerians;

7 (h) provide a clear legal and institutional framework for the
8 formulation and adoption of a National Integrated Electricity Policy and
9 Implementation Plan through an inter-ministerial consultative framework
10 for the power sector, encourage periodic review of such policy and
11 implementation Plan that will eliminate policy overlaps and duplication of
12 efforts and entrench policy and regulatory harmony;

13 (i) stimulate policies that would address technology limitation and
14 outdated infrastructure that are part of the factors behind value chain losses
15 in the Nigerian electricity supply industry by attracting sustainable
16 Investments in new and efficient power generation technology and
17 revamping existing power plants;

18 (j) eliminate through policy and regulatory measures, all barriers to
19 private sector investments in generation, transmission, distribution, and
20 allied segments of the electricity industry in Nigeria;

21 (k) encourage policies and regulatory measures that will increase
22 geographic coverage in power generation, transmission, distribution and
23 supply of electricity in Nigeria;

24 (l) provide a framework to support the development and utilization
25 of renewable energy sources and create an enabling environment to attract
26 investment in renewable energy sources in order to increase the contribution
27 of renewable energy to the energy mix;

28 (m) provide a framework for improvement of access to electricity
29 in rural, unserved, underserved, peri-urban and urban areas through the use
30 of renewable energy off-grid and mini-grid solutions;

1 (n) promote indigenous capacity in technology for renewable energy
 2 sources through a framework for local content in the Nigerian electricity
 3 supply industry;

4 (o) promote public education on renewable energy production and
 5 consumption to increase the generation and consumption of electricity from
 6 renewable sources;

7 (p) clarify the constitutional role of States and Local Governments in
 8 electricity generation, transmission, and distribution vis-à-vis the role of the
 9 Federal Government in rural electrification;

10 (q) provide a clear framework for cross-border electricity trading in
 11 the interest of national security and energy self-sufficiency;

12 (r) promote frameworks for security of electricity infrastructure,
 13 ensure effective punitive measures against electricity theft and other offences
 14 peculiar to the Nigeria electric supply industry; and

15 (s) provide for quick and speedy resolution of disputes within the
 16 electricity industry through establishment of the Electricity Disputes Appeal
 17 Tribunal and generally sanction a dispute resolution mechanism that conforms
 18 with the requirements of fair hearing whilst maintaining the independence of
 19 the Commission and other existing alternative dispute resolution mechanisms
 20 recognized by the Commission.

Application
and Scope of
the Bill

21 **2.-(1)** Subject to the provisions of Section 4 and Paragraph 13 and 14,
 22 Part II, Second Schedule to the Constitution, this Bill applies throughout the
 23 Federal Republic of Nigeria and with respect to all aspects and segments of the
 24 power sector value chain in Nigeria.

25 (2) Nothing in subsection (1) of this section invalidates-

26 (a) any law passed by the House of Assembly of a State with respect to
 27 generation, transmission, and distribution of electricity to areas not covered by
 28 a national grid system within that state;

29 (b) any law passed by the House of Assembly of State regarding the
 30 establishment of state electricity power stations including any law passed by

1 the State House of Assembly for the establishment of a State Electricity
2 Board or any authority by whatever appellation, for the promotion and
3 management of electric power stations in areas not covered by a national
4 grid system within that State;

5 (c) any law passed by the House of Assembly of State to sanction
6 joint collaboration between the Federal and State Governments; or between
7 the Federal and State Governments and the organized private sector; or
8 between the State Government and the organized private sector for the
9 purpose of facilitating electrification of areas not covered by a national grid
10 system within the State especially through the exploitation of renewable
11 energy sources; and

12 (d) any collaboration between States and Local Governments and
13 the Federal Government for rural electrification, or between the States and
14 Local Governments and distribution licensees to ensure electricity access
15 to rural, unserved and under served areas, promote investments in electricity
16 or provision of electricity within States or Local Government Areas in
17 accordance with any framework for mini-grid or for Independent
18 Electricity Distribution Networks or Independent Electricity Transmission
19 Network or for investments in Electricity Networks as approved by the
20 Commission.

21 (3) In the foregoing provisions of subsection (2) of this section,
22 unless the context otherwise requires, the words :

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

26 PART II - NATIONAL INTEGRATED ELECTRICITY POLICY AND
27 STRATEGIC IMPLEMENTATION PLAN

28 3.-(1) The Federal Government through the Ministry in charge of
29 Power shall within one year from the commencement of this Act, prepare
30 and publish in a Federal Gazette, an Integrated National Integrated

National Integrated
Electricity Policy
and Strategic
Implementation
Plan

1 Electricity Policy and Strategic Implementation Plan in consultation with
2 relevant Government Authorities and other stakeholders to guide the overall
3 development of the electric power sector in Nigeria.

4 (2) The National Electricity Policy and Strategic Implementation
5 Plan adopted by the Federal Government pursuant to the provisions of
6 subsection (1) of this section shall encompass the following aspects relevant to
7 the development of electric power sector in Nigeria-

8 (a) development of electric power sector based on optimal utilization
9 of resources such as coal, natural gas, nuclear substances and materials as well
10 as renewable energy sources such as , solar, wind, hydro, hydrogen and other
11 renewable sources of energy;

12 (b) captive generation or stand-alone system for generation of
13 electricity for rural areas and non - conventional energy system;

14 (c) rural electrification and for bulk purchase of Power and
15 management of local distribution in rural areas;

16 (d) public private partnerships for provision of access to electricity to
17 all areas including villages, hamlets through rural electricity infrastructure and
18 electrification of households;

19 (e) power-source specific policies including waivers and subsidies
20 that will stimulate development of renewable energy.

21 (f) any other aspect of the power sector that the Federal Government
22 may determine that it requires clear policy direction bearing in mind changes
23 and new global developments in the sector.

Periodic review
of the National
Integrated
Electricity Policy
etc.

24 4.-(1) The National Integrated Electricity Policy and Strategic
25 Implementation Plan approved by the Federal Executive Council pursuant to
26 the provision of section 3 of this Bill shall be reviewed or revised in
27 consultation with relevant Government Authorities and other stakeholders at
28 least every five years or within such a reasonable timeframe as the Minister
29 may determine based on exigencies of the Nigerian electricity supply industry.

30 (2) The National Integrated Electricity Policy and Strategic

1 Implementation Plan or the revised version referred to under sections 3 and
2 4 of this Bill respectively shall be initiated, formulated, deliberated upon,
3 and adopted by the Ministry of Power in accordance with the provisions of
4 this Bill and same shall be approved by the Federal Executive Council
5 before final publication in a Federal Gazette for implementation.

6 **5.-(1)** The Minister shall-

7 (a) be responsible for the determination, formulation and
8 monitoring of Government policy for the Nigerian electricity supply
9 industry and perform the following functions including other functions
10 assigned to him under this Bill and other Acts of the National Assembly;

11 (b) exercise general supervision over the affairs and operations of
12 the Commission and agencies established under this Bill, and for this
13 purpose give general and specific policy direction including directions on
14 overall system planning and coordination to the Commission or agencies
15 established under this Bill, which the Commission or the agencies shall take
16 into consideration in discharging their respective functions;

17 Provided that such policy directives issued by the Minister are not
18 in conflict with the provisions of the Constitution, the provisions of this Bill
19 or any other Act of the National Assembly in relation to the Nigerian
20 electricity supply industry and such general and specific directives relating
21 to the overall system planning and coordination are made only after prior
22 consultation with the Commission, the system operator and the Energy
23 Commission of Nigeria;

24 (c) advise the Federal Government on all matters pertaining to the
25 Nigerian electric power sector, subject to prior consultation of the
26 Commission;

27 (d) promote the development of local content in the Nigerian
28 electricity supply industry;

29 (e) in consultation with the Ministry of Women Affairs and other
30 relevant ministries, departments and agencies as the Minister may

Supervisory
powers of the
Minister and
functions of the
Ministry responsible
for Power

1 determine, promote gender mainstreaming in the design and implementation
2 of electricity projects and programmes;

3 (f) issue policy directives on cross border electricity trading in
4 conjunction with the Commission and other relevant ministries, departments
5 and agencies to ensure energy security and energy self-sufficiency;

6 (g) in consultation with the Commission, negotiate and execute
7 international electricity agreements with other countries, international
8 organizations and other similar bodies on behalf of the Federal Government;
9 and

10 (h) do all such other things as are incidental to and necessary for the
11 performance of the functions of the Minister under this Bill.

12 (2) The Minister may in writing, delegate to any other senior officer
13 of the Ministry or Commission, any power or function conferred on him by or
14 under this Bill.

15 (3) The Ministry of Power under the direct supervision of the Minister
16 shall generally be responsible for initiating and coordinating broad sectorial
17 policies and implementation frameworks for overall development of the
18 electric power sector in Nigeria and perform the following Specific functions-

19 (a) initiating concessions in conjunction with the Infrastructure
20 Concession Regulatory Commission and in accordance with the Infrastructure
21 Concession Regulatory Commission(Establishment, etc.) Act 2005, in the
22 power sector;

23 (b) coordinating activities of power sector including engagement
24 with various States and Local Governments regarding proposed government
25 subsidy and their respective roles in the implementation of extant National
26 Electricity Policy and Strategic implementation plan, etc.;

27 (c) handling policy matters relating to research and development in
28 the Power Sector including regular detailed research on national load demand
29 with a view to projecting future demands for the country over a given time
30 frame;

1 (d) participating in bilateral and multilateral relations affecting the
2 power sector;

3 (i) provide an enabling framework for the efficient and sustainable
4 production, conversion, distribution, marketing and utilization of renewable
5 energy;

6 (j) advise the Minister on all matters pertaining to renewable
7 energy development and utilization;

8 (k) recommend to the Federal Government through the Federal
9 Ministry of Finance such exemption from customs, levies and other duties,
10 equipment and machinery necessary for the development, production and
11 utilization of renewable energy sources as he may consider appropriate;

12 (l) recommend to the Federal Government through the Federal
13 Ministry of Finance, such financial incentives necessary for the
14 development, production and utilization of renewable energy source;

15 (m) in conjunction with relevant ministries, departments and
16 agencies, undertake feasibility studies and maintain data with a view to
17 availing the same to developers of renewable energy resources;

18 (n) undertake, in conjunction with the Commission, the Energy
19 Commission of Nigeria and other relevant institutions, research,
20 development and dissemination of appropriate renewable energy
21 technologies;

22 (o) promote, in conjunction with the Ministry responsible for the
23 environment, the use of biomass for energy production;

24 (p) promote, in conjunction with the Ministry responsible for
25 physical planning, planning activities relating to energy resource areas such
26 as dams, solar and wind farms, municipal waste dump sites, agricultural and
27 animal waste, ocean energy, wood plantations for production of bio energy
28 feedstock;

29 (q) promote, in collaboration with other relevant agencies, the
30 development of appropriate local capacity for the manufacture, installation,

1 maintenance and operation of renewable technologies such as bio digesters,
2 solar systems, turbines and other renewable energy technologies;

3 (r) in collaboration with the Ministry of Environment, harness
4 opportunities offered under clean development mechanism and other
5 mechanisms including, but not limited to, carbon credit trading, renewable
6 energy certificates to promote the development and exploitation of renewable
7 energy sources;

8 (s) generally promote the utilization of renewable energy sources for
9 power generation; and

10 (t) Facilitate the overall coordination of the activities of the
11 parastatals under its supervision with a view to ensuring the efficacy of extant
12 institutional arrangement in the electric power sector and seamless
13 engagements with the Federal Government implementation organs and the
14 other tiers of government in Nigeria.

15 (4) In discharging its functions under this Bill or any other instrument,
16 the Ministry shall be under the overall direction of the Minister and shall be
17 guided by the provisions of the Constitution, extant policies and
18 implementation plans as well as the provisions of this Bill or any other Act of
19 the National Assembly with direct or indirect bearing on the discharge of its
20 functions provided under this Bill.

Oversight
responsibility
of the National
Assembly

21 6.-(1) subject to the provisions of the Constitution, the National
22 Assemble shall exercise oversight responsibility over the National Electricity
23 supply industry through its respective Committees on Power in the Senate and
24 House of Representatives.

25 (2) The oversight responsibility of the National Assembly or its
26 Committees under subsection (1) of this section shall apply notwithstanding
27 the supervisory powers of any government Ministry over government owned
28 enterprises such as Nigerian Bulk Electricity Trading Company Plc,
29 Transmission Company of Nigeria Plc (TCN) or other entities operating in the
30 Nigerian electricity supply industry in which government has not divested its

1 equity holdings, and irrespective of the Ministry where such entities are
2 placed for administrative supervision by the Ministry.

3 (3) The exercise of the oversight responsibility of the National
4 Assembly or its Committees in charge of power shall include the power to-

5 (a) investigate any matter relating to non-compliance or
6 compliance with the provisions of this Bill or any directive by the
7 Commission or any institution recognized under this Bill or any Act of the
8 National Assembly in relation to the Nigerian electricity supply industry;

9 (b) investigate the affairs of any ministry, department or agency or
10 person in charge of any ministry, department or agency or government
11 owned enterprise operating in the Nigerian electricity supply industry;

12 (c) procure evidence or summon for defence of any allegation; or

13 (d) review of budget estimates as proposed by any ministry or
14 government -owned enterprise such as NBET, TCN, Nigerian Electricity
15 Liability Management Company (NELMCO) of Nigeria Plc or any other
16 entity operating in the Nigerian electricity supply industry in which
17 government is yet to divest its equity holdings; and

18 (e) carryout any such function as may be assigned to it or may be
19 mandated by any referral regarding a resolution of either of the Houses of
20 the National Assembly to its respective Committee on Power in the exercise
21 of its constitutional oversight duties.

22 PART III - DEVELOPMENT OF A COMPETITIVE ELECTRICITY MARKET

23 7.-(1) Without prejudice to the transitional and savings provisions
24 contained in sections 210 and 211 of this Bill, this Bill recognizes the legal
25 validity of the evolution and reform of the Nigerian electricity supply
26 industry from its previous monopolistic service provision arrangement
27 under the defunct National Electric Power Authority (in this Bill referred to
28 as the "Authority") to the privatized phase involving the following stages
29 implemented under the Electric Power Sector Reform Act , 2005 (in this Bill
30 referred to as the " Repealed Act") -

Legal validity of
pre-privatization
and post-privatization
reforms

1 (a) physical unbundling of the Authority into 18 companies and
2 transfer of the assets, liabilities and staff of the Authority to the Power Holding
3 Company of Nigeria ("the initial holding company in this Bill referred to as the
4 "PHCN");

5 (b) licensing of the 18 new successor companies that emerged from
6 the PHCN as distinct generation, transmission and distribution companies as
7 contained in the list set out in Part I, First Schedule to this Bill;

8 (c) introduction of the National Integrated Power Projects (NIPP) to
9 address infrastructural deficit and fast-track the development of the NESI and
10 licensing of Independent Power Producers (IPPs) contained in the list set out
11 respectively in Parts II and III, First Schedule to this Bill;

12 *[First Schedule]*

13 (d) establishment of the Nigerian Electricity Liability Management
14 Company LTD/GTE (NELMCO) to assume responsibility for all the PHCN
15 liabilities leading to privatization of successor companies and any other
16 extended mandate as may be approved by the National Council on
17 Privatization regarding the management of tariff deficits accumulated during
18 the post-privatization stage by successor companies;

19 (e) the National Power Training Institute of Nigeria (NAPTIN)
20 established with the primary purpose of training power sector personnel and to
21 coordination of manpower training activities in the sector;

22 (f) establishment of the Nigerian Electricity Bulk Trading Plc, the
23 trading licensee holding a bulk purchase and resale license and to which the
24 function of bulk procurement and bulk sale of electricity and ancillary services
25 was transferred; and

26 (g) introduction of a rule and contract-based electricity market
27 together with the interim, pre-transitional and transitional rules introduced to
28 regulate the interim, pre-transitional and transitional stages of the market.

29 8.-(1) From the commencement of this Act, the Commission shall,
30 without prejudice to its powers under section 39 of this Bill, have the

1 continuing responsibility in the post -privatization stage of the Nigerian
2 electricity supply industry, to ensure a phase-wide development of the
3 Nigerian electricity market from its current transitional electricity market
4 stage to the medium term and long-term electricity market stages or such
5 stages of the market in accordance with such terms, preconditions or
6 features as may be prescribed in the market rules or amendment to such rules
7 as may be approved by the Commission.

8 (2) For the purpose of subsection (1) of this section and preparatory
9 to the initiation of Medium Term and Long-Term Electricity Market stages
10 as recognized under this Bill and the Commission shall-

11 (a) monitor and ensure that all market operator and market
12 participants in the Transitional Electricity Market perform their respective
13 responsibilities as stipulated under this Bill and the Market Rules,
14 prescribing timelines for completion of such responsibilities and imposing
15 sanctions to ensure strict and timely compliance where necessary;

16 (b) monitor and ensure that all market participants and the market
17 operator perform their responsibilities as stipulated under the Market Rules
18 and this Bill in relation to preparation for the initiation of the Medium and
19 Long-Term Electricity Markets stages respectively, prescribing timelines
20 for completion of such responsibilities and imposing sanctions to ensure
21 strict and timely compliance where necessary;

22 (c) prepare and submit annual reports on the market conditions,
23 including advise to the Minister on the end of the transitional electricity
24 market and the establishment and operational dates for the Medium- and
25 Long-Term Markets respectively taking into consideration the satisfaction
26 of the preconditions and features for operationalizing of the Medium Term
27 and Long-Term Market as prescribed in the Market Rules; and

28 (d) by its directive and within such period as it may specify, direct
29 NBET Plc, the trading licensee holding the license for the bulk procurement
30 and bulk sale of electricity and ancillary services, to, in accordance with its

Declaration of
Medium Term
and Long-Term
Electricity
Markets

1 license, cease to enter into contracts for the purchase and resale of electricity
2 and ancillary services and novate its existing contractual rights and
3 obligations to other licensees.

4 **9.**-(1) The Minister shall present to the President and the National
5 Assembly each report submitted by the Commission under section 8(2) (c) of
6 this Bill, and when the Commission, in Consultation with the Minister is
7 satisfied that the electricity market in Nigeria has developed to a point where
8 either a Medium Term or Long Term Electricity Market ought to be
9 established, having regards to the satisfaction of the pre-conditions and
10 features for declaration of a Medium Term or Long Term Electricity Market
11 prescribed under the Market Rules, the Commission shall issue a declaration
12 that a Medium Term or Long Term Electricity Market be commenced in
13 accordance with subsection (1) of this section.

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

Sale and
Purchase of
Electricity and
ancillary services

20 **10.**-(1) The sale and purchase of electricity and ancillary services
21 during the Medium-Term Market stage shall be in accordance with the
22 provisions of the Market Rules and the Grid Code.

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

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

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

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

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

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

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

21 **12.**-(1) From the commencement of this Act, it shall be Commission's
22 responsibility of the Commission to issue directives specifying the class or directive respecting
23 classes of end-use customers that may from time to time constitute eligible eligible customers
24 customers at every market stage recognized under this Bill or the market
25 rules.

26 (2) For the purpose of subsection (1) of this section, the
27 Commission shall monitor the development of the electricity market during
28 Transitional, Medium and Long Term Stages of the market indicating in a
29 report such preconditions as the Commission has determined as being ripe
30 for the declaration of Eligible Customers including the timing and

1 modalities of eligibility to be followed by the Commission to make its
2 declaration at every market stage.

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

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

Commission's
directive respecting
competition
Transition charges

14 13.-(1) If the Commission determines that following its directive
15 given under section 12 of this Bill will result in decreasing electricity prices to
16 such an extent that a trading licensee or a distribution licensee would have
17 inadequate revenue to enable payment for its committed expenditure or is
18 unable to earn committed rates of return on its assets, despite its efficient
19 management, the Commission may issue further directives on the collection of
20 a competition transition charges from eligible customers, the distribution of
21 the funds collected to the trading licensees or distribution licensees licensed
22 under this Bill and the duration of the competition transition charges.

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

1 collected by the Commission pursuant subsection(1) of this section.

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

Commission's
determinations
respecting
competition
transition charges

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

Public hearing
respecting
competition
transition charges

9 **PART IV- INCORPORATION AND LICENSING OF INDEPENDENT**
10 **SYSTEM OPERATOR.**

11 **16.-(1)** The Transmission Company of Nigeria Plc, being the
12 successor company issued the license that covers Transmission Service
13 Provider ,market and system operation functions under the repealed Act
14 shall in accordance with the terms of its license and within such stage or
15 period of the market as the Commission may in a written directive specify ,
16 take such steps as are necessary under the Companies and Allied Matters
17 Act, 2020 to incorporate an entity, the Independent System Operator which
18 may be a company limited by shares or have such ownership and
19 governance structure as the Commission may specify and the entity once
20 incorporated pursuant to the provisions of this section shall immediately
21 apply to the Commission and be licensed by the Commission as an
22 Independent System Operator to carry out such market and system
23 operation functions as stipulated under this Bill, its license and such terms
24 and conditions as the Commission may direct;

Incorporation
and licensing
of the ISO

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

27 (a) the TCN shall transfer to the Independent System Operator
28 (hereinafter called "the "ISO" in this Bill) ,all the assets and liabilities held
29 by the Transmission Company of Nigeria Plc pertaining to its market and
30 system operation functions and the Independent System Operator shall be

1 subject to such powers and duties of an independent System Operator under the
2 terms of its license and the provisions of this Bill in relation to market and
3 system operation;

4 (b) The TCN shall be issued a Transmission Service Provider license
5 and shall be responsible for transmission assets and liabilities and perform such
6 functions as are relevant to the development and maintenance of the power
7 transmission infrastructure in accordance with the terms of its license as may
8 be issued by the Commission and the provisions of this Bill;

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

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

Subscribers to
the constitutional
documents of
the ISO and its
Objects

18 17.-(1) At the time of incorporation, the subscribers to the
19 Constitutional Document of the ISO shall be as may be directed by
20 Commission in consultation with relevant stakeholders.

21 (2) The Commission shall ensure that the Constitutional Document of
22 the Independent System Operator submitted to the Corporate Affairs
23 Commission for incorporation includes the following objects -

24 (a) to hold and manage all assets and liabilities pertaining to market
25 and system operation on behalf of market participants and consumer groups or
26 such stakeholders as the Commission may specify;

27 (b) to ensure maximum value (in terms of return on investments) for
28 market stakeholders through prudent management of the assets;

29 (c) to carry out all market and system operation related contractual
30 rights and obligations novated to it by the Transmission Company of Nigeria;

(d) to negotiate and enter into contract for the procurement of ancillary services with independent power producers, successor generation licensees, etc and generally carryout market and system operations functions as specified under this Bill and the terms of its license in the interest of market participants and system users.

(e) the income and property transferred to it by the Transmission Company of Nigeria Plc or whensoever derived shall be applied solely towards the promotion of its objects as set forth in its Constitutional Document and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, or bonus otherwise howsoever, by way of profit to the subscribers provided that nothing herein contained shall prevent the payment in good faith of remuneration to any contractor or staff of the company in return for any services rendered to the Company.

18.-(1) The Independent System Operator shall be responsible for planning, dispatch and operation of the Power System and implementation of open access and new connections of equipment or loads in collaboration with the Transmission Service Provider, to the Transmission System in compliance with its functions contained in the Grid Code, and its license issued pursuant to the provisions of this Bill, and shall carryout the following functions as its relates to system operation-

Functions of the
ISO

(a) implement and enforce the Grid Code, and shall draft and implement such Operating Procedures as may be required for the proper functioning of the Power System;

(b) undertake system planning of both generation and transmission;

(c) implement and supervise open access to the Transmission System in collaboration with the Transmission Service Provider;

(d) provide demand forecasts;

(e) undertake operation planning and maintenance outages;

(f) undertake dispatch and generation scheduling;

- 1 (g) in the event that available Generation is not sufficient to satisfy all
2 loads, schedule Energy allocated to each Load Participant;
3 (h) ensure reliability and availability of Ancillary Services;
4 (i) undertake real time operation and supervisory control and data
5 acquisition system (SACDA);
6 (j) undertake administration of system constraints (congestion),
7 emergencies and system partial or total recovery; and
8 (k) undertake coordination of regional Interconnectors.
- 9 (2) The Independent System Operator shall perform the following
10 functions as its relates to the Grid Code-
- 11 (a) implement the Grid Code and draft such amendments thereto as
12 maybe required to:
- 13 (i) guarantee efficient, predictable and non-discriminatory system
14 operation service and open access to all Participants;
15 (ii) adapt the Grid Code to regional Wholesale Electricity Markets or
16 Regional Interconnect or Agreements;
17 (iii) improve the procedures including those for Demand forecast,
18 planning and Dispatch in the system; and
19 (iv) maintain reliability and quality in the Power System.
- 20 (3) The ISO shall perform the following functions as it relates to
21 market administration-
- 22 (a) implement and operate the Market in a manner designed to:
- 23 (i) guarantee an efficient, transparent and non-discriminatory market
24 administration service to all Participants;
25 (ii) facilitate the development of a sustainable competitive Wholesale
26 Electricity Market; and
27 (iii) adapt to regional Wholesale Electricity Markets or regional
28 electricity trading agreements.
- 29 (4) The ISO shall perform the following functions as it relates to
30 implementation of the Market Rules-

- 1 (a) implement the Market Rules, draft and implement any and all
- 2 requisite Market Procedures;
- 3 (b) review the efficiency and adequacy of Market Rules and
- 4 Market Procedures, and propose such Amendments as may be required to
- 5 ensure their efficacy and adequacy, taking into consideration the market
- 6 stages as may be declared by the Minister under this Bill;
- 7 (c) admit and register Participants;
- 8 (d) organize and maintain a Participants' Register;
- 9 (e) centralize the information required for market administration,
- 10 and organize and maintain the related data base;
- 11 (f) verify that each Connection Point where a Participant injects or
- 12 extracts Energy has proper commercial metering related to physical
- 13 exchange of Energy and other necessary commercial transactions;
- 14 (g) calculate and recover Ancillary Service and must run
- 15 Generation costs, when necessary;
- 16 (h) centralize and process commercial metering data;
- 17 (i) administer the Wholesale Electricity Market settlement process
- 18 and Wholesale Electricity Market payment system;
- 19 (j) settle payments in respect of Ancillary Services and other costs
- 20 of operating the system and administering the Wholesale Electricity
- 21 Market;
- 22 (k) calculate and settle payments in respect of Transmission
- 23 charges;
- 24 (l) during the Transitional Stage:
- 25 (i) Receive Contract information and maintain Contract Register;
- 26 (ii) use forecast Load projections to prepare the Generation
- 27 Adequacy Report; and
- 28 (iii) calculate Contract Imbalance Quantities in aggregate, by
- 29 Contract and by Participant, using Metered Quantities adjusted as necessary
- 30 for losses in each month;

- 1 (m) during the Medium-Term Market:
- 2 (i) Calculate Contract Imbalance Quantities, Uninstructed Imbalance
- 3 Quantities and Instructed Imbalance Quantities in aggregate and by Participant
- 4 -adjusted as necessary for losses in each and every Dispatch Period;
- 5 (ii) determine the System Marginal Price for each and every Dispatch
- 6 Period; and
- 7 (iii) issue invoices and arrange recovery and payments of charges for
- 8 imbalance Energy and Ancillary Services and the System Operation and
- 9 Market Administration Charge from, and to, the Participants;
- 10 (iv) Such other functions as may be necessary following the evolution
- 11 of the market.
- 12 (n) manage Wholesale Electricity Market billing including issuance
- 13 of Invoices and operating the settlement and payment system in accordance
- 14 with the Market Rules;
- 15 (o) recover the TUOS Charge from the Participants and remit it
- 16 to the Transmission Service Provider and other Transmitter(s), if any; and
- 17 (p) supervise Participants compliance with, and enforce the Market
- 18 Rules and Grid Code.
- 19 (q) receive and validate Dispatch Nominations by Generators, and
- 20 dispatch in accordance with the Grid Code;
- 21 (r) confirm and/or report on Generating Unit Availability;
- 22 (s) confirm and/or report on Generating Unit Start-up;
- 23 (t) during the Transitional Stage, the Medium-Term Market, and the
- 24 Long-Term Market stage, decide and order Market Suspension;
- 25 (u) during the Long-Term Market, prepare for the recommendation of
- 26 the Commission to the Minister, Long Term Market Rules to provide a
- 27 framework for the retail sale of electricity and to address other aspects of the
- 28 Long-Term Market.
- 29 **19.** In carrying out its objects including the discharge of its functions
- 30 under its license and the provisions of this Bill, the Independent System

1 Operator has the power to enter into any arms-length arrangement with any
2 entity or expert to provide the ISO with technical support and expertise in
3 relation to the performance of its functions including the training and re-
4 training of its staff to fill any manpower gap.

5 **20.-(1)** The Order issued by the Commission pursuant to section
6 16(2) (c) of this Bill shall state the date for the commencement and
7 completion of transfer of relevant employees, assets, liabilities, and
8 novation of market and system operation related contractual rights and
9 obligations of the Transmission Company of Nigeria to the Independent
10 System Operator.

Transfer of
employees, assets,
and liabilities

11 (2) A transfer order shall be binding on the Transmission Company
12 of Nigeria, the Independent System Operator and all other persons.

13 (3) the provisions of subsection (2) of this section applies
14 notwithstanding the provisions of any general or special enactment of the
15 National Assembly or any rule of law that requires notice or registration of
16 transfers.

17 (4) A transfer order may specify and describe employees, assets,
18 liabilities, rights and obligations to be transferred-

19 (a) by reference to specific employees, assets, liabilities, rights and
20 obligations;

21 (b) by reference to any class of employees, assets, liabilities, rights
22 and obligations; or

23 (c) partly in accordance with the provisions of subsection (4)(a) of
24 this section and partly in accordance with subsection (4)(b) of this section.

25 (5) With effect from the date specified in the relevant transfer
26 order, all bonds, loans, financing agreements, alternative financing
27 agreements, deeds, contracts instruments, documents and such other
28 working arrangements that subsisted prior to the transfer date and relating to
29 the assets to be transferred pursuant to the provisions of this section and to
30 which the Transmission Company of Nigeria Plc was party to as the holder

1 of the transmission license that covers Transmission Service Provider, market
2 and system operation functions shall, on and after the effective date, be as fully
3 effective and enforceable against and in favour of the Independent System
4 Operator as if, instead of the Transmission Company of Nigeria Plc, the
5 Independent System Operator had been named therein.

6 (6) A transfer order may-

7 (a) specify the date that the transfer takes effect and any interest in the
8 property that is being transferred by the order shall vest in the Independent
9 System Operator on that date;

10 (b) provide that the transfer shall be deemed to have taken effect on a
11 date earlier than the date the transfer order is made, but the transfer date shall not
12 be earlier than the dates on which the Independent System Operator was
13 incorporated and licensed;

14 (c) provide that the transfer specified in the order and other
15 transactions associated with the transfers shall be deemed to have occurred in
16 sequence and at times specified in the order;

17 (d) require the Transmission Company of Nigeria Plc or the
18 Independent System operator to enter to -

19 (i) enter into any written agreement or execute any instrument
20 specified in the order; and

21 (ii) register in accordance with the order, any agreement or instrument
22 entered into or executed under subsection 6(d)(i) of this section.

23 (e) provide that any liability or obligation that is transferred by the
24 order may be enforced against the Independent System Operator or relevant
25 successor; and that any right that is transferred by the order may be enforced
26 against the Independent System Operator; or

27 (f) impose conditions on the exercise of powers by the Independent
28 System Operator that are related to employees, assets, liabilities, rights or
29 obligations transferred by the transfer order.

30 (7) A transfer order may contain provisions dealing with other matters

1 not specifically referred to in this part that the Commission considers
2 necessary or advisable in connection with a transfer.

3 (8) The Market Participants and consumer groups who are
4 subscribers to the Constitutional Documents of the ISO shall thereafter vest
5 in the Independent System Operator any further assets as they may deem fit.

6 **21.**(1) A statement, in a registered document to which the
7 Independent System Operator is a party, that land described in the document
8 was transferred to it from the Transmission Company of Nigeria Plc by or
9 pursuant to a transfer order, or any other statement in the document relating
10 to the transfer order, or any other statement in the document relating to the
11 transfer order, shall be deemed to be conclusive evidence of the facts stated.

Conclusive
evidence

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

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

Enforcement or
continuation of
any cause of action
or proceedings

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

27 **23.**-(1) Notwithstanding the provisions of sections 22 of this Bill-

28 (a) No action or other proceedings shall be commenced against the
29 Independent System Operator in respect of any employee, asset, liability,
30 right or obligation if, had there been no transfer, the time for commencing

Transfer and
deemed to
Constitute breach
of contract

- 1 the action or other proceedings would have expired; and
- 2 (b) the transfer of the employees, assets and liabilities to the
- 3 Independent System Operator by or pursuant to the provisions of section 16(2)
- 4 of this Bill shall not be deemed to-
- 5 (i) constitute a breach, termination, repudiation or frustration of any
- 6 contract, including a contract of employment or insurance;
- 7 (ii) constitute a breach of any Act of the National Assembly,
- 8 regulation or by-law;
- 9 (iii) constitute an event of default or force majeure;
- 10 (iv) give rise to a breach, termination or repudiation or frustration of
- 11 any license, permit or other right;
- 12 (v) give rise to any right to terminate or repudiate a contract, license,
- 13 permit or other right; or
- 14 (v) give rise to any estoppel.
- 15 (2) subsection (1)(b) of this section shall not apply to such contracts as
- 16 may be prescribed by any regulation made for that purpose.
- 17 **24.-(1)** The transfer of assets and liabilities under section 16(2) of this
- 18 Bill without any further assurance other than the provision of the forgoing
- 19 section releases the Transmission Company of Nigeria Plc from any further
- 20 liability or obligation in respect of the assets and liabilities transferred.
- 21 **25.** Any guarantee or surety which was given or made by the TCN on
- 22 any other person in respect of any debt or obligation of the TCN and which was
- 23 effective immediately before the transfer of the principal debt or obligation to
- 24 the ISO, shall remain fully effective against the guarantor or surety on and after
- 25 the transfer date in relation to the repayment of the debt or the performance of
- 26 the obligation, as the case may be, by the ISO.
- 27 **26.** The TCN shall provide the ISO with all records or copies of
- 28 records, that are in its custody or control and that relate to an officer, employee,
- 29 asset, liability, right or obligation that is transferred by or pursuant to a transfer
- 30 order, including personal information.

Release from
liability or
obligation

Guarantee of
surety

Provision of
records, etc.
to the ISO

- 1 **27.** The Commission may, at any time within one year after Further order
2 making a transfer order, make a further order amending the transfer order in amending a
3 any way that the Commission considers necessary or advisable, including transfer order
4 such order or orders as may be necessary to rectify the transfer of any of the
5 employees, assets, liabilities, rights and obligations pursuant to a
6 verification or an audit of the employees, assets and liabilities of the ISO as
7 at the date of the relevant transfer order and section applies with necessary
8 modifications to the amendment.
- 9 **28.** Prior to the vesting of assets and liabilities of the TCN in the Directions to
10 ISO, the Commission shall give the Board of Directors of the TCN the TCN on
11 directions in writing to ensure the proper transfer of the assets and liabilities matters related
12 of the TCN to the ISO, and the Board of Directors of the TCN shall, without to transition
13 delay, comply with such directions.
- 14 **29.-(1)** Any employee of the TCN transferred to the ISO pursuant Transfer of
15 to the provisions of this Bill shall be transferred to the service of ISO on employees to
16 terms not less favorable than those enjoyed by him immediately prior to the the ISO
17 transfer.
- 18 (2) The service rendered by an employee transferred pursuant to
19 the provisions of this Bill shall be transferred to the service of the ISO for the
20 purpose of determining employment-related-entitlements as specified by
21 the relevant laws of employment in Nigeria.
- 22 (3) Until such time as conditions of service are drawn up by the
23 ISO-
- 24 (a) the terms and conditions of service applicable to employees of
25 the TCN shall continue to apply to every person transferred to the ISO as if
26 every such person were still in the service of the TCN;
- 27 (b) an employee transferred by the TCN to the ISO shall be
28 permitted to continue to contribute towards a pension scheme he was
29 contributing to when he was in the employment of the TCN; and
30 (c) the ISO shall continue to contribute towards a pension scheme

Exemption from
stamp duty or
other charged

1 to which the TCN was contributing in respect of employees in the employ of
2 the TCN prior to the date of transfer.

3 **30.-(1)** Stamp duty shall not be chargeable under the Stamp Duties
4 Act in respect of any transfer made or transaction entered into pursuant to the
5 provisions of this Part on which, except for the exemption granted under this
6 section, stamp duty would have been payable and in particular, and without
7 derogation from the foregoing, no stamp duty shall be chargeable-

8 (a) during the incorporation of the ISO, and any successor company
9 created pursuant to section 16(1) of this Bill or any subsequent increase to their
10 authorized share capital, prior to the transfer of an interest to one or more
11 private investors;

12 (b) in respect of any security issued in compliance with a transfer
13 order issued under section 16 (2) of this Bill;

14 (c) where any convertible securities were issued in compliance with a
15 transfer order issued under section 16(2), in respect of the exercise of the
16 conversion rights attached to any such security; or

17 (d) in respect of any other transfer of rights and assets pursuant to this
18 part

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

Composition
and appointment
of the Board
of the ISO

23 **31.-(1)** The ISO shall be subject to the National Code of Corporate
24 Governance.

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

27 (a) a non-executive Chairman who may be the Minister;

28 (b) the Managing Director of the ISO who shall possess at least 15-
29 yearcognate professional or management experience in an electricity
30 generation, transmission, system operation or distribution company;

1 (c) four other Executive Directors of the ISO who shall possess at
2 least 15-year cognate professional or management experience in an
3 electricity generation, transmission, system operation or distribution
4 company;

5 (d) four Non-Executive Directors who shall possess at least 15
6 years cognate professional or management experience in an electricity
7 generation, transmission, system operation or distribution company;

8 (e) A representative of the Ministry of Power who shall not be
9 below the rank of director.

10 (3) Notwithstanding the provisions of the Companies and Allied
11 Matters Act or any other enactment, the power of the shareholders to appoint
12 or remove directors, shall be subject to subsections (4) and (5) of this
13 section.

14 (4) For the purpose of making appointments to the Board of
15 Directors of the ISO, the subscribers to the Constitutional Document of the
16 ISO shall constitute an Independent committee ("the Board Nomination
17 Committee") of five persons with proven qualifications and tested industry
18 experience one of which shall include a representative of the Ministry of
19 power who shall not be below the rank of director, to identify and
20 recommend highly qualified candidates for such positions in a competitive
21 and transparent manner.

22 **32.** The Commission shall cause the Constitutional Document of
23 the ISO to include the following-

Term of office
of members of
the Board

24 (a) an Executive Member of the Board shall cease to be a Director
25 of the ISO if he ceases to be an employee of the company for any reason or if
26 otherwise removed in accordance with the provisions of the Companies and
27 Allied Matters Act.

28 (b) the non-executive members of the Board may serve for an
29 initial term of 4 years and no more.

30 (c) upon the expiration of the initial term of any of the non-

	1	executive members of the Board appointed, such member may be eligible for
	2	reappointment for another term of 4 years and no more.
Protection of land belonging to the ISO	3	33.-(1) Land vested in the ISO shall not be liable to be acquired
	4	compulsorily under any enactment or law; and notwithstanding anything in
	5	other enactment or law, no mining operations shall be carried on, in or under
	6	any land vested in the ISO or any land over which the ISO is entitled to rights of
	7	support for the benefit of lands so vested except with the prior consent in
	8	writing of the Minister.
	9	(2) For the purpose of this section, "land" includes any land under
	10	water beyond the territorial waters of Nigeria to which Nigeria is for the time
	11	being entitled to any exclusive rights.
	12	PART V - ESTABLISHMENT, FUNCTIONS AND POWERS OF THE NIGERIAN
	13	ELECTRICITY REGULATORY COMMISSION.
Establishment of the Nigerian Electricity Regulatory Commission	14	34.-(1) There is established a Commission to be known as the
	15	Nigerian Electricity Regulatory Commission (in this Bill, referred to as "the
	16	Commission"), which shall be a body corporate with perpetual succession
	17	which can sue or be sued in its corporate name and subject to this Bill, perform
	18	all acts that bodies corporate may by law perform.
	19	(2) The headquarters of the Commission shall be at Abuja with such
	20	Zonal Offices and State Offices as may be approved and established by the
	21	Commission for effective performance of its functions.
Functions and powers of the Commission	22	35.-(1) Subject to the provisions of this Bill, the Commission shall
	23	perform the following principal functions, that is, to -
	24	(a) create, promote, and preserve efficient electricity industry and
	25	market structures, and to ensure the optimal utilization of resources for the
	26	provision of electricity services;
	27	(b) maximize access to electricity services, by promoting and
	28	facilitating consumer connections to distribution systems in both rural and
	29	urban areas;
	30	(c) ensure adequate supply of electricity to consumers;

1 (d) ensure that the prices charged by licensees are fair to
2 consumers and are sufficient to allow the licensees to finance their activities
3 and to allow for reasonable profit for efficient operation;

4 (e) ensure the safety, security, reliability, and quality of service in
5 the production and delivery of electricity to consumers;

6 (f) ensure that regulation is fair and balanced for licensees,
7 consumers, investors, and other stakeholders;

8 (g) present quarterly reports to the President and National
9 Assembly on its activities;

10 (h) ensure a phase-wise development of a competitive electricity
11 market across the applicable market stages;

12 (i) issue directives and carryout such measures to ensure the
13 gradual development and smooth operation of the various stages of the
14 market;

15 (j) promote the development and utilization of renewable energy
16 services and increase the contribution of renewable energy to Nigeria's
17 energy mix;

18 (k) promote cost reflective and service reflective tariffs and ensure
19 gradual elimination of cross-subsidies within a specified timeframe; and

20 (l) promote gender mainstreaming and local content requirements
21 within the Nigerian Electricity Supply Industry

22 (2) Without prejudice to any other powers assigned to the
23 Commission under this Bill, the Commission shall in furtherance of its
24 functions under subsection (1) of this section, exercise the following
25 powers-

26 (a) Promote competition and private sector participation in the
27 post-privatized power sector, when and where feasible;

28 (b) Establish or, as the case may be, approve appropriate operating
29 codes and safety, security, reliability, and quality standards;
30

1 (c) Establish appropriate consumer rights and obligations regarding
2 the provision and use of electricity services;

3 (d) License and regulate persons engaged in the generation,
4 transmission, system operation, distribution, supply and trading of electricity;

5 (e) approve amendments to the Market Rules in accordance with the
6 procedure in the Market Rules;

7 (f) Monitor the operation of the electricity markets and sanction
8 licensees in deserving circumstances in accordance with the provisions of this
9 Bill and other subsidiary legislation; and

10 (g) Undertake such other activities which are necessary, ancillary or
11 convenient for or ancillary to giving full effect to the functions of the
12 Commission under this Bill.

13 (3) Without prejudice to its independence in decision making, the
14 Commission shall in the discharge of its functions and powers under this Bill,
15 consult from time to time, and to the extent the Commission considers
16 appropriate, such persons or groups of persons who may or are likely to be
17 affected by the decisions or orders of the Commission including, but not
18 limited to licensees, consumers, potential investors, and other interested
19 parties.

Appointment
of Commissioners

20 **36.-(1)** Subject to subsections (2) and (3) of this section, the
21 Commission shall consist of seven full time Commissioners appointed by the
22 President subject to confirmation by the Senate.

23 (2) In selecting potential nominees, the President shall ensure that
24 individuals are chosen, from the public and private sectors, for their experience
25 or professional qualifications in the following fields or areas of competence:

26 (a) generation, transmission, system operation, distribution, supply or
27 marketing of electricity; and

28 (b) law, accountancy, economics, finance, computer sciences,
29 engineering, or administration.

30 (3) The seven Commissioners shall be appointed to reflect one

1 Commissioner per each of the six geo-political zones in Nigeria and a
2 chairman from any zone.

3 **37. -(1)** Subject to the provisions of this section, a Commissioner
4 shall hold office for a period of five years provided that to ensure continuity
5 in the Commission, the period of appointment of the first seven
6 Commissioners shall be as follows:

Terms of office
and Condition s
of Service of
Commissioners

7 (a) the Chairman shall be appointed for five years;

8 (b) the Vice Chairman and other Commissioners shall be appointed
9 for four years.

10 (2) A Commissioner shall not continue in office after the expiry of
11 his term.

12 (3) Subject to section 38, a Commissioner shall hold office on such
13 terms and conditions as the President may fix in relation to Commissioners
14 generally.

15 (4) A Commissioner whose term of office has expired is eligible for
16 reappointment for another term and no more.

17 (5) All appointments or re-appointments of Commissioners shall
18 be made before expiry of their term of office in accordance with section 36
19 of this Bill.

20 **38.-(1)** A person shall not be appointed as a Commissioner who:

Conditions for
appointment of
Commissioners

21 (a) is not a Nigerian citizen;

22 (b) has a financial interest in any business connected, either
23 directly or indirectly, with generation, transmission, system operation,
24 distribution, supply or trading of electricity in Nigeria, or is engaged in any
25 activity (whether for remuneration or otherwise) connected with any such
26 service or system, or is a relative of a person who has such an interest or is
27 engaged in such an activity, unless the President is satisfied that the interest
28 or activity is in effect passive and will not interfere with the person's
29 impartial discharge of his duties as a Commissioner, or unless the financial
30 interest is terminated prior to the appointment taking effect; or

- 1 (c) has, in terms of a law in force in any country:
2 (i) been adjudged or otherwise declared insolvent or bankrupt and has
3 not been rehabilitated or discharged; or
4 (ii) made an assignment to, or arrangement or composition with, his
5 creditors which has not been rescinded or set aside, or
6 (d) has, in terms of a law in force in any country:
7 (i) been adjudged, by a court of competent jurisdiction, to be of
8 unsound mind; or
9 (ii) been banned from practicing his profession; or
10 (iii) been convicted of an offence and sentenced to a term of
11 imprisonment imposed with or without the option of a fine, whether or not any
12 portion has been suspended, and has not received a free pardon.
- 13 (2) A person who holds the office of Commissioner, and for a period
14 of two years after he ceases to be a Commissioner for any reason whatsoever,
15 shall not acquire, hold or maintain, directly or indirectly, any interest, office,
16 employment or consultancy arrangements, either for remuneration or
17 otherwise, connected with the generation, transmission, system operation,
18 distribution or trading of electricity in Nigeria or any activity connected with
19 any such service or system and if such person acquires any such interest
20 involuntarily or by way of succession or testamentary disposition, he shall
21 divest himself from such interest within a period of three months of such
22 interest being acquired.
- 23 **39.** A Commissioner shall vacate his office and his office shall
24 become vacant:
25 (a) Three months after the date upon which he gives notice in writing
26 to the President of his intention to resign;
27 (b) on the date he is convicted:
28 (i) in Nigeria, in respect of an offence; or
29 (ii) outside Nigeria, in respect of an offence involving financial
30 impropriety or any conduct which, if committed in Nigeria, would constitute

Vacation of
office by
Commissioner

1 an offence; or

2 (c) if he becomes disqualified under sections 38 (1) (a), (b), (c) or

3 (d), to hold office as a Commissioner; or

4 (d) if he is required under section 40 to vacate his office; or

5 (e) when he attains the age of 70 years, whichever is earlier

6 **40.**-(1) The President shall require a Commissioner to vacate his
7 office if the Commissioner:

Dismissal and
suspension of
Commissioner

8 (a) has, subject to section 38 (2), been found to have conducted
9 himself in a manner that renders him unsuitable as a Commissioner,
10 including a contravention of section 45 or section 58 (2); or

11 (b) has failed to comply with any term or condition of his office
12 fixed by the President under section 37(3) of this Bill; or

13 (c) is mentally or physically incapable of efficiently carrying out
14 his functions as a Commissioner; or

15 (d) The Commissioner is convicted of an offence in respect of
16 which a sentence of imprisonment without the option of a fine has been
17 imposed, whether in Nigeria or abroad.

18 (2) A Commissioner shall not be removed unless the request is
19 made by the President and supported by a simple majority vote of the Senate.

20 **41.** Subject to section 42 (6), on the death of, or vacation of office
21 by a Commissioner, the President shall nominate a candidate to fill that
22 vacancy, and submit that nomination to the Senate, within one month, in
23 accordance with section 36 of this Bill.

Filling of vacancies
in the Commission

24 **42.**-(1) The President shall designate one of the Commissioners
25 as Chairman who shall be the Chief Executive and Accounting Officer of the
26 Commission and another Commissioner as Vice-Chairman.

Chairman and
Vice-Chairman
of the Commission

27 (2) A Commissioner whose term of office has expired is eligible for
28 reappointment for another term and no more.

29 (3) The Vice-Chairman shall retain his position as Vice-Chairman
30 until his term of office as a Commissioner is expired.

Meetings and
procedure of
the Commission

1 (4) The Vice-Chairman shall perform the Chairman's functions
2 whenever the Chairman is for any reason unable to perform them.

3 (5) The Chairman or Vice-Chairman may at any time resign his office
4 as such by one month's notice in writing to the President.

5 (6) Whenever the office of Chairman or Vice-Chairman falls vacant,
6 or on the death of the Chairman or Vice-Chairman, the President shall, within
7 three weeks, select another Commissioner to fill the vacancy under section 41.

8 **43.**-(1) The Commission shall meet for the dispatch of business as
9 often as is necessary or expedient and, subject to this section, may adjourn,
10 close and otherwise regulate its meetings and procedure as it thinks fit.

11 (2) The Chairman or, in his absence, the Vice-Chairman shall preside
12 at all meetings of the Commission.

13 (3) All decisions of the Commission shall be on the basis of majority
14 of the members present and voting.

15 (4) The quorum for the meeting of the Commission shall be four and
16 subject to section 45 of this Bill, at all meetings of the Commission each
17 Commissioner present shall have one vote on each question before the
18 Commission and, in the event of a tie in votes, the Chairman shall have a
19 casting vote.

20 (5) For a meeting of the Commission to review any previous decision
21 or order taken by the Commission, the quorum shall be no less than the
22 Commissioners present when the decision was taken or order was made.

23 (6) Without derogation from subsection (1) of this section, the
24 Commission may conduct its business by means of written resolutions signed
25 by all the Commissioners, provided that, if any Commissioner requires that a
26 matter be placed before all the Commissioners for discussion, this subsection
27 shall not apply to such matter.

Remuneration
and expenses
of Commissioners

28 **44.**-(1) Commissioners shall be paid from the funds of the
29 Commission:

30 (a) such remuneration, if any, as the Commission may from time to

1 time determine, having regard to the recommendations of the National
2 Salaries, Incomes and Wages Commission; and

3 (b) such allowances, if any, as the Commission, may from time to
4 time determine, having regard to the recommendations of the National
5 Salaries, Incomes and Wages, Commission, to meet any reasonable
6 expenses incurred by such Commissioners in connection with the business
7 of the Commission.

8 (2) While making recommendations, the National Salaries,
9 Incomes and Wages Commission shall have due regard to the following
10 principles:

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

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

15 (c) the salaries paid in the private sector to individuals with
16 equivalent responsibilities, expertise and skills;

17 (d) the nature of the expenses incurred by the Commissioners,
18 including national and international travel expenses; and

19 (e) such other considerations that may be necessary to arrive at a
20 fair and competitive salaries and allowances recommendation for
21 Commissioners.

22 **45.-(1)** If a Commissioner:

23 (a) acquires or holds a direct or indirect pecuniary interest in any
24 matter that is under consideration by the Commission;

25 (b) owns any property or has a right in property or a direct or
26 indirect pecuniary interest in a company or association of persons which
27 results in the Commissioner's private interests coming or appearing to come
28 into conflict with his functions as a Commissioner;

29 (c) knows or has reason to believe that a relative of the
30 Commissioner:

Commissioners
to disclose certain
connections and
interests

1 (i) has acquired or holds a direct or indirect pecuniary interest in any
2 matter that is under consideration by the Commission; or

3 (ii) owns any property or has a right in property or a direct or indirect
4 pecuniary interest in a company or association of persons which results in the
5 Commissioner's private interests coming or appearing to come into conflict
6 with his functions as a Commissioner; or

7 (d) if for any reason the private interests of a Commissioner come into
8 conflict with his functions as a Commissioner, the Commissioner shall
9 forthwith disclose the fact to the Commission.

10 (2) A Commissioner referred to in subsection (1) of this section shall
11 take no part in the consideration or discussion of, or vote on, any question
12 before the Commission which relates to any contract, right, immovable
13 property or interest referred to in that subsection.

14 (3) A Commissioner shall, prior to accepting his appointment to the
15 Commission, make a declaration of assets in accordance with paragraph 11 of
16 the Fifth schedule to the Constitution of the Federal Republic of Nigeria, 1999
17 and shall terminate all other engagements for gain, including appointment to
18 any office in the Public Service.

19 (4) A Commissioner who contravenes subsection (1), (2) or (3) of this
20 section commits an offence and is liable on conviction to a fine not exceeding
21 one million Naira or imprisonment for a period not exceeding six months or to
22 both such fine and imprisonment.

No invalidity
of decisions
and acts of the
Commission

23 **46.-(1)** No decision or act of the Commission or act done under the
24 direction of the Commission shall be invalid on the ground that:

25 (a) there existed a vacancy or vacancies among the Commissioners;

26 (b) there existed some defect in the constitution of the Commission at
27 the time the decision was taken or act was done or authorized.

28 (2) If a Commissioner referred to in section 45 takes part in the
29 consideration of a matter in which his private interests are in conflict with his
30 functions as Commissioner, the other Commissioners may subsequently ratify

1 any such decision or action.

2 47.-(1) The Commission shall be entitled to conduct its Proceedings of
3 proceedings, consultations, and hearings at its headquarters or at any other the Commission
4 place in Nigeria.

5 (2) The Commission shall make regulations for the discharge of its
6 functions and for the conduct of its proceedings, consultations and hearings,
7 including procedures for the participation of licensees, consumers, eligible
8 customers and other persons.

9 48.-(1) The Chairman shall ensure that all Commission decisions Decisions and
10 and orders: Orders of the
Commission

11 (a) contain the basis for the decision or order;

12 (b) are properly recorded in writing; and

13 (c) are accessible to the public at reasonable times and places.

14 (2) The Commission shall issue written reasons in respect of any
15 decisions or orders affecting the existing rights of any person if the affected
16 person requests such written reasons.

17 (3) The Commission may issue written reasons in respect of any
18 other decision or order as the Commission deems necessary.

19 (4) Every recommendation, declaration, decision or order of the
20 Commission, if purported to be signed by a person describing himself as the
21 Chairman of the Commission, or by a person describing himself as the Vice-
22 Chairman acting in the capacity of the Chairman, shall, unless the contrary is
23 shown, be deemed to be made by the Commission and to have been so
24 signed and may be proved by the production of a copy thereof purporting to
25 have been so signed.

26 (5) The Commission may make interim orders pending the final
27 disposition of a matter before it.

28 49.-(1) The Commission shall hold a hearing of any matter, which Commission give
29 under this Bill or any other enactment is required or permitted to conduct or notice to interested
30 on which it is required or permitted to take any action and the Commission parties

	1	shall hold public hearing on matters which the Commission determine to be of
	2	significant interest to the general public.
	3	(2) Where the Commission is required to, or otherwise decides to,
	4	hold a hearing, all persons having an interest in such matter shall, as far as
	5	reasonably practicable, be notified of the questions at issue and given
	6	opportunities for making representations if they so wish.
Commission to consult experts on technical questions	7	50. When any matter arises which entails the consideration of any
	8	professional or technical question, the Commission may consult such persons
	9	as may be qualified to advice thereon.
Question of law may be referred to the Tribunal	10	51. -(1) If a question of law arises from an order or decision of the
	11	Commission, the Commission shall, on its initiative or at the request of any
	12	person directly affected by such order or decision, reserve that question for the
	13	determination of the Tribunal established under part VII of this Bill.
	14	(2) where a question has been reserved under subsection (1) of this
	15	section, the Commission shall state the question in form of a special case and
	16	file with the secretary of the Tribunal established under part VII of this Bill.
Rehearing and appeals	17	52. -(1) subject to this section, any person who is aggrieved by -
	18	(a) a decision of the Commission not to issue a license;
	19	(b) any term or condition of a license issued to him, or a refusal by the
	20	Commission to specify a term or condition of a licence;
	21	(c) a refusal by the Commission to renew a licence;
	22	(d) any amendment of a licence or refusal by the Commission to
	23	amend a licence;
	24	(e) the cancellation of a licence;
	25	(f) the grant or refusal by the Commission to grant any approval or
	26	authority in terms of this Bill;
	27	(g) the outcome of any arbitration or mediation by the Commission of
	28	any dispute between licensees;
	29	(h) a decision of the Commission with respect to prices or tariffs;
	30	(i) any other decision of the Commission, may apply to the

1 Commission for review of the decision, order or refusal.

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

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

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

12 **53.**-(1) On or before such date as the Minister may specify before
13 the beginning of every financial year, the Commission shall prepare and
14 submit to the Minister a budget showing the expenditures which the
15 Commission proposes to incur in respect of that financial year in order to
16 carry out the functions of the Commission.

Annual programmes
and budgets of
the Commission

17 (2) During any financial year, the Commission may prepare and
18 submit to the Minister a supplementary budget relating to expenditures
19 which were inadequately provided for in the annual budget due to
20 unforeseen circumstances.

21 (3) A supplementary budget shall be deemed to form part of the
22 annual budget of the Commission for the financial year to which it relates.

23 (4) The Commission may vary a budget prepared under this
24 section, provided that no variation may be made which has the effect of
25 increasing the total amount of expenditure provided for in the budget.

26 **54.** The funds of the Commission shall consist of:

Funds of the
Commission

27 (a) Fees, charges and other income accruing to the Commission
28 from licensees and other things done by it in terms of this Bill, excluding any
29 fines or penalties recovered pursuant to this Bill;

30 (b) Funds allocated to the Commission by the National Assembly,

1 pursuant to a request by the Commission for additional funds required to meet
2 its reasonable expenditures; and

3 (c) Such other monies as may vest in or accrue to the Commission,
4 whether in the course of its operations or otherwise.

Surplus funds
of the Commission

5 **55.**-(1) The Commission shall -

6 (a) in respect of each financial year following the audit of its accounts
7 under section 62 of this Bill, determine its operating surplus which shall be the
8 remaining sum from the funds received pursuant to section 58 of this Bill after
9 meeting all budgeted expenditure;

10 (b) within 30 days following the audit and determination of its
11 operating surplus, pay such operating surplus directly to the Rural
12 Electrification and Renewable Energy Fund established under section 128 of
13 this Bill.

14 (2) The operating surplus of the Commission as determined in
15 accordance with the provisions of this Bill shall be paid to the Rural
16 Electrification and Renewable Energy Fund notwithstanding the provisions of
17 any Act of the National Assembly on remittances of operating surplus by
18 government ministries, departments and agencies.

The Financial
Year of the
Commission

19 **56.** The financial year of the Commission shall be the period of twelve
20 months commencing from January 1st and ending on the 31st December in
21 each year.

Accounts of
the Commission

22 **57.**-(1) The Commission shall ensure that proper accounts and other
23 records relating to such accounts are kept in respect of all the Commission's
24 activities, funds and property, including such particular accounts and records
25 as the Minister may require.

26 (2) The Commission shall, not later than three months, after the end of
27 the financial year, prepare and submit to the Auditor General of the Federation
28 and National Assembly a statement of accounts in respect of that financial year.

29 (3) The Commission shall present quarterly reports on all its activities

1 to the Minister for onward transmission to the President and National
2 Assembly.

3 **58.**-(1) The Commission shall appoint an auditor in accordance Audit of the
4 with the guidelines for the appointment of auditors issued by the Auditor- Commission's
5 General of the Federation. Accounts

6 (2) The accounts kept by the Commission under section 57(1) of
7 this Bill shall be examined by the auditor.

8 (3) The auditor shall within six months after the end of each
9 financial year, make a report to the Commission and the Minister on the
10 statement of accounts prepared under section 57 (2) and such report shall
11 state whether or not, in the opinion of the auditor, the statement of accounts
12 gives a true and fair view of the Commission's affairs.

13 (4) The Minister may require the Commission to obtain from its
14 auditor such other reports, statements or explanations in connection with the
15 Commission's operations, funds and property as the Minister may consider
16 necessary, and the Commission shall forthwith comply with any such
17 requirement.

18 (5) Notwithstanding the provision of subsection (4) of this section,
19 the Minister shall authorize the Commission to publish its audited statement
20 of accounts in two national newspapers within one month following the
21 receipt of the auditor's report under subsection (3) of this section, and the
22 Commission shall thereafter publish the statement of accounts in the manner
23 that has been authorized.

24 **59.**-(1) The auditor shall be entitled at all reasonable times to Powers of the
25 require to be produced to him all accounts and other records relating to such Auditors
26 accounts which are kept by the Commission or its agents and to require from
27 any Commissioner or employee or agent of the Commission such
28 information and explanations as in the auditor's opinion are necessary for
29 the purposes of their audit.

30 (2) Any Commissioner or employee or agent of the Commission

	1	who fails without just cause to comply with a requirement of an auditor in terms
	2	of subsection (1) of this section commits an offence and is liable on conviction
	3	to a fine not exceeding two hundred thousand Naira or to imprisonment for a
	4	period not exceeding three months or to both such fine and imprisonment.
Execution of contracts and instruments by the Commission	5	60. Any agreement, contract or instrument approved by the
	6	Commission may be entered into or executed on behalf of the Commission by
	7	any persons generally or specially authorized by the Commission for that
	8	purpose
Reports of the Commission	9	61. -(1) In addition to any report which the Commission is required by
	10	this Bill to submit to the Minister, the Commission may submit to the Minister
	11	such other reports as the Commission considers advisable.
	12	(2) The Minister shall publicly release any reports submitted
	13	pursuant to subsection (1) of this section, within two months following the
	14	receipt of such a report.
Staff of the Commission	15	62. -(1) The Commission shall employ such persons as it considers
	16	expedient for the better exercise of the functions of the Commission.
	17	(2) The terms and conditions of service, including remuneration,
	18	allowances and pension benefits, of the staff of the Commission shall be as
	19	determined by the Commission.
	20	(3) Subject to subsection (5) of this section, the Commission may
	21	assign to its staff such functions of the Commission as the Commission deem
	22	fit.
	23	(4) Any assignment of functions under subsection (3) of this section
	24	may be made either generally or specially and subject to such reservations,
	25	restrictions and exceptions as the Commission may determine, and may be
	26	revoked by the Commission at any time.
	27	(5) Anything authorized or required by or under this Bill to be done by
	28	the Commission, other than the making of final orders, may be done by any
	29	member of the Commission staff who has been authorized either generally or
	30	specifically by the Commission to do so.

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

Exemption from
liability for the
Commission

6 PART VI - LICENSING

7 **64.**-(1) No person, except in accordance with a license issued
8 pursuant to the provisions of this Bill or deemed to have been issued under
9 section 210 or as provided under this Bill, shall construct, own, operate an
10 undertaking other than an undertaking specified under subsection (2) of this
11 section, or in any way engage in the business of -

Authorized persons
to generate , transmit,
etc. electricity

- 12 (a) electricity generation, excluding captive generation;
13 (b) electricity transmission;
14 (c) electricity distribution;
15 (d) electricity supply;
16 (e) electricity trading; or
17 (f) system operation.

18 (2) Notwithstanding the provisions of subsection (1) of this
19 section, a person may construct, own or operate an undertaking for
20 generating electricity not exceeding 1 megawatt (MW) in aggregate at a site
21 or an undertaking for distribution for electricity with a capacity not
22 exceeding 100 kilowatts (KW) in aggregate at a site, or such other capacity
23 as the Commission may determine from time to time, without a license.

24 (3) Subject to the provisions of this Bill, the Commission shall
25 have the power to resolve disputes as to whether a person is engaging or is
26 about to engage in a business for which a license is required under
27 subsection (1) of this section.

28 (4) The Commission shall have the authority to order any person
29 who contravenes subsection (1) of this section to cease his operations, and to
30 make such other orders, including an order to another licensee to disconnect

1 facilities, as may be necessary to prevent the continuation or reoccurrence of
2 the contravention.

3 (5) Any person who contravenes the provision of subsection (1) of
4 this section commits an offence and is liable on conviction to a fine not
5 exceeding three million Naira or to imprisonment for a period not exceeding
6 three years or to both such fine and imprisonment.

7 (6) The Commission shall have the authority to penalize a licensee for
8 violations of its license terms and conditions or to cancel such license in
9 accordance with the provisions of this Bill

General duties
of licensees

10 **65.**-(1) A licensee shall comply with the provisions of its license,
11 regulations, codes, orders and other requirements issued by the Commission
12 from time to time.

13 (2) Unless stayed by the Tribunal, each licensee shall duly implement
14 or follow, as the case may be, the Commission's orders and written notices,
15 notwithstanding that the licensee has or may intend to take legal action
16 challenging any such order or notice.

Generation
licenses

17 **66.**-(1) Subject to such terms and conditions as the Commission may
18 fix in the license, a generation license shall, as the circumstances may require
19 bearing in mind the current grid network capacity, authorize the licensee to
20 construct, own, operate and maintain a generation station for purposes of
21 generation and supply of electricity in accordance with the provisions of this
22 Bill.

23 (2) Subject to the provisions of this Bill, the holder of a generation
24 licensee may sell power or ancillary services to any of the classes of persons
25 specified in the license and under this Bill.

26 (3) Without prejudice to the rights and obligations of successor
27 generation companies which are deemed to be generation licensees under this
28 Bill, the Commission shall, for the purpose of subsection (1) of this section
29 have the power to grant multiple generation licenses to independent power
30 producers for generation of electricity from renewable and non-renewable

1 sources subject to such terms and conditions as may be stipulated by the
2 Commission under such licenses.

3 **67.** -(1) Subject to the provisions of section 16 (1) to(2) of this Bill Transmission
4 and such terms and conditions as are contained in the license issued to the licenses

5 Transmission Service Provider, such license shall authorize the licensee to -

6 (a) construct, maintain and operate an efficient, coordinated,
7 economical and technology -integrated grid and transmission system within
8 Nigeria, or that which connects Nigeria with a neighboring country; and

9 (b) provide non-discriminatory and open access to its transmission
10 system for use by any successor generating company, independent power
11 producer, consumers, licensees or other generators upon payment of
12 appropriate transmission charges.

13 (2) without prejudice to the rights and obligations of transmission
14 licensees under subsection (1) of this Bill, the Commission shall have the
15 power to issue independent electricity transmission network license) where-

16 (a) there is no existing transmission facility and there is need for
17 extension of the transmission network to increase electricity access; or

18 (b) there are existing transmission facilities that requires
19 reinforcement of transmission network to connect new power generating
20 facilities.

21 (3) For the purpose of subsection (1) of this section, the jurisdiction
22 of the independent electricity transmission network license shall be
23 restricted to the green field sites covered under the independent electricity
24 transmission network license while the jurisdiction of the transmission
25 service provider shall be over areas that the transmission service provider
26 described under section 16(2)(b) has its transmission facilities.

27 (4) Notwithstanding the provisions of section 16(2)(a) of this Bill,
28 the Commission may issue independent transmission network Operator
29 license (in this Bill referred to as (IETNOs) in respect of-

30 (a) any independent electricity transmission network licensed by

	1	the Commission pursuant to subsection (2) of this of this section in
	2	circumstances that requires the independent electricity transmission network
	3	operator to perform the functions; or
	4	(b) authorize the ISO in its license given under section 16(2) of this
	5	Bill to continue to perform system operations nationwide.
System operation license	6	68. -(1) Subject to the provisions of this Bill and such terms and
	7	conditions as the Commission may fix in the license, a system operation license
	8	shall authorize the licensee to carry on system operation, including, but not
	9	limited to, the following activities as may be specified in the license:
	10	(a) generation scheduling, commitment and dispatch;
	11	(b) transmission scheduling and generation outage co-ordination;
	12	(c) transmission congestion management;
	13	(d) international transmission co-ordination;
	14	(e) procurement and scheduling of ancillary services and system
	15	planning for long term capacity;
	16	(f) administration of the wholesale electricity market, including the
	17	activity of administration of settlement payments, in accordance with the
	18	market rules; and
	19	(g) such other activities as may be required for reliable and efficient
	20	system operation.
	21	(2) All contracts for procuring ancillary services shall be awarded
	22	according to an open transparent and competitive manner, pursuant to a
	23	procedure established by the Commission, unless the circumstances require
	24	otherwise, and the Commission allows or requires an alternative method.
Distribution and supply licenses	25	69. -(1) Subject to the provisions of this Bill and such terms and
	26	conditions as are contained in a distribution license issued to successor
	27	distribution companies, a distribution license shall authorize the licensee to
	28	construct, operate and maintain a distribution system and facilities, including,
	29	but not limited to, the following activities as may be specified in the license:

1 (a) The connection of customers for the purpose of receiving a
2 supply of electricity;

3 (b) The installation, maintenance and reading of meters, billing
4 and collection;

5 (c) Expansion of the distribution network in the licensed areas; and

6 (d) such other distribution service as may be prescribed for the
7 purposes of this section

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

11 (3) A distribution licensee that has a trading license issued under
12 subsection (2) of this section may purchase power for resale from another
13 trading licensee and may, with the prior approval of the Commission,
14 purchase power from other sources except for the rights and obligations of
15 the trading licensee described in section 7(1)(f) of this Bill novated to a
16 distribution licensee under section 7(2)(d), all contract for bulk purchase of
17 electricity by a distribution licensee shall be awarded on according to an
18 open, transparent, and competitive manner, pursuant to a procedure
19 established by the Commission, unless the circumstances require otherwise,
20 and the Commission allows or requires an alternative method.

21 (4) Notwithstanding the provisions of section 64 of this Bill, the
22 Commission shall have the power to approve a distribution or supply
23 franchising arrangement or any other commercial arrangement between the
24 distribution or supply licensees and third parties within the respective
25 distribution or supply licensees' operations and coverage areas in
26 accordance with approved franchising terms, franchising models, tariffs as
27 may be approved by the Commission:

28 Provided that the franchisee shall not be deemed to hold a
29 distribution or supply license or sublicense but shall operate under the terms
30 of distribution and supply licensee's license, whichever is applicable, with

1 the distribution and supply licensees being ultimately responsible for quality
2 distribution and supply of electricity in their respective licensed areas of
3 operational coverage.

4 (5) For the purpose of subsection (4) of this section, the Commission
5 may approve a request for electricity distribution franchising at any time
6 during any of the market stages recognized under this Bill and the Market
7 Rules, taking into cognizance the aggregate tenure of licenses held by
8 successor distribution companies, any disaggregation of the distribution
9 licenses into distribution and supply licenses and such distribution franchising
10 framework as may be put in place by the Commission.

11 (6) Without prejudice to the right and obligations of a successor
12 distribution company, the Commission shall at any stage of the market it
13 considers appropriate, recognize electricity supply as a separate activity from
14 distribution and accordingly issue a directive for the disaggregation of
15 distribution licenses into supply and distribution licensed companies in
16 accordance with the provisions of this Bill.

17 (7) For the purpose of subsection (6) of this section, the Commission
18 shall implement a transfer scheme for the disaggregation of successor
19 distribution companies or other distribution licensees into supply and
20 distribution licensees, prescribing in such order, the phases for the transfer of
21 functions, property, interest and liabilities relating to the supply of electricity to
22 intermediary companies to be incorporated by successor companies under the
23 Companies and Allied Matters Act, 2020 or any law replacing same to function
24 as a supply license in accordance with the transfer order as may be issued by the
25 Commission under this section.

26 (8) Upon completion of the transfer scheme under subsection (7) of
27 this section-

28 (a) successor distribution licensees or other distribution licensees as
29 the case may be, shall cease to function as distribution and supply licensees but
30 only as distribution licensees and in accordance with distribution license

1 issued by the Commission under this subsection to cover their unexpired
2 aggregate license tenure of its distribution license or under the terms of a
3 renewed license granted by the Commission; and

4 (b) the intermediary companies described under subsection (7) of
5 this Bill shall be issued distinct supply licenses and shall function as supply
6 licensees in accordance with the provisions of this Bill and such terms and
7 conditions as may be stipulated by the Commission in its supply license.

8 (9) The Commission shall have the power to grant independent
9 electricity distribution network and independent electricity distribution
10 network Operators license to construct, own, operate, maintain or procure
11 the construction and maintenance of independent electricity distribution
12 network within an area with no existing distribution system or where the
13 existing distribution infrastructure owned by the distribution licensee is
14 unable to meet the demands of such customers giving due regard to the
15 independent electricity distribution network operator framework as may be
16 approved by the Commission for this purpose.

17 **70.-(1)** A trading licensee shall be permitted to engage in the Trading licenses
18 purchasing, selling, and trading of electricity and the Commission shall
19 have the powers to determine the terms and conditions of trading licenses as
20 may be appropriate in the circumstances, and having due regard to the nature
21 of the activities in which the licensee intends to engage.

22 (2) For the purpose of giving effect to the provisions of section
23 8(2)(d) of this Bill and ensure smooth transitioning of the market without
24 interruption, the Commission shall, at the stage of the market it considers
25 appropriate, issue such number of trading licensees as it considers
26 appropriate, authorizing such trading licensees to purchase, sale and trade in
27 electricity and ancillary services, specifying the technical requirements,
28 capital adequacy requirements, credit worthiness and such other terms and
29 condition as may be stipulated in such trading licenses.

30 (3) Trading licenses issued by the Commission pursuant to

1 provisions of subsection (2) of this section shall authorize the trading licensees
2 to-

3 (a) enter into novation agreements with the trading licensee described
4 under section 7(1)(f) of this Bill for the novation of the contractual rights and
5 obligations for purchase and resale of electricity and ancillary services in
6 accordance with section 8 (2) (d) of this Bill; and

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

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

Restriction on
licenses

17 71.-(1) A licensee shall not, except as provided under sections 8(2)(d),
18 16(2)(a), 69(4) 69(5) and 69(8) of this Bill, assign or cede its license or transfer
19 his undertaking, or any part thereof, by way of sale, mortgage, charge, pledge,
20 lease, franchise, exchange or otherwise without the prior consent of the
21 Commission:

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

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

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

4 **72.**-(1) An application for a licence shall be made to the Application and
5 Commission in the form and manner prescribed and be accompanied by the procedure for
6 prescribed fee and such information or documents as may be prescribed or licence
7 as the Commission may require.

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

18 (3) An applicant for a licence who owns, or a licensee who
19 acquires, more than ten percent or such other percentage as the Commission
20 may specify, of the shares in a body corporate which has applied for or holds
21 another licence issued by the Commission shall disclose such interest to the
22 Commission.

23 (4) Subject to subsection (5) of this section, if on consideration of
24 an application that satisfies the requirements of subsection (1) of this
25 section, the Commission is also satisfied that:

26 (a) the applicant is likely to comply with such provisions of this
27 Bill, including, without limitation, all codes of conduct, standards,
28 regulations and license terms and conditions, as apply to the service or
29 system it intends to provide or operate; and

30 (b) the grant of the licence is in the public interest; the Commission

1 shall issue the appropriate licence, as the case may be, to the applicant.

2 (5) If on consideration of an application that satisfies the requirements
3 of subsection (1) of this section, the Commission is not satisfied as to the
4 additional matters referred to in subsection (4), it shall refuse to issue a licence
5 to the applicant, but before refusing to issue the licence on the ground that it is
6 not satisfied as to the matters referred to in subsection (4) of this section, the
7 Commission shall notify the applicant in writing that it proposes to refuse the
8 application and of its reasons for doing so, and shall afford the applicant an
9 adequate opportunity to make representations in the matter.

10 (6) The period between the Commission's receipt of an application
11 under subsection (1) of this section and all documents and information
12 submitted in support of it, and the date on which it notifies the applicant of the
13 adequacy of the documents and information, shall not exceed one month.

14 (7) The period between the Commission's receipt of an application
15 that satisfies the requirements of subsection (1) of this section, and the date on
16 which the Commission notifies the applicant of its decision or proposed
17 decision in accordance with subsection (4) or subsection (5), as the case may
18 be, shall not exceed six months.

19 (8) Notwithstanding subsections (1) to (7) of this section, the
20 Commission may establish simplified procedures for undertakings and
21 businesses that are limited in size and scope so as to expedite the application
22 and licensing process.

Terms and
Conditions of
licences

23 73.-(1) A license shall be issued subject to such terms and conditions
24 as may be prescribed, or as the Commission may reasonably determine,
25 including terms and conditions prescribing the use of a tariff methodology
26 approved by the Commission under Part X of this Bill.

27 (2) Without derogation from subsection (1) of this section, a license
28 may contain specific or general conditions which shall apply either to a
29 licensee or class of licensee and may require the licensee to:

30 (a) enter into agreements on specified terms with other persons for the

1 provision of or use of electric lines and associated equipment operated by
2 the licensee;

3 (b) purchase power and other resources in an economical and
4 transparent manners; and

5 (c) refer disputes to the Commission for arbitration, mediation, or
6 determination by the Commission and file appeal against the decisions of
7 the Commission to the Electricity Disputes Appeal Tribunal established
8 under Part XVII of this Bill; and

9 (d) comply with such renewable purchase obligations or renewable
10 generation obligations as may be prescribed by the Commission pursuant to
11 the provisions of this Bill to promote generation and consumption of energy
12 from renewable sources.

13 (3) In the case of a license issued to an applicant referred to in
14 section 76(3), the license may be issued subject to the condition that the
15 licensee shall divest itself within a specified time of any holding of shares in
16 another licensee or such other conditions, including adherence to codes of
17 conduct, that the Commission determines to be in the public interest.

18 (4) In issuing or renewing a distribution license, the Commission
19 may impose a condition requiring the licensee to make such reasonable
20 provision as may be specified by the Commission in the license for the
21 facilitation of rural electrification in the proximity of the service, having due
22 regard to the tariff methodology established by the Commission under Part
23 X of this Bill.

24 (5) A license may require the licensee to provide information to the
25 Commission on a periodic basis, in such form and detail as the Commission
26 may determine.

27 (6) Unless expressly indicated in the license, the grant of a license
28 shall not hinder or restrict the grant of a license to another person for a like
29 purpose and, in the absence of such an express indication, the licensee, shall
30 not claim any exclusivity:

1 Provided that the Commission may allow a licensed activity to be
2 exclusive for all or part of the period of the license, for a specific purpose, for a
3 geographical area, or for some combination of the foregoing.

4 (7) A license may contain terms and conditions for the license to cease
5 to have effect or to be modified or amended by the Commission in such
6 circumstances as may be specified in the license or as may be determined by the
7 Commission.

8 (8) As a condition of its license, every licensee shall, unless expressly
9 exempted by its license, prepare and submit to the Commission each year such
10 accounting information as the Commission may require.

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

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

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

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

Renewal of
licenses

23 74.-(1) Subject to the provisions of this Bill, the holder of a license
24 may apply for a renewal of the license before it expires.

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

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

- 1 **75.**-(1) Subject to the provisions of this section, the Commission
2 may, at any time, amend a license or any term or condition of a license: Amendment of
licenses
3 (a) if the licensee requests the amendment; or
4 (b) if the amendment is pursuant to a condition of the license
5 imposed under section 73(7) of the Bill; or
6 (c) upon receiving a complaint from any consumer, eligible
7 customer, consumer association, association of eligible customers, or other
8 licensee; and
9 (d) where public interest demands, the Commission, may, on the
10 application of the licensee or on the Commission's initiative make such
11 amendments in the terms and conditions of a license as it thinks fit:
12 Provided that no such amendment under this paragraph shall be
13 made except with the consent of the licensee unless such has, in the opinion
14 of the Commission, been unreasonably withheld.
15 (2) Where a licensee makes an application for the amendment of a
16 license, the licensee shall publish a notice of the proposed amendment to the
17 license in accordance with such directions as may be given by the
18 Commission, stating the period, prescribed by the Commission, within
19 which objections or representations in connection with the amendments
20 may be made to the Commission, and the Commission shall not amend any
21 license until all objections or representations received by the Commission
22 have been considered and determined.
23 (3) In the case of an application proposing amendments to a license
24 of a licensee who provides services to an area covering a building or place
25 occupied by the Federal Ministry of Defense for defense purposes, the
26 Commission shall obtain the consent of the Federal Ministry of Defense
27 before making the amendment to the license.
28 (4) Before making amendments in a license otherwise than on the
29 application of the licensee, the Commission shall direct the applicant to
30 publish the proposed amendments, stating the period within which

Cancellation
of licences

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

5 **76.-(1)** The Commission may, on its own initiative or upon a
6 complaint from any consumer, eligible customers, consumer association or a
7 licensee, inquire into the conduct or functioning of any licensee in carrying out
8 the licensee's obligations under this Bill, rules or regulations, codes of conduct,
9 or the terms and conditions of the licence.

10 (2) Subject to this section, and after an inquiry, including an
11 opportunity for the licensee to show cause as to why the licence should not be
12 cancelled, the Commission may cancel any licence if, in its opinion:

13 (a) the licence was issued through fraud or the misrepresentation or
14 nondisclosure of a material fact by the licensee; or

15 (b) the licensee has willfully or unreasonably contravened any
16 provision of this Bill that is applicable to the licensee; or

17 (c) the licensee has failed to comply with any term or condition of the
18 licence, the breach of which is expressly declared by such licence to render it
19 liable to cancellation; or

20 (d) the financial position of the licensee is such that he is unable to
21 fully and efficiently discharge the duties and obligations imposed by the
22 license:

23 Provided that this provision shall not be invoked by the Commission
24 where the licensee's inability to fully discharge its obligations under the
25 license, which affects his financial position is due to non-compliance by other
26 government agencies or other licensees with their responsibilities under the
27 provisions of this Act or other extant regulations.

28 (3) Before cancelling a licence under subsection (2) of this section,
29 the Commission shall notify the licensee in writing of its intention to cancel the
30 licence concerned and the reasons for doing so, and shall allow the licensee an

1 opportunity to demonstrate, within 60 days following the delivery of such a
2 notification, that circumstances have changed such that cancellation may no
3 longer be warranted.

4 (4) If, at the end of the inquiry and any further opportunity to be
5 heard, under subsections (2) and (3) of this section, the Commission is
6 satisfied for any reason specified in subsection (2) of this section that it is in
7 the public interest that the licence concerned should be cancelled, the
8 Commission may, by notice in writing to the licensee, cancel the licence or
9 take such other action as it considers appropriate.

10 (5) Notwithstanding subsections (2) to (4) of this section, instead
11 of cancelling a licence, the Commission may allow the licence to remain in
12 force, subject to such further terms and conditions as it may deem necessary
13 to impose, and such terms and conditions shall form part of the licence.

14 (6) In the event that the Commission decides to cancel a licence, it
15 shall serve on the licensee a notice of cancellation fixing the date on which
16 the cancellation shall take effect and the Commission may make orders in
17 regard to the undertaking of the licensee, including an interim order on the
18 appointment of administrators and special directors for the undertaking, an
19 order for the sale of the undertaking of the licensee, as are, in the opinion of
20 the Commission, necessary for maintaining continuity in the provision of
21 electricity service.

22 77.-(1) Without derogation from its powers under section 76, Enforcement of
23 where the Commission is satisfied that a licensee is contravening, has license
24 contravened or is likely to contravene any of the conditions of the licence,
25 the Commission may serve upon the licensee
26 an order:

27 (a) requiring the licensee to do, or not to do, such things as are
28 specified in the order for the purpose of rectifying or avoiding any
29 contravention or threatened contravention of any condition of the licence;
30 and

1 (b) stipulating the period within which any requirement referred to in
2 subsection (1) (a) of this section shall be commenced and completed; and
3 notice of the order shall be published by the Commission in such manner as it
4 considers appropriate to draw the attention of other persons affected or likely to
5 be affected by the contravention or threatened contravention of the licence.

6 (2) Before serving an order in terms of subsection (1) of this section,
7 the Commission shall serve a notice upon the licensee concerned:

8 (a) specifying the grounds upon which the order is to be issued and
9 what the Commission considers reasonably necessary for the purpose of
10 rectifying or avoiding any contravention or threatened contravention of any
11 condition of the licence;

12 (b) stipulating the maximum period that the Commission considers
13 reasonable for the implementation of any requirement it proposes to order; and

14 (c) allowing the licensee, to make representations to the Commission
15 within such period from the date of service of the notice as it shall specify.

16 (3) After considering any representations made under subsection
17 (2)(c) of this section, the Commission may serve, or refrain from or defer
18 serving, an order in terms of subsection (1), or serve an order on different terms.

19 (4) An order served under subsection (1) of this section may specify a
20 penalty for each day that the licensee subjected to the order is in default of
21 compliance with the order, not to exceed one hundred thousand Naira for each
22 such day.

Sale of
undertakings
of licenses

23 **78.-(1)** Where the Commission cancels a license under section 76 of
24 this Bill, the Commission shall make an order regarding the sale of the
25 undertaking of the licensee under section 76(6) of this Bill and shall -

26 (a) invite applications for acquiring the undertaking of the licensee
27 whose license has been cancelled and determine which of such applications
28 should be accepted, primarily on the basis of the highest and best price offered
29 for the undertaking;

30 (b) require the licensee to sell his undertaking and thereupon the

1 licensee shall sell his undertaking to the person (hereafter in this section
2 referred to as the "purchaser") whose application has been accepted by that
3 Commission;

4 (c) all the rights, duties, obligations and liabilities of the licensee,
5 on and from the date of cancellation of license or on and from the date, if
6 earlier, on which the undertaking of the licensee is sold to a purchaser, shall
7 absolutely cease except for any liabilities which have accrued prior to that
8 date;

9 (d) The Commission may make such interim arrangements in
10 regard to the operation of the undertaking as it may consider appropriate
11 including the appointment of an Administrator;

12 (e) The Administrator appointed under paragraph (d) of this
13 subsection shall exercise such powers and discharge such functions as the
14 Commission may direct.

15 (2) Where the undertaking of a licensee is sold under sub-section
16 (1) of this section, the purchaser shall pay to the licensee the purchase price
17 of the undertaking in such a manner as may be agreed upon.

18 (3) Where the Commission issues any order under sub-section (1)
19 requiring the licensee to sell the undertaking, it may, by such notice, require
20 the licensee to deliver the undertaking, and thereupon the licensee shall
21 deliver on a date specified in the notice, the undertaking to the designated
22 purchaser on payment of the purchase price thereof.

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

28 **79.**-(1) Where the undertaking is sold under section 78 of this Bill
29 then, upon completion of the sale or on the date on which the undertaking is
30 delivered to the intending

Vesting of
undertaking in
the purchaser

	1	purchaser, as the case may be, whichever is earlier -
	2	(a) the undertaking shall vest in the purchaser or the intending
	3	purchaser, as the case may be, free from any debt, mortgage or similar
	4	obligation of the licensee or attaching to the undertaking:
	5	Provided that any such debt, mortgage or similar obligation shall
	6	attach to the purchase money in substitution for the undertaking; and
	7	(b) the rights, powers, authorities, duties and obligations of the
	8	licensee under its license shall stand transferred to the purchaser and such
	9	purchaser shall be deemed to be the licensee.
Provision where no purchase takes place	10	80.-(1) If the undertaking is not sold in the manner provided under
	11	section 78 of this Bill, the Commission may, to protect the interest of
	12	consumers or in the public interest, issue such directions or formulate such
	13	scheme as it may deem necessary for operation of the undertaking.
	14	(2) The Commission shall give due regard to its relevant regulation
	15	on business continuity in issuing :
	16	(a) an order for sale of undertaking pursuant to section 76(6); and
	17	(b) directions or formulating a scheme pursuant to subsection (1) of
	18	this section which may be necessary for the operation of the undertaking of the
	19	licensee where no purchase of the undertaking takes place.
	20	(3) For the purpose of sections 78, 79, and 80 (1) and (2) of this Bill,
	21	the Commission shall make such Regulations of Business and Service
	22	Continuity for the Nigerian electricity supply industry in order to ensure that
	23	the interests of licensees and that of customers are protected.
	24	PART VII - GENERATION OF ELECTRICITY
Promotion from Generation from Renewable Energy	25	81.-(1) Without prejudice to the provisions of section 66 of this Bill,
	26	generation licensees shall be under an obligation to meet Renewable
	27	Generation Obligation as may be stipulated by the Commission to promote the
	28	generation of electricity from renewable energy sources as defined under this
	29	Bill and reduce greenhouse gas emission in residential areas.
	30	(2) The renewable generation purchase obligation provided in

1 subsection (1) of this section shall be fulfilled either by establishing
2 renewable energy sources or by purchase of renewable energy or any
3 instrument representing renewable energy as the case may, and sale of such
4 energy along with electricity generated from non-renewable sources. Such
5 renewable power procured by the obligated entity shall be considered for
6 meeting the prescribed renewable generation purchase obligation.

7 (3) In granting generating licenses, the Commission shall promote
8 embedded generation, hybridized generation, co-generation and the
9 generation of electricity from renewable sources such as solar energy, wind,
10 small hydro, biomass and such other renewable sources as defined under
11 this Bill or may be developed from time to time.

12 (4) Distribution, connection requirements and commercial
13 arrangements for sale of electricity from embedded sources shall be in
14 accordance with such regulation as may be issued by the Commission.

15 **82.** -(1) The Commission may specify in accordance with section
16 78 (1)(d) of this Bill or in extra-ordinary circumstances direct a generating
17 licensee to operate and maintain any generating station in accordance with
18 the terms and conditions as the Commission may direct.

Directions to
generation
companies

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

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

25 **83.** -(1) There is established as provided in the First Schedule to
26 this Bill, the Hydroelectric Power Producing Areas Development
27 Commission (in this Act referred to as "HYPPADEC") charged with the
28 responsibility for managing ecological menace to operation of dams for
29 hydroelectricity generation.

Establishment
of the Hydroelectric
Power Producing
Areas Development
Commission

30 (2) The Commission shall carryout the functions as provided in the

1 First Schedule to this Bill.

2 *[Second Schedule]*

3 PART VIII - TRANSMISSION OF ELECTRICITY

Demarcation of
transmission into
National Control
Centre, etc.

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

Private sector
investment in
transmission
network

11 **85.-(1)** Investment in the national grid may be made in accordance
12 with such regulations the Commission may issue from time to time and shall be
13 undertaken by-

14 (a) the successor transmission license with the approval of the
15 Commission for the expansion or integration of technology into existing
16 transmission infrastructure described under section 84 of this Bill; or

17 (b) a non - licensee-

18 (i) in the existing transmission owned, operated and maintained by
19 the successor transmission licensee based on project agreement between such a
20 non - licensee and the licensee;

21 (ii) in Independent Electricity Transmission Network and
22 Independent Electricity Transmission Network Operator as recognized under
23 this Bill.

24 (2) Nothing in subsection (1) of this section prohibits the Commission
25 in consultation with the appropriate Authority from approving an application
26 by a non-licensee for-

27 (a) a long term concession of new transmission lines under any
28 concession or commercial arrangement it deems necessary;

29 (b) any concession or commercial arrangement between
30 concessioners and successor

1 transmission licensee for expansion of the transmission network; and

2 (c) Project Finance by private investors whereby such investors
3 finance, build, own and maintain parts of the network.

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

Fair spread of
private sector
investment in
transmission
network

9 **87.**-(1) Without prejudice to the provisions of section 67 of this
10 Bill, the Commission shall issue directions and exercise such supervision
11 and control as may be necessary to ensure stability and efficient operations
12 of the national grid under the control of a transmission licensee.

Commission to
issue directives
to the transmission
licensee

13 (2) If any dispute arises with reference to the quality of electricity
14 or safe, secure and integrated operation of the national grid in relation to any
15 direction given under subsection (1) of this section, it shall be referred to the
16 Tribunal for settlement:

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

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

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

26 PART IX- DISTRIBUTION AND SUPPLY OF ELECTRICITY

27 **89.**-(1) Without prejudice to the provisions of section 69 of this Bill
28 and subject to the provisions of this Bill, distribution or supply licensees
29 shall be under an obligation to-

Distribution
and Supply
Network
Renewable
Energy

30 (a) meet the Renewable Purchase Obligation as may be stipulated

1 by the Commission to promote the consumption of energy produced from
2 renewable energy sources and ensure open access to embedded generators in
3 accordance with the regulations issued by the Commission from time to time;
4 and

5 (b) enter into long term/medium term power agreements to meet the
6 annual average demand of power of the area which it has the obligation to
7 serve.

8 (2) The Commission shall carryout a review every two years and
9 assess whether-

10 (a) the Distribution or Supply licensee has tied up adequate sources of
11 power through long term and medium term Power Purchase Agreements to
12 meet the annual average demand of the area it is required to serve;

13 (b) the distribution licensee is maintaining the distribution system in
14 good condition in order to ensure uninterrupted and reliable power supply; and

15 (c) the complaints of consumers are promptly addressed and in case of
16 default take appropriate regulatory measure under this Bill.

17 (2) Where any person, whose premises is situated within the area of
18 supply of a distribution licensee requires supply of electricity from a
19 generating company or any licensee other than such distribution licensee, such
20 person may, enter into a distribution use of system agreement with the
21 distribution licensee to wheel such electricity in accordance with regulations
22 made by the Commission and the duties of the distribution licensee with
23 respect to such supply shall be of a common carrier providing non-
24 discriminatory open access.

25 (3) Where the Commission permits a consumer or class of consumers
26 to receive supply of electricity from a person other than the distribution
27 licensee of his area of supply, such consumer shall be liable to pay an additional
28 surcharge on the wheeling of the electricity, as may be specified by the
29 Commission, to meet the fixed cost of such distribution licensee arising out of
30 its obligation to supply the electricity.

1 (4) Every distribution and supply licensee shall, establish separate
2 forums for redress of grievances of the consumers in accordance with the
3 guidelines as may be specified by the Commission:

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

7 (5) Any consumer, who is aggrieved, may make a complaint for the
8 redress of his grievance to the licensee and the licensee shall settle such
9 grievances within a time frame as specified by the Commission.

10 (6) Where the licensee fails to settle the grievances of the consumer
11 within such time and in such manner as may be specified under subsection
12 (5) of this Bill, the consumer shall bring his complaint to the attention of the
13 Commission for quick mediation and resolution of the matter.

14 (7) The provisions of sub-sections (5) and (6) shall be without
15 prejudice to the right of the consumer to approach the Tribunal established
16 under part VII of this Bill to ventilate his grievances:

17 Provided that any matter brought before the Tribunal under this section shall
18 arise as an appeal by a customer against the decision of the Commission
19 under subsection (6) of this Bill.

20 **90.-(1)** From the Commencement of this Act, no licensee shall
21 supply electricity, after the expiry of the date appointed by the Commission,
22 except through installation of a proper meter in accordance with the
23 regulations made in this regard by the Commission:

Installation of
meters, etc.

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

27 (2) Notwithstanding the provisions of subsection (1) of this
28 section, the Commission may extend the period given under subsection (1)
29 of this section for metering, where such extension is necessary for a class or
30 classes of persons or for such area as may be specified in the extension

1 notification issued by the Commission in this regard.

2 (3) For proper accounting and audit in the generation, transmission
3 and distribution or trading of electricity, the Commission may direct the
4 installation of meters by a generating company or licensee at such stages of
5 generation, transmission or distribution or trading of electricity and at such
6 locations of generation, transmission or distribution or trading, as it may deem
7 necessary.

8 (4) If a person makes default in complying with the provisions
9 contained in this section or the regulations made by the Commission under this
10 section, the Commission may make such order as it thinks fit for requiring the
11 default to be made good by the licensee or by any officers of a company or other
12 association or any other person who is responsible for its default.

Disconnection
of supply in
default of p
ayment

13 **91.-(1)** From the commencement of this Bill, there is a mandatory
14 obligation on all customers to pay electricity Bill and where any person
15 neglects to pay any charge for electricity due from him to a licensee or the
16 generating company in respect of supply, transmission or distribution or
17 wheeling of electricity to him, the licensee or the generating company may,
18 after giving notice in the manner prescribed in any regulations issued by the
19 Commission to such person and cut off the supply of electricity and for that
20 purpose cut or disconnect any electric supply line or other works being the
21 property of such licensee or the generating company through which electricity
22 may have been supplied, transmitted, distributed or wheeled and may
23 discontinue the supply until such charge or other sum, together with any
24 expenses incurred by the licensee in cutting off and reconnecting the supply,
25 are paid:

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

28 (a) An amount equal to the sum claimed from him, or

29 (b) The electricity charges due from him for each month calculated on
30 the basis of average charge for electricity paid by him during the preceding six

1 months, whichever is less, pending disposal of any dispute between him and
2 the licensee.

3 (2) No provision of this Bill or anything contained in any other law
4 shall prohibit the recovery of arrears of charges for electricity supplied .

5 (3) The provisions of this section are also applicable to consumers
6 using pre-paid meters where due to defect in the meter it becomes
7 impossible for such pre-paid consumers to input credit on the meter thus
8 compelling the licensee to use the average charge of electricity paid by the
9 consumer during the preceding months under subsection (1) of this section.

10 (4) Nothing in subsection(2) of this section shall entitle a
11 distribution licensee, distribution franchisee or supply licensee to enforce a
12 former landlord's or previous tenant's outstanding electricity bill against a
13 new landlord or new tenant or new occupant of a property except against the
14 former landlord or previous tenant in accordance with this section.

15 PART X - TARIFFS AND SUBSIDIES

16 92.-(1) The following activities in the Nigerian Electricity Supply
17 Industry are subject to tariff regulation: Activities
subject to tariff
regulation

18 (a) generation and trading, in respect of which licenses are required
19 pursuant to this Bill and where the Commission considers regulation of
20 prices necessary to prevent abuses of market power;

21 (b) transmission, distribution, supply and system operation, in
22 respect of which licenses are required under this Bill; and

23 (c) electricity distribution franchising or other activity that the
24 Commission may determine has been subject to tariff regulation.

25 (2) Prices for the activities referred to in subsection (1) of this
26 section shall be regulated according to one or more methodologies adopted
27 by the Commission for regulating electricity prices and such tariff
28 methodologies shall:

29 (a) allow a licensee that operates efficiently to recover the full costs
30 of its business activities, including a reasonable return on the capital

- 1 invested in the business;
- 2 (b) provide incentives for the continued improvement of the technical
- 3 and economic efficiency with which the services are provided;
- 4 (c) provide incentives for the continued improvement of quality of
- 5 services;
- 6 (d) give to consumers economically efficient signals regarding the
- 7 costs that their consumption imposes on the licensee's business;
- 8 (e) avoid undue discrimination between consumers and consumer
- 9 categories; and
- 10 (f) phase out or substantially reduce cross subsidies over a time frame
- 11 specified by the Commission;
- 12 (g) promote co-generation, and generation of electricity from
- 13 renewable sources.
- 14 (3) The Commission shall take into account any subsidy provided by
- 15 the Power Consumer Assistance Fund under this Act or from any other source,
- 16 whether direct or by way of favourable financing terms, or in any other manner,
- 17 in establishing its tariff methodologies.
- 18 (4) Notwithstanding subsection 2 (e) of this section, the Commission
- 19 shall have the authority to -
- 20 (a) approve any willing-buyer, willing-seller ring-fenced
- 21 arrangement that allows licensees to enter into bilateral contracts to offer
- 22 premium service to a class or classes of customer and rely on the provisions of
- 23 such contracts to offer premium service to a class or classes of customers at
- 24 different tariff other than the approved tariff methodology; and
- 25 (b) establish tariff methodologies that reflect the terms and conditions
- 26 of a contract between licensees or between a licensee and one or more eligible
- 27 customers:
- 28 Provided that in approving such a ring-fenced arrangement under this
- 29 subsection, the Commission shall make a determination to the effect that not
- 30 less than 60% of the customers within the ring-fenced area consent to this

1 arrangement and the licensee has met the other requirements under the
2 service-based tariff principles as may be prescribed by the Commission.

3 (5) Notwithstanding subsection (2)(e) of this section, in
4 establishing tariff methodologies, the Commission may differentiate among
5 consumers on the basis of differences in total electricity consumption, the
6 time periods on which electricity is consumed, load factors, power factors,
7 voltage levels, location within the country and other such criteria as may
8 affect the cost of providing a service and may allow a lifeline tariff for some
9 consumers.

10 (6) Prior to approving a tariff methodology, the Commission shall
11 give notice in the Official Gazette, and in one or more newspapers with wide
12 circulation, of the proposed establishment of a tariff methodology,
13 indicating the period within which objections or representations in
14 connection with the same may be made to the Commission.

15 (7) In preparing a tariff methodology, the Commission shall:

16 (a) (i) consider any representations made by license applicants,
17 other licensees, consumers, eligible customers, consumer associations,
18 associations of eligible customers and such other persons as it considers
19 necessary or desirable; and

20 (ii) issue a notice to license applicants, other licensees, consumers,
21 eligible customers, consumer associations, associations of eligible
22 customers and such other persons as it considers necessary to submit their
23 inputs and such notice shall be given not later than thirty days or such a
24 timeframe as the Commission may consider to be reasonable to allow all the
25 necessary parties make representations to the proposed tariff methodology.

26 (b) obtain evidence, information, or advice from any person who,
27 in the Commission's opinion, possesses expert knowledge which is relevant
28 in the preparation of the methodology.

29 (8) The Commission shall fix the date on which the tariff
30 methodology shall come into operation and it shall cause notice to be given

1 in the official gazette of that date.

2 (9) If it appears to the Commission that a tariff methodology should be
3 changed, the Commission shall give notice in the official gazette, and in one or
4 more newspapers with wide circulation, of the proposal to change the
5 methodology, indicating the period within which representations in connection
6 with the proposal may be made.

7 (10) After considering any objections of representations received in
8 response to a notice issued under subsection (9) of this section, the
9 Commission may confirm the proposed changes to the tariff methodology and
10 the provisions of subsection (7) shall apply mutatis mutandis.

11 (11) Every person upon whom any function has been conferred or
12 imposed in connection with setting tariffs, shall be bound by a tariff
13 methodology that has come into operation under subsection (8) or subsection
14 (10) of this section.

15 (12) Every licensee shall keep at his office a current copy of the tariff
16 methodology applicable to that licensee and shall make a copy available for
17 inspection on request by any person free of any charge during the licensee's
18 normal working hours.

19 (13) Any fines or penalties levied against a licensee in terms of this
20 Bill or any other law or regulation shall not be rechargeable to the licensee's
21 customers.

22 (14) Any person or licensee who contravenes or condones the
23 contravention of the provision of subsection (13) of this section shall be liable
24 to a fine two times the charge to the licensee's customers or to imprisonment of
25 not more than one year or to both such fine and imprisonment.

Provision of
electricity
subsidy by
government

26 **93.**-(1) Notwithstanding anything contained in this Bill, if the Federal
27 or State Government, as the case may be, desires to grant any subsidy to any
28 consumer or class of consumers in the tariff determined by the Commission
29 under this Bill, such subsidy by the Federal or State Government or cross
30 subsidies shall in order to avoid undue exposure of licensees to speculative

1 revenues, be implemented within the Power Consumer Assistance Fund
2 established under this Bill.

3 (2) The Commission shall ensure strict implementation of cross -
4 subsidies and facilitate gradual reduction in cross -subsidies with the aim of
5 entirely eliminating cross -subsidies before the declaration of the
6 commencement of a Long Term Market Stage under this Bill.

7 PART XI - ACQUISITION OF LAND AND ACCESS TO LAND

8 **94.**-(1) Acquisition of land and access rights for electricity projects
9 in Nigeria, including projects related to generation, transmission,
10 distribution and supply of electricity shall be through voluntary and
11 compulsory land acquisition procedures in compliance with the provisions
12 of this Bill, the Land Use Act and the Commission's Acquisition of Land and
13 Access Rights for Electricity Projects Regulations or any amendment
14 thereto or regulations replacing same.

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

15 (2) A generation licensee, transmission licensee distribution
16 licensee and any other licensee shall be entitled to access rights over lands,
17 buildings and streets for discharging its obligations under its licence to the
18 extent and in the manner prescribed in the Commission's Acquisition of
19 Land and Access Rights for Electricity Projects Regulation or any
20 amendment thereto or regulations replacing same.

21 (3) Except where acquired through voluntary acquisition
22 procedure, where a licensee, who has been given a right of occupancy over
23 land in accordance with subsection (1) of this section, ceases to require the
24 land for the purposes of the licensed activity, the licensee shall-

25 (a) offer the land to the previous holder of the right of occupancy,
26 for repurchase at an amount equivalent to the amount of compensation paid
27 to the previous holder; or

28 (b) offer the right of occupancy to any other person on such terms
29 and conditions as the Commission may direct where the previous owner
30 declines interest in the land.

Consumer
protection
standards

- 1 PART XII - CONSUMER PROTECTION AND LICENSEE
- 2 PERFORMANCE STANDARDS
- 3 **95.**-(1) The Commission shall develop, in consultation with the
- 4 licensees, the following:
- 5 (a) customer service standards;
- 6 (b) quality of service and supply standards;
- 7 (c) customer complaint handling standards and procedures;
- 8 (d) codes of practice for the provision of assistance to special needs
- 9 customers, such as the blind or disabled, the elderly or severely ill;
- 10 (e) procedures for dealing with, and assisting where necessary,
- 11 customers who have difficulty in paying bills;
- 12 (f) procedures for applying for electricity service;
- 13 (g) procedures for disconnecting non-paying customers or for those
- 14 in breach of other terms and conditions of an applicable tariff or contract; and
- 15 (h) the information to be provided to consumers and the manner of its
- 16 dissemination.
- 17 (i) internal procedures for responding to emergency situations.
- 18 (2) Standards and procedures developed by the Commission shall be
- 19 adhered to by the applicable licensees and all persons to which they apply to
- 20 and shall be published by the applicable licensees in such manner and by such
- 21 means as the Commission may direct.
- 22 (3) Without prejudice to the obligations of licensees regarding
- 23 compliance with service delivery standards under this section, licensees shall
- 24 publish on a quarterly basis through their official websites or other online
- 25 mediums, Key Performance Indicators as it affects service delivery including-
- 26 (a) technical data related to load, system and equipment;
- 27 (b) operational parameters;
- 28 (c) financial data; and
- 29 (d) customer service information, etc.

1 **96.**-(1) The Commission shall develop, in consultation with Performance
2 licensees and other interested parties, the following performance standards standards and
3 and codes:

4 (a) standards of overall performance in connection with the
5 provision of electricity supply services and in connection with the
6 promotion of the efficient use of electricity by consumers;

7 (b) such technical codes and manuals as maybe required for the
8 safe, reliable, and efficient operation of the system; and

9 (c) such other standards, codes, manuals as the Commission may
10 require.

11 (2) Standards, codes and manuals approved by the Commission
12 pursuant to subsection (1) of this section shall be binding on the applicable
13 licensees and shall be published by the applicable licensees in such manner
14 as the Commission may direct.

15 (3) Different standards may be determined for different licensees
16 under this section.

17 (4) The Commission shall carryout annual review of the overall
18 performance of licensees, and in cases of established failure on the part of
19 licensee to meet overall Performance Standards, the Commission shall
20 determine appropriate reliefs including fines and penalties that the
21 Commission may impose in such circumstances in accordance with the
22 provisions of this subsection and the licensee's Performance Standards and
23 Codes.

24 PART XIII - COMPETITION AND MARKET POWER..

25 **97.**-(1) The Commission shall have a continuing responsibility to Competition
26 monitor the Nigerian electricity supply industry in regard to its potential for and Market
27 additional competition and to report on this subject, each year to the Power
28 Minister, and until such a time as the Commission has made a declaration
29 under section 9(1) of this Bill, the content of these reports shall be as
30 prescribed under the Market Rules, thereafter, the content of these reports

1 shall consider whether any of the regulated services in the Nigerian electricity
2 supply industry ought to be exempted from tariff regulation.

3 (2) Upon a finding by the Commission under subsection (1) of this
4 section that it is in the public interest to exempt any of the regulated services
5 from tariffs, the Commission, after consultation with the Minister, shall
6 determine when, and under what conditions, a regulated service may be
7 exempt from tariff regulation, provided that a license from the Commission
8 shall continue to be required in respect of such service so exempted from tariff
9 regulation.

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

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

18 (4) The Commission shall determine the pre-conditions and any
19 transitional arrangements required for a service to be offered competitively,
20 including, codes of conduct, rules regarding access to information, access to
21 the electric system, and constraints against undue discrimination in the
22 offering of services.

23 (5) Subject to section 105 of the Federal Competition and Consumer
24 Protection Act, 2019, the Commission shall have the responsibility to
25 consider, in respect of services in competitive markets, the prevention or
26 mitigation of abuses of market power which includes market concentration, in
27 its decisions and orders regarding matters such as, but not limited to, licence
28 applications and the grant of licences; licence terms and conditions; the setting
29 of prices and tariffs; and whether or not to approve a merger, acquisition or
30 affiliation.

1 (6) In discharging its ongoing responsibility to monitor the
2 electricity businesses and markets to determine whether there is, or may be,
3 an abuse of market power, the Commission shall be entitled to:

- 4 (a) require information from licensees;
5 (b) undertake inquiries; and
6 (c) establish or contract with an independent entity to provide
7 monitoring services.

8 (7) In the event that the Commission determines that there is an
9 abuse of market power, it may:

- 10 (a) issue cease orders as may be required; and
11 (b) levy fines to such an amount it may consider appropriate.

12 PART XIV - THE POWER CONSUMER ASSISTANCE FUND

13 **98.**-(1) The Commission shall set up and administer a fund under
14 the name "Power Consumer Assistance Fund" to be used for the purposes
15 specified in subsection (4) of this section. Establishment
of the Power
Consumer
Assistance Fund

16 (2) The Commission shall keep and manage the money and assets
17 of the Power Consumer Assistance Fund and shall handle the procedures for
18 disbursement from the Power Consumer Assistance Fund under this Bill.

19 (3) The Power Consumer Assistance Fund shall consist of the
20 following capital and assets:

- 21 (a) The contributions delivered under section 110; and
22 (b) Any subsidies received from the Federal Government of
23 Nigeria as appropriated by the National Assembly.

24 (4) The Power Consumer Assistance Fund shall be used to
25 subsidize underprivileged power consumers as specified by the Minister in
26 consultation with the Commission

27 **99.**-(1) The Commission shall determine the contribution rates to
28 be sent by designated consumers and class of consumers and eligible
29 customers to the Power Consumer Assistance Fund and the subsidies to be
30 disbursed from the Power Consumer Assistance Fund, in accordance with Contribution rates
for the Power
Consumers
Assistance Fund

1 policy directions issued by the Minister, and subject to subsection (2) of this
2 section.

3 (2) The Commission, while determining the contribution rates shall
4 take into consideration the impact of such rates on eligible customers and
5 consumers who have to assume the burden of such contributions and for this
6 purpose such contributions made by such customers shall be factored into their
7 tariffs.

Contribution
payments for
the Power
Consumer
Assistance

8 **100.**-(1) All consumers and eligible customers including such class
9 of customers under section 99(3) of this Bill shall make contributions to the
10 Power Consumer Assistance Fund at the rates and for the duration specified by
11 the Commission under section 109(1).

12 (2) In making contributions to the Power Consumer Assistance Fund
13 under subsection (1) of this section, eligible customers shall pay their
14 contributions directly to the Power Consumer Assistance Fund set up by the
15 Commission under this part and other consumer or class of customers liable to
16 make contributions under this Bill shall pay their contributions to their
17 distribution licensee and the distribution licensees shall compile such
18 contributions and send them to the Power Consumer Assistance Fund. All
19 collections and payments shall be made in accordance with the guidelines as
20 may be established by the Commission.

Payments from
the Power
Consumer
Assistance

21 **101.** Where the Minister, has determined that subsidy payments from
22 the Power Consumer Assistance Fund should be disbursed to distribution
23 companies for electricity supplied to designated consumers, or classes of
24 consumers, the Commission shall disburse the subsidy to such distribution
25 companies at the rates and for the durations specified by the Commission.

Fine for non-
payment of
money owed

26 **102.** Any person who fails to pay to the Commission or a distribution
27 licensee, within the prescribed time period, any amount owing under this Part
28 shall be liable to a fine not exceeding three times the amount owed.

1 PART XIV - RURAL ELECTRIFICATION AND RENEWABLE

2 ENERGY AGENCY

3 **103.-(1)** There is established, the Rural Electrification and Establishment
4 Renewable Energy Agency (in this Bill, referred to as the "Agency") which of the Rural
5 shall replace the extant Rural Electrification Agency. electrification
and Renewable
Energy Agency

6 (2) The Agency shall be a body corporate -

7 (a) with perpetual succession and a common seal.

8 (b) which may sue or be sued in its corporate name; and

9 (c) which may acquire, hold, purchase, mortgage and deal with
10 property, movable or immovable, real or personal.

11 **104.-(1)** The Agency shall have the following principal objectives, Objectives of
12 that is to- the Agency

13 (a) create an enabling channel for entry into markets for rural,
14 unserved and under served electrification services, and to facilitate
15 corporate bodies wishing to supply such services and facilities;

16 (b) ensure that rural, unserved and underserved electrification
17 services are provided efficiently, economically and at such performance
18 standards which reasonably meet social, industrial and agricultural needs of
19 rural communities;

20 (c) promote the development and ensure the implementation of
21 Government's general policies on rural electrification, renewable energy,
22 and energy efficiency and execution of all such other functions and
23 responsibilities as are given to the Agency under this Bill or are incidental or
24 related thereto;

25 (d) ensure the Nigerian rural, unserved and underserved populace
26 have unfettered access to electricity facilities;

27 (e) provide for the utilization of renewable energy sources for
28 electricity and heat generation in an efficient and sustainable manner;

29 (f) provide the framework to support-

- 1 (i) the development and utilization of renewable energy sources and
2 an enabling environment to attract investment in renewable energy sources;
3 (ii) the promotion for the productive use of renewable energy;
4 (iii) the diversification of supplies to safeguard energy sources
5 (iv) improved access to electricity through the use of various
6 renewable energy technology sources;
7 (v) the building of indigenous capacity in various technologies for
8 renewable energy sources;
9 (vi) public education for renewable energy production and
10 consumption; and
11 (vii) the production and supply of wood fuel and biofuel;
12 (g) promote, develop and implement any special electrification
13 intervention programmes and projects, in both rural and peri-urban
14 communities, as may be approved by the Board or the Federal Ministry of
15 Power in furtherance of government objectives or initiatives by the Federal
16 Government of Nigeria.

Functions and
Powers of the
Agency

- 17 **105.-(1)** For the furtherance of its objectives under section 104 (1) of
18 this Bill, the Agency shall perform the following functions, that is to -
19 (a) promote universal access to affordable and sustainable electricity
20 thereby improving the quality of life and economic opportunities for rural,
21 unserved and underserved communities;
22 (b) provide access to reliable electric power supply for rural, unserved
23 and underserved dwellers, irrespective of where they live and what they do, in a
24 way that would allow for reasonable return on investment through appropriate
25 tariffs that are economically responsive and supportive of the average rural
26 customer;
27 (c) oversee, manage and execute the funding of the Rural
28 Electrification and Renewable Energy Fund in accordance with the operational
29 guidelines approved by the Board;
30 (d) the Agency shall promote the exploitation, utilization and

1 development of renewable energy sources in accordance with the
2 regulations or other subsidiary legislation issued by the Commission and
3 collaborate with relevant Federal ministries, departments and agencies and
4 State Boards for Rural Electrification responsible for the development,
5 promotion, management, and utilization of renewable energy sources;

6 (e) provide learning opportunities to educate interested
7 communities, students and individuals on the opportunities for rural,
8 unserved, and underserved electrification business ventures;

9 (f) mandate the use of low-cost options in rural, unserved and
10 underserved electrification projects that apply for subsidy grants towards
11 start-up cost;

12 (g) advocate for tax incentives, investment capital allowance and
13 low interest loans for local producers of renewable energy products;

14 (h) encourage the economic growth of rural, unserved and
15 underserved communities through rural electrification projects;

16 (i) advocate for carbon tax to disincentivize the sale of fossil fuels,
17 encourage reliance on renewable energy and trigger gradual transition to
18 clean energy;

19 (j) sensitize the rural, unserved, and underserved communities in
20 Nigeria on renewable energy potentials and related matters;

21 (k) protect public interest by ensuring that the provisions of this
22 Bill are carried out diligently; and

23 (l) perform such other ancillary functions which are necessary and
24 incidental to its objectives and functions under this Bill or any other Act of
25 the National Assembly.

26 (2) In the discharge of its functions, the Agency shall consult, from
27 time to time, such persons or groups of persons who may or are likely to be
28 affected by its projects or programmes. including, but not limited to
29 investors or renewable energy companies, renewable energy user

1 cooperatives, State Rural Electrification Boards, interested parties and other
2 stakeholders.

3 (3) For the furtherance of its objectives and functions under
4 subsection (1) and (2) of this section, the Agency is vested with powers to -

5 (a) insure its property against any loss or all forms of risks;

6 (b) acquire, purchase, hold, construct or maintain any property
7 whatsoever whether movable or immovable required for or in connection with
8 the performance of its functions and to sell, dispose of or otherwise deal with
9 such property or any part thereof;

10 (c) produce any document(s) which is likely to assist the Agency, the
11 Board or any of its committees in the discharge of the duties of the Agency
12 under this Act;

13 (d) discuss any matter which the Agency deems necessary for the
14 purpose of effectively discharging the Agency's duties under this Act;

15 (e) enter into contract or partnership with companies, firms or persons
16 that in the opinion of the Agency will facilitate the duties specified in this Bill;

17 (f) establish Zonal Offices and maintain Liaison and State Offices for
18 the discharge of such functions as the Agency may determine;

19 (g) establish gender unit to track and collate gender mainstreaming
20 indicators in the implementation of rural electrification projects, support for
21 capacity and manpower development for renewable energy and generally
22 track the impact of rural electrification projects on addressing income
23 inequalities and poverty in the rural areas;

24 (h) in accordance with the provisions of this Bill, receive, manage and
25 disburse funds accruing to the Rural Electrification and Renewable Energy
26 Fund established under section 118 of this Bill for the carrying out of approved
27 projects;

28 (i) collect, collate process and disseminate online and offline, rural
29 electrification data and information within and outside Nigeria and in
30 consultation with the Minister conduct performance evaluation of the rural

1 electrification policies and strategies to ascertain targets and milestones
2 achieved; and

3 (j) do any other thing necessary and instrumental to the execution
4 of its functions under this Act.

5 (4) The powers conferred on the Agency under this section may be
6 exercised by it or through any of its employees or agents as may be
7 specifically authorized by a written mandate or policy direction

8 **106.**-(1) There is established for the Agency a part -time Governing
9 Board (in this Bill referred to as "the Board") which shall be constituted and
10 exercise the powers and perform the functions stipulated under section 110
11 of this Bill.

Establishment
and Composition
of the Governing
Board of the
Agency

12 (2) The Board shall consist of seven members as follows -

13 (a) six members appointed to represent the six geopolitical zones
14 of the Nigeria out of which one shall be designated as a part -time Chairman,
15 two others designated as non -Executive Directors while the other three shall
16 serve as Executive Directors; and

17 (b) the Managing Director and Chief Executive Officer of the
18 Agency.

19 (3) The Managing Director of the Board and the Executive
20 Directors of the Board appointed pursuant to the provisions of this Bill shall
21 possess the qualifications, experience and competence stipulated under
22 section 113 and 117 of this Bill while the Part -time Chairman of the Board
23 and the non -Executive Directors of the Board shall be highly respected
24 persons who have distinguished themselves in public service and all
25 members of the Board shall be appointed by the President on the
26 recommendation of the Minister vested with supervisory power over the
27 Agency.

28 **107.**-(1) The Chairman and other members of the Board shall each-

Tenure of
members
of the Board

29 (a) hold office for a period of five years on such terms and
30 conditions as may be specified in their letters of appointment; and

	1	(b) may be re-appointed for another period of five years and no more
Cessation of membership of the Board	2	108. -(1) Notwithstanding the provisions of section 107 of this Bill, a
	3	person shall cease to hold office as a member of the Board if -
	4	(a) he becomes bankrupt, suspends payment or compounds with his
	5	creditors; or
	6	(b) he is convicted of a felony or any offence involving dishonesty or
	7	fraud; or
	8	(c) he become of unsound mind, or incapable of carrying out his
	9	duties; or
	10	(d) he is guilty of a serious misconduct in relation to his duties; or
	11	(e) in the case of a person possessed of professional qualifications, he
	12	is disqualified or suspended from practicing his profession in any part of the
	13	world by an order of a competent authority made in respect of that member; or
	14	(f) he resigns his appointment by a letter addressed to the President.
	15	(2) If a member of the Board ceases to hold office for any reason
	16	whatsoever before the expiration of the term for which he is appointed, another
	17	person representing the geopolitical zone and possessing the requisite
	18	qualification shall be appointed in his stead as a member of the Board to serve
	19	the unexpired term of the person whose membership of the Board has ceased.
Allowances of Chairman and Non-Executive members of the Board	20	109. -(1) The Chairman and non-Executive members of the Board
	21	shall be paid such emoluments, allowances and benefits as the Federal
	22	Government may, from time to time, direct through the National Salaries and
	23	Wages Commission.
Powers of the Board	24	110. -(1) The powers of the Board shall include:
	25	(a) formulate the general policies and guidelines relating to the
	26	discharge of the functions and realization of the objectives of the Agency under
	27	this Bill;
	28	(b) generally, supervise the management of the affairs of the Agency;
	29	(c) supervise and ensure accountability of the Rural Electrification
	30	and Renewable Fund (in this Bill referred to as "the REREF") established

1 Under this Bill by defining appropriate procedures for management of the
2 for the Fund by the Agency.

3 (d) approve the criteria for disbursement of monies approved for
4 the Fund.

5 (e) approve disbursement of monies from the REREF to pay for the
6 Agency's programmes and projects;

7 (f) receive and examine reports from designated persons or
8 institutions in respect of financial assistance in relation to the realization of
9 the objectives of the Agency;

10 (g) decide on policies and procedures for the allocation and use of
11 funds from the REREF established under this Bill for rural electrification
12 subsidies;

13 (h) approve allocations from the REREF for payment of subsidies
14 for selected rural electrification projects including payment for grid
15 extension projects and renewable mini-grid projects;

16 (i) grant approval for the Agency to support research and
17 developments proposals that would lead to the development of patentable
18 renewable energy technology solutions and energy efficiency;

19 (j) give approval to the Agency for the appointment of technical
20 consultants or committee to advise the Board or the Agency from time to
21 time as the need arise;

22 (k) approve the establishment or reorganization of such units,
23 departments or divisions of the Agency where it considers expedient and
24 necessary for the smooth operations of the Agency;

25 (l) generally, exercise control and supervise the internal policies,
26 finances and property of the Agency;

27 (m) approve the investment of any portion of the funds of the
28 Agency in treasury bills or other securities or other money market products
29 and services in accordance with the provisions of this Bill;

30 (n) approve the appointment of such administrative staff including

1 the terms and conditions of their appointments, and subject to relevant Acts of
2 the National Assembly, determine the remunerations of management staff of
3 the Agency; and

4 (o) perform any other function and do such things as are necessary for
5 the successful performance of the functions of the Agency.

6 (2) In the performance of its functions under subsection(1) of this Bill,
7 the Board shall sit on part -time basis and no part -time member of the Board is
8 permitted to interfere with the day to day running of the Agency.

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

Meeting and
proceedings
of the Board

13 **111.-(1)** The Board shall adopt its rules and regulations to guide the
14 summoning and conduct of proceedings at its meetings including-

15 (a) the venue and place for its meetings;

16 (b) the minimum and maximum number of times in a year to hold a
17 meeting;

18 (c) who to preside at such meetings in the absence of the chairman,

19 (d) quorum for decision making;

20 (e) participation at such meetings including mode of voting and the
21 exercise of casting vote; and

22 (f) any other issues that are relevant to the conduct of Board meetings.

Secretary of
the Board

23 **112.-(1)** The Board shall, on the recommendation of the Managing
24 Director and Chief Executive Officer of the Agency, appoint a staff from the
25 Management Cadre of the Agency as the Secretary to the Board and once
26 appointed shall attend Board meetings and discharge the functions assigned to
27 him under this Bill or such other functions as may be assigned to him by the
28 Board but shall not be reckoned as Board member.

29 (2) The Secretary shall be responsible for-

1 (a) convening, on the authority of the Chairman, meetings of the
2 Board;

3 (b) recording the minutes of all meetings of the Board and such
4 other meetings as the Board may direct;

5 (c) acting as Secretary to any Committee as may be appointed by
6 the Board except technical Committee;

7 (d) maintaining and keeping minute books and a register of the
8 members of the Board;

9 (e) keeping in safe custody all title documents relating to the
10 Agency's properties;

11 (f) keeping in safe custody all agreements entered into by the
12 Agency with any third party;

13 (g) arranging, through the Managing Director, payment of fees and
14 allowances of meetings and all other matters affecting members of the
15 Board;

16 (h) communicating the decisions of the Board to the Board
17 members.

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

21 **113.-(1)** There shall be for the Agency a Managing Director who
22 shall be appointed by the President on the recommendation of the Minister
23 and on such terms and conditions as may be specified in his letter of
24 appointment.

Managing Director
and Chief Executive
Officer of the
Agency

25 (2) The Managing Director shall be-

26 (a) the Chief Executive and accounting officer of the Agency;

27 (b) responsible to the Board for the day-to-day administration of
28 the Agency;

29 (c) appointed for a term of five years in the first instance and may,
30 subject to satisfactory performance, be reappointed for one further term of

	1	five years and no more; and
	2	(d) be a person who possesses adequate professional qualifications
	3	and experience in the fields of power, engineering, law, public administration,
	4	or other relevant discipline and must have prior senior management experience
	5	in the power sector either in public service or private sector for a cumulative
	6	period of at least period of not less than 15 years.
Other Staff of the Agency	7	114.-(1) The Agency shall have powers to employ such persons as it
	8	may deem necessary for the discharge of the duties and powers of Agency
	9	under this Bill or any regulations made pursuant to it;
	10	(2) The Agency shall have the powers to determine the job
	11	description, title, terms, qualifications and salaries of any such person and all
	12	such persons shall be subject to the provisions for discipline of staff under this
	13	Bill.
	14	(3) The employment of the Agency's staff, including its secretary;
	15	shall be subject to such terms and conditions as may from time to time be
	16	stipulated by the Agency's Board and contained in the respective staff's
	17	employment contract.
Pension and gratuity etc.	18	115.-(1) It is hereby declared that service in the employment of the
	19	Agency shall be deemed approved service under the Pensions Reform Act, and
	20	accordingly, employees of the Agency shall, in respect of their services shall be
	21	entitled to pensions, gratuities, and other retirement benefits as are prescribed
	22	hereunder.
	23	(2) Notwithstanding the provisions of subsection (1) of this section,
	24	nothing in this Bill shall prevent the appointment of a person to any office on
	25	terms which preclude the grant of a pension and gratuity in respect of that
	26	office.
Structure of the Agency	27	116.-(1) The Agency shall have its headquarters located in the
	28	Federal Capital Territory and may set up zonal operational offices in the six
	29	geopolitical zones or State offices as the Board may approve.
	30	(2) There shall be at the Headquarters of the Agency, three divisions to

1 be headed by three Executive Directors under the direct supervision of the
2 Managing Director as follows -

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

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

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

11 (i) Planning Research and Promotion Directorate; and

12 (ii) Finance and Administration Directorate.

13 **117.-(1)** The Executive Directors of the Agency appointed
14 pursuant to the provisions of this Bill shall possess academic and
15 professional qualifications in the fields of power, engineering, law,
16 accounting, corporate communication, project management, public
17 administration in addition to cognate experience and competence relevant
18 to the respective divisions they head as described under section 126 of this
19 Bill and shall be appointed on such terms and conditions as may be specified
20 in their appointment letters.

Functions of
Executive Directors
and Directorates
of the Agency

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

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

26 (b) head the Rural Electrification Fund Division;

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

29 (d) supervise the work of the Rural Electrification and Renewable
30 Energy Management Directorate under him and render reports to the

- 1 Managing Director or the Board, from time to time;
- 2 (e) coordinate draft expenditure estimates and development plans of
- 3 the Directorate to ensure compliance with the objective of the Agency; and
- 4 (f) perform such other functions as may be assigned by the managing
- 5 Director of the Agency or the Board from time to time towards the realization
- 6 of the objectives of the Agency.
- 7 (3) The Executive Director, Engineering and Technical Services
- 8 Division shall perform the following services in relation to his division and the
- 9 directorate under his supervision-
- 10 (a) head the Engineering and Technical Services Division;
- 11 (b) oversee the Projects Support Directorate;
- 12 (c) implement the policies of the Agencies as it relates to rural
- 13 electrification, renewable energy and energy efficiency;
- 14 (d) supervise the work of the Project Support Directorate under him
- 15 and render reports to the managing Director or the Board, from time to time.
- 16 (e) ensure that the expenditure estimates of the Project Support
- 17 Directorate is in accordance with the objectives of the Agency under this Bill;
- 18 and
- 19 (f) perform such other functions as may be assigned to him by the
- 20 Managing Director of the Agency or the Board from time to time towards the
- 21 realization of the objectives of the Agency.
- 22 (4) The Executive Director, Corporate Services Division shall
- 23 perform the following functions in relation to his Division and the directorates
- 24 under his direct supervision-
- 25 (a) head the Corporate Services Division,
- 26 (b) oversee the Planning, Research and Promotion Directorate to
- 27 promote rural electrification and create awareness more generally; and
- 28 (c) oversee the Finance and Administration Directorate to manage the
- 29 Agency's internal finance and administration.
- 30 (5) The REREF Management Directorate shall be responsible for-

1 (a) establishing and administering the REREF to provide capital
2 subsidies to qualified rural electrification schemes developed by public or
3 private sector entities;

4 (b) comply with the policy guidelines and procedures for
5 administering the REREF giving regard to the criteria for subsidy award,
6 transparency, and accountability;

7 (c) coordination of rural electrification projects at local, zonal and
8 federal levels; and

9 (d) perform any other function that may be approved by the Board
10 as being relevant to the realization any of the objectives of the Agency.

11 (6) The Engineering and Technical Services Directorate shall be
12 responsible for-

13 (a) providing technical support services for the Agency's projects
14 including planning, survey and analysis, technical design, evaluations,
15 verifications, production of bill of engineering measurement and
16 evaluation, monitoring and supervision, liaising with other agencies and
17 compliance with standards and specifications in line with global best
18 practices;

19 (b) facilitate technical support from public and private sector
20 partnership aimed at promoting rural electrification projects;

21 (c) perform any other function that may be approved by the Board
22 as being relevant to the realization any of the objectives of the Agency.

23 (7) The Projects Support Directorate shall be responsible for-

24 (a) provide technical support to rural electrification schemes in
25 accordance with policy guidelines designed to protect consumers and
26 service providers on the basis of bilateral agreements signed between the
27 Agency and project developers;

28 (b) monitor project development and supervise project
29 implementation to ensure compliance with standards and specifications
30 used for projects supported by the REREF;

1 (c) through diligent supervision and monitoring, ensure that projects
2 supported by the REREF meets minimum safety standards, quality of materials
3 requirements, appropriate design and proper use of the network equipment,
4 reasonable cost effectiveness and other requirements.

5 (8) The Planning, Research and Promotion Directorate shall be
6 responsible for-

7 (a) promoting rural electrification through Nigeria;

8 (b) serve as an information clearing house and promote public
9 awareness; and work

10 (c) with the Ministry of Power to collect information on rural
11 electrification, including existing projects, planned projects, renewable energy
12 sources, rural load, equipment and material suppliers, and technological
13 innovations for cost -effective power supply.

14 (9) Finance and Administration Directorate shall be responsible for-

15 (a) internal financial and administrative management of the Agency;
16 and

17 (b) liaise with zonal offices Directorate in deciding zonal office staff
18 matters.

Establishment
of the Rural
Electrification
and Renewable
Energy Fund

19 **118.-(1)** There is established the Rural Electrification and
20 Renewable Energy Fund (in this Bill referred to as "the REREF") into which
21 monies from the following sources shall be paid and credited with:

22 (a) any operating surplus of the Commission determined after annual
23 audited account of the Commission and paid directly into the Fund within 30
24 days following the audit of the Commission's account in accordance with
25 section 55 of this Bill;

26 (b) any fines and penalties imposed and collected by the Commission
27 in the enforcement of the provisions of this Bill or regulations made by the
28 Commission which shall be paid directly to the Fund within 30 days of
29 collection;

30 (c) any donations, grants, gifts, assistance or loans made by local or

1 international, bilateral or multilateral agencies or non -governmental
2 organizations, the private sector, Federal or State Governments, local
3 communities, businesses, or any other entity;

4 (d) any special intervention fund as may be provided by the
5 Federal, State or Local Government of the Federation;

6 (e) endowments, bequests, gifts, whether of money, movable or
7 immovable property from private foundations, trusts or other sources not
8 contrary to the objectives of the Agency and national security;

9 (f) funds appropriated by the National Assembly for the realization
10 of the objectives of the Agency and performance of its functions under this
11 Bill;

12 (g) 0.05% on assessable profit of licensees operating in the
13 Nigerian electricity value chain;

14 **119.-(1)** purpose of the REREF established under section 118 of
15 this Bill shall be to: Purpose of the
REREF

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

19 (i) achieve more equitable regional access to electricity;

20 (ii) maximise the economic, social and environmental benefits of
21 rural electrification subsidies;

22 (iii) promote expansion of the grid and development of off grid
23 electrification;

24 (iv) stimulate innovative approaches to rural electrification;
25 provided that no part of the REREF shall be used as subsidies for
26 consumption;

27 (v) promote the research and development of new technological
28 advancement in the Nigerian renewable energy space.

29 (vi) research into the establishment of technical and utilization
30 standards of renewable energy;

1 (vii) implement programmes to adopt international best practices
2 with respect to renewable energy utilization;

3 (viii) promote the implementation of mini-grid and off-grid
4 renewable energy power systems for remote areas, unserved, underserved
5 communities, and islands;

6 (ix) promote the execution of renewable energy projects for non-
7 electricity purposes;

8 (x) develop infrastructure for renewable energy, renewable energy
9 projects and capacity building for the energy sector;

10 (xi) provide production- based subsidies for renewable generation;
11 and

12 (xii) procure equity participation in renewable energy projects.

Management
of the REREF

13 **120.** -(1) The REREF shall be managed by the REREF Management
14 Directorate of the Agency under the direct supervision of the Executive
15 Director, REREF Division in accordance with the provisions of this Bill.

16 (2) Without prejudice to section 129 of this Bill and for the purpose of
17 growing the REREF, the Board may approve a portion of the Fund to be
18 invested in any government security. or by way of fixed deposit in a reputable
19 commercial bank:

20 Provided that the portion of the REREF approved for investment is
21 not committed to an ongoing project or any proposed project or procurement
22 activity of the Agency and such investment shall not undermine the ability of
23 the Agency to meet its payment obligations but only boost its funding sources.

24 (3) It is further declared that at the maturation of any approved
25 investment of a portion of the Fund, the principal sum invested together with
26 the interest on investment or return on such investment shall be paid into the
27 Fund directly

Contribution
rates for the
Rural
Electrification
Fund

28 **121.**-(1) The Commission shall determine any contribution payable
29 by eligible customers and licensees into the REREF at a rate not exceeding 5%
30 of the cost of electricity procured by eligible customers from non-renewable

1 generators or any other rate as Commission may determine as contribution
2 to be paid into the REREF by the eligible customers and licensees.

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

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

10 **122.**-(1) All licensees and eligible customers liable to make Contribution
11 contributions under section of this Bill shall make contributions to the payment for Rural
12 REREF at the rates and for the duration specified by the Commission in Electrification
13 accordance with section 121(3) of this Bill.

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

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

18 **123.**-(1) The Agency shall, in consultation with the Minister: Criteria for
19 (a) establish objective and transparent criteria for the geographical allocation of the
20 allocation of resources from the Rural Electrification Fund and such criteria Rural Electrification
21 shall be determined taking into account: and Renewable
Energy Fund

22 (i) the need for financial support from the REREF;

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

25 (iii) the existence of local matching funding; and

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

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

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

3 (b) the extent to which the proposed activity demonstrates support for
4 rural development taking into account the priorities of the local communities;
5 and

6 (c) the level of community and investor commitment to the proposed
7 activity.

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

11 (a) the resources available from the Fund;

12 (b) the cost of each new connection created under the project; and

13 (c) other objective criteria that the Rural Electrification Agency may
14 determine, such as tariff levels and quality of service.

Fine for non-
payment for
amount owed

15 **124.** In the event of failure by any eligible customer or licensee or any
16 other person liable to make any contributions or payment to the REREF
17 established under section 118 of this Bill, the principal sum owed as
18 contribution or payment howsoever described, together with a penalty of
19 10percent annum of the principal amount due plus interest at the prevailing
20 commercial rate shall be recoverable as a debt owed by the eligible customer or
21 licensee with such an outstanding payment obligation under this Bill to the
22 Agency.

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

Expenditure of
the Agency

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

1 (a) such projects, programmes or activities as are connected to the
2 objectives, functions and purposes of the Agency;

3 (b) the cost of administration and maintenance of the Agency

4 (c) publicity and advocacy activities of the Agency

5 (d) allowances, expenses and other benefits of members of the
6 Board, committees or consultants appointed for the Agency;

7 (e) overhead allowances, benefits of employees of the Agency;

8 (f) salaries, allowance and benefits of employees of the Agency;

9 and

10 (g) such other activities as may be approved by the Board

11 **126.** All sources of monies paid into the REREF as specified in
12 section 118 (1) of this Bill shall be exempt from income tax

Exemption from
income tax

13 **127.-(1)** The Minister shall have the supervisory powers and
14 perform the functions as assigned to him under this section and any other
15 part of this Bill as follows-

Supervisory
powers of the
Minister

16 (a) the Minister has the responsibility for the formulation,
17 amendment and implementation of National Renewable Energy and Energy
18 Efficiency Policy and shall give directives of general or specific character to
19 the Agency in the performance of its functions or implementation of any
20 policy measure.

21 (b) the Minister may make recommendations to the Agency
22 relating to the performance by the Agency of any or all of its functions under
23 this Bill;

24 (c) the Minister shall upon a proposal made by the Agency ,
25 undertake a review of the Rural Electrification Strategy and Implementation
26 Plan approved by the President.

27 pursuant to the provisions of the Repealed Act, at least every two years from
28 the commencement of this Bill and the Rural Electrification Strategy and
29 Implementation Plan when reviewed shall come into effect only after the
30 approval of the President.

State Rural
Electrification
Boards and Local
Government
Rural
Electrification
Committees

Relationship
between the
Agency and State
Rural
Electrification
Boards etc.

1 (2) The supervisory powers of the Minister under this section shall
2 relate to general or specific policy matters but should not be exercised by the
3 Minister in such a manner as to undermine the provisions of this Bill.

4 **128.**-(1) For the purpose of effective execution, coordination and
5 monitoring of rural electrification projects nationwide and the functions of the
6 Agency, the Agency shall collaborate with State Rural Electrification Boards
7 or related state agency by whatever appellation and the Agency shall
8 encourage such State to establish Local Government Rural Electrification
9 Implementation Committees or such other similar institutions to carry out any
10 component of the Rural Electrification Strategy and Implementation Plans in
11 their respective States.

12 (2) State Houses of Assembly shall by law make provision for the
13 structure, operation and functions of the State Electricity Board and Local
14 Government Rural Electrification Committees in their respective States.

15 **129.**-(1) The Agency shall maintain effective liaison with State Rural
16 Electricity Boards and Local Governments Rural Electrification
17 Implementation Committees where established and shall leverage on such
18 relationship to -

19 (a) ascertain the status of the rural electrification access in the States
20 and Local Government Areas concerned;

21 (b) review, in conjunction with the States or Local Governments,
22 matters connected with or expected to affect the progress of rural
23 electrification projects in States or Local Government areas;

24 (c) leverage on such relationship to implement awareness programs
25 on opportunities that are available to States and Local Governments through
26 the use of renewable energy technologies;

27 (d) build strong alliances with States and local governments that can
28 be used to resolve disputes arising from acquisition of land and access to land
29 for rural electrification projects; and

30 (e) consider and advise the states and local government areas on the

1 adoption of the best strategies for the realization of objectives of the Rural
2 Electrification Strategy and Implementation Plans.

3 (2) The Agency, as considered appropriate, may assist a State
4 Electricity Board or a Local Government Implementation Committee in the
5 formulation and preparation of strategic plans for the implementation of
6 rural electrification projects in a State or its Local Government or in their
7 local communities.

8 (3) The Agency may provide information and render advice to
9 States Rural Electrification Boards, Local Government Rural
10 Electrification Committees or to any person or body, where it considers that,
11 to do so will assist in achieving the efficient implementation of the rural
12 electrification nationwide.

13 (4) The Agency shall arrange such technical assistance as may be
14 practicable and also encourage State Governments to provide technical and
15 financial assistance, including training, human capacity envelopment,
16 transfer of any required technology to the local communities in their
17 domains for the attainment of the national targets on rural electrification.

18 **130.-(1)** For the purpose of monitoring progress in the Progress Reports
19 implementation of the Rural Electrification Strategy and Implementation
20 Plans as may be adopted or reviewed from time to time the Minister in
21 consultation with the Agency shall, on a quarterly basis, submit to the
22 President, progress report indicating activities and milestones achieved in
23 the implementation of the Rural Electrification Strategy and
24 Implementation Plans and such a report shall highlight information relating
25 to:

- 26 (a) the expansion of the national grid to rural areas;
27 (b) the development of off-grid power sources;
28 (c) renewable energy power generation;
29 (d) the impact of ongoing rural electrification projects on
30 economic inequalities in the rural and peri urban areas;

	1	(e) impact of rural electrification on general rural economy and
	2	addressing gender inequalities in the rural areas in particular; and
	3	(f) the extent to which the projects set out in the strategic plan are
	4	being achieved;
Monitoring of Rural Electrification Projects	5	131. -(1) The Agency shall put in place an appropriate machinery for
	6	the monitoring of rural electrification implementation projects nationwide.
	7	(2) The mechanism for rural electrification monitoring shall include
	8	the use of geographic information system and geo mapping technologies to
	9	monitor projects effectively, generate and analyze projects data without.
Power to accept gifts	10	132. -(1) The Agency may accept gifts of land, money or other
	11	property on such terms and conditions, if any, as may be specified by the person
	12	or organization making the gift.
	13	(2) The Agency shall not accept any gift if the conditions attached by
	14	the person or organization making the gift are inconsistent with the functions of
	15	the Agency under this Bill.
Power to borrow	16	133. The Agency may, with the approval of the Board, borrow such
	17	sums of money as may be required, from time to time, to execute or complete
	18	any special project of the Agency.
Estimates of the Agency	19	134. The Agency shall, not later than 30th September in each financial
	20	year, submit to the National Assembly through the Minister, an estimate of
	21	income and expenditure of the Agency during the next succeeding year
Accounts and Audits	22	135. -(1) The Agency shall keep proper and regular accounts and
	23	other records of monies received and paid by the Agency and of the several
	24	purposes for which the monies have been received or paid, and of its assets,
	25	credits and liabilities.
	26	(2) The Agency shall do all things necessary to ensure that all
	27	payments out of the REREF and bank accounts are correctly made and
	28	properly authorized and that adequate control is maintained over the assets in
	29	its custody and over the expenditures incurred by the Agency.
	30	(3) The Council shall cause the accounts of the Agency to be audited

1 quarterly and shall be externally audited once every year.

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

3 (a) inspect and audit the accounts and records of financial
4 transaction of the Agency.

5 (b) inspect records relating to assets of the Agency; and

6 (c) draw the attention of the Minister to any irregularity disclosed
7 by the inspection and audit.

8 (5) The Auditor-General may dispense with all or any part of the
9 detailed inspection and audit of any account or record referred to him under
10 this section.

11 (6) The Auditor-General or an officer authorized by him is entitled
12 at all reasonable time to a full and free access to all accounts, records,
13 documents and papers of the Agency relating directly or indirectly to the
14 receipt or payment of money by the Agency or to the acquisition, receipt,
15 custody or disposal of assets by the Agency.

16 (7) The Board shall forward a copy of the audited financial
17 statements of the Agency, upon preparation to the Minister for onward
18 transmission to the National Assembly, together with any report or
19 observation made by the auditors and the Auditor-General on the statement
20 of accounts.

21 (8) The audited accounts of the Agency and the Auditor-General's
22 report on those accounts shall form part of the Auditor-General's overall
23 annual report to the National Assembly.

24 **136.** The Agency shall submit to the Minister, not later than 30th Annual Report
25 June of each financial year, a report of its activities during the preceding
26 financial year, and it shall include a copy of the audited accounts of the
27 Agency for that year and a copy of auditor's report thereon.

28 **137.-(1)** The provisions of the Public Officers Protection Act shall Limitation of
29 apply in relation to any suit instituted against any officer or employee of the suits against the
30 Agency. Agency

	1	(2) No suit shall be commenced against a member of the Board,
	2	officer or employee of the Agency before the expiration of a period of 60 days
	3	after a written notice of intention to institute a suit has been served upon the
	4	Agency by an aggrieved party or his counsel.
	5	(3) The notice referred to in subsection (2) of this section shall state-
	6	(a) cause of action ;
	7	(b) particulars of the claims.
	8	(c) particulars of the aggrieved party; and
	9	(d) relief which he claims.
Service of documents	10	138. A notice, summons or any other document required or authorized
	11	to be served upon the Agency under the provisions of this Bill or any other law
	12	or enactment may be served by delivering it to Managing Director at the head
	13	office of the Agency.
Restriction on execution of suits against the property of the Agency	14	139. No execution or attachment of process shall be issued against the
	15	Agency in any action or suit without the consent of the Attorney-General of the
	16	Federation.
Indemnity	17	140. A member of the Board, officers of the Agency shall be
	18	indemnified against any proceeding, whether civil or criminal, in which
	19	judgment is given in his favor, or in which he is acquitted, if any such
	20	proceeding is brought against him in his capacity as member of the Board,
	21	officer, or employee of the Agency.
	22	PART XV - RENEWABLE ENERGY AND ENERGY EFFICIENCY
Communication to promote the development and utilization of renewable energy	23	141.-(1) The Commission shall support the development and
	24	utilization of renewable energy and for this purpose, take the measures
	25	stipulated under this section to increase the contribution of renewable energy to
	26	Nigeria's energy mix-
	27	(a) stipulate in its licensing and fees schedule, simplified licensing
	28	and fees regime for issuance of licenses to renewable energy service
	29	companies for the provision of electricity to consumers and from renewable
	30	energy sources specified under this Bill;

1 (b) issue commercial and technical regulations for connectivity to
2 the grid and distribution network for sale of electricity generated from
3 renewable energy sources to distribution and trading licensees, eligible
4 customers and other consumers;

5 (c) issue technical standards and certification procedures for
6 technical personnel participating in renewable energy projects taking into
7 cognizance the need to promote local skills and local requirements for
8 renewable energy projects;

9 (d) provision of standards for Power Purchase Agreements with
10 specific requirements and terms for marketing and trading renewable
11 electricity;

12 (e) provide regulations specifying the role of generation licensees,
13 Transmission Service Provider, Independent System Operator distribution
14 licensees in the integration of renewable energy generated capacity into the
15 national grid and distribution network;

16 (f) monitor and enforce compliance with Renewable Purchase
17 Obligations and Generation Purchase Obligations as may be prescribed by
18 the Commission;

19 (g) provision of embedded renewable electricity generation
20 regulations including review of extant standards for solar PV, wind turbines
21 and regulation for biomass electricity;

22 (h) provision of mini-grid regulations on renewable energy to cater
23 for installation, metering, billing and other requirements, etc for renewable
24 energy mini-grid Systems, etc;

25 (i) review extant National Content Development Regulations for
26 the power sector to address local content requirements for local skills
27 acquisition, local production and assembly of solar PV components, deep
28 cycle batteries, electro-mechanical components of SHP technology, wind
29 power, boilers and turbines for cogeneration of less than 30mw or other

1 components as may be specified by the Commission for local contents
2 requirements;

3 (j) ensure stable and long -term favorable pricing mechanism for
4 renewable energy and facilitate unhindered access to the national grid and
5 distribution network through the following measures:

6 (k) stipulation of renewable purchase and transmission of all
7 available electricity renewable electricity producers while power plants
8 owners bear the cost of connection.

9 (l) introduction of feed -in tariffs for all small hydro schemes, all
10 biomas co-generation power plants, solar and wind-based plants irrespective
11 of their sizes within the terms of the tariffs to be up to 20 years to guarantee
12 buyers under standard Power Purchase Agreements and provide return on
13 investments.

14 (m) award of license of mini-grid concessions to renewable energy
15 companies to exclusively serve a specific geographical location indicating
16 aggregate electricity to be generated and distributed from a site with obligation
17 to serve customers to request service;

18 (n) provide standards and sitting guidelines for Solar Homes Systems,
19 stand-alone Solar PV, micro hydro and wind power.

20 (o) ensure clarity in the Market Rules and offer incentives and support
21 to Independent Power Producers for investments in generation of electricity
22 from Renewable sources specified under this Bill;

23 (p) provide support to the Rural Electrification Agency and
24 Renewable Energy Agency established under this Bill towards efficient
25 implementation of rural electrification using renewable energy sources
26 specified under this Bill;

27 (q) develop light-handed measures for awarding renewable
28 electricity concessions for generation, distribution of electricity within
29 10MWs generating electricity exceeding 1MW and distributing electricity
30 above 100KW in aggregate at the site;

1 (r) provide technical specifications and codes for stand-alone solar
2 PV, micro-hydro and wind power;

3 (s) issuance of renewable energy standards on installation,
4 decommissioning and Disposal of renewable energy accessories and
5 monitor compliance in conjunction with other relevant MDAs with
6 mandates on product safety and standards;

7 (t) issue guidelines on net-metering for roof-top solar PV systems,
8 small wind power in line with the provisions of this Bill regarding the
9 procedure for adoption of guidelines or other regulatory documents by the
10 Commission; and

11 (u) in consultation with the relevant MDAs provide regulation on
12 energy storage to promote energy efficiency.

13 (2) The Commission shall for the purpose of the implementation
14 of this Bill, approve:

15 (a) rates chargeable for the purchase of electricity from renewable
16 energy sources by

17 (b) public utilities;

18 (c) charges for mini-grid and grid connection; and

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

21 **142-(1)** For the purpose of this part, commercial activities in the
22 renewable energy industry include-

Commercial
activities for
renewable energy

23 (a) Generation;

24 (b) distribution;

25 (c) sales;

26 (d) installation

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

29 **143-(1)** From the commencement of this Bill, the Federal
30 Ministry of Finance shall introduce such tax incentives as are necessary to

Renewable
Energy incentives
and standards

	1	promote and facilitate the generation and consumption of energy from
	2	renewable energy sources and in accordance with the provisions of the
	3	Nigerian Industrial Development (Income Tax Relief) Act or such other fiscal
	4	policy framework foster such tax reliefs that would incentivize
	5	implementation of renewable energy projects in Nigeria.
Consideration for renewable purchase obligation	6	144. -(1) In giving effect to the provisions of section 81 of this Bill, the
	7	Commission shall take into consideration the:
	8	(a) technology being used to generate electricity from renewable
	9	energy sources;
	10	(b) assurance of the financial integrity of public utilities; and
	11	(c) net effect of the cost of renewable energy on the end user tariff, in
	12	specifying the percentage level of electricity.
	13	(2) A bulk customer permitted by the Commission, shall:
	14	(a) purchase a specified percentage of its total purchase of electricity
	15	from renewable energy sources; or
	16	(b) pay to the Commission a premium as determined by the
	17	Commission.
	18	(3) The premium payable shall constitute a source of revenue for the
	19	Commission under this Bill
	20	(4) For the purposes of this section:
	21	(a) a "premium" means the amount payable by the bulk customer
	22	instead of the purchase of electricity required under subsection (2) (a) of this
	23	section; and
	24	(b) "bulk customer" means a customer that purchases or receives
	25	electricity from renewable Energy sources in the amount or level specified by
	26	the Commission.
Feed-in tariffs rates	27	145. -(1) An electricity distribution utility shall not buy or negotiate a
	28	Power Purchase Agreement with a generator of electricity from renewable
	29	energy sources unless it is in accordance with guidelines provided by the
	30	Commission.

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

4 (3) The Commission shall take into account the:

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

6 (b) location of the generation facility;

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

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

11 (e) the reasonable rate of return; and

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

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

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

21 **146.-(1)**A public utility shall not demand a feed-In-tariff rate for
22 electricity generated from renewable energy sources unless the feed-in-
23 tariff rate chargeable has been approved by the Commission.

Approval of
feed-in tariffs
rates

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

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

	1	permission of the Commission.
	2	(4) The power to approve a rate under this section shall not apply to
	3	the export of electricity generated from renewable energy sources.
Publication of feed-in tariff rates	4	147. Feed-in-tariff rates approved by the Commission for electricity
	5	generated from renewable energy sources shall be published by the Nigerian
	6	Electricity Regulatory Commission in the Gazette and the mass media
Connection to transmission and distribution systems	7	148. An operator of a transmission or distribution system shall
	8	connect a generator of electricity from a renewable energy source within the
	9	coverage area of the transmission or distribution system where a generator of
	10	electricity from renewable energy sources so requests, such request not to be
	11	unreasonably withheld, however, such connection request shall be subject to
	12	dispatch procedures as may prescribed by the System Operator in accordance
	13	with the Grid Code, In the event of a conflict between this Act and the Grid
	14	Code as it relates to dispatch, the provisions of the Grid Code shall prevail. An
	15	operator of a transmission or distribution system shall:
	16	(a) upgrade the transmission or distribution system at reasonable
	17	economic expense to feed-in the electricity from the generator of electricity
	18	from renewable energy sources; and
	19	(b) upgrade the transmission and distribution system as soon as
	20	practicable if so, requested by a generator interested in feeding in electricity.
	21	(4) The cost of upgrading the transmission or distribution system shall
	22	be shared equally between the operator of the transmission or distribution
	23	system and the generator of electricity from renewable energy sources.
	24	(5) The costs associated with connecting installations to the metering
	25	point shall be borne by the generator of electricity from renewable energy
	26	sources
	27	(6) For the purposes of subsection (I), the operator of a transmission
	28	or distribution system shall enter into a connection agreement with a generator
	29	of electricity from renewable energy sources within the coverage area of the
	30	transmission or distribution system.

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

4 PART XVI - NIGERIAN ELECTRICITY MANAGEMENT SERVICES AGENCY

5 **149.**-(1) There is established the Nigerian Electricity
6 Management Establishment Services Agency, (in this Act referred to as "the
7 Agency").

Establishment
of Nigerian
Electricity
Management
Services Agency

8 (2) The Agency

9 (a) shall be a body corporate with perpetual succession and a
10 common seal;

11 (b) may sue and be sued in its corporate name; and

12 (c) subject to this Act, perform all acts that bodies corporate may,
13 by law, perform.

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

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

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

21 **150.**-(1) There is established for the Agency a Governing Board (in
22 this Act referred to as "the Board").

Establishment
and membership
of the Governing
Board

23 (2) The Board shall consist of-

24 (a) a Chairperson who shall-

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

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

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

	1	the recommendation of the Minister;
	2	(c) the Managing Director and Chief Executive Officer of the
	3	Agency;
	4	(d) the representative of Federal Ministry of Power; and
	5	(e) the representative of Federal Ministry of Finance.
	6	(3) The General Manager, Legal of the Agency shall be the Secretary
	7	of the Board.
	8	(4) In choosing the appointed 6 members of the Board under
	9	subsection (2) (b) of this section, the Minister shall consider each proposed
	10	member's character, competence, professional and practical experience in the
	11	Nigerian electricity supply industry.
	12	(5) No member of the Board shall have any share or interest, whether
	13	in his own name or otherwise, in any company or other body corporate or an
	14	association of persons (whether incorporated or not), or a firm engaged in the
	15	business of generation, transmission and distribution and trading of electricity
	16	or fuel for the generation thereof or in the manufacture of electrical equipment.
Tenure of office	17	151. -(1) A member of the Board appointed otherwise than by virtue
	18	of his office shall hold such office for a period of 3 years and may be eligible for
	19	re-appointment for only one further period of 3 years, which shall be on a part
	20	time basis.
	21	(2) The office of a member of the Board shall become vacant if -
	22	(a) he resigns as a member of the Board by notice in writing under his
	23	hand addressed to the Minister ; or
	24	(b) the Minister is satisfied that it is not in the interest of the Board for
	25	the member to continue in office and, upon the approval of the President,
	26	notifies the member in writing to that effect.
	27	(3) The Board adopt rules to guide its summoning of its meetings and
	28	proceedings at its meetings.
Powers of the Board	29	152. The Board has the power to -
	30	(a) oversee the affairs of the Agency;

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

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

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

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

11 **153.**-(1) The Management Team of the Agency shall consist of-

Management
team

12 (a) the Managing Director and Chief Executive Officer;

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

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

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

17 **154.** Subject to this Act, the Agency shall-

Objectives and
functions of the
Agency

18 (a) carry out electrical inspectorate services for the Nigerian
19 electricity supply industry;

20 (b) enforce all statutory technical electrical standards and
21 regulations as published by the Commission and all other relevant statutory
22 bodies;

23 (c) collaborate with Standards Organization of Nigeria and other
24 relevant Government Agencies to ensure that all major electrical materials
25 and equipment used in Nigeria are of the right quality and standards;

26 (d) ensure that the power systems and networks put in place have
27 been properly executed before use, to ensure that such systems are capable
28 of delivering safe, reliable and sustainable electricity supply to consumers
29 nationwide;

30 (e) enforce compliance with technical standards for all electrical

1 installations, electrical plants, including power plants and auxiliary systems,
2 electric networks and connectivity to the grid ;

3 (f) enforce compliance with safety requirements for construction,
4 operation and maintenance of electrical power plants, transmission system,
5 distribution networks and electric installations;

6 (g) enforce the conditions for installation of meters for transmission
7 systems, distribution networks and supply of electricity;

8 (h) carry out the duties of inspecting engineers for inspection, testing
9 and certification of all categories of electrical installation in the Nigerian
10 electricity supply industry:

11 (i) provide comprehensive technical support services that will
12 guarantee the efficient production and delivery of safe and reliable power
13 supply and enhance efficient service delivery industry-wide;

14 (j) provide sustained technical inspection, testing and certification of
15 all electrical materials, (including transformer oil and chemicals) or
16 equipment, power systems, networks (generation, transmission and
17 distribution), or electrical installations to be used in the power sector, to ensure
18 a stable system to deliver safe, reliable, regular power supply, guarantee safety
19 of lives and property, and avert loss of lives and property in the Nigerian
20 electricity supply industry;

21 (k) test, calibrate and certify every brand of electricity meters and
22 instruments whether locally manufactured or imported before use in the
23 Nigerian electricity supply industry; and to periodically carry out sample test
24 of such meters and instruments deployed in the Nigerian electricity supply
25 industry;

26 (l) test and certify electrical installations in hazardous locations such
27 as in filling stations, prospecting oil companies, off and onshore flow stations
28 or wells, Floating Production Storage and Offloading vessels ;

29 (m) process and issue competency certificates to qualified electrical
30 personnel working in the Nigerian electricity supply industry ;

1 (n) regularly carry out periodic inspection, monitoring and
2 assessment of existing power plants or stations, installations, Extra High
3 Voltage (EHV) and High Voltage (HV) transmission lines and associated
4 transmitting or switching stations and distribution networks to ensure that
5 they are in regular fitness to generate, transmit, distribute and deliver
6 reliable and safe power supply to the electricity consumers nationwide ;

7 (o) regularly monitor the compliance level of the technical
8 regulations, standards and specifications used in the Nigerian electricity
9 supply industry ;

10 (p) carry out or cause to be carried out investigation of electrical
11 accidents and electrocutions (outright deaths) in connection with
12 generation, transmission, distribution, supply or use of electricity with a
13 view to finding out the causes, and enforce remedial measures and proffer or
14 suggest ways of preventing future occurrence;

15 (q) promote research on matters affecting the generation,
16 transmission, distribution and utilization of electricity;

17 (r) publish from time-to-time information beneficial to the growth
18 of the electricity industry including reports and investigations;

19 (s) advise the Minister and other relevant agencies on all technical
20 matters relating to generation, transmission and distribution of electricity;

21 (t) take over the functions of statutory electrical inspection, testing
22 and certification of all electrical installation hitherto carried out by the
23 Director of Electrical Inspectorate Services and the Electrical Inspectorate
24 Services Division of the Federal Ministry of Power ;

25 (u) provide non-core and ancillary services for commercial
26 opportunities and drive in the Nigerian electricity supply industry ;
27 (including research and development, electricity information management
28 systems, renewable energy services, specialized medical and health care
29 services, project management and consultancy, electricity workshop
30 service, project unit service for specialized projects in the Nigerian

1 electricity supply industry logistics, warehousing and printing technology;
2 (v) partner and to be a joint and major player with other related
3 services in the Nigerian Electricity Supply industry; for technical and
4 commercial services and to perform and provide all other related services in the
5 Nigerian Electricity Supply Industry; as may be approved by the Minister;

6 (w) collaborate with other stakeholders in the electricity power sector
7 on standards and specifications of all major electrical equipment and materials
8 manufactured or imported for use in Nigeria, to ensure uniformity and ensure
9 that all electrical equipment and materials comply with approved standards ;
10 and

11 (x) discharge such other functions as may be provided under this Act
12 or conferred by the Minister's directives.

Appointment
of the Managing
Director and
Chief Executive
and other Staff
of the Agency

13 **155.-(1)** There is appointed for the Agency by the President on the
14 recommendation of the Minister, a Managing Director and Chief Executive
15 Officer.

16 (2) The Chief Executive Officer shall be an electrical engineer,
17 registered with Council for the Regulation of Engineering in Nigeria (COREN)
18 and have not less than 20 years professional and practical experience in the core
19 operational areas of the Agency or the Nigerian electricity supply industry.

20 (3) The Chief Executive Officer shall hold office for a term of 4 years,
21 and may be eligible for re-appointment for only one further term of 4 years.

22 (4) The Chief Executive officer shall be the head of the management
23 and chief accounting officer of the Agency.

24 (5) The Chief Executive Officer shall be the Chief Electrical Inspector
25 of the Federation with powers to carry out the functions of enforcement of
26 technical standards and regulations, through technical inspection, testing and
27 certification of all categories of electrical equipment and installations,
28 electricity meters, instruments and other related matters in the Nigerian
29 electricity supply industry.

30 (6) The Chief Executive Officer shall be responsible for the day-to-

1 day administration of the Agency, keep the books and records of the Agency
2 and be subject to the supervision and control of the Board.

3 (7) The Minister shall also appoint 3 Executive Directors who shall
4 hold the office for a term of 4 years and may be eligible for re-appointment
5 for only one further term of 4 Years.

6 (8) The Executive Directors shall administer under the direction of
7 the Managing Director the following Directorates-

8 (a) Technical Services ;

9 (b) Commercial Services ; and

10 (c) Corporate Services.

11 (9) The Agency may appoint such other officers and employees as
12 it considers necessary for the performance of its functions under this Act and
13 on such terms as to salary remuneration, fee, allowance, pension, leave and
14 gratuity as the Agency may determine in consultation with the National
15 Salaries, Incomes and Wages Commission.

16 (10) The staff of the Agency shall be public officers as defined in
17 the Constitution of the Federal Republic of Nigeria 1999.

18 **156-(1)** Service in the Agency shall be approved service for the
19 purpose of the Pensions Reform Act, officers and other persons employed in
20 the Agency shall be entitled to pensions, gratuities and other benefits as are
21 prescribed thereunder.

Service to be
subject to the
Pension
Reform Act
2014

22 (2) Notwithstanding subsection (1) of this section, the Agency may
23 appoint a person to any office on terms which preclude the grant of a
24 pension, gratuity or other retirement benefits in respect of that office.

25 (3) For the purpose of the application of the provisions of the
26 Pensions Reform Act, any power exercisable thereunder by a Minister or
27 other agency of the Government of the Federation, other than the power to
28 make regulations under section 13 thereof is vested in and shall be
29 exercisable by the agency and not by any other person or agency.

Funds of the
Agency

1 **157.**-(1) The Agency shall establish and maintain a Fund from which
2 shall be defrayed all expenditure incurred by the Agency and into which shall
3 be paid and credited -

4 (a) fees, charges, and any other income accruing to the Agency from
5 certifications and other things done by it under this Act, excluding fines or
6 penalties recovered under this Act ;

7 (b) grants of money or other property, upon such terms and conditions
8 as may be specified by the person or organization making the grants, provided
9 that such terms and conditions are consistent with the objectives and functions
10 of the Agency under this Act;

11 (c) funds allocated to the Agency by the National Assembly, pursuant
12 to a request by the Agency for additional funds required to meet its reasonable
13 expenditures; and

14 (d) such other moneys as may vest in or accrue to the Agency, whether
15 in the course of its operations or otherwise.

16 (2) There shall be paid into the Fund established under subsection (1)
17 of this section such payments as may be made to the Agency by the Federal
18 Government for the running expenses of the Agency and all other assets
19 accruing, from time to time, to the Agency.

20 (3) The Agency may, from time to time, apply the proceeds of the
21 Fund established under this section to-

22 (a) the cost of administration of the Agency;

23 (b) reimburse members of the Board or of any committee set up by the
24 Board for such expenses as may be expressly authorized by the Board in
25 accordance with the rates as provided by extant rules and regulations;

26 (c) the payment of salaries, fees or other remuneration, allowances,
27 pensions and gratuities payable;

28 (d) the maintenance of any property vested in the Agency ;

29 (e) any other expenditure in connection with the functions of the
30 Agency; and

1 (f) remuneration and allowances of the Board members in line with
2 existing Government regulations.

3 (4) The Chief Executive officer shall perform all duties as may be
4 stipulated by Government Financial Regulations.

5 (5) The Agency shall prepare and submit through its Board to the
6 Minister on or before 31st October of each year a budget showing the
7 expenditures which the Agency proposes to incur in respect of the next
8 financial year in order to carry out the functions of the Agency.

9 **158.** The Chief Executive Officer shall prepare and submit to the Annual report
10 Board for onward transmission to the President through the Minister, not
11 later than 30th June of each year, a report on the activities of the Agency
12 during the immediately preceding year, and shall include in the report a copy
13 of the audited accounts of the Agency for that year and the auditor's report
14 thereon.

15 **159**-(1) For the purpose of carrying out the functions of the Access to premises
16 Agency, the Chief Executive Officer or any other officer of the Agency, and other
17 authorized in that behalf shall - enforcement
powers

18 (a) have a right of access to all premises and the technical records
19 of any institution or establishment engaged in electricity material supply
20 and installation; and

21 (b) by notice in writing served on a person in charge of any
22 institution or authority mentioned in subsection (1) (a) of this section,
23 require that person or establishment to furnish information on such matters
24 as may be specified by the notice

25 (2) A person or establishment required to furnish information
26 under subsection (1) of this section shall comply with the notice within the
27 period of time specified in the notice.

28 (3) The Agency may obtain a court warrant to enter and search any
29 property in the exercise of its functions.

30 (4) Where it appears to the Agency that a breach of electrical

1 technical standard, regulation or of any interest the Agency is mandated to
2 protect is taking place, the Agency may publish a notice in such manner as it
3 considers appropriate to draw attention of other person affected or likely to be
4 affected by the contravention or threatened contravention-

5 (a) specifying the actual or potential contravention ;

6 (b) directing the person or establishment concerned to do or not to do
7 such things as they may be specified ;

8 (c) specifying the remedy and the timescale for compliance ; and

9 (d) notifying the person or establishment concerned of its intention to
10 issue an enforcement order.

11 (5) A person or establishment affected by the notice specified in
12 subsection (4) of this section is entitled to make representations against or in
13 support of the enforcement notice by a date specified in the notice.

14 (6) A person or establishment concerned fails to comply with a notice
15 served pursuant to subsection 4 of this section, the Agency may issue an
16 enforcement order.

17 (7) A person who fails to comply with an enforcement order commits
18 an offence and is liable on conviction to a term of 3 months' imprisonment or a
19 fine of N500,000.00 or both.

20 (8) the Agency shall not issue an enforcement order if -

21 (a) a person or establishment concerned is able to demonstrate to the
22 satisfaction of the Agency that it is not in breach of any standard, or regulation;
23 and

24 (b) the breach was not intentional, and it has been remedied.

25 (9) Where a person or establishment concerned fails to comply with
26 an enforcement order, the Agency may institute legal proceedings against them
27 in any court to compel compliance.

Supervisory
powers of the
Minister

28 **160.** The Minister may give directives of a general or special
29 character to the Agency relating to the performance by the Agency of any or all

1 of its functions under this Act, and the Agency shall comply and give effect
2 to the directives.

3 **161.** The Agency shall submit its input to the Commission in the Regulations
4 making of further technical regulations for the purpose of carrying out its
5 functions under this Act.

6 **162.**-(1)The Agency's certification of any electrical equipment, General
7 material or installation used in the Nigerian electricity supply industry shall Provisions
8 not be sufficient defence for negligence or damage suffered from the effect
9 or application of the certified electrical equipment, material, or installation
10 or power plant networks by the manufacturer, installer or user.

11 (2) When an electrical material or installation is found defective
12 after it has been brought into use, the licensee shall be required to rectify all
13 anomalies that may be observed by an inspecting engineer.

14 (3) In addition to inspecting engineers who are permanent staff of
15 the Agency, the Agency may, from time to time, appoint, on a temporary
16 basis, special inspecting engineers for specified assignments or tasks.

17 (4) No inspecting engineer in the service of the Agency or the
18 Agency is liable for acts carried out in the service of the Agency.

19 (5) In resolving disputes, including intra-organization conflict and
20 external conflicts involving any person or establishment, the Agency shall,
21 as first line of action, apply amicable settlement processes such as
22 negotiation, mediation and conciliation before resorting to the court.

23 (6) No court action shall be instituted against the Agency without a
24 prior notice of 30 days in writing before such action is initiated.

25 (7) Any court action against the Agency shall be commenced
26 within 1 year of the occurrence of the cause of action.

27 **PART XVII - DISPUTE RESOLUTION**

28 **163.**-(1)There is established the Electricity Appeal Tribunal Establishment
29 (hereinafter referred to as "the Tribunal") to exercise the jurisdiction, of the Electricity
30 powers and authority conferred on it by or under this Bill. Disputes Appeal
Tribunal

Composition
of the Tribunal

(2) Without prejudice to any other provision of this Bill, the Minister may by notice in the Federal Gazette specify the number of zones, and places in relation to which the Tribunal may exercise jurisdiction.

164.-(1) Each Zone of the Tribunal shall consist of a Chairperson and four members appointed by the Minister with the chairperson and one other member being the judicial members while the other three members being technical members.

(2) For the purpose of subsection (1) of this section, a -
"Judicial member" means the Chairperson and one other member of a zone who are respectively legal practitioners and have been so qualified and have practiced for a period of not less than 15 years with cognate experience in Nigerian energy law and electric power sector regulatory compliance matters; and

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

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

(4) The quorum at any sitting of the Tribunal shall be three members.

Qualification
for appointment
as member of
the Tribunal

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

Provided that the Minister shall in appropriate circumstances appoint persons who have proven capacity in management of electricity companies and

1 retired public servants versed in energy law administration and compliance
2 as technical members of the Tribunal.

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

7 **167.-(1)** A Chairperson or member of the Tribunal may by notice
8 in writing under his hand addressed to the Minister resign his office: Resignation and
removal from
office

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

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

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

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

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

Secretary to
the Tribunal

1 **170.**-(1) The Minister shall appoint for the Tribunal a Coordinating
2 Secretary and one Secretary in each zone where the Tribunal is to exercise
3 jurisdiction.

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

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

6 (b) Be the head of the secretariat and responsible for -

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

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

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

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

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

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

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

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

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

Other staff of
the Tribunal

23 **171.**-(1) The Minister shall appoint or deploy such other employees
24 from his ministry or agencies or parastatals under his Ministry as he may deem
25 necessary for the efficient performance of the functions of the Tribunal and the
26 remuneration of persons so employed or deployed shall be determined by the
27 National Salaries and Wages Commission.

28 (2) It is declared that employment in the Tribunal under this section
29 shall be subject to the provisions of the Pension Reform Act and, accordingly,
30 employees of Tribunal shall be entitled to pensions and other retirement

1 benefits as are prescribed under the Pension Reform Act.

2 **172.**-(1) The Tribunal shall have power to hear and determine any Jurisdiction of
the Tribunal
3 question of law or dispute involving-

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

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

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

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

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

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

23 **173.** Where in the course of its adjudication, the Tribunal discovers Criminal
prosecution
24 evidence of possible criminality; the Tribunal shall be obliged to refer such
25 matter to the appropriate criminal prosecuting authorities, such as the office
26 of the Honorable Attorney-General of the Federation or the Honorable
27 Attorney-General of any state of the Federation or any relevant law
28 enforcement agency as it may deem appropriate for further investigation
29 and prosecution.

30 **174.**-(1) Any person aggrieved by any action or decision of the Appeals from
decisions of the
Commission

1 licensee or consumer or Commission or any other entity operating in the
2 Nigerian electricity supply industry pursuant to the provisions of the laws
3 referred to in section 172 of this Bill, may appeal against such action or
4 decision within the period stipulated thereunder.

5 (2) For the purpose of subsection (1) of this section, the action or
6 decision complained of may:

7 (a) where the aggrieved person is a consumer must relate to-

8 (i) the propriety or otherwise of electricity bill demanded of him by a
9 licensee or other non -licensed entities operating in the Nigerian electricity
10 supply industry pursuant to the provisions of this Bill; and

11 (ii) breach of the provisions of the laws referred to under section
12 172 as it relates to the rights of the aggrieved party.

13 (b) where the aggrieved person is a licensee or other non -licensed
14 entities operating in the Nigerian electricity supply industry pursuant to the
15 provisions of this Bill, the matter must relate to -

16 (i) refusal or default to pay electricity Bill or honour any contract
17 pursuant to the provisions of this Bill;

18 (ii) propriety or otherwise of regulatory measures including the
19 legality of subsidiary legislation made by the Commission or the Ministry as it
20 affects the activities of the licensee or other non -licensed entities operating
21 in the Nigerian electricity supply industry pursuant to the provisions of this Bill;

22 (c) where the aggrieved person is the Ministry or the Commission or
23 any other stakeholder in the electric power sector must relate to-

24 (i) breach of the provisions of the laws referred to under section 172 as
25 it relates to the obligations of licensees or other non -licensed entities operating
26 in the Nigerian electricity supply industry pursuant to the provisions of this
27 Bill; and

28 (ii) breach or non-compliance with statutory obligations, regulatory
29 measures including subsidiary legislations made by the Commission or the
30 Ministry or other agencies established under this Bill as it affects the activities

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

3 (3) Nothing in subsection (2) of this section exempts the Tribunal
4 from the determination of any matter of law or both law and fact referred to it
5 for determination by any of the parties with the right of appeal under this
6 Bill.

7 (4) An appeal under this Bill shall be filed within a period of 30
8 days from the date on which the action or decision which is being appealed
9 against is made, or deemed to have been made and it shall be in such form
10 and be accompanied by such fee as may be prescribed:

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

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

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

Appeals to the
Tribunal

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

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

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

Procedure
before the
Tribunal

9 **177.**-(1) As often as may be necessary the Chairpersons and members
10 of the Tribunal shall meet to hear appeals in the respective jurisdiction or zone
11 assigned to that Tribunal.

12 (2) Where a Chairperson or member of the Tribunal has a direct or
13 indirect financial interest in any appeal pending before the Tribunal or where a
14 party or one of the parties before the Tribunal is or was a client of that a
15 Chairperson or member in his professional capacity, he shall declare such
16 interest to the other members of the Tribunal and refrain from participating in
17 any sitting for the hearing of that appeal.

18 (3) The Secretary to the Tribunal shall give seven clear days' notice to
19 the parties of the date and place fixed for the hearing of each Appeal except in
20 respect of any adjourned hearing for which the Tribunal has fixed a date at their
21 previous Sitting.

22 (4) All notices, documents, other than decisions of the Tribunal, may
23 be signified under the hand of the Secretary.

24 (5) All appeals before the Tribunal shall be held in public and for the
25 purpose of this subsection, hearings conducted by the Tribunal remotely via
26 virtual means using technological tools or application as may be directed by the
27 Tribunal shall be deemed to be hearing in public.

28 (6) The Tribunal may, after giving the parties an opportunity of being
29 heard, confirm, set aside or annul the action or decision complained of or make
30 any such order as it deems fit.

1 (7) Every decision of the Tribunal shall be recorded in writing by
2 the Chairperson and subject to the provisions of section 178 of this Bill, a
3 certified copy of such decision shall be supplied to the appellant or any other
4 party, upon a request made within 30 days of such decision.

5 178.-(1) An order of the Tribunal arising from interlocutory
6 applications shall be complied with by all parties before it and the final
7 decision of the Tribunal on a matter before it shall be enforced as if it were a
8 judgment of the Federal High Court upon registration of a copy of such
9 decision judgment with the Chief Registrar of the Federal High Court by the
10 party seeking to enforce the decision.

Procedure following
decision of the
Tribunal

11 (2) Notwithstanding that an appeal is pending, the person
12 appealing against the action or decision of another party pursuant to the
13 provisions of this Bill must comply with such decision or action complained
14 of except where the Tribunal determines through an application before it that
15 it would cause undue hardship to the person appealing, it may direct
16 otherwise.

17 179.-(1) Any person dissatisfied with a decision of the Tribunal
18 constituted under this Bill may appeal against such decision on a point of
19 law to the Federal High Court upon giving notice in writing to the Secretary
20 to the Tribunal within 30 days after the date on which such decision was
21 delivered.

Appeals to the
Federal High
Court

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

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

29 (4) The Chief Judge of the Federal High Court may make rules
30 providing for the procedure in respect of appeals made under this Bill and

	1	until such rules are made, the Federal High Court rules relating to hearing of
	2	appeals shall apply to the hearing of an appeal under this Bill.
Right to legal representation	3	180. -(1)An appellant, may either appear in person or authorize one or
	4	more legal practitioners or any of its officers to represent him in a case before
	5	the Tribunal.
	6	(2) Every individual or company in a case before the Tribunal shall be
	7	entitled to be represented at the hearing of an appeal by a solicitor or adviser
	8	provided that, if the person appointed by the Appellant to be representative in
	9	any matter before the Tribunal is unable for good cause to attend hearing
	10	thereof, the Tribunal may adjourn the hearing for such reasonable time as it
	11	deems fit, or admit the appeal to be made by some other person or by way of a
	12	written address.
Tribunal to encourage Alternative Dispute Resolution	13	181. -(1)Without prejudice to the powers of the Tribunal to hear and
	14	determine appeals filed before it pursuant to section 172of this Bill, it shall be
	15	the responsibility of the Tribunal to encourage parties appearing before it to
	16	explore settlement of disputes using negotiation, mediation, conciliation and
	17	other alternative disputes resolution mechanisms prescribed under the Market
	18	Rules and for this reason the Tribunal shall be guided by the principle of non -
	19	intervention or minimal interventions regarding decisions reached pursuant to
	20	dispute resolution mechanisms prescribed under Market Rules.
Powers and procedure of the Tribunal	21	182. -(1) The Tribunal may make rules regulating its procedures.
	22	(2) The Tribunal shall, for the purposes of discharging its functions
	23	under this Bill, have power to-
	24	(i) summon and enforce the attendance of any person and examine
	25	him on oath;
	26	(ii) require the discovery and production of documents;
	27	(iii) receive evidence on affidavits;
	28	(iv) call for the examination of witnesses or documents;
	29	(v) review its decisions;
	30	(vi) dismiss an application for default or deciding matters expert;

1 (vii) set aside any order or dismissal of any application for default
2 of appearance or any order passed by it ex parte; and

3 (viii) Do anything which in the opinion of the Tribunal is incidental
4 or ancillary to its functions under this Bill.

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

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

13 **183.** The Minister may approve rules prescribing the procedure to
14 be followed in the conduct of appeals before the Tribunal as may be
15 proposed by members of the Tribunal. Minister to
approve rules
and regulations

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

18 **185.** An appeal against the decision of the Federal High Court at the
19 instance of either party shall lie to the Court of Appeal. Further Appeals

20 PART XVIII - OFFENCES AND PENALTIES

21 **186** -(1) any person who dishonestly -

22 (a) Taps, makes or causes to be made any connection with
23 overhead, underground or under water lines or cables, or service wires, or
24 service facilities of a licensee ,franchisee or permit holder or supplier as the
25 case may be; or

26 (b) tampers or bypasses a meter, installs or uses a tampered meter,
27 current reversing transformer, loop connection or any other device or
28 method which interferes with accurate or proper registration, calibration or
29 metering of electric current or otherwise results in a manner whereby
30 electricity is stolen or wasted; or Theft of
electricity

1 (c) Damages or destroys an electric meter, apparatus, equipment, or
2 wire or causes or allows any of them to be so damaged or destroyed as to
3 interfere with the proper or accurate metering of electricity,

4 (d) Uses electricity through a tampered meter; or

5 (e) Uses electricity for the purpose other than for which the usage of
6 electricity was authorized so as to consume or use electricity, commits an
7 offence and shall on conviction be punishable with imprisonment for a term of
8 more than three years or with a fine as provided under this section or with both
9 imprisonment and fine: Provided that in a case where the load consumed or
10 used or attempted consumption or attempted use-

11 (i) Does not exceed 10 kilowatts, the fine imposed on first conviction
12 shall not be less than three times the financial gain on account of such theft of
13 electricity and in the event of second or subsequent conviction the fine imposed
14 shall not be less than six times the financial gain on account of such theft of
15 electricity;

16 (ii) exceeds 10 kilowatts, the fine imposed on first conviction shall not
17 be less than three times the financial gain on account of such theft of electricity
18 and in the event of second or subsequent conviction, the sentence shall be
19 imprisonment for a term not less than six months but which may extend to three
20 years and with a fine not less than six times the financial gain on account of
21 such theft of electricity.

Theft of electric
lines and materials

22 **187.-(1)** Any person who dishonestly-

23 (a) cuts or removes or takes away or transfers any electric line,
24 material or meter from a tower, pole, any other installation or place of
25 installation or any other place, or site where it may be rightfully or lawfully
26 stored, deposited, kept, stocked, situated or located including during
27 transportation, without the consent of the licensee or its owner, as the case may
28 be, whether or not the act is done for profit or gain; or

29 (b) stores, possesses or otherwise keeps in his, hers or its premises,
30 custody or control, any electric line, material or meter without the consent of

1 the licensee or its owner, whether or not the act is committed for profit or
2 gain; or

3 (c) loads, carries, or moves from one place to another any electric
4 line, material or meter without the consent of the licensee or its owner,
5 whether or not the act is done for profit or gain, commits an offence of
6 stealing of electric lines and materials and shall be punishable with
7 imprisonment term of not less than three years and not more than five years
8 or with a fine of not less than N500,000 or with both such imprisonment term
9 and fine.

10 (2) If a person, having been convicted of an offence punishable
11 under subsection (1) of this section, is again guilty of an offence punishable
12 under that sub-section, the person or corporate body shall be punishable for
13 the second or subsequent offence for a term of imprisonment of five years or
14 a fine which shall not be less than N1,000,000.

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

Offences of
receiving stolen
electricity

20 **189.** Any person who-

21 (a) without authorization connects any meter, indicator or
22 apparatus with any electric line through which electricity is supplied by a
23 licensee, franchisee or permit holder or disconnects the same from any such
24 electric line; or

Interference with
meters or works
of licensees

25 (b) without authorization reconnects any meter, indicator or
26 apparatus with any electric line or other works being the property of a
27 licensee, franchisee, or permit holder when the said electric line or other
28 works has or have been cut or disconnected; or

29 (c) lays or causes to be laid, or connects up any works for the
30 purpose of communicating with any other works belonging to a licensee,

	1	franchisee, or permit holder; or
	2	(d) maliciously injures any meter, indicator, or apparatus belonging to
	3	a licensee, franchisee or permit holder or willfully or fraudulently alters the
	4	index of any such meter, indicator or apparatus or prevents any such meter,
	5	indicator or apparatus from duly registering, commits an offence and shall
	6	upon conviction be punishable with imprisonment for a term of not more than
	7	three years, or with a fine not exceeding N500,000, or with both such term of
	8	imprisonment and fine, and a fine of N10,000 for every continuing day of the
	9	offence.
Negligently breaking of damaging	10	190. Any person who, negligently breaks, injures, throws down or
	11	damage any material connected with the supply of electricity, shall upon
	12	conviction be punishable with a fine of N300,000 in addition to the restoration
	13	of the damaged material or line.
Internationally disrupting power supply	14	191. Any person who, with intent to cut off the supply of electricity,
	15	cuts or injures, or attempts to cut or injure, any electric supply line or works,
	16	commits an offence and shall upon conviction be punishable with fine of more
	17	than N300,000.
Offences relating to damage to public streetlights	18	192. Any person who, maliciously extinguishes any public
	19	streetlights commits an offence and shall upon conviction be punishable with
	20	fine which may extend to N200,000
Contravention of regulations, orders, etc.	21	193. Any person who-
	22	(a) fails to comply with any order, rules, decisions, licence, permits,
	23	codes, standards, direction or any other subsidiary legislation issued pursuant
	24	to this Bill, within such time as may be specified in the said subsidiary
	25	legislation; or
	26	(b) contravenes or attempts or abets the contravention of any of the
	27	provisions of this Bill or any rules or regulations made thereunder, commits an
	28	offence and shall be punishable with imprisonment for a term of not more than
	29	three months or with a fine of N500,000, or with both such term of
	30	imprisonment and fine, and in the case of a continuing failure or contravention,

1 with an additional penalty of not more than N100,000 for every day of the
2 continuing failure to comply with such subsidiary legislation.

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

8 **195.-(1)** Where an offence under this Bill has been committed by a Offences by
9 company, every principal officer who at the time the offence was committed companies
10 was in charge of and was responsible to the company for the conduct of the
11 business of the company, as well as the company shall be deemed to be
12 guilty of having committed the offence and shall be liable to be proceeded
13 against and punished accordingly:

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

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

26 (3) For the purposes of this section-

27 (a) "company" means a company registered pursuant to the
28 provisions of the Companies and Allied Matters Act;

29 (b) "director", in relation to a company has the same meaning as a
30 Director under the Companies and Allied Matters Act;

	1	(c) "Secretary "means a company secretary to a company and has the
	2	same meaning as a Company Secretary under the Companies and Allied
	3	Matters Act.
Abetment, etc.	4	196. -(1) Any person who aides, counsels or abets an offence
	5	punishable under this Bill, shall upon conviction be punishable with the term of
	6	imprisonment or fine prescribed for the offence.
	7	(2) Without prejudice to any penalty or fine which may be imposed or
	8	prosecution proceeding which may be initiated under this Bill or any other
	9	Act for the time being in force, if any staff of the Commission, NEMSA or a
	10	licensee enters into or acquiesces in any agreement whether oral or written,
	11	abstains from doing, permits, conceals or connives to do any act or thing
	12	whereby any theft of electricity is committed, he shall upon conviction be
	13	punishable with imprisonment for a term of not less than three years, or with
	14	fine of N500,000 or with both term of imprisonment and fine.
Unlawful use of information by inspector	15	197. -(1) If an electrical inspector, a police officer, an employee of
	16	NEMSA acquires, in the course of his duties, information relating to the
	17	financial affairs of any person, or to any commercial secret, or if any other
	18	person indirectly acquires such information from an electrical inspector, a
	19	police officer, or an employee of NEMSA, he shall not for personal gain make
	20	use of such information, nor disclose it to any other person except:
	21	(a) Mandatory disclosure required for performance of his
	22	position;
	23	(b) For the purpose of legal proceedings under this Bill or any other
	24	law; and
	25	(c) To the extent that it may be necessary to do so for the purpose of
	26	this Bill or any other law.
	27	(2) any person who uses information obtains in the circumstances
	28	described under subsection (1) of this section and uses such information for his
	29	personal gain and contrary to the provisions of subsection (1) (a) to (c) of this
	30	section commits an offence and shall be liable on conviction to the forfeiture of

1 any proceeds of accruing to him on account of contravention of this section
 2 and a fine not exceeding N500,00 or imprisonment for a period not
 3 exceeding two years or both fine and imprisonment

4 **198.**-(1) A person who willfully and intentionally obstructs, Obstruction,
 5 retrain, prevents, harasses or injures any person lawfully carrying on duties impersonation,
 6 on half of a licensee, franchisee or permit holder commits an offence and on etc.
 7 conviction is liable to a fine of not less than Two Million Naira or to a term of
 8 imprisonment of not more than six years or both such fine and term of
 9 imprisonment.

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

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

18 **200.**-(1) Notwithstanding provisions of any legislation, the court Power to
 19 may, in the case of a first time offender, direct any person who has compound
 20 committed an offence theft of electricity or any other offence to pay a sum of offences
 21 money to the affected licensee, franchisee or permit holder, company or
 22 individual.

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

27 **201.**-(1) The Federal High Court and the State High Courts shall Jurisdiction to
 28 both have concurrent jurisdiction to try offences under this Bill. try offences

29 (2) The court shall ensure that all matters brought before it pursuant
 30 to the provisions of this Bill against any person, body or authority shall be

	1	conducted with dispatch and given accelerated hearing.
Enforcement of the Federal Power Task Force	2	202. There is hereby established the Federal Power Task Force (in this
	3	Bill referred to as the "Task Force") to perform the functions and powers
	4	assigned to it in the Third Schedule to this Bill, relating to the prevention and
	5	enforcement of offences under this Bill. [Third Schedule]
	6	PART XIX - MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS
Exemption of electric lines or electric plants from attachment in certain cases	7	203. Where any electric lines or electrical plant, belonging to a
	8	licensee are placed in or upon any premises or land not being in the possession
	9	of the licensee, such electric lines or electrical plant shall not be liable to be
	10	taken in execution under any process of any civil court or in any proceedings in
	11	insolvency against the person in whose possession the same may be.
Protection of action done in good faith by members of the Tribunal, etc.	12	204. No suit, prosecution or other proceeding shall lie against a
	13	member of the Commission or officer or other employees of the Commission,
	14	Agency, NEMSA or other Agencies established under this Bill for anything
	15	done or in good faith purporting to be done under this Bill or the rules or
	16	regulations made thereunder.
Power of the licensee to enter premise and to remove fittings or other apparatuses of the licensee	17	205. -(1)A licensee, franchisee or permit holder or any person duly
	18	authorized to act on his behalf in a license may, at any reasonable time, and on
	19	informing the occupier of his intention, enter any premises to which electricity
	20	is, or has been, supplied by him, of any premises or land, under, over, along,
	21	across, in or upon which the electric supply-lines or other works have been
	22	lawfully placed by him for the purpose of -
	23	(a) inspecting, testing, repairing or altering the electric supply-lines,
	24	meters, fittings, works and apparatus for the supply of electricity belonging to
	25	the licensee franchisee or permit holder, or
	26	(b) ascertaining the amount of electricity supplied or the electrical
	27	quantity contained in the supply; or
	28	(c) removing where a supply of electricity is no longer required, or
	29	where the licensee franchisee or permit holder, is authorized to take away and
	30	cut off such supply, any electric supply-lines, meters, fittings, works or

1 apparatus belonging to the licensee.

2 (2) A licensee franchisee or permit holder or any person authorized
3 as aforesaid may also, in pursuance of a special order in this behalf made by
4 the Tribunal and after giving not less than twenty-four hours' notice in
5 writing to the occupier-

6 (a) Enter any premises or land referred to in sub-section (1) for any
7 of the purposes mentioned therein;

8 (b) Enter any premises to which electricity is to be supplied by him,
9 for the purpose of examining and testing the electric wires fittings, works
10 and apparatus for the use of electricity belonging to the consumer.

11 (3) Where a consumer refuses to allow a licensee, franchisee or
12 permit holder or any person authorized as aforesaid to enter his premises or
13 land in pursuance of the provisions of subsection (1) or, sub-section (2),
14 when such licensee, franchisee or permit holder or person has so entered,
15 refuses to allow him to perform any act which he is authorized by those
16 subsections to perform, or fails to give reasonable facilities for such entry or
17 performance, the licensee may, after the expiry of twenty-four hours from
18 the service of a notice in writing on the consumer, cut off the supply to the
19 consumer for so long as such refusal or failure continues, but for no longer.

20 **206.-(1)**The Commission may, make regulations prescribing all
21 matters which by this Bill are required or permitted to be prescribed or
22 which, in the opinion of the Commission, are necessary or convenient to be
23 prescribed for carrying out or giving effect to this Bill.

Power of the
Commission to
make regulations

24 (2) Without derogation from the generality of subsection (1) of this
25 section, regulations made in terms of subsection (1) of this section may
26 provide for any or all of the following:

27 (a) The administration of the affairs of the Commission, including,
28 inter alia, the holding of meetings mediation proceedings, the conduct of
29 inquiries and investigations, becoming a party, the handling of information,

1 the rules by which evidence shall be taken, and generally the conduct of its
2 business;

3 (b) The duties, powers, rights, and obligations of a licensee;

4 (c) The procedure for applying for licenses, requirements for
5 information and documentation to be submitted by applicants;

6 (d) The procedure for amending or cancelling licenses;

7 (e) The determination of the standards of performance that will be
8 required from licensees;

9 (f) The information that will be required from licensees and the
10 manner and form by which it shall be provided;

11 (g) The method and manner by which the tariffs that may be charged
12 by licensees for their services will be determined;

13 (h) Fees, levies, and other charges that may be payable by licensees,
14 eligible customers or consumers;

15 (i) The regulation of licensee investments, assets and properties, and
16 the interest in such assets and properties, in connection with the electricity
17 industry;

18 (j) Customer-related matters, such as complaint handling procedures,
19 practices concerning customers with difficulties paying bills, connection and
20 disconnection procedures;

21 (k) The resource procurement policies of, and the associated
22 contracting by, the licensees, including, as may be applicable, the review and
23 approval of same;

24 (l) The regulatory treatment of rural electric schemes and
25 investments;

26 (m) Procedures for addressing licensee mergers, acquisitions,
27 affiliate relationships and transactions;

28 (n) Procedures for market power monitoring, mitigation and
29 enforcement;

30 (o) The terms and conditions for the provision of system access by

1 transmission and distribution licensees to other entities;

2 (p) Fines and penalties that may be payable by licensees or
3 consumers for violations of those things for which they may be levied under
4 this Bill; and

5 (q) Such other regulations as may be required.

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

8 **207.**-(1) The Commission shall monitor and ensure compliance
9 with local content requirements as provided under the Commission's
10 Regulations on National Content Development for the Power Sector, 2014
11 or any other amendment thereto with such modification or amendment as to
12 bring it into conformity with the provisions of this Bill.

Local content
in the power
sector

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

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

Protection of
investments in
the power sector

23 **209.**-(1) The Commission shall ensure gender mainstreaming in
24 the power sector in accordance with the guidelines for gender
25 mainstreaming in the power sector as may be provided by the Minister
26 pursuant to the provisions of this Bill and the policy guidelines on gender
27 issues in the energy sector as contained in the National Energy Policy and
28 the National Energy Master Plan adopted by the Energy Commission of
29 Nigeria.

Gender
mainstreaming

30 (2) For the purpose of subsection (1) of this section, all licensee,

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

6 PART XX - FINAL PROVISIONS

Consequential
and transitional
provisions

7 **210.-(1)** Notwithstanding anything to the contrary contained in this
 8 Bill-

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

19 (b) Any license, licensee, certificate, authority, permit, tariff, market
 20 rules, regulations, orders, directives, codes and standards or other subsidiary
 21 legislation whatsoever which was issued or recognized by the Commission
 22 pursuant to the repealed Act and other Acts repealed and re-enacted under this
 23 Bill and which had effect immediately before the commencement of this Bill
 24 shall continue to have effect to the extent that they have not been amended by
 25 this Bill or where necessary an amendment is carried out to bring them into
 26 conformity with the provisions of this Bill;

27 (c) Any tariff, price, levy or surcharge which was in force and
 28 chargeable within any area in respect of the provision of electricity to
 29 consumers or to any particular consumer or undertaker(if any),before the
 30 commencement of this Bill shall continue to be in force and chargeable in

1 respect of provision of electricity to those or similar consumers by a licensee
2 who provides electricity within the area concerned until alternative
3 provision is made in respect of such tariff, price, surcharge, pursuant to the
4 provisions of this Bill;

5 (d) Subject to the provisions of this Bill, any permission granted,
6 direction given or anything whatsoever made, done or commenced which,
7 before the commencement of this Bill had or was capable of acquiring force
8 and effect pursuant to the repealed Act and other Acts repealed and re-
9 enacted under this Bill, shall, on and after the commencement of this Bill,
10 continue to have, or as the case may be, to be capable of acquiring force and
11 effect as it had been granted, given, made, done, or commenced as the case
12 may be, pursuant to the equivalent provisions of this Bill;

13 (e) subject to the provisions of this Bill, any permission granted,
14 direction given or anything whatsoever made, done or commenced which,
15 before the commencement of this Bill had or was capable of acquiring force
16 and effect pursuant to the repealed Act, shall, on and after the
17 commencement of this Bill, continue to have, or as the case may be, to be
18 capable of acquiring force and effect as it had been granted, given, made,
19 done, or commenced as the case may be, pursuant to the equivalent
20 provisions of this Bill;

21 (f) Any cause of action or proceeding which existed or was pending
22 or enforced by or against a licensee, permit holder, the Commission, the
23 Agency, Ministry, NEMSA, or other Agencies pursuant to the provisions of
24 the repealed Act before the commencement of this Bill, shall be enforced or
25 continued, as the case may be, on or after the commencement of this Bill by
26 or against the a licensee, permit holder, the Commission, the Agency,
27 Ministry, NEMSA, or other Agencies same way that it might have been
28 enforced or continued against the a licensee, permit holder, the
29 Commission, the Agency, Ministry, NEMSA, or other Agencies under the
30 repealed Act or other Acts repealed under this Bill.

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

14 **212.** In this Bill except the context otherwise admits-

15 "Act" means the Electricity Act;

16 "affiliates" in relation to a licensee means any holding company or subsidiary

17 of the licensee or any subsidiary of a holding company of a licensee, and unless

18 the Commission decides to the contrary, subsidiary status shall be presumed to

19 arise from the ownership of or the power to vote, directly or indirectly ten

20 percent or more of the voting securities of such entity and holding status shall

21 be determined accordingly;

22 "Agency" means Rural Electrification and Renewable Energy Agency

23 established under Part XV of this Bill;

24 "Ancillary services" means those functions necessary for reliable operation of

25 a power system, which may include, but are not limited to, services that would

26 provide or permit the following-

27 (a) facilities scheduling, control and dispatch;

28 (b) reactive power and voltage: control;

29 (c) frequency regulation;

30 (d) operating reserves; and

- 1 (e) black start;
- 2 “animal waste” means manure or any other material like bedding, milk
- 3 house waste, soil, hair, feather or debris normally included in animal waste
- 4 handling operations;
- 5 "Auditor-General" means the Auditor-General of the Federation.
- 6 "Authority" means the National Electric Power Authority unbundled into
- 7 successor companies as recognized under section 7 of this Bill;
- 8 "bio-degradable" means material that has the:
- 9 (a) ability to break down safely and relatively quickly by biological
- 10 means, into the raw materials of nature; or
- 11 (b) proven capability to decompose into non-toxic soil, water.
- 12 carbon dioxide or methane;
- 13 "biogas" means gas that comprises primarily of methane and carbon dioxide
- 14 produced by the biological breakdown of organic matter in the absence of
- 15 oxygen and produced by anaerobic digestion or fermentation of
- 16 biodegradable materials like biomass manure sewage, municipal waste,
- 17 green waste and energy crops;
- 18 "biogas digester" means an equipment that has the capacity to degrade
- 19 organic matter to produce biogas;
- 20 "biomass" means organic matter like agricultural crops and residue, wood
- 21 and wood waste, animal waste, aquatic plants and organic components of
- 22 municipal and industrial waste;
- 23 "captive generation" means generation of electricity for the purpose of
- 24 consumption by the generator and which is consumed by the generator itself
- 25 and not sold to a third party;
- 26 "Code of Conduct" means any rules established by the Commission
- 27 governing behavior, relationships, and practices between licensees and their
- 28 affiliates;
- 29 "Cogeneration" means a process which simultaneously produces two or
- 30 more forms of useful energy (including electricity);

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

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

5 "Competition Transition Charge" means any charge recognized under section
6 13 of this Bill;

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

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

18 (a) match the electrical output of the generating stations within the
19 control area and energy purchased from entities outside the control area, less
20 energy sold to entities outside the control area, with the load within the control
21 area;

22 (b) maintain scheduled interchange with other control areas, within
23 the limits of good utility practice;

24 (c) maintain the frequency of the control area's electric power systems
25 within reasonable limits in accordance with good utility practice;

26 (d) maintain power flows on transmission facilities within
27 appropriate limits to preserve reliability; and

28 (e) provide sufficient generating capacity to maintain operating
29 reserves in accordance with good utility practice;

30 "cross subsidies" means the subsidization of the tariffs by one class or group of

- 1 consumers by another class or group of consumers;
- 2 "distribution" means the delivery of electricity over a distribution system;
- 3 "distribution license" means a license granted pursuant to section 79;
- 4 "distribution licensee" means a licensee authorized under this Bill to operate
- 5 and maintain a distribution system for supplying electricity to the
- 6 consumers in his area of supply of operation;
- 7 "distributing main" means the portion of any main with which a service line
- 8 is, or is intended to be, immediately connected;
- 9 "distribution system" means the system of facilities, as defined by the
- 10 Commission, consisting wholly or mainly of low voltage (less than 132kV)
- 11 electric lines used for the distribution of electricity from grid supply points
- 12 to the point of delivery to consumers or eligible customers, and includes any
- 13 electrical plant and meters operated in connection with the distribution of
- 14 electricity, but shall not include any part of a transmission system;
- 15 "electric line" means any line which is used for carrying electricity for any
- 16 purpose and includes-
- 17 (a) Any support for any such line, that is to say, any structure,
- 18 tower, pole or other thing in, on, by or from which any such line is, or may be,
- 19 supported, carried or suspended; and
- 20 (b) Any apparatus connected to any such line for the purpose of
- 21 carrying electricity;
- 22 "electrical plant" means any plant, equipment, apparatus or appliance or any
- 23 part thereof used for, or connected with, the generation, transmission,
- 24 distribution or supply of electricity but does not include-
- 25 (a) An electric line; or
- 26 (b) A meter used for ascertaining the quantity of electricity
- 27 supplied to any premises; or
- 28 (c) An electrical equipment, apparatus or appliance under the
- 29 control of a consumer;
- 30 "Electricity" means electrical energy-

- 1 (a) generated, transmitted, distributed and supplied or traded for any
2 purpose; or
3 (b) used for any purpose except the transmission of a message;
4 "Electricity Supply Code" means the Electricity Supply Code pursuant to the
5 provisions of this Bill;
6 "electricity system" means a system under the control of a generating company
7 or licensee, as the case may be, having one or more-
8 (c) generating stations; or
9 (d) transmission lines; or
10 (e) electric lines and sub-stations;
11 And when used in the context of a State the entire electricity system within the
12 territories thereof;
13 "electricity trader" means a person who has been granted a license to undertake
14 trading in electricity under section 74 of this Bill ;
15 "eligible customer" means and include a customer that is eligible, pursuant to
16 the directives issued by the Minister under repealed Act and pursuant to the
17 declaration made by the Commission pursuant to the provisions of section 12
18 of this Bill, to purchase power from a licensee other than a distribution
19 licensee;
20 "generating station" or "station" means any station for generating electricity,
21 including any building and plant with step-up transformer, switchgear, switch
22 yard, cables or other appurtenant equipment, if any, used for that purpose and
23 the site thereof; a site intended to be used for a generating station, and any
24 building used for housing the operating staff of a generating station, and where
25 electricity is generated by water-power, includes penstocks, head and tail
26 works, main and regulating reservoirs, dams and other hydraulic works, but
27 does not in any case include any sub-station;
28 "franchisee" means a persons authorized by a distribution licensee to distribute
29 electricity on its behalf in a particular area within his area of supply;
30 "functions" includes duties, roles, responsibilities and powers;

- 1 "generation" means the production at a generating station of electric power
2 and other generation products such as, but not limited to, reactive power;
3 "generation license" means a license issued under section 68;
4 "generating station" means a station for generating electricity, including
5 buildings, plant and machinery and all accessories used for that purpose and
6 the site to be used for the station or accessories;
7 "grid" means the high voltage backbone system of inter-connected
8 Transmission lines, sub-stations and generating plants;
9 "Grid Code" means instructions, rules, procedures, guidelines, etc. for the
10 operation and planning of an interconnected power system and accounting
11 requirements relating thereto;
12 "Grid Standards" means the Grid Standards issued by the Commission
13 pursuant to the provisions of this Bill;
14 "HYPPADEC" means the Hydroelectric Power Producing Areas
15 Development Commission established under section 83 of this Bill;
16 "interim market" means the stage of the Nigerian electricity market between
17 the completion of privatization and start of pre-transitional and transitional
18 electricity market stages as regulated under the interim market rules and the
19 Grid Code;
20 "Independent power producer" means an entity that is granted a generation
21 licenses by the Commission pursuant to the reform of the Nigerian Electric
22 Power Sector under repealed Act and include those licensed under this Bill;
23 "IEDN and IEDNOs" means independent electricity distribution network
24 and independent electricity distribution network operators respectively,
25 recognized under section 69 (9) of this Bill;
26 "IETN and IETNOs" means independent electricity transmission network
27 and independent electricity transmission network operators respectively,
28 recognized under section 85 of this Bill;
29 "Independent system operator" means a system operator that is licensed by
30 the Commission under Part IV of this Bill;

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

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

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

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

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

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

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

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

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

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

29 "market power" means the ability of a seller or group of sellers to maintain
30 prices above competitive levels, or maintain stable prices while reducing the

- 1 quality of product and services provided, for a significant period of time;
- 2 "market rules" means rules issued by the Commission pursuant to the
- 3 provisions of this Bill;
- 4 "Managing Director "in relation to NEMSA means the Managing Director
- 5 of NEMSA under Part XVII of this Bill;
- 6 "Managing Director" in relation to the Agency means the Managing
- 7 Director of the Rural Electrification and Renewable Energy Agency
- 8 established under Part XV of this Bill;
- 9 "Commission" means the Nigerian Electricity Regulatory Commission
- 10 established under Part V of this Bill;
- 11 "distribution system" means the portion of the equipment used to deliver
- 12 electricity between the distribution utility and the customer or consumer;
- 13 "distribution utility" means a company that owns or operates the equipment
- 14 or facilities that transmit or distribute electricity to the end-use customer and
- 15 is the company indicated on the electricity bill;
- 16 "distribution licensee" means a licensee authorized by the Commission to,
- 17 construct , operate and maintain a distribution system for supply electricity
- 18 to the consumers in his area of supply
- 19 "energy crop" includes a plant:
- 20 (a) that can be directly exploited for its energy content,
- 21 (b) that is grown for the sole purpose of energy production but not
- 22 for food production, or
- 23 (c) that is grown specifically for its fuel value;
- 24 "energy security" means the availability, adequacy, reliability and
- 25 environmental sustainability of energy supply;
- 26 "energy sources" includes coal, wind, oil, gas or wood consumed in the
- 27 generation of power;
- 28 "feedstock" means a material that can be used to produce bio-fuel;
- 29 "generator of electricity" means the person that generates electricity from
- 30 renewable energy sources and supplies it to the general public;

1 "generation licensee" means a person licensed to generate electricity pursuant
2 to the provisions of this Bill;
3 "geothermal energy" means energy extracted from heat stored in the earth;
4 "grid connection" means the linkage between a renewable energy system and
5 the utility grid;
6 "grid interactive renewable electricity" means a system which has the capacity
7 to feed electricity from renewable energy source into the utility grid;
8 "hydro" means a project that has a generating capacity not exceeding 100
9 megawatts;
10 "landfill gas" means the gas produced inland fills due to the anaerobic digestion
11 by microbes on any organic matter which can be collected and flared off or used
12 to generate electricity in a thermal power plant;
13 "licensed facility" means a part of or the whole portion of a building, structure,
14 equipment or plant that is licensed for the purpose of activities in the renewable
15 energy industry;
16 "mini grid renewable power system" means a network of electricity supply
17 from renewable energy technologies which is not connected to the grid;
18 "Minister" means the Minister responsible for power and include any other
19 Minister to whom the President may from time to time assign administrative
20 functions in respect of this Bill;
21 "NEMSA" means the Nigerian Electricity Management Services Agency
22 established under part XVII of this Bill;
23 "NBET Plc" means the Nigerian Electricity Bulk Trading Company Plc to
24 which sections 7 (1) (f) and 8 (2) (d) of this Bill applies;
25 "solid waste" includes waste that arises from domestic activity and is
26 predominantly household and commercial waste collected by a municipality
27 within a given area in a solid or semi-solid form but excludes industrial
28 hazardous waste and toxic waste;
29 "non-depleting resources" means resources that replenish themselves or
30 reproduce easily;

- 1 "ocean energy" means energy created by the power of ocean currents, waves
2 and tides with the use of technology;
- 3 "off grid renewable power system" means electricity supply from renewable
4 energy technologies which is not connected to the grid;
- 5 "Power Purchase Agreement" means an agreement that sets out the rights
6 and liabilities between the generator of electricity and the distribution
7 utility;
- 8 "production-based subsidy" means financial assistance given for the
9 generation of electricity;
- 10 "public utility" means an institution which provides a basic service to the
11 public, including water, electricity, transportation, or telecommunications;
- 12 "renewable energy certificates" means a tradable environmental commodity
13 that represents proof that electricity was generated from an acceptable
14 source and which can be sold, traded or bartered by the owner of the
15 certificate claiming to have purchased renewable energy;
- 16 "renewable energy companies" means a company licensed by the
17 Commission to generate electricity from renewable energy sources and
18 include a company issued a permit for mini-grid or to deal in renewable
19 energy products and services by whatever description;
- 20 "renewable energy product" means goods and service produced from
21 renewable energy;
- 22 "renewable energy resources" means natural resources such as sunlight,
23 wind, rain, tides and geothermal heat, which are renewable and naturally
24 replenished;
- 25 "renewable energy sources" means renewable non-fossil energy sources
26 like wind, solar, geothermal, wave, tidal, hydropower, biomass, landfill gas;
- 27 "renewable energy system" means equipment that transforms renewable
28 energy sources into electrical or heat energy;
- 29 "RREFER" means the Rural Electrification and Renewable Energy Fund
30 established under section 118 of this Bill;

- 1 "RESIP" means the Rural Electrification Strategy and Implementation Plan to
2 be prepared pursuant to section 128 of this Bill;
- 3 "sewage gas" means biogas produced by the digestion and incineration of
4 sewage sludge which can be used to generate energy;
- 5 "TCN" means the Transmission Company of Nigeria Plc, the transmission
6 licensee to which part IV of this Bill applies;
- 7 "other agencies" means NEMSA and HYPPADEC established under this Bill;
- 8 "open access" means the non-discriminatory provision for use of transmission
9 lines or distribution system or associated facilities with such lines or system by
10 any licensee or consumer or a person engaged in generation in accordance with
11 the regulations specified the Commission or in a license;
- 12 "overhead lines" means electric line which is placed above the ground and in
13 the open air but does not include live rails of a traction system;
- 14 "power system" means all aspects of generation, transmission, distribution and
15 supply of electricity and includes one or more of the following-
- 16 (a) generating stations;
- 17 (b) transmission or main transmission lines;
- 18 (c) sub-stations;
- 19 (d) tie -lines;
- 20 (e) load dispatch activities;
- 21 (f) main or distribution mains;
- 22 (g) electric supply lines;
- 23 (h) overhead lines;
- 24 (i) service lines; and
- 25 (j) works.
- 26 "person" includes an individual, company, partnership or any other association
27 of individuals, whether incorporated or not;
- 28 "pre-transitional market" refers to the stage of the Nigerian electricity market
29 between the end of the interim market and before the declaration of a
30 transitional electricity market by the Minister as regulated under the Pre-

- 1 transitional Market Rules and the Grid Code;
- 2 "Power Consumer Assistance Fund" means the fund established under
- 3 section 98 of this Bill;
- 4 "regulations" means regulations made by the Commission pursuant to the
- 5 provisions of this Bill;
- 6 "repealed Act" means the Electric Power Sector Reform Act, 2005 and
- 7 includes Acts repealed under section 211 of this Bill;
- 8 "relative" means spouse, child, parent, brother, sister, uncle, aunt, in-laws,
- 9 cousins, and, where applicable, their spouses;
- 10 "rules" means market rules approved by the Commission and include other
- 11 rules made pursuant to the provisions of this Bill;
- 12 "security" means shares, debentures, bonds and other securities of a
- 13 company recognized under the Companies and Allied Matters Act;
- 14 "schedules" means the schedules to this Bill;
- 15 "Service-line" means any electric supply-line through which electricity is,
- 16 or is intended to be, supplied -
- 17 (a) to a single consumer either from a distributing main or
- 18 Immediately from the distribution Licensee's premises; or
- 19 (b) from a distributing main to a group of consumers on the same
- 20 premises or on contiguous premises supplied from the same point of the
- 21 distributing main;
- 22 "Six geo-political zones" for the time being means-
- 23 (a) North Central (consisting of Benue State, Nassarawa State,
- 24 Niger State, Kogi State, Plateau State, Kwara State, Federal Capital
- 25 Territory);
- 26 (b) North East (consisting of Bauchi State, Borno State, Gombe
- 27 State, Yobe State, Adamawa State and Taraba State);
- 28 (c) North West (consisting of Kano state, Kaduna State, Katsina
- 29 State, Jigawa State, Kebbi State, Sokoto State, Zamfara State);
- 30 (d) South-South (consisting of Delta State, Edo State, Rivers State,

- 1 Akwa Ibom State, Cross River State, Bayelsa State);
- 2 (e) South East (consisting of Anambra State, Abia State, Enugu State,
- 3 Ebonyi State, Imo State); and
- 4 (f) South West (consisting of Lagos State, Oyo State, Ogun State,
- 5 Osun State, Ondo State, Ekiti State);
- 6 "Stamp Duties Act" means the Stamp Duties Act CAP S8, LFN 2004, as
- 7 amended as amended or replaced from time to time;
- 8 "State Electricity Board" means anybody enacted by a Law of the House of
- 9 Assembly of a State to be responsible for electricity matters within that State.
- 10 "Street" means any street, highway, or road, or any part of a street, highway or
- 11 road, and includes-
- 12 (a) any bridge, ferry or pontoon over which such street, highway or
- 13 road passes;
- 14 (b) any drift in the line of such street, highway or road;
- 15 (c) any approach, culvert, cutting, dam, ditch, drain, embankment,
- 16 fence, grid, guard, kerb, parapet, subway or other work or thing belonging to or
- 17 connected with or forming part of such street, highway or road; and
- 18 (d) any sanitary lane or private street;
- 19 "Successor companies "means the eighteen companies listed in part I, First
- 20 Schedule to this Bill which were created following the restructuring of the
- 21 Authority pursuant to the repealed Act;
- 22 "sub-station" means a station for transforming or converting electricity for the
- 23 transmission or distribution thereof and includes transformers converters,
- 24 switchgears, capacitors, synchronous condensers, structures, cable and other
- 25 appurtenant equipment and any buildings used for that purpose and the site
- 26 thereof;
- 27 "Supply", in relation to electricity, means the sale of electricity to a licensee or
- 28 consumer;
- 29 "Supply license" means license granted under section 69 of this Bill;
- 30 "system operation" means the operation of one or more transmission systems

1 and "system operator" shall be construed accordingly;

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

3 Bill;

4 "tariff" means a tariff approved by the Commission pursuant to the

5 provisions of this Bill that specifies the prices, terms and conditions under

6 which electricity service is to be provided;

7 "technical support services in relation to NEMSA established under Part

8 XVII of this Bill means specialized technical services provided in the NESI

9 by the NEMSA;

10 "Task Force" means Federal Power Task established under section 198 of

11 this Bill;

12 "Technical Support Service" means specialized technical services provided

13 in the Nigerian electricity supply industry by Agency specified in Part XVI

14 of this Bill;

15 "trading" means any form of marketing, brokering or intermediation in the

16 sale of electricity, whether or not it entails the purchase of electricity for

17 resale, or whether or not title is taken to the electricity sold;

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

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

20 transmission system;

21 "transmission licensee" means a person licensed to transmit electricity

22 pursuant the provisions of this Bill;

23 "transmit" means conveyance of electricity by means of transmission lines

24 and the expression "transmission" shall be construed accordingly;

25 "transmission system" means a system, as defined by the Commission,

26 consisting wholly or mainly of high voltage (greater than or equal to 132kV)

27 electric lines for the conveyance of electricity within an undertaking or from

28 one undertaking to another, including any transmission lines, transformers,

29 switchgear and other works necessary for and used in connection with such

30 electrical equipment, and the buildings as may be required to accommodate

1 the transformers, switchgear and other works;
2 "transmission lines" means all high pressure cables and overhead lines (not
3 being an essential part of the distribution system of a licensee) transmitting
4 electricity from a generating station to another generating station or a
5 substation, together with any step-up and step-down transformers, switch-gear
6 and other works necessary to and used for the control of such cables or
7 overhead lines, and such buildings or part thereof as may be required to
8 accommodate such transformers, switch-gear and other works;
9 "transitional electricity market" means to the stage of the Nigerian electricity
10 market commenced between the end of the pre-transitional electricity and
11 before the declaration of the Medium Term electricity market, and for the
12 purpose of this Bill;
13 "undertaking" means the electric lines or electrical plant, and includes all
14 lands, buildings, works and materials attached thereto belonging to any person
15 acting as a generating company or licensee under the provisions of this Bill;
16 "wheeling" means the operation whereby the distribution system and
17 associated facilities of a transmission licensee or distribution licensee, as the
18 case may be, are used by another person for the conveyance of electricity on
19 payment of charges to be determined pursuant to the provisions of this Bill; and
20 "works" includes electric line, and any building, plant, machinery, apparatus,
21 and any other thing of whatever description required to transmit, distribute or
22 supply electricity to the public and to carry into effect the objects of a license or
23 sanction granted under this Act or any other law for the time being in force.

Short title

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

1 FIRST SCHEDULE

2 PART I

3 SUCCESSOR COMPANIES

4 [7 (1)]

5 A. Transmission:

6 1. Transmission Company of Nigeria

7 B. Generation:

8 2. Egbin Power Plc

9 3. Afam Power Plc

10 4. Kainji Hydro Electric Plc

11 5. Shiroro Hydro Electric Plc

12 6. Ughelli Power Plc

13 7. Sapele Power Plc

14 C. Distribution:

15 8. Kano Electricity Distribution Company

16 9. Yola Electricity Distribution Company

17 10. Enugu Electricity Distribution Company Plc

18 11. Abuja Electricity Distribution Company Plc

19 12. Ibadan Electricity Distribution Company Plc

20 13. Jos Electricity Distribution Company Plc

21 14. Eko Electricity Distribution Company Plc

22 15. Ikeja Electricity Distribution Company Plc

23 16. Port Harcourt Electricity Distribution Company Plc

24 17. Benin Electricity Distribution Company Plc.

25 18. Kaduna Electricity Distribution Company Plc.

26 PART II

27 NIPP POWER GENERATING PLANTS

28 1. Calabar Power Station, Cross River State

29 2. Ihovbor Power Station, Edo State

30 3. Egbema Power Station, Imo State

- 1 4. Eyaen Power Station, Edo State
- 2 5. Gbarain Power Station, Bayelsa State
- 3 6. Ikot - Abasi Power Station, Akwa -Ibom State
- 4 7. Sapele Power Station, Delta State
- 5 8. Omoku Power Station, Rivers State
- 6 9. Ibom Power Station, Akwa-Ibom State
- 7 10. Papalanto Power Station, Ogun State
- 8 11. Omotosho Power Station, Ondo State
- 9 12. Geregu Power Station, Kogi State
- 10 13. Alaoji Power Station, Abia State

11 PART III

12 LICENSED INDEPENDENT POWER PRODUCERS

- 13 1. Farm Electric Supply Ltd
- 14 2. Ethiope Energy Ltd
- 15 3. ICS Power Ltd
- 16 4. Supertek Nigeria Ltd
- 17 5. Mabon Ltd
- 18 6. Geometric Power Ltd
- 19 7. Westcom Technologies & Energy Services Ltd
- 20 8. Anita Energy Ltd
- 21 9. Bresson Nigeria Ltd
- 22 10. First Independent Power Co. Ltd, Magboro, Ogun State.
- 23 11. First Independent Power Co. Ltd, Omoku, Rivers State
- 24 12. First Independent Power Co. Ltd, Trans -Amadi, Rivers State.
- 25 13. Ibafo Power Station Ltd
- 26 14. Hudson Power Station Ltd
- 27 15. Shell & Petroleum Devt. Ltd
- 28 16. Agbara Shoreline Power Ltd
- 29 17. Index Thermal
- 30 18. Nigerian Agip Oil Co. Ltd

- 1 19. Nigerian Electricity Supply Corporation (Nigeria) Ltd
- 2 20. AES Nigeria Barge Limited
- 3 21. Energy Company of Nigeria (NEGRIS)
- 4 22. Minaj Holdings Ltd
- 5 23. Ibom Power Ltd
- 6 24. Notore Services Ltd
- 7 25. Ewokoro Power Ltd off - grid
- 8 26. Ikorodu Industrial Power Ltd off - grid
- 9 27. Westcom Technologies & Energy Services Ltd off - grid
- 10 28. CET Power Projects Ltd, Tinapa, Cross River State off - grid
- 11 29. CET Power Projects Ltd, Igamu, Lagos State, off - grid
- 12 30. Tower Power Utility Ltd, off - grid
- 13 31. Ikorodu Industrial Power Ltd, Distribution
- 14 32. Aba Power Ltd - Distribution.

SECOND SCHEDULE

[Section 83]

ESTABLISHMENT OF THE HYDROELECTRIC POWER PRODUCING AREAS

DEVELOPMENT COMMISSION

- 19 1.-(1) There is established the Hydroelectric Power Producing
 20 Area Development Commission (in this Act referred to as "the
 21 Commission" which-
 22 (a) shall be a body corporate with perpetual succession and a
 23 common seal;
 24 (b) and sue and be used in its corporate name.
- 25 2. The Headquarters of the Commission shall be in, Minna, Niger
 26 State. Establishment
of the Commission
- 27 3.-(1) There is established for the Commission a Governing
 28 Council (in this Act referred to as "the Council"), which consists of-
 29 (a) a Chairman who shall be appointed on part time basis and shall
 30 presided over Council meetings; Establishment,
membership and
powers of the
Governing
Council

	1	(b) one person each who shall be from the affected communities to
	2	represent- (i) Benue (ii) Kebbi, (iii) Kwara, (iv) Kogi, (v) Niger (vi) Plateau,
	3	(vii) Taraba and (viii) any other State where hydroelectric power is generated;
	4	(c) two persons to represent other Non-Hydroelectric Power
	5	Producing Areas or States.
	6	(d) one person each to represent Federal Ministry of (i) Power, (ii)
	7	Environment, (iii) Water Resources, and (iv) Finance; and
	8	(e) The Managing Director of the Commission.
	9	(2) The Chairman and other members of the Council shall be
	10	appointed by the President, subject to confirmation by the Senate, except the
	11	persons mentioned in section 2 (1) (d) whose appointments shall not be subject
	12	to confirmation by the Senate.
	13	(3) The office of the Chairman shall rotate among the member States
	14	of the Commission in the following alphabetical order- (i) Benue (ii)Kebbi,
	15	(iii) Kwara, (iv) Kogi, (v) Niger (vi) Plateau,(vii) Taraba and (vi) any other
	16	State where hydroelectric power is generated.
Rules as to meetings	17	(4) The Commission shall have powers to make its rules as to the
	18	summoning of meetings and proceedings at such meetings.
Power of the Council	19	(5) The Council shall have the power to-
	20	(a) make internal policy direction and oversee the affairs of the
	21	Commission;
	22	(b) Provide internal policy guidelines for carrying out the functions of
	23	the Commissions;
	24	(c) Enter and inspect premises, project and such place as may be
	25	necessary for the purpose of carrying out its function under this Act;
	26	(d) approve the payment to the staff of the Commission such
	27	remunerations and allowances as are payable to persons with equivalent grade
	28	in the Civil Service of the Federation;
	29	(e) enter into such contract as may be necessary or expedient for the
	30	discharge of its functions and ensure the efficient performance of the functions

1 of the Commission.

2 (f) approve the appointment, promotion and discipline of senior
3 stuff of the Commission: and

4 (g) do such other things as are necessary and expedient for the
5 efficient performance of the function of the Commission.

6 6.-(1) The Chairman and members of the Council other than ex- Tenure of office
of members of
the Council
7 officio members shall hold office for 4 years, renewable for one further
8 period of 4 years only.

9 (2) Members of the Council shall be paid such remuneration and
10 allowances as the Federal Government may determine.

11 7.-(1) A person ceases to hold office as a member of the Council if- Cessation of
Office

12 (a) he becomes bankrupt;

13 (b) he is convicted of a felony or an offence involving dishonesty or
14 fraud;

15 (c) he becomes of unsound mind or incapable of carrying out his
16 duties;

17 (d) he is guilty of a serious misconduct in relation to his duties;

18 (e) in the case of a person possessing professional qualification, he
19 is disqualified or suspended, other than his own request, from practicing his
20 profession in any part of the world by an order of a competent authority
21 made in respect of that matter; or

22 (f) he resigns his appointment by a letter addressed to the President.

23 (2) A member of the Council may be removed by the President if it
24 is not in the interest of the Commission or of the public that the member
25 should continue in office.

26 (3) Where a vacancy occurs in the membership of the Council, it
27 shall be filled by the appointment of a successor to hold office for the
28 remainder of the term of office of his predecessor, and the successor shall-

29 (a) represent the same interest; and

30 (b) be appointed by the President as provided in this Act.

Functions of
the Commission

- 1 8.-(1) The Commission shall-
- 2 (a) formulate policies and guidelines for the development of
- 3 hydroelectric power producing areas without prejudice to the powers of the
- 4 Minister to issue policy directives and the Nigerian Electricity Regulatory
- 5 Commission's power to regulate the electricity supply industry under this Bill;
- 6 (b) conceive, plan and implement, in accordance with set rules,
- 7 projects and programmes for the development of hydroelectric power
- 8 producing areas;
- 9 (c) carry out a survey of hydroelectric power producing areas in order
- 10 to ascertain measures which are necessary to promote its physical
- 11 development;
- 12 (d) prepare schemes designed to promote the physical developments
- 13 of the hydroelectric power producing areas and estimate the cost of
- 14 implementing such schemes;
- 15 (e) implement all measures approved for development of
- 16 hydroelectric power producing areas by the Federal Government;
- 17 (f) identify factor inhibiting the development of the hydroelectric
- 18 power producing areas and assist States in the formulation and implementation
- 19 of policies to ensure sound and efficient management of the resources of the
- 20 hydroelectric power producing areas;
- 21 (g) assess and report on any project being Funded or carried out in the
- 22 hydroelectric power producing areas and ensure that Funds released for such
- 23 project are properly utilized;
- 24 (h) tackle ecological problems that arise from overloading of dams in
- 25 the hydroelectric power producing areas and advise Federal and State
- 26 Governments on the prevention and control of floods and environmental
- 27 hazards;
- 28 (i) execute such other work and perform such other functions which,
- 29 in the opinion of the Commission, are required for the development of the
- 30 hydroelectric power producing areas and their people; and

1 (j) carry out such other functions as the President may direct.

2 (2) In exercising its functions under this section, the Commission
3 shall have regard to the varied and specific contributions of each Member
4 State of the Commission.

5 9. There shall be established in the Commission the following
6 Directorates - Establishment
of Directorates
of the Commission

7 (a) Directorates of Finance and Administration;

8 (b) Directorates of Operations;

9 (c) Directorates of Engineering and Technical Services;

10 (d) Directorates of Community and Rural Development;

11 (e) Directorates of Legal Service; and

12 (f) Directorates of Planning, Research and Statistics

13 10.-(1) There shall be for the Commission a Management
14 Committee which shall consist of- Management
Committee

15 (a) the Managing Director who shall be the Chief Executive
16 Officer and Head of the Management Committee; and

17 (b) Directors responsible for the Directorates established under
18 section 9 of this Act.

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

21 11.-(1) There shall be established for the Commission an Advisory
22 Committee which shall consist of- Advisory
Committee

23 (a) all Governors of member State of the Commission; and

24 (b) one person from each of the member States and five other
25 persons from the remaining five geo-political zones of the Federation
26 excluding the North Central Zone.

27 (2) The Advisory Committee shall appraise and advise the
28 President on the general activities and functions of the Commission at least
29 once every year.

30 (3) The Advisory Committee shall regulate its own proceedings.

Appointment
of the Managing
Director

12. -(1) There shall be a Managing Director for the Commission who shall be-
- (a) appointed-by the President subject to confirmation by the Senate;
 - (b) be a competent Nigerian; and
 - (c) hold office on such terms and conditions as may be specified in his letter of employment.
- (2) The Managing Director shall-
- (a) be an indigene from among the member States of the Commission whose appointment and tenure shall rotate among member States in alphabetical order provided that the Chairman and Managing Director shall not be indigenes of the same State;
 - (b) be responsible for the general supervision of the employees of the Commission;
 - (c) be the Chief Accounting officer of the Commission; and
 - (d) hold office for a term of 4 years and renewable for another term of 4 years and no more.
- (3) The Director of the Directorate of Legal Services shall be the Secretary of the Commission and shall, subject to the general direction of the Council, be responsible for-
- (a) the administration of the Secretariat of the Council; and
 - (b) keeping the books and proper records of the proceedings of the Council.

Pension matters

- 13.-(1) Service in the Commission shall be permanent and pensionable for the purpose of the Pension Reform Act and persons employed in the Commission shall be entitled to such pensions, gratuities and other retirement benefits as are prescribed in the Act.
- (2) Nothing in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of pension and gratuity as in respect of that office.
- (3) For the purpose of the application of the provision for the Pensions

1 Reform Act, any power exercised by the Minister or other authority of the
2 Government of the Federation other than the power to make regulations is
3 hereby vested in and shall be exercisable by the Commission and not by any
4 other person or authority.

5 14.-(1) The Commission shall establish and maintain a Fund from Fund of the
6 which shall be defrayed all expenditure incurred by the Commission. Commission

7 (2) There shall be paid and credited to the Fund established
8 pursuant to subsection (1) or this section-

9 (a) 10 percent of the total revenue generated by any company or
10 authority from the operation of any hydroelectric dams in any member State
11 of the Commission;

12 (b) 50 per cent of money due to member States of the Commission
13 from the Ecological Funds;

14 (c) all money raised for the purpose of the functions of the
15 Commission by way or gifts loans, grants-in-aid, testamentary disposition
16 or otherwise; and

17 (d) proceeds from all other assets that may, from time to time,
18 accrue to the Commission.

19 (3) The Federal Government shall contribute to the Fund by way of
20 appropriations, through the National Assembly, a sum not less than 40 per
21 cent of the Commission's annual budget.

22 (4) The Fund shall be managed in accordance with the rules made
23 by the Council, and without prejudice to the generality of the power to make
24 rules under this subsection, the rules shall in particular contain provisions-

25 (a) specifying the manner in which the assets of the Funds of the
26 Commission are to be held and regulating the making of payments into and
27 out of the Fund; and

28 (b) requiring the keeping of proper accounts and records of the
29 purpose of the Funds in such form as may be specified in the rules.

30 15. The Commission shall apply the proceeds of the Fund Fund of the
Commission

	1	established pursuant to section 11 of this Act to-
	2	(a) the cost of administration of the Commission;
	3	(b) the payment or salaries, fees, remuneration, allowances, pensions
	4	and gratuities payable under this Act;
	5	(c) the payment for all contracts, including mobilization, fluctuations,
	6	variations, legal fees and cost on contract administration;
	7	(d) the payment for all purchases; and
	8	(e) undertake such other activities as are connected with all or any of
	9	the functions or the Commission under this Act.
Powers to accept gifts	10	16. The Commission may accept gifts of land, money or other
	11	property on such terms and conditions, if any, as may be specified by the person
	12	or organization making the gift provided that such condition is in accordance
	13	with the laws or Nigeria
Borrowing powers	14	17. The Commission may, with the consent of the President, borrow,
	15	on such terms and conditions as the Commission may determine, such sum of
	16	money as the Commission may require in the exercise of its functions under
	17	this Act.
Annual Estimates and Expenditure	18	18. -(1) The Council shall, not later than 31st October in each year,
	19	submit to the President an estimate of the expenditure and income or the
	20	Commission during the next succeeding year.
	21	(2) The Council shall cause to be kept proper accounts of the
	22	Commission in respect of each year and proper records in relation to the Fund
	23	and shall cause the accounts to be audited not later than 6 months after the end
	24	of each year by Auditors appointed from the list and in accordance with the
	25	guidelines supplied by the Auditor-General for the Federation.
	26	19. The Commission shall, at the end of every quarter in each year,
	27	submit to the President a report on the activities and administration of the
	28	Commission.
Annual Report	29	20.-(1) The Council shall prepare and submit to the President, not
	30	later than 30th June in each year, a report in such form as the President may

1 direct on the activities of the Commission during the immediately preceding
2 year and shall be included in the report a copy of the audited accounts of the
3 Commission for that year and the Auditors report.

4 (2) The President shall, upon receipt of the report referred to in
5 subsection (1) of this section, cause a copy of the report and the audited
6 accounts of the Commission and the Auditors report to be submitted to each
7 House of the National Assembly.

8 21.-(1) There is established for the Commission a Monitoring
9 Committee which shall consist of such number of persons as the President
10 may deem fit to appoint from the Public of Civil Service of the Federation

Establishment
of the Monitoring
Committee

11 (2) The Monitoring Committee shall-

12 (a) monitor the management of the Funds of the Commission and
13 the implementation of the projects of the Commission; and

14 (b) have access to the books of accounts and other records of the
15 Commission at all times and submit periodical reports to the President.

16 22.-(1) For the purpose of providing offices and premises
17 necessary for the performance of its functions under this Act, the
18 Commission may, subject to the Land Use Act-

Office premises
of the Commission

19 (a) purchase or take on lease any interest in land, or other property;
20 and

21 (b) construct offices and premises and equip and maintain same.

22 (2) The Commission may, subject to the Land Use Act, sell or lease
23 out any office or premises which is no longer required for the performance of
24 its functions under this Act subject to the approval by the President. [Cap. L5
25 LFN. 2004.]

26 23.-(1) Subject to the provisions of this Act, the President may give
27 to the Commission directives of a general nature or relating generally to
28 matters or policy with regards to the performance of its functions and the
29 Commission shall comply with the directives.

Directives by
the President

30 (2) The Commission shall, with the approval of the President

Limitation of
suits against
the Commission

1 make regulations generally for the purpose of giving effect to this Act.

2 24.-(1) Subject to the provisions of this Act, the provisions of Public
3 Officers Protection Act shall apply in relation to any suit instituted against any
4 officer or employee of the Commission.

5 (2)Notwithstanding anything contained in any other law or
6 enactment, a suit shall not-

7 (a) lie against any member of the Council of the Managing Director
8 for any act done in pursuance or execution of this Act or any other law or
9 enactment, or of any public duty or authority or in respect of any alleged
10 neglect or default in execution of this Act or such law or enactment, duty or
11 authority; and

12 (b) be instituted in any court unless-

13 (i) it is commenced within three months next after the act, neglect or
14 default complained of, or

15 (ii) in the case of a continuation of damage or injury, within six
16 months next after the ceasing of such damage or injury.

17 (3) A suit shall not be commenced against a member of the Council,
18 the Managing Director, officer or employee of the Commission before the
19 expiration or a period of one month after written notice or intention to
20 commence the suit shall have been served upon the Commission by the
21 intending plaintiff and the relief which he claims.

22 (4) The notice referred to in subsection (3) of this section shall clearly
23 and explicitly state-

24 (a) the cause of action;

25 (b) the particulars of the claim;

26 (c) the name and place of abode or the intending plaintiff; and

27 (d) the relief which he claims

28 25. A notice, summons or other documents required or authorised to
29 be served upon the Commission under the provisions of this act or any other
30 law or enactment may be served by delivering it to the Managing Director or by

1 sending it by registered post and addressed to the Managing Director at the
2 principal office of the Commission.

3 26. A member of the Council, the Managing Director, any officer
4 or employee of the Commission shall be indemnified out of the assets of the
5 Commission against any proceeding, whether civil or criminal in which
6 judgment is given in his favour or in which he is acquitted, if any such
7 proceeding is brought against him in his capacity as a member of the
8 Council, the Managing Director, officer or employee of the Commission.

9 THIRD SCHEDULE

10 [Section 202]

11 ESTABLISHMENT OF THE FEDERAL POWER TASK FORCE.

12 1. There is established the Federal Power Task Force (in this Bill
13 referred to as the " the Task Force") to ensure monitoring and enforcement of
14 offences under this Bill, ensure apprehension and prosecution of persons
15 suspected of electricity theft, vandalization of power infrastructure,
16 interruption of power supply and to generally perform the functions
17 assigned to it under this Bill.

Establishment
of the Federal
Power Task
Force

18 2. The Task Force is composed of the following persons as may be
19 appointed by the Minister on the recommendation of the various interest
20 they represent under this part -

Composition of
the Task Force

21 (a) representatives of licensees, operators and other stakeholders
22 with investment interest in the Nigerian electricity supply industry;

23 (b) representatives of State Power Task Force or vigilante or
24 private guards nominated by consumer groups;

25 (c) Police Officers or other law enforcement agents as may be
26 deployed or assigned to the Task Force on the request of the National
27 Coordinator;

28 (d) any other person as may be appointed by the Minister to
29 represent other interests not covered under this part.

30 (3) The Committee shall be coordinated by National, Zonal and

Coordination
of the Task Force

	1	State Coordinators as may be appointed by the Minister.
Funding of the Task Force	2	(4) The Task shall be funded by funds made available by licensee,
	3	government grants donations made by consumer groups and such
	4	contributions as may be required consumers.
Functions and powers of the Task Force	5	(5) The functions of the Task Force shall include:
	6	(a) arrest and persons suspected of crimes under this Bill;
	7	(b) surveillance and monitoring of electricity infrastructure and
	8	preparing reports to the Commission, the Minister and National Assembly on
	9	its activities.
	10	(c) subject to the provisions of the Constitution, prosecute suspects
	11	under this Bill;
	12	(d) carrying out such other activities as are ancillary to the prevention
	13	of damage to electricity infrastructure or prevention commission of offences
	14	under this Bill.
Mobile Courts and their jurisdiction	15	6. Notwithstanding the provisions of section 234 of this Bill, the
	16	Chief Judge of a State or the Chief Judge of Federal Capital Territory, Abuja as
	17	the case may be shall, have the power to establish mobile courts for the purpose
	18	of speedy trial of offences under this Bill which attracts a fine or imprisonment
	19	term below N200,000 or six months respectively upon conviction.
	20	7, The Commission shall be guided in its activities by regulations and
	21	guidelines as may be approved by the Minister.
	22	8.. The Task Force shall in carrying out its activities under this Bill
	23	collaborate with similar Power Task Force established by law passed by any
	24	House of Assembly of a State.
	25	FOURTH SCHEDULE
	26	ACTS REPEALED
	27	[Section 211]
	28	1. Hydroelectric Power Producing Areas Development Commission
	29	(Establishment Act, Etc) Act, No.7, 2010.
	30	2. Hydroelectric Power Producing Areas Development Commission

- 1 (Establishment, Etc) Act, 2010 (Amendment) Act, 2013
- 2 3. Hydroelectric Power Producing Areas Development
- 3 Commission (Establishment, Etc,) Act, 2010 (Amendment) Act, 2018
- 4 4. the Nigerian Electricity Management Services Agency
- 5 (Establishment, Etc) Act, 2015.

6 FIFTH SCHEDULE

7 SUPPLEMENTARY PROVISIONS RELATING TO THE NIGERIAN ELECTRICITY

8 MANAGEMENT SERVICES AGENCY BOARD UNDER PART XVII

9 *Procedure of the Board*

10 (1) Subject to the Bill and Section 27 of the Interpretation Act, the

11 Board may make standing orders regulating its proceedings or those of any

12 of its Committees. Every meeting shall be presided over by the Chairperson

13 and if the Chairperson is unable to attend a particular meeting the members

14 present at the meeting shall elect one of the members to preside at the

15 meeting,

16 (3) The quorum of the Board shall be the Chairperson or the Person

17 presiding at the meeting and 6 other members of the Board.

18 (4) Upon any special occasion, the Board may co-opt any person

19 to be a member for as many meetings as may be necessary, and that person

20 so co-opted shall have all the rights and privileges of a member, except that

21 he shall not be entitled to vote or count towards a quorum

22 (5) Subject to its standing orders, the Board may appoint such

23 number of standing and ad-hoc committee, as it thinks fit, to consider and

24 report on any matter with which the Agency is not concerned.

25 (6) Every Committee appointed under the provisions of sub

26 paragraph (5) of this paragraph shall be presided over by a member of the

27 Board and shall be made up of such number of persons, not necessarily

28 members of the Board, as the Board may determine in each case.

29 (7) The decision of the Committee shall be of no effect until it is

30 confirmed by the Board.

EXPLANATORY MEMORANDUM

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