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NIGERIAN NATIONAL PETROLEUM CORPORATION ACT

An Act to dissolve the Nigerian National Oil Corporation and to establish the Nigerian National Petroleum Corporation empowered to engage in all commercial activities relating to the petroleum industry and to enforce all regulatory measures relating to the general control of the petroleum sector through its Petroleum Inspectorate department.

[1977 No. 33.]

[1st April, 1977]

[Commencement.]

PART I

Establishment of the Corporation

1. Establishment of the Nigeria National Petroleum Corporation

(1) There shall be established a corporation by the name of the Nigerian National Petroleum Corporation (in this Act referred to as "the Corporation") which shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name.

(2) The affairs of the Corporation shall, subject to Part II of this Act, be conducted by a Board of Directors of the Corporation which shall consist of a chairman and the following other members, that is-

(a) the Permanent Secretary, Federal Ministry of Finance;

(b) the Managing Director of the Corporation; and

(c) three persons to be appointed by the President, being persons who by reason of their ability, experience or specialised knowledge of the oil industry or of business or professional attainments are capable of making useful contributions to the work of the Corporation.

(3) The chairman shall be a Minister in the Government of the Federation to be known and styled as the Minister of Petroleum Resources.

(4) The supplementary provisions set out in the First Schedule to this Act shall have effect with respect to the tenure of office of the members of the Board (other than the chairman), proceedings of the Board, certain duties of the members thereof and the other matters mentioned therein.

[First Schedule.]

2. Alternate chairman

(1) There may be appointed by the President an alternate chairman who may, pursuant to any general or special delegation given in that behalf by the Minister exercise the powers conferred upon the Minister or chairman under this Act:

Provided that nothing in the foregoing shall be construed as preventing the exercise by the Minister himself of any power so delegated.

(2) The provisions of the Ministers' Statutory Powers and Duties (Miscellaneous Provisions) Act shall not apply to any delegation made under this section and the question whether any delegation has been made hereunder shall not be inquired into except at the instance of the Minister.

[Cap. M14.]

3. Managing Director and Secretary

(1) There shall be appointed by the President, a Managing Director of the Corporation who shall be the chief executive officer of the Corporation and shall, subject to Part II of this Act, be responsible for the execution of the policy of the Corporation and the day-to-day running of the Corporation's activities and its associated services.

(2) There shall be appointed by the Corporation a Secretary to the Corporation who shall not be a member of the Board and who shall keep the records and conduct the correspondence of the Board and perform such other duties as the chairman or Managing Director may, from time to time, direct.

4. Staff generally

(1) Subject to this Act, the Corporation may appoint such person as members of staff of the Corporation as it considers necessary and may approve conditions of service, including provisions for the payment of pensions.

(2) If the Corporation thinks it expedient that any vacancy in the staff of the Corporation should be filled by a person holding office in any of the public services in the Federation, it shall inform the appropriate Civil Service Commission to that effect and thereafter the Corporation may cause such vacancy to be filled by way of secondment or transfer.

(3) Where a member of any of the civil services in the Federation is seconded under subsection (2) of this section, he shall be notified of the terms and conditions of the secondment; and the secondment shall be without prejudice to any pension rights which, but for the secondment, would still accrue to him.

(4) A person seconded under subsection (2) of this section may elect to be transferred to the staff of the Corporation, in which case any previous service in the public service concerned shall count as service for the purposes of pensions subsequently payable by the Corporation.

5. General duties of the Corporation

(1) Subject to the provisions of this Act, the Corporation shall be charged with the duty of-

- (a) exploring and prospecting for, working, winning or otherwise acquiring, possessing and disposing of petroleum;
- (b) refining, treating, processing and generally engaging in the handling of petroleum for the manufacture and production of petroleum products and its derivatives;
- (c) purchasing and marketing petroleum, its products and by-products;
- (d) providing and operating pipelines, tanker-ships or other facilities for the carriage or conveyance of crude oil, natural gas and their products and derivatives, water and any other liquids or other commodities related to the Corporation's operations;
- (e) constructing, equipping and maintaining tank farms and other facilities for the handling and treatment of petroleum and its products and derivatives;
- (f) carrying out research in connection with petroleum or anything derived from it and promoting activities for the purpose of turning to account the results of such research;
- (g) doing anything required for the purpose of giving effect to agreements entered into by the Federal Government with a view to securing participation by the Federal Government or the Corporation in activities connected with petroleum;
- (h) engaging in activities that would enhance the petroleum industry in the overall interest of Nigeria; and
- (i) undertaking such other activities as are necessary or expedient for giving full effect to the provisions of this Act.

(2) It shall be the duty of the Corporation, from time to time, when the President so requires or the Corporation considers it appropriate, to undertake a general review of the affairs of the Corporation and of any subsidiaries thereof for the purpose of determining how the management of the activities of the Corporation or any subsidiary thereof can most efficiently be organised and, where appropriate, to make a report to the President upon the Corporation's conclusions arising from the review.

6. Powers of the Corporation

(1) The Corporation shall have powers to do anything which in its opinion is calculated to facilitate the carrying out of its duties under this Act including, without limiting to the generality of the following, the power to-

- (a) hold, manage and alienate movable and immovable property;
- (b) purchase or otherwise acquire or take over all or any of the assets, business, properties, privileges, contracts, rights, obligations and liabilities of any other company, firm or person in furtherance of any business engaged in by the Corporation;
- (c) enter into contracts or partnerships with any company, firm or person which in the opinion of the Corporation will facilitate the discharge of the said duties under this Act;

(d) establish and maintain subsidiaries for the discharge of such functions as the Corporation may determine; and

(e) train managerial, technical and such other staff for the purpose of the running of its operations and for the petroleum industry in general.

(2) Notwithstanding subsection (1) of this section, any contract relating to any project of a value of more than N5,000,000 (or such higher limit as may be directed, from time to time, by the President) shall be referred by the Corporation to the President for approval before the award of any such contract is made by the Corporation.

7. Financial provisions

(1) The Corporation shall keep proper accounts and proper records in relation thereto in a form which shall conform with the best commercial standards.

(2) The Corporation shall as soon as may be after the end of the financial year to which the accounts relate cause its accounts to be audited by auditors appointed by the Corporation, with the approval of the President, from the list of auditors and in accordance with the guidelines laid down by the Auditor-General for the Federation.

(3) The auditors shall, on the completion of the audit of the accounts of the Corporation for each financial year, prepare and submit to the Corporation reports setting out-

(a) general observations and recommendations of the auditors on the financial affairs of the Corporation for the year and on any important matters which the auditors desire to bring to the notice of the Corporation; and

(b) detailed observations and recommendations of the auditors on all aspect of the operations of the Corporation for that year.

(4) The Corporation shall maintain a fund which shall consist of-

(a) such monies as may, from time to time, be provided by the Federal Government for the purposes of this Act by way of grants or loans or otherwise howsoever; and

(b) such monies as may be received by the Corporation in the course of its operations or in relation to the exercise by the Corporation of any of its functions under this Act, and from such fund there shall be defrayed all expenses incurred by the Corporation.

(5) The Corporation shall submit to the President not later than three months before the end of each financial year estimates of its expenditure and income relating to the next following financial year.

8. Borrowing powers

(1) Subject to the other provisions of this section, the Corporation may, from time to time, borrow by overdraft or otherwise howsoever such sums as it may require in the exercise of its functions under this Act.

(2) The Corporation shall not without the approval of the President, borrow any sum of money whereby the amount in aggregate outstanding on any loan or loans at any time exceeds such amount as is for the time being specified by the president.

(3) Notwithstanding subsection (2) of this section, a person lending to the Corporation shall not be bound to enquire whether the borrowing is within the power of the Corporation or not.

(4) Where any sum required aforesaid-

(a) is to be in currency other than naira; and

(b) is to be borrowed by the Corporation otherwise than temporarily, the Corporation shall not borrow the sum without the prior approval of the President.

(5) For the purposes of this section, any money borrowed by the Corporation from a subsidiary thereof or by any such subsidiary from the Corporation or any other subsidiary thereof shall be disregarded.

9. Disposal of surplus funds

The President may issue to the Corporation such directions as it may think necessary as to the disposal of any surplus funds of the Corporation, and subject to any such directions, the Corporation may invest its funds and maintain a general reserve.

PART II

Petroleum Inspectorate

10. Petroleum Inspectorate

(1) There shall be established a department to be known as the Petroleum Inspectorate which shall, subject to the other provisions of this Part, be an integral part of the Corporation.

(2) The Minister may delegate to the alternate chairman (where one is appointed) or the chief executive of the Inspectorate such of the powers conferred upon him under the Oil Pipelines Act, the Petroleum Act or any other enactment as he may deem necessary and in particular, but without prejudice to the generality of the foregoing, responsibility for the following matters, that is-

[Cap. 07. Cap. P10.)

(a) issuing permits and licences for all activities connected with petroleum exploration and exploitation and the refining, storage, marketing, transportation and distribution thereof; and

(b) acting as the agency for the enforcement of the provisions of the said Acts and any relevant regulations made thereunder by the Minister;

(c) carrying out such other functions as the Minister may direct from time to time, and notwithstanding the foregoing, any regulatory function conferred on the Minister pursuant to the said Acts or any other enactment shall, as from the appointed day, be deemed to have been conferred upon and may be discharged by the chief executive of the Inspectorate.

(3) In the exercise of the powers conferred upon the chief executive of the Inspectorate under this Act, he shall not be subject to the direction or control of any other person or authority in the Corporation except the Minister.

(4) For the avoidance of doubt, the Inspectorate shall not exercise any commercial functions in respect of any activities of the Government of the Federation relating to the petroleum industry.

11. Head of Inspectorate to be appointed by the Minister, etc.

(1) There shall be appointed by the Minister, with the approval of the President, a person to be the chief executive of the Inspectorate to be known by such designation as the Minister may determine.

(2) There shall be appointed by the Corporation such other employees as may be necessary to assist the chief executive in the efficient discharge of the functions conferred on him under or pursuant to this Act.

PART III

Legal proceedings

12. Limitation of suits against the Corporation, etc.

(1) Notwithstanding anything in any other enactment, no suit against the Corporation, a member of the Board or any employees of the Corporation for any act done in pursuance or execution of any enactment or law, or of any public duties or authority, or in respect of any alleged neglect or default in the execution of such enactment or law, duties or authority, shall lie or be instituted in any court unless it is commenced within twelve months next after the act, neglect or default complained of or, in the case of a continuance of damage or injury, within twelve months next after the ceasing thereof.

(2) No suit shall be commenced against the Corporation before the expiration of a period of one month after written notice of intention to commence the suit shall have been served upon the Corporation by the intending plaintiff or his agent; and the notice shall clearly and explicitly state the cause of action, the particulars of the claim, the name and place of abode of the intending plaintiff and the relief which he claims.

13. Service of documents

The notice referred to in subsection (2) of section 12 of this Act and any summons, notice or other document required or authorised to be served upon the Corporation under the provisions of this Act or any other enactment or law may be served by delivering the same to the chairman or the Managing Director of the Corporation, or by sending it by registered post addressed to the Managing Director at the principal office of the Corporation.

14. Restriction on execution against the property of the Corporation

In any action or suit against the Corporation no execution or attachment or process in the nature thereof shall be issued against the Corporation but any sums of money which may, by the judgment of the court, be awarded against the Corporation shall, subject to

any directions given by the court where notice of appeal has been given by the Corporation, be paid from the general reserve fund of the Corporation.

15. Indemnity of members of the Board and employees of the Corporation

Every member of the Board, agent, auditor or employee for the time being of the Corporation shall be indemnified out of the assets of the Corporation against any liability incurred by him in defending any proceedings whether civil or criminal, if any such proceeding is brought against him in his capacity as such member, agent, auditor or employee as aforesaid.

PART IV

Miscellaneous and supplementary

16. Certain exemptions from rates, etc.

(1) Oil pipelines and other installations belonging to the Corporation shall not be regarded as hereditaments or tenements to be valued for rating purposes; and for the purposes of this subsection, the expression "oil pipelines and other installations" includes oil rigs, refineries, power generating plants, pumping stations, tank farms and similar installations but does not include office or residential buildings.

(2) Except as provided in subsection (1) of this section, nothing in this Act shall be deemed to exempt the Corporation from liability for any tax, duty, rate, levy or other charge whatsoever, whether general or local:

Provided that the Corporation shall not be liable to pay any such tax, duty, rate, levy or charge unless every company liable to tax under the Petroleum Profits Tax Act is also liable for such payment.

[Cap. P13.]

17. Regulation of public access to the Corporation's premises

(1) Subject to the provisions of this Act, the Criminal Justice (Miscellaneous Provisions) Act or any other enactment, the Corporation may make bye-laws-

[Cap. C39.]

(a) prohibiting or restricting the access of members of the public or of any class of members of the public to any premises vested in, occupied by or under the control of the Corporation;

(b) regulating the hours during which, the means whereby, the purposes for which and the conditions subject to which members of the public or any class of members of the public may have access to or egress from any such premises or portion thereof;

(c) for ensuring the maintenance of good order and discipline amongst members of the public at any time when upon any such premises;

(d) prohibiting or restricting the use of land over, underneath or near which the Corporation has any installation and for preventing the unauthorised or improper use of or wilful or negligent acts occasioning injury to any property owned, vested in, occupied by or under the control of the Corporation.

(2) Bye-laws made under the provisions of this section shall not come into force until they have been approved by the Minister and published in such manner as he shall direct or until such later date as may be specified in the bye-laws.

(3) Bye-laws made under this section may provide that for the contravention of such bye-laws there may be imposed on the conviction of any person for such contravention a fine not exceeding N500 or, in default of payment thereof, imprisonment for a term not exceeding twelve months.

(4) For the purposes of this section, members and employees of the Corporation shall not be deemed to be members of the public.

(5) In this section, "**premises**" includes lands, plants and ancillary works.

18. Protection of certain rights

Where in the exercise of any function under this Act certain rights are affected, the provisions of this Act shall not be construed so as to exclude-

(a) the payment of compensation in respect of any loss or damage that may have been suffered in consequence of the operation of the provisions of this Act; and

(b) the determination of any right or interest in any property acquired or possessed by the Corporation, and the amount of compensation payable as prescribed under the Land Use Act.

[Cap. L5.]

19. Annual reports

The Corporation shall prepare and submit to the President, through the Minister not later than 30 June in each financial year, a report on the activities of the Corporation during the immediately preceding financial year, and shall include in such report a copy of the audited accounts of the Corporation for that year and the auditors' report thereon.

20. Application of certain enactments

For the purposes of this Act, the Corporation shall be subject to all rights, powers, obligations, and duties to which a licensee or lessee by virtue of the Petroleum Act and a licensee and the holder of a permit by virtue of the Oil Pipelines Act are subject, so however that in the application thereof-

[Cap. P10. Cap. O7.]

(a) paragraph 12 of the First Schedule to the Petroleum Act (which provides for the relinquishment of one-half of the leased area after ten years of an oil mining lease); and

[First Schedule.]

(b) paragraph 3 and 6 of the said Schedule (which relate to the duration of an oil exploration licence and oil prospecting licence, respectively); and

(c) such other provisions of those enactments as the Minister may, from time to time, specify by public notice, shall be excluded.

21. Protection of Corporation's land

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

(2) For the purpose of this section, "**land**" includes any land under water beyond the territorial waters of Nigerian to which Nigeria is for the time being entitled to any exclusive rights.

22. Interpretation

(1) In this Act, unless the context otherwise requires-

"Board" means the Board of Directors of the Corporation appointed pursuant to section 1 of this Act;

"chairman" means the chairman of the Corporation;

"Corporation" means the Nigerian National Petroleum Corporation established pursuant to section 1 of this Act and includes any wholly owned subsidiary thereof and, subject to the provisions of this Act includes the Inspectorate;

"crude oil" has the meaning assigned thereto by section 15 (1) of the Petroleum Act; [Cap. P10.]

"financial year" means the period of twelve months beginning on 1 January and ending on 31 December;

"Inspectorate" means the Petroleum Inspectorate established pursuant to Part II of this Act;

"member" means a member of the Board and includes the chairman;

"Minister" means the Minister of Petroleum Resources;

"mining operations" includes prospecting for and getting of minerals or petroleum and any activities preparatory or incidental thereto;

"petroleum" has the meaning assigned thereto by section 15 (1) of the Petroleum Act; [Cap. P10.]

"plant" includes machinery, structures, installations, fixtures and other equipment and buildings or other structures housing any of the foregoing.

(2) For the avoidance of doubt, it is hereby declared that service in the Corporation shall, for purposes of the Trade Disputes (Essential Services) Act, be deemed to be essential service.

[Cap. T9.]

23. Short title and repeal

(1) This Act may be cited as the Nigerian National Petroleum Corporation Act.

(2) As from the date of commencement of this Act, the Nigerian National Oil Corporation Act 1971 shall stand repealed and, accordingly, the Nigerian National Oil Corporation established under that Act shall be dissolved and the transitional and saving provisions of the Second Schedule to this Act shall have effect notwithstanding anything contained herein or in any other provision of this Act.

[1971 No. 18. Second Schedule.]

FIRST SCHEDULE

[Section 1 (4).]

PART A

Supplementary provisions relating to tenure of office etc., of members of the Board

Tenure of office

1. Subject to paragraph 3 of this Schedule and the other provisions of this Act, a member of the Board who is not an *ex-officio* member shall, unless he previously relinquishes his membership on the Board-

(a) hold office for three years on such terms as may be specified in his letter of appointment; and

(b) be eligible for re-appointment for a further term of three years, but shall vacate his office at the expiration of a period of six years.

2. Subject to paragraph 3 of this Schedule, members of the Board, other than *ex-officio* members, shall be paid out of monies at the disposal of the Board such remuneration and allowances as the Minister may, with the approval of the President, determine.

3. The provisions of paragraphs 1 and 2 of this Schedule shall not apply to the chairman.

Proceedings

4. Subject to this Act and section 27 of the Interpretation Act (which provides for decisions of a statutory body to be taken by a majority of its members and for the chairman to have a second or casting vote), the Board may make standing orders regulating the proceedings of the Board or any committee thereof.

[Cap. 123.]

5. The Board shall meet not less than four times in each year and on such other occasions as the Board may consider necessary.

6. Every meeting of the Board shall be presided over by the chairman and if the chairman is unable to attend any particular meeting, a member may be appointed by the members present to act as chairman for that particular meeting.

7. A quorum at a meeting of the Board shall consist of four members of whom at least one shall be a member appointed under subsection (2) (c) of section 1 of this Act.

8. Where standing orders made under paragraph 4 of this Schedule provide for the Board to co-opt persons who are not members of the Board, such persons may advise the Board on any matter referred to them by the Board, but shall not be entitled to vote at a meeting of the Board.

Salaries, etc.

9. (1) The salaries of the Managing Director of the Corporation and of his immediate subordinates shall be such as may be determined, from time to time, by the President.

(2) The salaries of the other employees of the Corporation shall be determined by the Corporation.

(3) Subject to any regulations made under paragraph 10 of this Schedule, the Corporation shall pay to any of its employees such pensions and gratuities as it may determine.

10. The Board may make regulations providing for-

(a) the conditions of service of its employees;

(b) the grant of pensions, gratuities and other retiring benefits to its employees and their dependants, and the grant of gratuities of the estate dependants of its deceased employees; and

(c) the establishment and maintenance of medical benefit funds, superannuation funds and provident funds and the contributions (if any) payable thereto and the benefits receivable therefrom.

Miscellaneous

11. The fixing of the seal of the Corporation shall be authenticated by the signature of the chairman and any other person authorised in that behalf by the Board.

12. Any contract or instrument, which if made or executed by any person not being a body corporate would not be required to be under seal, may be made or executed on behalf of the Corporation by any person generally or specially authorised to act for that purpose by the Board.

13. Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of the Corporation shall be received in evidence and, unless the contrary is proved, be presumed without further proof to have been so signed and sealed.

14. The validity of any proceedings of the Board shall not be affected-

(a) by any vacancy in the membership of the Board; or

(b) by any defect in the appointment of a member of the Board; or

(c) by reason that a person not entitled to do so took part in the proceedings.

Duty of members

Disclosure of interest

15. A member of the Board who has any interest in any company or other concern with which the Corporation proposed to make any contract or arrangement or any interest in such contract or arrangement shall disclose to the Board the fact of such interest and the nature thereof, and such disclosure shall be recorded in the minutes of the Board, and such member shall take no part in any deliberation or decision of the Board relating to such contract or arrangement.

SECOND SCHEDULE

[Section 23 (2).]

*Transitional provisions relating to the employees, assets and liabilities
of the dissolved Corporation*

1. By virtue of this Act, there shall be vested in the Corporation (referred to in this Schedule as "the new Corporation") on the appointed day, without any further assurance all assets, funds, resources and other movable or immovable property which immediately before the appointed day were vested in the Corporation dissolved by this Act (referred to in this Schedule as "the old Corporation").

2. As from the appointed day-

(a) the rights, interests, obligations and liabilities of the old Corporation existing immediately before the appointed day under any contract or instrument, or at law or in equity apart from any contract or instrument, shall, by virtue of this Act, be assigned to and vested in the new Corporation;

(b) any such contract or instrument as is mentioned in paragraph (a) of this Schedule shall be of the same force and effect against or in favour of the new Corporation and shall be enforceable as fully and effectively as if instead of the old Corporation, the new Corporation had been named therein or had been a party thereto; and

(c) the new Corporation shall be subject to all the obligations and liabilities to which the old Corporation was subject immediately before the appointed day, and all other persons shall, as from the appointed day, have the same rights,

powers and remedies against the new Corporation as they had against the old Corporation immediately before the appointed day.

3. Any proceeding or cause of action pending or existing immediately before the appointed day by or against the old Corporation in respect of any right, interest, obligation or liability of the old Corporation may be commenced, continued or enforced by or against the new Corporation as if this Act had not been made.

4. Notwithstanding the dissolution of the old Corporation by section 23 of this Act but subject to such directions as may be issued by the Board, any person who immediately before the appointed day, held office under the old Corporation shall on the appointed day, be deemed to have been transferred to the new Corporation on terms and conditions not less favourable than those obtaining immediately before the appointed day; and service under the old Corporation shall be deemed to be service under the new Corporation for pensions purposes.

5. Within the twelve months next after the making of this Act the Minister, if he thinks fit, may by order in the *Federal Gazette* make additional transitional or saving provisions for the better carrying out of the objectives of this Schedule.

6. In this Schedule, the "**appointed day**" means the day of coming into operation of this Act.

SUBSIDIARY LEGISLATION

No Subsidiary Legislation