

CHAPTER N91

NIGERIAN ATOMIC ENERGY COMMISSION ACT

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CHAPTER N91

NIGERIAN ATOMIC ENERGY COMMISSION ACT

An Act to establish the Nigerian Atomic Energy Commission for the development of atomic energy and all matters relating to the peaceful use of atomic energy.

[1976 No. 46.]

[24th August, 1976]

[Commencement.]

1. Establishment of the Nigerian Atomic Energy Commission

There is hereby established a body to be known as the Nigerian Atomic Energy Commission (in this Act referred to as "the Commission") which shall be a body corporate with perpetual succession and a common seal.

2. Functions of the Commission

(1) Subject to this Act, the Commission is hereby charged with responsibility for the promotion of the development of atomic energy and for all matters relating to the peaceful uses of atomic energy, and without prejudice to the generality of the foregoing, the Commission shall have power to—

- (a) prospect for and mine radioactive minerals;
- (b) construct and maintain nuclear installations for the purpose of generating electricity;
- (c) produce, use and dispose of atomic energy and carry out research into matters connected with the peaceful uses of atomic energy;
- (d) manufacture or otherwise produce, buy or otherwise acquire, treat, store, transport and dispose of any radioactive substances;
- (e) make arrangements with universities and other institutions or persons in Nigeria for the conduct of research into matters connected with atomic energy or radioactive substances and to make grants to universities or other institutions or persons engaged in the production or use of atomic energy or radioactive substances or in research into matters connected with atomic energy or radioactive substances;
- (f) educate and train persons in matters connected with atomic energy and radioactive substances;
- (g) advise the Federal Government on questions relating to atomic energy.

(2) The Commission shall have power to do anything which in its opinion is calculated to facilitate the carrying on of its activities including, without prejudice to the generality of the foregoing, power to—

- (a) sue and be sued in its corporate name;
- (b) hold and manage movable and immovable property; and
- (c) enter into contract.

(3) The provisions of subsections (1) and (2) of this section relate only to the capacity of the Commission as a statutory corporation and nothing in those provisions shall be construed as authorising the disregard by the Commission of any enactment or law, including, in particular, the applicable provisions of the Minerals and Mining Act.

[Cap. M12.]

3. Commission to act under directions

(1) The President may, for all or any of the purposes of this Act, initiate or approve policy; and accordingly, the President may give to the Commission directions of a general or special nature as to the manner in which the Commission is to exercise its powers and it shall be the duty of the Commission to give effect to any such directions.

(2) No policy initiated by the Commission shall be implemented without prior reference to and approval by the President and the President may, if he thinks it necessary, consult with the Commission before approving any policy but the question whether there was any such consultation or what was decided, shall not be inquired into by any court.

4. Composition, etc., of the Commission

(1) The Commission shall consist of a chairman and not less than five and not more than eight other members all of whom shall be appointed by the President.

(2) A member who is not a public officer—

- (a) shall hold office for such period not exceeding three years as may be stated in the instrument by which he is appointed and shall be eligible for re-appointment;
- (b) shall be paid such remuneration whether by way of salary, fees or allowances for travelling and other expenses as the President may, from time to time, determine;
- (c) may by notice in writing addressed to the President, resign his appointment and upon receipt of the notice by the President the appointment of that member shall be determined.

(3) The supplementary provisions set out in the Schedule to this Act, shall have effect with respect to the proceedings of the Commission and the other matters therein mentioned.

[Schedule.]

5. Secretary and other staff of the Commission

(1) There shall be appointed by the Commission a secretary who shall conduct its correspondence and keep its records and exercise such other functions as the chairman may, from time to time, direct.

(2) The Commission may appoint such persons as members of its staff as it considers necessary and may approve conditions of service including provisions for the payment of pensions:

Provided that no pensions scheme shall be put into operation without the prior approval in writing of the Federal Civil Service Commission.

6. Financial provisions

(1) There shall be made to the Commission out of moneys provided by the Federal Government payments for the purposes of this Act, either by way of grant or by way of loan or both, of such amounts and on such terms as may be approved by the President and the funds of the Commission shall consist of any payments so made and of all other moneys received by the Commission in the course of its activities under this Act.

(2) The Commission shall submit to the President, not later than 31 October in each financial year, an estimate of its expenditure and income (excluding payments to the Commission out of moneys provided by the Federal Government) during the next succeeding financial year.

(3) The Commission shall keep proper accounts in respect of each financial year (and proper records in relation to those accounts) and shall cause its account to be audited, as soon as may be, after the end of each financial year by auditors appointed from the list of auditors and in accordance with the guidelines supplied by the Auditor-General for the Federation.

(4) The National Assembly may, if it thinks fit, modify the requirements of subsections (2) and (3) of this section in such respect as the National Assembly may determine.

7. Annual report

The Commission shall prepare and submit to the President, not later than 30 June in each financial year, a report in such form as the President may direct on the activities of the Commission during the immediately preceding financial year and shall, unless the terms of any direction of the National Assembly given pursuant to subsection (4) of section 6 of this Act render it unnecessary or impossible for the Commission to do so, include in the report a copy of the audited accounts of the Commission for that year and of the auditors' report on the accounts.

8. Compulsory acquisition of land

(1) Whenever there is any hindrance to the acquisition by the Commission of any land required for any purpose of the Commission under this Act, the President, on the application of the Commission and after such enquiry as he may think fit, may declare that the land is required for the service of the Commission.

(2) Where a declaration is made under subsection (1) of this section, the land to which the declaration relates shall be deemed to be land required for a public purpose of the Federation, within the meaning of the Land Use Act, and the President may cause action to be taken under that Act for acquiring the land for the Federal Government.

[Cap. L5.]

(3) Where a declaration has been made under subsection (1) of this section in respect of any land and—

- (a) the land has been acquired pursuant to subsection (2) of this section; or
- (b) the President is satisfied that there are no rights subsisting in respect of the land,

the President may vest the land in the Commission by means of a certificate under the hand and seal of the Registrar of Deeds.

[1992 No. 7.]

(4) The compensation, if any, payable under the Land Use Act for the acquisition of any land under this section of this Act or payable under the appropriate law for the revocation of any rights relating to the land, as the case may be, shall in the first instance be paid by the Federal Government, but the Commission shall refund to that Government any compensation so paid and all incidental expenses incurred by that Government.

[Cap. L5.]

(5) A plan of any land referred to in subsection (1) of this section—

- (a) containing measurements of the boundaries of the land;
- (b) showing the relationship of the land to any sufficient identifying mark; and
- (c) signed by the chairman of the Commission,

shall be a sufficient description of the land for the purposes of an application under that subsection.

9. Restriction on disclosure of information relating to nuclear installation, etc.

(1) Without prejudice to the generality of the application of the Official Secrets Act, any person who, without the consent of the President communicates to any other person, except an authorised person, any document, drawing, photograph, plan, model or other information whatsoever which to his knowledge describes, represents or illustrates—

[Cap. O3.]

- (a) any existing or proposed nuclear installation, operated or proposed to be operated by or on behalf of the Commission;
- (b) the purpose or method of operation of any such existing or proposed nuclear installation;
- (c) any process operated or proposed to be operated in any such existing or proposed nuclear installation,

is guilty of an offence under this Act and liable on conviction to imprisonment for a term not exceeding ten years.

(2) In this section, “authorised person” means, in relation to information on any subject to which this section applies, a person to whom by virtue of a general authority granted by the President information on that subject may be communicated.

10. Duty to prevent nuclear damage

It shall be the duty of the Commission to ensure that no nuclear damage results from—

- (a) anything on any premises occupied by the Commission (whether such damage is suffered on such premises or elsewhere); or
- (b) anything which is in the course of carriage by or on behalf of the Commission for or from such premises; or
- (c) any waste discharged (in whatever form) on or from such premises:

Provided that the liability of the Commission for nuclear damage under paragraph (b) of this section shall be subject to the terms of any agreement relating to the carriage referred to in that paragraph.

11. Regulations

The President may make regulations generally for the purposes of this Act, and, without prejudice to the generality of the foregoing, the regulations may make provisions for—

- (a) securing the safe operation of any nuclear installation operated by the Commission;
- (b) securing the safe carriage of any nuclear fuel, radioactive products or waste;
- (c) regulating and controlling the disposal of waste on or from any premises on which there is a nuclear installation;
- (d) securing the maintenance of efficient system for detecting and recording the presence and intensity of any ionising radiation from anything discharged on

or from such premises or from anything in the course of carriage to or from such premises;

- (e) prohibiting or restricting access by persons to any land or premises held or occupied by the Commission.

12. Interpretation

In this Act, unless the context otherwise requires—

“atomic energy” means the energy released from atomic nuclei as a result of any process, including the fission process, but does not include energy released in any process of natural transmutation or radioactive decay, which is not accelerated or influenced by external means;

“Commission” means the Nigerian Atomic Energy Commission established under section 1 of this Act;

“chairman” means the chairman of the Commission;

“member” means any member of the Commission and includes the chairman;

“nuclear damage” means the death of or injury to any person or any loss of or damage to property which results from the radioactive properties or from a combination of such properties with the toxic, explosive or other hazardous properties of nuclear fuel or radioactive products or waste;

“nuclear fuel” means any material which is capable of producing energy by a self-sustaining process of nuclear fission;

“nuclear installation” means a nuclear reactor or any installation designed or adapted for—

- (a) the production or use of atomic energy;
- (b) the carrying out of any process which is preparatory or ancillary to the production or use of atomic energy and which involves or is capable of causing the emission of ionising radiation; or
- (c) the storage, processing or disposal of nuclear fuel or of bulk quantities of other radioactive matter being matter which has been produced or irradiated in the course of the production or use of nuclear fuel;

“nuclear reactor” means any plant (including any machinery, equipment or appliance whether affixed to land or not), designed or adapted for the production of atomic energy by a fission process, in which a controlled chain reaction can be maintained, without an additional source of neutrons;

“public officer” means a member of the public service of the Federation or of a State;

“radioactive minerals” means any minerals from which can be obtained any of the following substances, that is, uranium, thorium, plutonium, neptunium or any of their

respective compounds or any other substance which may be used for the production or use of atomic energy or research into matters connected therewith;

"radioactive products" means any radioactive material produced in, or any material made radioactive by exposure to the radiation incidental to the process of utilising nuclear fuel;

"waste" means such radioactive products as constitute scrap material or an effluent or other unwanted surplus substance.

13. Short title

This Act may be cited as the Nigerian Atomic Energy Commission Act.

SCHEDULE

[Section 4 (3).]

Supplementary provisions relating to the proceedings of the Commission

Proceedings

1. Subject to this Act and to 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 Commission may make standing orders regulating the proceedings of the Commission or any committee thereof.

[Cap. I23.]

2. Every meeting of the Commission shall be presided over by the chairman or, if the chairman is unable to attend any particular meeting, by another member appointed by the President, to act as chairman for that particular meeting.

3. The quorum at a meeting of the Commission shall be the chairman (or, in an appropriate case, the person appointed to act as chairman under paragraph 2 of this Schedule) and three other members.

4. (1) Subject to its standing orders, the Commission may appoint committees as the Commission may think fit to consider and report on any matter with which the Commission is concerned.

(2) Except with the approval of the President, a committee of the Commission shall not include persons who are not members of the Commission.

5. Without prejudice to paragraph 4 of this Schedule, where standing orders made under paragraph 1 of this Schedule provide for a committee of the Commission to consist of or co-opt persons who are not members of the Commission, the committee may advise the Commission on any matter referred to it by the Commission, but members of the committee who are not members of the Commission shall not be entitled to vote at a meeting of the committee.

Miscellaneous

6. The fixing of the seal of the Commission shall be authenticated by the signature of the chairman or of any other member authorised in that behalf by the Commission.

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

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

9. The validity of any proceedings of the Commission or a committee thereof shall not be affected—

- (a) by any vacancy in the membership of the Commission or committee;
- (b) by any defect in the appointment of a member of the Commission or committee; or
- (c) by reason that a person not entitled to do so took part in the proceedings.

10. Any member of the Commission or a committee thereof who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Commission or committee shall forthwith disclose his interest to the Commission or committee and shall not vote on any question relating to the contract or arrangement.

CHAPTER N91

NIGERIAN ATOMIC ENERGY COMMISSION ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
