

**(21.12.2006 PM)**

**A BILL**

**FOR**

**AN ACT TO REPEAL THE NUCLEAR SAFETY AND RADIATION PROTECTION ACT 1995 ENACT THE NUCLEAR SAFETY, SECURITY AND SAFEGUARDS ACT AND REESTABLISH NIGERIAN NUCLEAR REGULATORY AUTHORITY AND FOR MATTERS CONNECTED THEREWITH.**

**BE IT ENACTED** by the National Assembly of the Federal Republic of Nigeria as follows

1. The object of this Act is to provide for

- (a) the protection of individuals, society and the environment now and in the future against the harmful effects of ionizing radiation and for the safety and security of radioactive sources;
- (b) the nuclear security that is associated with the development, production and use of nuclear energy and the production, possession and use of nuclear substances and prescribed equipment; and
- (c) the implementation in Nigeria of measures to which Nigeria has agreed respecting international control of the development, production and use of nuclear energy, including the African Nuclear-Weapon-Free Zone Treaty, (the Pelindaba Treaty) The Treaty on the Non-proliferation of Nuclear Weapons (NPT), the agreement between Nigeria and the International Atomic Energy Agency (IAEA) for the application of safeguards in connection with the NPT(safeguards agreement) and any protocol thereto;.
- (d) the implementation in Nigeria of measures to govern liability in case of nuclear damage

**PART I - ESTABLISHMENT OF THE NIGERIAN NUCLEAR REGULATORY AUTHORITY AND ITS GOVERNING BOARD**

2. (1) There is hereby established a body to be known as the Nigerian Nuclear Regulatory Authority (in this Act referred to as “the Authority”

(2) The Authority-

- (a) shall be an independent, corporate body with perpetual succession and a common seal; and
- (b) may sue and be sued in its corporate name.

3. (1) There is hereby established for the Authority a governing body to be known as the Nigerian Nuclear Regulatory Authority Governing Board (in this Act referred to as “the Board”).

(2) The Board shall consist of –

- (a) the President of Federal Republic of Nigeria as Chairman;
- (b) a Vice-Chairman to be appointed by the President from among the members of the Board;
- (c) the Ministers charged with responsibility for matters relating to -
  - (i) defence
  - (ii) health,
  - (iii) internal affairs
  - (iv) mines
  - (v) petroleum resources

- (vi) science and technology
  - (vii) environment
  - (viii) foreign affairs
  - (d) the Attorney-General of the Federation
  - (e) the Inspector-General of Police;
  - (f) the Director-General of the State Security Service;
  - (g) the Director-General of the National Intelligence Agency
  - (i) two eminent Nigerians with cognate backgrounds and experiences in the nuclear field to be appointed by the President; and
  - (j) the Director-General of the Authority.
- (3) The provisions of the Schedule to this Act shall have effect with respect to the proceedings of the Board and the other matters mentioned therein.

4. (a) All members of the Board except for the Chairman and **ex-officio** members listed in subparagraph (i) of this section shall hold office for a term of 4 years in the first instance and may be reappointed for a further term of 4 years; and

(b) on such terms and conditions as may be specified in their letter of appointment.

5. (1) Notwithstanding the provisions of section 3 of this Act, a member of the Board shall cease to hold office as a member of the Board if -

- (a) he resigns his appointment as a member of the Board by notice, under his hand, addressed to the President; or
- (b) he becomes of unsound mind; or
- (c) he becomes bankrupt or makes a compromise with his creditors; or
- (d) he is convicted of a felony or of any offence involving dishonesty or corruption; or
- (e) he becomes incapable of carrying on the functions of his office either arising from an infirmity of mind or body; or
- (f) the President is satisfied that it is not in the interest of the Authority or in the interest of the public for the person to continue in office and the President removes him from office.

(2) Where a vacancy occurs in the membership of the Board, it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his predecessor, so however that the successor shall represent the same interest as his predecessor

6. The members of the Board shall be paid such emoluments, allowances and benefits as the Federal Government may, from time to time, determine.

7. The Board shall –

- (a) have responsibility for the supervision of policy formulation for the Authority;
- (b) ensure that the objectives of the Authority under this Act are carried out;
- (c) supervise the performance of the Authority; and
- (d) carry out such other activities connected with or incidental to the other functions of the Board.
- (e) provide effective liaison between the Authority and the Federal Government.

8. The Board shall have power to –

- (a) fix the terms and conditions of service including remuneration of employees of the Authority;
- and

(b) do such other things as are necessary for the successful performance of its functions under this Act.

## **PART II - FUNCTIONS AND POWERS OF THE AUTHORITY**

**9.** Subject to this Act, the Authority shall be charged with the responsibility for nuclear safety, security, safeguards and radiological protection regulation in Nigeria and, without prejudice to the generality of the foregoing, the Authority shall –

- (a) regulate the possession and application of radioactive substances and devices emitting ionizing radiation;
- (b) ensure protection of life of the present and future generations, health, property and the environment from the harmful effects of ionizing radiation, while allowing beneficial practices involving exposure to ionizing radiation;
- (c) regulate the safe promotion of nuclear research and development and the application of nuclear energy for peaceful purposes;
- (d) regulate the introduction of radiation sources, associated practices and activities, exposure of workers and the general public to ionizing radiation;
- (e) regulate, as appropriate, the exploration, mining and milling of radioactive ores and other ores associated with the presence of radioactive substances;
- (f) perform all necessary functions to enable Nigeria meet its national, international safety, security and safeguards obligations in the application of nuclear energy and ionizing radiation and in particular establish and maintain a national system of accounting for and control of nuclear materials;
- (g) advise the Federal Government on nuclear safety, security, safeguards, radiation protection and nuclear damage matters;
- (h) liaise and foster cooperation with International Atomic Energy Agency, in order to implement the safeguards agreement and any protocol thereto;
  - ( i ) to establish and maintain a national system for the registration of licences for nuclear materials and the procedures for reporting and record keeping requirement;
- (j) perform such other duties which, in the opinion of the Authority, are necessary or expedient for the full and efficient discharge of its functions under this Act; and
- (k) establish and implement a system of control over the import, export, transit and transshipment of nuclear, radioactive materials, sources, equipment, information and technology in order to prevent diversion from their authorized uses;

**10.** The Authority shall have power to –

- (a) issue regulation which shall be binding on all users of radioactive sources, nuclear installations, prescribed substances, and of sources of ionizing radiation;
- (b) license activities involving exposure to ionizing radiation, in particular, the possession, production, processing, manufacture, purchase, sale, import, export, transit, transshipment, handling, use, consumer product transformation, transfer, trading, assignment, transport, storage and disposal of any radioactive material, nuclear material, radioactive waste, prescribed substances, any research in nuclear development and any apparatus emitting ionizing radiation;
- (c) define and grant exemptions;
- (d) establish and maintain a national register for each category of sources or practices involving ionizing radiation and of persons authorised to carry out an activity or practice, and;
- (e) license operators of nuclear installations, radioactive waste management facilities, fuel cycle facilities and industrial radiography practices;

- (f) issue procedures implementing the provisions of the law and regulations;
- (g) review and approve safety standards and documentation;
- (h) approve radiation protection training programmes of any organisation providing services to the radiation users,
- (i) establish in cooperation with other competent national authorities, plans and procedures which shall be periodically tested and assessed for coping with any radiation emergency and abnormal occurrence involving nuclear materials and radiation sources;
- (j) undertake investigations and research into ionizing radiation sources and practices;
- (k) acquire offices and other premises for the use of the Authority;
- (l) establish such number of zonal and other offices of the Authority as it may deem necessary for the proper performance of its functions under this Act; and
- (m) carry out inspections and any appropriate investigation and enforce compliance of its order and do anything necessary to ensure that all concerned persons and bodies comply with laid down regulations under this Act.
- (n) establish appropriate mechanism and procedures for informing the public, mass media and other stakeholders on the regulatory process of safety and security aspects of incidents or nuclear accidents
- (o) to establish and levy fees for authorizations, inspections and enforcement actions;
- (p) to establish and maintain Nuclear Damage Claims Account;
- (q) to define the exposures that are excluded from the scope of application of this Act on the basis of their being unamenable to the Authority's regulatory control;
- (r) to establish the process for removal of a facility or activity from the Authority's regulatory control.

### **PART III - STAFF OF THE AUTHORITY**

- 11.** -(1) There shall be for the Authority, a Director-General who shall-
- (a) be appointed by the President;
  - (b) be a person of proven integrity;
  - (c) possess such qualifications and practical experience in the application of nuclear energy and ionizing radiation in science and technology, nuclear safety and radiation protection;
  - (d) be the Chief Executive officer of the Authority; and
  - (e) be responsible for the execution of the policy and day-to-day administration of the Authority:
- (2) The Director-General shall hold office –
- (a) for a term of 5 years in the first instance and may be re-appointed for a further term of 5 years; and
  - (b) on such terms and conditions as may be specified in his letter of appointment.
- (3) Notwithstanding the provisions of subsection (2) of this section, the Director-General may –
- (a) resign his appointment by a notice in writing under his hand, addressed to the President through the Board; or
  - (b) be removed by the President for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct or corruption.
- 12.**-(1) The Authority may, subject to the approval of the Board, appoint such other staff as it may deem necessary and expedient, from time to time-
- (a) for the proper and efficient performance of the functions of the Authority, and;

b) on such terms and conditions as may be determined, from time to time, by the Board.

(2) Notwithstanding the provisions of subsection (1) of this section, employees of the Authority may be appointed by way of transfer or secondment from any of the public services of the Federation.

**13.** It is hereby declared that service in the Authority shall be subject to the provisions of the Pension Reform Act, and accordingly, officers and employees of the Authority shall be entitled to pensions, gratuities and other retirement benefits as are prescribed under the Pension Reform Act.

#### **PART IV - STRUCTURE OF THE AUTHORITY**

**14.** (1) There shall be established within the Authority, such departments as may be approved by the Board on the proposal of the Director General.

(2) Any Department established pursuant to subsection (1) of this section shall be headed by a Director, to be appointed by the Authority with the approval of the Board.

**15.** There shall be established to advise the Authority, a committee to be known as the Nigeria Nuclear Safety and Security Committee (in this Act referred to as “the Security Committee”)

**16.** The Security Committee shall consist of

(a) the Director-General of National Intelligent Agency as Chairman;

(b) a representative of each of the following-

- (i) the Federal Ministry of Justice,
- (ii) the Ministry of Foreign Affairs,
- (iii) the Federal Ministry of Health,
- (iv) the Ministry of Petroleum Resources,
- (v) the Nigeria Police Force,
- (vi) the Nigerian Customs Service,
- (vii) the Nigerian Immigration Service,
- (viii) the National Intelligence Agency,
- (ix) the State Security Service
- (x) the Chief of Defence Staff,
- (xi) the National Emergency Management Agency,
- (xii) Nigeria Atomic Energy Commission

c) three other persons to be appointed within the Authority by the Director-General of the Authority

d) the committee may request the presence of any person when it deems necessary.

**17.** The Security Committee shall-

- (a) advise on safety and security requirements for radioactive sources and nuclear materials in import, export, use, storage, transportation, transfer, decommissioning and disposal;

(b) advise on the safety and security measures being taken in facilities and installations containing nuclear and radioactive materials and make recommendations to the Authority;

(c) advise on the potential threat to nuclear installations and any other nuclear or radiological facility and develop design basis threat for the country;

(d) advise on emergency and contingency plans for the country and

(e) perform such other function in relation to safety, security and emergency as may be directed by the Authority.

**18.**-(1) The Board may appoint one or more Technical Advisory Committees which shall carry out the following functions, that is-

(a) to advise the Board on any specific matters referred to it by the Board

(b) to carry out, on behalf of the Board, such other functions as the Board may, from time to time, direct.

(2) A Technical Advisory Committee appointed under subsection (1) of this section shall consist of such number of persons as may be approved by the Board and may co-opt persons who are not members of the Board.

(3) Any person, other than an employee of the Board co-opted by the Board, shall hold office on the Technical Advisory Committee in accordance with the terms of the letter by which he is appointed.

#### **PART V - ESTABLISHMENT OF THE NATIONAL INSTITUTE OF RADIATION PROTECTION AND RESEARCH**

**19.**-(1) The Authority shall for the purposes of carrying out its general functions under sections 8 and 9 of this Act, establish an institute to be known as the National Institute of Radiation Protection and Research (in this Act referred to as “the Institute”) either independently or in collaboration with a university in Nigeria.

(2) The Authority shall, with the approval of the Board, appoint for the Institute, a Director who shall be the chief executive of the Institute and be responsible to the Authority for the day-to-day running of the Institute;

(3) The Authority may, with the approval of the Board of the Institute, appoint for the Institute such other employees and agents as it may deem necessary for the efficient performance of the functions of the Institute pursuant to this Act.

(4) The structure and other matters relating to the Institute shall be determined by the Authority.

(5) The Institute shall, not later than the 30<sup>th</sup> day of June in each year, submit to the Authority an estimate of its income and expenditure for the next succeeding year which estimate shall form an integral part of the budget estimate of the Authority for that year.

(6) The Institute shall submit to the Authority for approval such academic programmes in line with its objectives.

#### **PART VI - FINANCIAL PROVISIONS**

**20.** The Authority shall establish and maintain a fund to which shall be paid and credit-

(a) grants from the Federal Government;

(b) all subventions and budgetary allocations from the Federal Government;

(c) loans, grants-in-aid from multilateral organisations and agencies;

- (d) authorisation fees, charges and other internally generated revenues, and
- (e) all other sums accruing to the Authority, from time to time as approved by the Board.

**21.** The Authority shall pay from the proceeds of the fund established under section 20 of this Act-

- (a) the cost of administration of the Authority;
- (b) the payment of the emoluments, allowances and benefits of members of the Board and for reimbursing members of the Board or of any committee set up by the Board and for such expenses as may be expressly authorised by the Board;
- (c) the payment of the salaries, fees or other remuneration or allowances, gratuities and pensions, and other benefits payable to the staff and other employees of the Authority;
- (d) for the development and maintenance of any property vested in or owned by the Authority;
- (e) for maintaining general financial reserves subject to general or special directives that may be given in that behalf by the President in accordance with the provisions of this Act, and;
- (f) for and in connection with all or any of its functions under this Act.

**22.** -(1) The Authority shall, not later than 30<sup>th</sup> September in each year, submit to the President an estimate of its expenditure and income (including payments to the Authority fund) for the next succeeding year;

(2) The Authority shall keep proper accounts in respect of each year and proper records in relation to those accounts and shall cause its accounts to be audited within six months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor General of the Federation.

**23.** The Authority shall prepare and submit to the President not later than 30<sup>th</sup> June in each year a report in such form as the president may direct on the activities of the authority during the immediate preceding year, and shall include in the report a copy of the audited accounts of the Authority for that year and of the auditor's report thereon.

## **PART VII - LEGAL PROCEEDINGS**

**24.** -(1) In any action or suit against the Authority, no execution or attachment of process in the nature thereof shall be issued against the authority unless not less than 3 months notice of the intention to execute or attach has been given to the Authority.

(2) Any sum of money which by the judgment of any court has been awarded against the Authority shall, subject to any direction given by the court, where no notice of appeal against the judgment has been given, be paid from the fund of the Authority.

**25.** A member of the Board, the Director-General or any officer or employee of the Authority shall be indemnified out of the assets of the Authority against any liability incurred by him in defending any proceeding, whether civil or criminal, if the proceeding is brought against him in his capacity as a member of the Board, Director general, officer or other employee of the Authority.

## **PART VIII – AUTHORISATION SYSTEM AND CONTROL OF IONIZING RADIATION**

### **Nuclear installation licensing requirements**

**26.**-(1) No person or body corporate shall site, construct, commission, operate, or decommission a nuclear installation, without a licence issued by the Authority in accordance with the regulations and this Act .

(2) No vessel that is propelled by nuclear power or which has on board any radioactive material capable of causing nuclear damage shall –

- (a) anchor or sojourn in the territorial waters of Nigeria; or
- (b) enter any port in Nigeria

unless with a nuclear vessel licence issued by the Authority.

(3) No aircraft which is propelled by nuclear power or which has on board any nuclear material capable of causing nuclear damage shall -

- (a) overfly the airspace of Nigeria; or
- (b) land at any airport in Nigeria; or
- (c) discharge its nuclear or radioactive material, without licence issued by the Authority.

**27.**-(1) Any person or body corporate who intends to carry out or undertake any activity, action, step or event mentioned in section 26 of this Act, shall, prior to any such activity, action, step or event

(a) apply in the prescribed form to the Authority for such a licence and the same shall apply for nuclear installation licence ; and

(b) furnish such information as the Authority may, from time to time, require

(2) The Authority shall submit a copy of any application made pursuant to subsection (1) of this section to-

(a) to the State and local Government Council that is likely to be affected by the activity, action or step of the applicant; or

(b) such other persons and agencies that are likely to be affected as the Authority may, from time to time, determine.

(3) Any person who is likely to be affected by the granting of a nuclear installation licence pursuant to subsection (1) of this section may make representation to the Authority relating to the health, safety and environmental issues connected with the application within 30 days of the date of submission of the application pursuant to subsection (2) of this section.

(4) Where the Authority is of the opinion that further public hearing or inquiry is necessary it shall arrange for such hearing or inquiry to consider health, safety or environmental issues, as may be determined, from time to time, by the Authority.

(5) The Authority may –

(a) if satisfied with the information submitted by the applicant, grant the licence subject to such terms and conditions as may be determined, from time to time, by the Authority pursuant to this Act; or

(b) refuse an application for licence, a nuclear installation or vessel licence stating the reasons for the refusal, in writing.

**28** The licence for exploration, excavation, mining and milling of ores containing radioactive materials shall be subject to the appropriate regulations as may be laid down by the Authority, from time to time.

**29.** The licensing procedures and requirements for different classes of nuclear installations shall be as laid down in the regulations;



30. The Authority may at any time during the construction of an installation, request such information as it deems necessary to evaluate the health and safety, security or environmental aspects of the construction and future operation of the installation.

### **Radiation sources authorisation requirements**

31. (1) No person shall engage in any practice of ionising radiation unless specifically authorised by the Authority and unless, the radiation source is exempt.. ; Any authorisation shall take the form of either a registration or a licence

(2) Any person that intends to engage in a practice with any radiation source which the Authority has not designated as suitable for registration, shall apply for a licence.

32. On registering a source or practice under this section in respect of any premises, the Authority shall furnish the registrant with a certificate containing all particulars of the registration and shall send a copy of the certificate to the relevant Ministry, Authority or Institution in whose area the premises are situated.

33.-(1) Without prejudice to the powers of the Authority under this act, the Authority may-

- (a) exempt from the regulatory requirements, practices and sources within a practice if such sources comply with the exemption criteria to be established by the Authority
- (b) apply the requirements on exemption in accordance with the related criteria specified in the regulations –

(2) the Authority shall not grant exemption for practices deemed not to be justified.

34.-(1) Consumer products capable of causing exposure to radiation shall not be supplied to members of the public unless,

- (a) such exposure is excluded from the regulations,
- (b) such products meet the exemption requirements of the Authority as specified in the regulations,

(2) The Authority may issue a licence only if it is satisfied that the use of the consumer products shall not result an undue radiation exposure to the users or the environment.

(3) An applicant for a licence shall furnish detailed information on the product, its intended use and the function served by the radionuclide and such other information as may be specified by the Authority.

35.-(1) Any licence required for sources of ionizing radiation, and practices mentioned in sections 9 and 10 of this Act may be limited to a specific radiation source or in relation to the nature and purpose of the activity or the practice specified for a given installation.

(2) It shall be an offence punishable under section 41 of this Act for any person to use a radiation source for purpose other than those specified in the licence.

### **Joint Provisions applicable to Nuclear installations and radiation sources.**

36.-(1) A licence granted pursuant to an application shall be valid for the period stipulated therein unless otherwise as the Authority may determine.

- (2) Any application for renewal of a licence shall be submitted at least three months before the expiration of the licence.
- (3) Subject to the power of the Authority to revoke, cancel, invalidate or suspend a licence, issuance or renewal of a licence may be granted in advance and such licence shall take effect on the date of expiry of the current licence.

**37.** Any person who to carry out any activity referred to in section 27 or 28 of this Act and at the end of the activity abandon, decommission or rehabilitate installations thereof without a licence issued by the Authority has committed an offence punishable in accordance with section 41 of this Act in addition the Authority may prosecute the person in the Court of Law.

**38.** The Authority may invalidate a licence or suspend it for what is deems to be an appropriate period if the holder of the licence-

- (a) has obtained it by making a fraudulent or incorrect statement;
- (b) has failed to comply with the written directives of the Authority;
- (c) has violated or omitted to comply with the conditions of the licence;
- (d) has failed to comply with the provisions of this Act or any order issued for their implementation;
- (e) is prevented from performing his duty as licensed as a result of incapacity or for any other reasons;
- (f) for whatever reason, is no longer entitled to the licence.

**39.** Any person who is aggrieved by the decision of the Authority relating to a licence or any regulatory decision, may appeal to the board stating its reasons against such decision in writing.

**40.** Any person authorised by the Authority for any nuclear installation, radioactive waste management facility, practices or ionizing radiation sources shall have the prime responsibility for the safety or security of the installation, facility, practice or source.

#### **PARTI IX. ENFORCEMENT POWERS OF THE AUTHORITY.**

**41** (1) On receipt of report pursuant to section 85 of this Act, the Authority may impose non-compliance administrative charges, confiscate materials, seal premises, seize or close down any authorised activities.

(2) The Authority shall revoke the licence of any person or organisation if there is a gross violation of the conditions prescribed in the licence or of repeated non-compliance pursuant to section 40 of the provisions of this Act.

(3) All expenses incurred by the Authority in the process of confiscation, sealing, seizure or closure as a result of non-compliance shall be the responsibility of the licensee

**42.** Where a practice involving an exposure to radiation is not covered by this Act or any Regulations made there under, the person concerned with the practice shall –

(a) consult with the Authority with a view to ensuring adequate protection of life, human health, property and the environment; and

(b) be under a duty to comply with any guidelines or directives as may be issued, from time to time, by the Authority in respect of such practice.

**43.** The Authority shall in the performance of its functions under this Act and for the protection of radiation workers and the general public, ensure that-

(a) no practice is adopted unless its introduction produces a positive net benefit and;

(b) the normal exposure of individuals shall be restricted so that neither the total effective dose nor the total equivalent dose to relevant organs or tissues caused by the possible combination of exposures, exceeds any established limits prescribed by the Authority.

(c) protection and safety shall be optimised in order that the magnitude of individual doses, the number of people exposed and the likelihood of incurring exposures all be kept as low as reasonably achievable, taking into account the economic and social factors.

**44.**-(1) Any emergency or accidental exposure to radiation doses and accidental intake of radioactive materials shall be recorded together and clearly distinguished from normal exposure;

(2) Any emergency or accidental exposure to radiation doses shall be reported within 24 hours to the Authority and thereafter within 48 hours a report of the investigation of causes and consequences of the exposure shall be submitted to the Authority.

**45.**The Authority may, from time to time, modify or issue new categories of sources and practices for purposes of this Act or any Regulations made pursuant thereto.

## **PART X. LIABILITY FOR NUCLEAR DAMAGE**

**46.**- (1) An operator shall be absolutely and exclusively liable for injury or nuclear damage to any person or to any property upon proof that such damage has been caused by a nuclear incident

(a) in his nuclear installation by anything being present or which is done at or by radioactive material or material contaminated with radioactivity which has been discharged or released, in any form, from any activity such as handling, storage, use;

(b) by any radioactive material or material contaminated with radioactivity, while in the possession or under the control of the operator during the conveyance thereof from the nuclear installation, to any other place in Nigeria or in the territorial waters of Nigeria from or to any place outside Nigeria;

(c) Where liability under this Act in respect of the same injury or damage is incurred by two or more operators, the liability of the operators shall, to the extent that the injury or damage attributable to breach of duty imposed on each of them by this Act is not reasonably separable, be treated as joint and several.

(2) In the case of transport of nuclear material, the sending operator is liable for nuclear damage until the receiving operator has taken charge of the material involved, unless the sending and receiving operators have entered into a written agreement to shift liability at another stage of transport.

**47** (1)An operator is not liable for injury or damage of any kind described under this Act if the nuclear incident resulting in the injury or damage occurred as a direct result of an act of armed conflict in the course of war, invasion or insurrection.

(2) An operator is not liable for injury or damage suffered by any person if the nuclear incident results from the gross negligence of the claimant or an intentional act of the claimant to cause harm.

**48** Nothing in this Act shall be construed as limiting or restricting

(a) any right or obligation of any person arising under

( i ) any contract of insurance, including any insurance required by section 52 of this Act to be maintained by an operator,

(ii) any scheme or systems of health or hospitalisation insurance, employees' compensation or occupational disease compensation, or

(iii) any survivorship or disability provision of or governing any superannuation or pension fund or plan;

(b) where a nuclear incident resulting in any injury or damage of the kind described in section 46 occurred wholly or partly as a result of an unlawful act or omission of any person done or omitted to be done with intent to cause injury or damage, any right of recourse of an operator against that person.

**49.** No action under this Part shall be brought,

(a) in a case of a claim for injury other than loss of life, or for damage to property, ten years from the date of the nuclear incident on which the person making the claim had knowledge or ought reasonably to have had knowledge of the injury or damage, or

(b) in the case of a claim for loss of life, after three years from the date of the death of the person for whose loss of life the claim is made, or where conclusive evidence of the death of that person is not available, after three years from the date an order presuming the person to be dead is made by a court having jurisdiction in those matters, and in no case shall any such action be brought after thirty years from the date of the nuclear incident.

(c) Any person who has suffered nuclear damage and who has brought an action for compensation, may amend his claim to take into account any aggravation of damage, even after the expiry of that period, provided that judgement has not been entered by the competent Court.

### **Jurisdiction**

**50.** (1) In the event of a nuclear incident occurring within Nigeria or for a civil liability of an operator in a Country other than Nigeria, jurisdiction over claims under this Act shall be exclusively that of the Federal High Court of Abuja.

(2) Pursuant to subsection (1) of this section, that Federal High Court in Nigeria, for the purpose of any question raised in the action relating to the place where the injury or damage was occasioned, shall be deemed to have jurisdiction throughout Nigeria.

**51.** In the event of nuclear incident affecting victims of States other than the incident state, there shall be no discriminatory treatment based on nationality, domicile or place of resident, all victims shall be treated equally.

## **PART XI. INSURANCE AND FINANCIAL RESPONSIBILITY**

**52.**(1) Every operator of a nuclear installation shall maintain insurance with an approved insurer accredited by the Authority or other financial guarantee adequate to cover his civil liability for any nuclear damage imposed on him by this Act to not less than the equivalent in Naira of 300 million SDRs for any one nuclear damage .

(2) Based upon approval of the Authority, the liability of the operator for any one nuclear damage may be limited to less than the equivalent in Naira of 300 million SDRs ,but not less than equivalent in Naira of 150 million SDRs, provided that the difference up to at least the equivalent in Naira of 300 million SDRs shall be made available by the Federal Government of Nigeria from the public funds, with a view to covering nuclear damage under this Act.

(3) For a ten- years period from the date of entry into force of this Act, upon approval of the Authority, the liability of the operator may be limited to less than the equivalent in Naira of 100 million SDRs in respect of a nuclear damage occurring within that period, provided that the difference up to the equivalent in Naira of 200 million SDRs shall be made available by the Federal Government of Nigeria from public funds, with a view to covering nuclear damage under this Act.

(4) Interest and cost that may be awarded by Court in actions for compensation of nuclear damage shall be payable in addition to the amounts pursuant to this Act.

(5) Persons suffering nuclear damage may enforce their rights to compensation by one single action, without having to bring separate proceedings according to the origin of the funds provided for such compensation.

**53.**The Federal Government shall ensure the payment of claims against any operator liable for nuclear damage and for such damage by providing necessary funds to the extent that the yield of insurance or other financial guarantee maintained by the operator under section **52(3)** falls short to satisfy such claims in full: provided that in no case shall the civil liability of the Federal Government be less than the equivalent in Naira of 300 million SDRs the insurance or the financial guarantee required to be carried by an operator of nuclear installation.

**54.(1)**The Federal Government of Nigeria shall authorise the Authority to establish and manage Nuclear Damage Claims Account from which it shall be granted not less than the initial equivalent in Naira of 300 million SDRs, the financial guarantee required to be made available by the Federal Government of Nigeria from the public funds with a view from covering nuclear damage, to the extent that the yield of insurance or other financial security is inadequate to satisfy such claims pursuant to **Sections 52 and 53 of this** Act.

(2) Where the Authority is satisfied that the total amount of claims of compensation against an operator of a nuclear installation licence that is unpaid exceeds the amount of security given by such operator under this Act with respect to such claims, the Authority shall -

(a) submit a report to the National Assembly on the nuclear damage in question, with the recommendation of the President Federal Republic of Nigeria approving the appropriation of funds from the Nuclear Damage Claims Account to render financial assistance to the operator to the amount by which the claims exceed or are likely to exceed the financial security which is available; and;

(b) by notice published in the Federal *Gazette*, suspend the obligation to pay the claims in respect of the nuclear damage until the National Assembly has decided on the recommendation

(3) The liability of a person who has provided or shall provide financial security shall not be affected by any appropriation under subsection (b) of this section.

**55.** Where a nuclear damage is caused by a nuclear incident involving nuclear material which at the time of the nuclear incident was stolen, lost, jettisoned or abandoned, the period established pursuant to sub-section (1) shall be computed from the date of that nuclear incident, but the period shall in no case exceed twenty five years from the date of the theft, loss, jettison or abandonment

**56.-(1)** Where a person who is employed in any capacity by or on behalf of the Authority, while so performing services, suffers a personal injury or contracts a disease attributable to ionizing radiation from any radioactive material or to the flammable, explosive, poisonous or special properties of radioactive material, or to the ionizing radiation produced by any apparatus and in respect of which no liability can be established under sections **51, 52,53 or 54** of this Act, the Authority shall, subject to subsection (2) of this section.

(a) defray all reasonable expenses incurred by or on behalf of such person in respect of any medical treatment including, but not limited to, the supply and maintenance of any artificial part of the body or other device, necessitated by such injury or disease; and

(b) pay any compensation in respect of disablement or death caused by such injury or disease.

(2) Nothing in this section shall preclude an employee of the Authority from claiming a benefit under the compensation under this Act.

## **PART. XII. TRANSPORT OF RADIOACTIVE MATERIALS.**

**57.-(1)**The Authority shall implement safe transportation of radioactive materials within, coming to or going out of Nigeria as specified in the regulations. Any person, body, carrier, transporter,

freight forwarder (by air, land or sea) of nuclear or radioactive materials or wastes licensed or not by the Authority who breached the regulations commits an offence subject to section 46 and will be liable financially or otherwise for all incidents during transportation or storage in transit of the radioactive materials and wastes.

(2) Notwithstanding the provisions in subsection (1) of this section, the operator of a facility or carrier of nuclear or radioactive materials or waste, who is responsible for an incident resulting in radioactive contamination of the environment shall be liable on conviction, for the restoration of the environment or for the cost of such activities as are necessary for the restoration of the environment to its original state.

(3) The operator or the carrier shall be responsible for all damages to workers and the general public arising from inaccurate, wrong or incomplete notification and information.

(4) Any nuclear or radioactive material or waste stored in transit shall be stored and handled in accordance with the provisions as laid down in the regulations.

(5) A consignor, carrier and consignee of nuclear or radioactive materials shall obtain a valid licence from the Authority and notify the Authority well in advance and prior to the delivery, transport and receipt of any such materials.

### **PART XIII - SAFETY, EMERGENCY AND CONTINGENCY MEASURES**

**58.** (1) the Authority in collaboration with the Nigerian Emergency Management Agency shall develop a national emergency plan for responding to potential nuclear or radiological emergency in Nigeria.

(2) The national emergency plan for nuclear or radiological emergencies shall include an allocation of responsibilities and actions among relevant agencies.

**59.**-(1) If a nuclear or radiological emergency occurs in connection with a nuclear installation, nuclear vessel, the operator of nuclear installation shall immediately report such incident to the Authority and to any other person described in the nuclear licence.

(2) When the occurrence of a nuclear or radiological emergency is so reported to the Authority as mentioned in subsection (1) of this section, the Authority shall –

(a) immediately investigate such emergency and its causes, circumstances and effects;

(b) in such manner as it thinks fit, define particulars of the period during which and the area within which, in its opinion, the risk of nuclear damage connected with the accident exceeds the safety standard and regulatory practices made pursuant to this Act;

(c) direct the operator of the nuclear installation in question to obtain the names, addresses and identification numbers of all persons who were during such period within that area; and

(d) if, of the opinion that it has not been informed of all persons who could have been present during that period within that area, publish by notice in the *Federal Gazette*, in two national newspapers in circulation in that area, or such other means as the Authority may determine, the fact that a nuclear emergency has occurred during that period within that area.

(3) The Authority pursuant to **section 10** shall on its own carried out investigations of any nuclear installation, mining, milling of ores, exploration, excavation and other radiation facilities and practices to forstall any emergency or contingency.

**60.**-(1) where a nuclear or radiological incident capable of affecting the public occurs, the Authority shall direct the operator, to –

(a) submit to the Authority approved agreement with the relevant Federal, State or local Government bodies an emergency plan within a period determined by the Authority;

(b) cover for the costs for the establishment, implementation and management of such emergency plan insofar as it relates to the relevant nuclear installation or any action contemplated under this Act; and

(2) The Authority before issuing licence shall ensure that such plans are effective for the protection of persons in case of any nuclear or radiological emergency .

(3) When a nuclear or radiological incident occurs, the operator, in question shall implement the emergency plan as approved by the Authority.

(4) The Authority shall, on the recommendation of the Security Committee and in consultation with the relevant Federal, State or local Government bodies, make regulations on the development surrounding any nuclear installation to ensure effective implementation of any applicable emergency plan.

**61.**-(1) The Authority shall keep-

(a) a record of all particulars;

(b) a map showing the location; and

(c) where applicable, diagrams showing the position and limits; of nuclear installations in respect of which a nuclear installation licence has been granted;

(2) If the Authority believes that a risk of nuclear damage;

(a) arising from anything done, being done or purported to have been done;

(b) which has been or is present at or in any nuclear installation in respect of which a nuclear installation licence is no longer in force, is within safety standards made pursuant to this Act, the Authority may remove the particulars in connection therewith from the record.

**62.** The Authority shall –

(a) keep and maintain a record of the details of every nuclear incident;

(b) store such record safely;

(c) retain such record for 40 years from the date of the nuclear or radiological incident; and,

(e) on the request of any person, make such record available to such person

**63.**-(1) Any person who manages a facility connected with radioactive or nuclear material and installation shall, within 24 hours, report to the Authority any theft or loss of radioactive or nuclear material under his possession or control.

(2) It shall be an offence punishable under section 41 of this Act for any person to assign or transfer, either totally or partially, any right or obligation specified in any licence under this Act

**64.** The Authority shall, for any activity capable of resulting in accidental exposure of workers or members of the public to nuclear material or radiation source, advise for the establishment of an intervention plan which shall deal with any foreseeable situation and organise drills for demonstrating the efficacy of the planned counter-measures

**65.** (1) In the event of a nuclear or radiological emergency that poses a risk that radioactive contamination could spread beyond the territorial boundaries of Nigeria. The Federal Government shall immediately notify The International Atomic Energy Agency and the relevant authorities of relevant States

(2) the Authority shall serve as the point of contact for providing any information or assistance regarding nuclear or radiological emergencies under the terms of relevant international instruments, including the Convention on early notification of a Nuclear Accident and the Convention on Assistance in the Case of Nuclear Accident or Radiological Emergency.

#### **PART XIV. DECOMMISSIONING**

**66.** (1). The Authority shall establish requirements for the decommissioning of nuclear facilities, including:

(a) safety and environmental criteria, including conditions on the end state of decommissioning;

(b) limits and conditions for the removal of regulatory controls for facilities containing radionuclides; and

(c) criteria for the clearance of material during and following decommissioning

(2). The Authority shall require the applicant for a license to construct and operate a nuclear facility to perform a baseline survey of the site, including radiological conditions, prior to construction, to develop information for comparison with the end state after decommissioning.

(3). The Authority shall ensure that relevant documents and records are prepared by the licensee and maintained for a specified period of time before, during and after decommissioning

(4). The Authority shall establish criteria for determining when a nuclear facility or part of a facility is permanently shut down.

(5). The Authority shall evaluate the end state of the facility after decommissioning activities have been completed to ensure that relevant regulatory requirements have been met.

(6). The facility shall not be released by the Authority from regulatory control until the licensee has demonstrated that the end state in the decommissioning plan has been reached and that any other additional regulatory requirements have been met.

**67** (1) At the design stage of a nuclear facility, the applicant for an authorization [licence] to construct and operate a nuclear facility shall prepare a decommissioning plan for approval by the Authority.

**68** (1). An applicant for an authorization to construct and operate a nuclear installation shall demonstrate to the Authority that adequate financial resources shall be available to cover the costs associated with safe decommissioning, including the management of resulting waste.

(2). Financial assurances shall be provided before initial operation of an installation is authorized.

(3). Financial requirements to ensure proper decommissioning shall be reviewed and updated as required by the Authority.

## **PART XV. SAFEGUARDS**

**69.** In accordance with her international obligations, Nigeria shall:

(a) accept safeguards pursuant to the terms of Agreement and additional protocol thereto between Nigeria and the International Atomic Energy Agency on all source or special fissionable material in all peaceful nuclear activities within her territory, under her jurisdiction or carried out under her control anywhere, for the exclusive purpose of verifying that such material is not diverted to nuclear weapons or other nuclear explosive devices



- (b) cooperate with the International Atomic Energy Agency to facilitate the implementation of safeguards under the safeguards agreement and the additional protocol.
- (c) establish and maintain a system of accounting for and control of all nuclear material subject to safeguards
- (d) provide the IAEA with information concerning nuclear material subject to safeguards and the features of facilities relevant to safeguarding such material
- (e) take the necessary steps to ensure that the Agency's inspectors can effectively discharge their functions under the safeguards agreement and protocols thereto:

**70.** The Authority shall ensure effective conduct of safeguards in Nigeria by establishing and implementing :

- (a) a measurement system;
- (b) a system for the evaluation of measurement accuracy;
- (c) procedures for reviewing measurement differences
- (d) procedures for carrying out physical inventories;
- (e) a system for evaluation of unmeasured inventories;
- (f) records and reports systems for all material balance areas; and
- (g) procedures for reporting to the Agency.

**71** (1) Persons intending to carry out research and development activities related to the nuclear fuel cycle shall provide the Authority information on these activities prior to the commencement, regardless of whether these activities involve nuclear material;

(2) Any person performing activities subject to the safeguards agreements and any protocols thereto shall submit to the Authority information and data necessary for compliance with the undertaking by Nigeria arising from such instruments.

## **PART XVI. RIGHT TO DEVELOP, RESEARCH**

**72.** Nothing in this Act or any other law shall be construed as affecting the inalienable rights of Nigeria to:

- (1) develop research, production and use of nuclear energy for peaceful purposes
- (2) participate in the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy

**73** (1) No person or body corporate shall undertake research activities involving ionising radiation without an authorisation.

(2) A person who contravenes the provisions of this section is guilty of an offence and liable on conviction to a fine of not less than N1,000,000. or more than N3,000,000. or to imprisonment for a minimum term of not less than 2 years or more than 5 years or to such fine and imprisonment

## **PART XVII. ESTABLISHMENT AND MANAGEMENT OF NUCLEAR SAFETY, RESEARCH AND DEVELOPMENT FUND**

**74** (1) There is hereby established a fund to be known as the Nuclear Safety, Research and Development Fund (In this Act to be known as the "Nuclear Safety Fund") for the purpose of enabling research in Nuclear Safety, Security, safeguards, emergency and the development of nuclear energy in Nigeria.

(2) the fund shall consist of a sum not less than one billion Naira N 1,000,000,000 which shall be paid on its establishment by the Federal Government and may include such other assistance as may from time to time be contributed by stakeholders, bilateral and multilateral agencies and other partners.

### **MANAGEMENT BOARD OF THE FUND**

**75(1)**The Fund shall be managed by a body to be known as the Nuclear Safety Research and Development Fund Board (Nuclear Safety Fund Board) which shall be a body corporate with perpetual succession and a common seal and sue and be sued in its corporate name.

- (1) The Board shall comprise:-
  - (a) a Chairman, to be appointed by the President
  - (b) one person each to represent;
  - (c) the Ministry of Finance;
    - (i) the Central Bank;
    - (ii) the Ministry of Science and Technology;
    - (iii) two persons to represent other stakeholders, and
    - (iv) the Director-General of the Authority
- (2) The quorum for meetings of the Board shall be five members
- (3) The Board shall meet not less than four times in each year and on such occasions as the Board may consider necessary.
- (4) At any meeting of the Board, the chairman shall preside, but if he is absent, the members present at the meeting shall appoint one of their members to preside at the meeting.
- (5) Subject 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 person presiding to have a casting vote), the Board may make orders regulating its proceedings and those of any of its committees.
- (6) Where the Board desires to obtain the advise of any person on a particular matter, the Board may co-opt him as a member for such period as he thinks fit, but a person who is a member by virtue of this sub-section shall not be entitled to vote in any meeting of the Board and shall not count towards a quorum.
- (7) There shall be a secretary to the Board and the secretariat of the Board shall be located in the Authority or such other place as the President may determine.
- (8) The administrative expenses of the Board shall be borne by the Federal Government

### **FUNCTIONS AND POWERS OF THE BOARD**

- 76. (1)**Notwithstanding any other provision of this Act, the Board shall
- (a) monitor the operation and evaluate the progress of the Fund
  - (b) advise the President as to changes required to improve the operation of the Fund;
  - (c) determine the remuneration of external auditors and solicitors
  - (d) publish names of defaulters of loans granted under this Act in the national newspaper;
  - (e) pursue defaulters through judicial action;
  - (f) perform such other functions relating to the Fund as may be assigned to it by the President

(2) The President may give to the Fund or the Board directives of a general character or relating generally to particular matters with regard  
To the performance by the Board of its functions under this Act an it shall be the duty of the Fund or the Board to comply with the directives

### **PART XVIII – IMPORT AND EXPORT CONTROL**

**77.**-(1) The Authority in collaboration with the Nigeria Customs Service shall designate land, air and sea ports as entry points through which radioactive sources, nuclear materials and sources emitting ionizing radiation shall be imported into Nigeria.

(2) the Authority shall, in collaboration with relevant agencies and bodies, monitor all land, air and sea ports designated as entry point for import, transit and transshipment or export of radioactive sources, nuclear materials, sources emitting ionizing radiation., equipment and technology

(3) the Authority shall establish national list of controlled items pursuant to the Nigerian's international obligations

**78.** The Authority in coordination with the Nigeria Customs Service shall install and operate portal radiation monitors in the designated air and sea ports in Nigeria to detect nuclear material and radioactive sources entering into or going out of the country.

**79.** (1)The Authority shall take such steps necessary to monitor all scrap metal and steel rolling plants in the Country

(a)Any one who deals in scrap metal or has a steel rolling shall apply to the Authority for registration and such facility shall be equip with radiation detection devices.

(b) Any importer or exporter of scrap metal or steel rolling material shall submit to the Authority for approval certificate of non contamination from the importer or exporter.

(c) Any one who deals in scrap metal or steel rolling materials shall submit to the Authority for approval the process of notification and intervention in case of any accident or contamination of the materials -

**80.**(1) The Authority shall implement the provision of the Code of Conduct on the Safety and Security of Radioactive Sources and its associated Guidance on the Import and Export of Radioactive Sources and take appropriate measures necessary for promotion of safety culture and of security culture with respect to radioactive sources in a manner consistent with the provisions of the regulations and this Act.

(2)The Authority shall establish import and export authorisation for all categories of sources, by requesting for consent, evaluation of request, notification prior to shipment as a means of ensuring safety and security as provided for in the regulations.

**81.** The Authority in furtherance of **section 80** shall implement the provisions of guidance on the import and export of radioactive sources in a manner consistent with the provision of the regulations and of this Act.

**82.**(1) The Authority shall not issue any licence under **section 81** of this Act except with the prior notification by the person exporting or the exporting country of the category of radioactive sources to be imported to the Country.

(2) The prior notification mentioned in subsection (1) of this section shall be in such form as the Authority may, from time to time, or as specify in the regulations.

## **PART XIX – INSPECTION**

**83.**-(1) The Authority shall pursuant to section **10(1)** appoint inspectors to inspect licensed or proposed nuclear installations, practices, nuclear materials and ionizing radiation sources in the country

- (2) An inspector shall for the purposes of the execution of this Act
- (a) enter, without hindrance, at any time during the normal working hours of the establishment concerned or as may be determined by the Authority, upon any premises, vehicle, ship or aircraft to which this section applies, with such equipment as he requires for the performance of his duty as specified under this Act;
  - (b) inspect any plans, drawing, record, register or documents pertaining to –
    - (i) the design, siting, construction, testing, development, commissioning, operation, decommissioning or abandonment of an installation,
    - (ii) the health and safety, security or environmental aspect of any activity covered by this Act,
    - (iii) any matter relevant to the enforcement of this Act;
  - (c) carry out tests and take samples, measurements and photographs of any installation on written approval by the Authority;
  - (d) ask the operator of any vehicle, ship or aircraft or any person who has duties on or in connection with any premises, vehicle, ship or aircraft, to provide him with such information relating to the vehicle, ship or aircraft as he may require.

**84.** No person shall-

- a) knowingly make a false or misleading statement to an inspector; or
- (b) deliberately obstruct or hinder or attempt to obstruct or hinder carrying out his functions under this Act. It shall an offence punishable pursuant to Section **89** of this Act.

**85.** The inspector shall submit a report of his inspection or investigation to the Authority for necessary or appropriate action.

## **PART XX. NUCLEAR SECURITY, PHYSICAL PROTECTION AND ILLICIT TRAFFICKING**

**86.** Any form of support to non State actors that may attempt to develop, acquire, manufacture possess, transport, transfer, use or threaten to use nuclear weapons or explosive devices or radiological dispersal devices is prohibited.

**87** the Authority shall establish requirements for the physical protection of nuclear [and other radioactive] materials, including:

- (a) a categorization of material based on an assessment of damage that could result from theft or diversion of a certain type and quantity of material from authorized uses or sabotage of a facility utilizing that material;
- (b) protection measures necessary for different categories of material;
- (c) a system of authorization [licensing] to include licence conditions for physical protection;
- (d) a system of inspection and monitoring to verify compliance with applicable physical protection requirements;
- (e) enforcement measures in case of non-compliance or violation of applicable regulations or licence conditions.

**88** (1). A person or entity authorized to conduct activities or practices utilizing nuclear or other radioactive materials are primarily responsible for ensuring the security and

physical protection of such materials pursuant to applicable regulations and licence conditions.

(2). Where there has been a theft, threat of theft or loss of nuclear or other radioactive material, the licensee shall:

- (i) notify the Authority within 24 hours, of the circumstances of the incident;
- (ii) provide written information, including particulars, to the Authority within 48 hours after providing notice; and
- (iii) provide the Authority with any additional information requested.

## **PART XXI – OFFENCES AND PENALTIES**

**89** (1) A person who –

- (a) contravenes any of the provisions of this Act,
- (b) does not comply with a limitation or condition subject to which he is authorised under this Act is guilty of an offence and liable on conviction to a fine of not less than N1,000,000. or more than N3,000,000.or to imprisonment for a minimum term of not less than 2 years or more than 5 years or to such fine and imprisonment

**90.** Any person who imports or exports any source of ionizing radiation without a licence from the Authority, commits an offence and shall –

- (a) in the case of an individual, be liable on conviction to imprisonment for a term of not less than 2 years or an option of 2,000,000.fine; or to both such fine and imprisonment
- (b) in the case of a body corporate, be liable on conviction to a fine of not less than ₦5,000,000 or, all the directors or officers of the body corporate shall each be liable to imprisonment for a term of not less than 2 years .

**91.** Any person or body corporate who, being an operator of nuclear installation under this Act, fails to take measures to secure any nuclear material in such manner as to result in unauthorised access, theft or loss of control of such materials or sources, commits an offence and shall-

- (a) in the case of an individual, be liable on conviction to a fine of not less than ₦ 20,000,000 or imprisonment for a term of not less than 5 years or to both such fine and imprisonment; or
- (b) in the case of a body corporate, be liable on conviction to a fine of not less than ₦100,000,000 and in addition, all the directors or officers of the body corporate shall each be liable to a fine of not less than ₦20,000,000 or imprisonment for a term of not less than 5 years or to both such fine and imprisonment.

**92.**-(1) No person, body corporate, whether or not licensed under this Act, shall sell, buy, lend, borrow, obtain or otherwise engage in illicit trafficking of any nuclear material.

(2) Any person, body corporate who contravenes the provisions of subsection (1) of this section, commits an offence and shall be liable on conviction –

- (a) in the case of an individual, to a fine of not less than ₦30,000,000 or imprisonment for a term of not less than 25 years or to both such fine and imprisonment.
- (b) in the case of a body corporate, to a fine of not less than N50,000,000 and in addition, directors or officers of the body corporate shall each be liable to a fine of not less than N30,000,000 or imprisonment for a term of not less than 25 years or, to both such fine and imprisonment

**93** (1) No person, body corporate shall receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices, directly or indirectly to manufacture or otherwise acquire nuclear weapons or other

nuclear explosive devices, or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices

(2) Any person who contravenes the provisions of subsection (1) of this section commits an offence and shall be liable on conviction to a fine of 15,000,000 or a term of imprisonment of 5 years or to both such fine and imprisonment.

**94.** Any person or body corporate who sabotages the safety or security of any nuclear installation, nuclear material or other radioactive material in use, storage or transport such that the act endangers or is likely to endanger national security or poses danger to human health, or the environment, commits an offence and shall -

(a) in the case of an individual, be liable on conviction to life imprisonment without an option of fine; or

(b) in the case of a body corporate, the directors or officers of the body corporate shall be liable on conviction to life imprisonment without an option of fine.

**95.**-(1) Any person who contravenes any provisions of this Act for which no specific penalty is provided, commits an offence and shall be liable on conviction to a fine of not less than ₦500,000 or to imprisonment for a term of not less than 1 year or to both such fine and imprisonment and in addition, the Authority may cancel or revoke or suspend any licence, registration or exemption that might have been effected or granted to such person under this Act.

(2) Where an offence under this Act, which has been committed by a body whether corporate or not, is not proved to have been committed with the consent or connivance of or is attributable to any act or default on the part of any person or persons in apparent control of the body, the person or persons in apparent control as well as the body shall be deemed to have committed the offence and shall be liable to be proceeded against and punished accordingly.

**96.**-(1) Pursuant to section 41, a police officer or any officer of a law enforcement agency seconded to the Authority shall assist the Authority in its enforcement power to -

(a) arrest any person that commits any offence or contravenes any provisions of this Act; or

(b) carry out investigation into any matter under this Act,

(c) without warrant, enter into and search any premises in respect of which the Authority or the officer reasonably suspects that an activity contrary to the provisions of this Act is being or is about to be carried on and assist in confiscating any material for such purpose found therein; or

(d) seal any facility or machine found to be or containing nuclear or ionizing radiation sources without a licence as provided for under this Act

(2) For the purposes of this section, the Inspector-General of Police shall second such number of police officers as may be required, from time to time, by the Authority for purposes of enforcement of the provisions of this Act;

(3) Any police officer seconded to the Authority under subsection (2) of this section shall be specially trained for purposes of enforcement of the provisions of this Act.

## **PART XXII - MISCELLANEOUS PROVISIONS**

**97.** The President may give to the Authority or the Director-General such directives of a general nature or relating generally to matters of policy with regards to the exercise of its or his functions under this Act as he may consider necessary and it shall be the duty of the Authority or the Director-General to comply with the directives or cause them to be complied with

**98.**-(1) The Board may, with the approval of the President, make such regulations as in its opinion are necessary or expedient for giving full effects to the provisions of this Act and for due administration of its provisions and in particular may make regulations in respect of the:

- (a) development, production and use of nuclear energy and nuclear applications;
  - (b) mining, production, refinement, conversion, enrichment, processing, reprocessing, possession, import, export, use, packaging, transport, management, storage, disposal and abandonment of a nuclear substance or any other radiation source;
  - (c) design, inspection during production or installation, production, possession, storage, import, export, use, decommissioning, abandonment and disposal of prescribed equipment;
  - (d) production, possession, transfer, storage, import, export, use and disclosure, and restricting the disclosure, of prescribed information;
  - (e) location, design, construction, installation, operation, maintenance, modification, decommissioning, of nuclear facility or part of nuclear facility
  - (f) the protection of nuclear energy workers, including prescribing particular may make regulations in respect of the
  - (g) the protection of nuclear energy workers;
  - (h) prescription of fees or the method of calculating the fees that may be charged for a licence or class of licence;
  - (i) qualifications for, and the training and examination of, analysts, inspectors, nuclear energy workers and other persons employed in a nuclear facility or other place where a nuclear substance or prescribed equipment is produced, used, possessed, packaged, transported, stored or disposed of, and prescribing the fees for the examination of analysts, inspectors, nuclear energy workers and such other persons.
  - (j) measures to ensure the maintenance of national security and compliance with Nigeria's international obligations in the development, production and use of nuclear energy and the production, use, possession, packaging, transport, storage and disposal of nuclear substances, prescribed equipment and prescribed information;
  - (k) measures to implement Nigeria's international obligations regarding the development, production and use of nuclear energy, including prescribing the manner in which and conditions under which access to a nuclear facility, nuclear substance or prescribed information shall be granted to prescribed persons;
  - (l) requirements to be complied with by any person who possesses, uses, packages, transports, stores or disposes of a nuclear substance or prescribed equipment or who locates, designs, constructs, installs, operates
  - (m) form of certificates of inspectors and designated officers;
  - (n) establishment of classes of nuclear facilities;
  - (o) operation of a dosimetry service;
  - (p) form of notices required by this Act and the manner in which they are to be given;
  - (q) exemption of any practice or source, from the application of this Act or the regulations or any provision thereof;
  - (r) generally as the Board considers necessary for carrying out the purposes of this Act and to assist the Authority in attaining its objects
- (2) Without prejudice to the generality of subsection (1) of this section, the Board may issue guidelines to give full effect to the provisions of this A

**99.** -(1) A member of the Board, the Director-General or any other officer or employee of the Authority shall -

(a) not, for his personal gain, make use of any information which has come to his knowledge in the exercise of his powers or is obtained by him in the ordinary course of his duty as a member of the Board or as the Director-General, officer or employee of the Authority;

(b) treat as confidential any information which has come to his knowledge in the exercise of his powers or is obtained by him in the performance of his duties under this Act;

(c) not disclose any information referred to under paragraph (b) of this subsection, except where required to do so by a court or in such other circumstances as may be prescribed by the Board, from time to time.

(2) Any person who contravenes the provisions of subsection (1) of this section commits an offence and shall on conviction be liable to a fine of not less than ₦50,000 or imprisonment for a term not exceeding 2 years or to both such fine and imprisonment

**100.**-(1) The Nuclear Safety and Protection Act 1995 (in this Act referred to as “the repealed enactment”) is hereby repealed

(2) The repeal of the enactment specified in subsection (1) of this section shall not affect anything done or purported to have been done under the repealed

**101.** In this Act, unless the context otherwise requires –

“a nuclear accident” means any unintended event, including operating errors, equipment failures or other mishaps, the consequence or potential consequences of which are not negligible from the point of view of protection or safety, used in relation to radiation protection matters;

“a nuclear incident” any occurrence or series of occurrences having the same origin which causes nuclear damage, used in relation to the application of civil liability for nuclear damage;

“Authority” means the Nigerian Nuclear Regulatory Authority established under section 4 of this Act;

“authorised officer” includes qualified persons employed or engaged by the Authority to carry out any function under this Act;

“code of conduct” means IAEA code of conduct on the safety and security of radioactive sources (IAEA/CODEOC/2004)

“regulations” means a collection of instructions for the handling and use of nuclear materials, equipment and various sources of ionizing radiation formulated by the Authority;

“contamination” The presence of radioactive substances in or on a material or the human body or other place where they are undesirable or could be harmful.

"disposal" means the emplacement of spent fuel or radioactive waste in an appropriate facility without the intention of retrieval;

“premises” includes any land whether covered by building or not and includes any underground and any land covered by water;

“emergency plan” a set of procedures to be implemented in the event of an accident.

“nuclear damage” means (i) loss of life or personal injury; (ii) loss of or damage to property; etc



“nuclear facility” means a civilian facility and its associated land, buildings and equipment in which radioactive materials are produced, processed, used, handled, stored or disposed of on such a scale that consideration of safety is required.

“nuclear fuel” means fissionable material in the form of uranium metal, alloy, or chemical compound (including natural uranium), plutonium metal, alloy, or chemical compound, and such other fissionable material as the Authority may from time to time determine.

“ nuclear fuel cycle” all operations associated with the production of nuclear energy, including mining, milling, processing and enrichment of uranium or thorium; manufacture of nuclear fuel; operation of nuclear reactors; reprocessing of nuclear fuel; decommissioning; and any activity for radioactive waste management and any research and development activity related to any of the foregoing.

“nuclear installation” a nuclear fuel fabrication plant, nuclear reactor (including critical and subcritical assemblies), research reactor, nuclear power plant, spent fuel storage facility, enrichment plant or reprocessing facility.

“nuclear material” means (i) nuclear fuel, other than natural uranium and depleted uranium, capable of producing energy by a self-sustained chain process of nuclear fission outside a nuclear reactor, either alone or in combination with some other material; and (ii) radioactive product or waste.

“nuclear reactor” any structure containing nuclear fuel in such an arrangement that a self-sustaining chain process of nuclear fission can occur therein without an additional source of neutrons.

“operator” in relation to a nuclear installation means the person designated or recognized by the Authority as the operator of that installation.

“practice” any human activity that introduces additional sources of exposure or exposure pathways or extends exposure to additional people or modifies the network of exposure pathways from existing sources, so as to increase the exposure or the likelihood of exposure of people or the number of people exposed;

“prescribed substances” means materials which the Authority designates as being capable of releasing nuclear energy, or as being required for the production or use of nuclear energy and includes fissile, fertile and non-fissile materials such as heavy water;

“radioactive source” means radioactive materials that is permanently sealed in a capsule or closely bonded, in a solid form and which is not exempt from the Authority’s control.

“radioactive material” means nuclear material and other radioactive substances which contain nuclides which undergo spontaneous disintegration (a process accompanied by emission of one or more types of ionizing radiation, such as alpha-, beta-, neutron particles and gamma rays) and which may, owing to their radiological or fissile properties, cause death, serious bodily injury or substantial damage to property or to environment.

“radioactive waste” means and consists wholly or partly of -

(a) a substance or article which if it were not waste would be regarded as a useful radioactive material or radiation source;

(b) a substance or article which has been contaminated in the course of the production, storage or use of radioactive material or by contact with or proximity to other waste falling within the provisions of the Act;

“reprocessing” means a process or operation, the purpose of which is to extract radioactive isotopes from spent fuel for further use

“sabotage” means any deliberate act directed against a nuclear facility or nuclear material in use, storage or transport which could directly or indirectly endanger the health and safety of personnel, the public and the environment by exposure to radiation or release of radioactive substances;

“safety culture” means the assembly of characteristics and attitudes in organizations and individuals which establishes that, as an overriding priority, protection and safety issues receive the attention warranted by their significance;

“security culture” means characteristics and attitudes in organizations and of individuals which establish that security issues receive the attention warranted by their significance;

“source of ionizing radiation” means any apparatus, equipment, appliance or any material which is capable of emitting ionizing radiation;

“Special fissionable material” means plutonium-239, Uranium-233; Uranium enriched in the isotope 235 or 233; any material containing one or more of the foregoing ; and such other fissionable material as determined by the IAEA. The term “special fissionable material” does not include source material

“Source material” means Uranium containing the mixture of isotopes occurring in nature; Uranium depleted in the isotopes 235; Thorium; any of the foregoing in the form of metal alloy, chemical compound or concentrate; any of other material containing one or more of the foregoing in such concentration as the IAEA may determine.

“special drawing right” referred to as SDR, means the unit of account defined by the International Monetary Fund and used by it for its own operations and transactions.

“substance” means any material or artificial whether in solid or liquid form or in the form of a gas or vapour;

“waste” include –

(a) substance which constitute scrap material or an effluent or other unwanted surplus substance arising from the application or any process and also includes any substance or article which is required to be disposed of as being broken, worn out, contaminated or otherwise spoilt

(b) any substance or article which in the course of carrying on any process provided for in this Act is discharged, discarded or otherwise dealt with as if it were waste shall for the purposes of this Act be presumed to be waste unless the contrary.

**102.** This Act may be cited as the Nuclear Safety, Security and Safeguards Act 2006.

## **PART XXIII. SUPPLEMENTARY PROVISIONS RELATING TO THE AUTHORITY**

**103.** Subject to this Act and section 27 of the Interpretation Act, the Board shall have power to regulate its proceedings and may make standing orders with respect to the holding of its meetings, and those of its committees, notices to be given, the keeping of minutes of its proceedings, the custody and production for inspection of such minutes and such other matters as the Authority may, from time to time, determine.

**104.** -(1) There shall be at least four ordinary meetings of the Board in every calendar year and subject thereto, the Board shall meet whenever it is convened by the Chairman and if the Chairman is requested to do so by notice given to him by not less than 3 other members, he shall convene a meeting of the Board to be held within a reasonable time.

(2) Every meeting of the Board shall be presided over by the Chairman and if the Chairman is unable to attend a particular meeting, the Vice-Chairman shall preside at the meeting.

**105.** The quorum of any meeting of the Board shall consist of the Chairman (or in an appropriate case, the Vice-Chairman) and six other members

**106.** The Board shall meet for the conduct of its business at such places and on such days as the Chairman may appoint

**107.** A question put before the Board at a meeting shall be decided by consensus and where this is not possible, by a majority of the votes of the members present and voting.

**108.** The Chairman shall, in the case of an equality of votes, have casting vote in addition to his deliberative vote

**109.** Where the Board seeks the advice of any person on a particular matter, the Board may invite that person to attend for such period as it thinks fit, but a person who is invited by virtue of this paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards the quorum

**110.** The Board may appoint one or more committees to carry out on behalf of the Board such of its functions as the Board may determine and report on any matter with which the Board is concerned.

**111.** A committee appointed under paragraph 8 of this Schedule shall be presided over by a member of the Board and consist of such number of persons (not necessarily all members of the Board) as may be determined by the Board, and a person other than a member of the Board shall hold office on the committee in accordance with the terms of his appointment.

**112.** A decision of a committee of the Board shall be of no effect until it is confirmed by the Board

**113.** The fixing of the seal of the Authority shall be authenticated by the signature of the Director-General and such other person authorised by the Board to act for that purpose

**114.** A contract or an 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 Authority by the Director-General or by any person generally or specifically authorised to act for that purpose by the Board

**115.** A document purporting to be a contract, an instrument or other document signed or sealed on behalf of the Authority shall be received in evidence and, unless the contrary is proved, be presumed without further proof, to have been properly signed or sealed.

**116.** The validity of any proceedings of the Board or its committees shall not be affected by

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

**117.** Any member of the Board or committee thereof who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Board or any committee thereof -

- (a) shall forthwith disclose his interest to the Board or committee; and
- (b) shall not vote on any question relating to the contract or arrangement.

### **Transitional Provision for Licences**

**118.** (a) On entry into force of this law, its provisions shall be applied to pending applications for authorizations[licences]

(b) All authorizations [licences] granted under The Nuclear Safety and Radiation Protection Act 19 of, 1995 shall be considered to have been granted under this law, until such time as such authorization[licences] has been reissued, renewed, suspended, revoked or otherwise modified by the Authority pursuant to applicable laws and regulations

### **EXPLANATORY MEMORANDUM**

The Bill seeks to repeal the Nuclear Safety and Radiation Protection Act 1995, enact the Nuclear Safety, Security and Safeguards Act 2006 to make comprehensive provisions for nuclear safety, security, safeguards and radiation protection in Nigeria and re-establish the Nigerian Nuclear Regulatory Authority