

# PETROLEUM (SPECIAL) TRUST FUND ACT

## ARRANGEMENT OF SECTIONS

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#### *Establishment and composition, etc., of the Petroleum (Special) Trust Fund and Management Board*

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SCHEDULE

**An Act to establish a Special Petroleum Trust Fund into which shall be paid all monies accruing from the sale price of petroleum products; to provide for the identification, funding and execution of projects in various sectors, and for matters connected therein.**

[1994 No. 25.]

[4th October, 1993]

[Commencement. ]

PART I

*Establishment and composition, etc., of the Petroleum (Special) Trust Fund and Management Board, etc.*

**1. Establishment of the Petroleum (Special) Trust Fund**

(1) There is hereby established a fund to be known as the Petroleum (Special) Trust Fund (in this Act referred to as "the Fund") into which shall be paid all the monies received from the sale of petroleum products less the approved production cost per litre which, for the time being, is as follows-

- (a) cost of crude oil
- (b) excise duty and V AT
- (c) marketer's allowance
- (d) NNPC cost and margin

and which Fund shall be operated and managed as provided in this Act.

[1995 No. I.]

(2) The Fund shall-

- (a) be a body corporate with perpetual ~~₦~~2.35k; succession; and 33k;
- (b) may sue and be sued in its corporate name. ~~₦~~ 1.30k;

(3) The Fund shall be located in the Presidency and ~~₦~~ 1.70k, shall not be subject to the supervision of any other authority or person in the performance of its functions under this Act other than the President.

(4) Notwithstanding the provisions of subsection (1) of this section, the President may, by order, vary, add, amend or substitute new and approved production cost per litre of petroleum products as and when he may deem fit in the circumstance.

[1995 No. I.]

## 2. Establishment of the Petroleum (Special) Trust Fund Management Board

There is hereby established for the management of the Fund, a body to be known as the Petroleum (Special) Trust Fund Management Board (in this Act referred to as "the Board") which shall, subject to this Act, have general control of the Fund.

## 3. Functions of the Board

- (b) eight other members; and
- (c) the secretary who shall also serve as the secretary to the Board.
- (1) The Board shall be responsible for-
- (a) receiving monies accruing to the Fund;
- (b) disbursing monies from the Fund within the first week of every month to the Federation Account, the Nigerian National Petroleum Corporation and to such other beneficiaries as may be determined from time to time by the President;
- (2) The chairman and members of the Board shall be-
- (a) persons of proven integrity; and
- (b) appointed by the President.
- (c) retaining the balance of the money accruing to the Fund, after the disbursement specified in paragraph (b) of this subsection, for the discharge of its functions under this Act;
- (d) scrutinising and approving projects in the following sectors-
- (i) road and road transportation including waterways; [1995 No. I.]
- (ii) education;
- (iii) health;
- (iv) food supply;
- (v) water supply;
- (vi) security services; and
- (vii) such other sectors as may be approved from time to time;
- (e) exercising control over the management of the Fund with a view to ensuring accountability and proper utilisation of the Fund for the purposes set out in this Act;
- (f) liaising with Ministries, Extra-Ministerial Departments, the State and local governments in identifying, funding and executing projects in the various sectors set out in paragraph (c) of this subsection;
- (g) entering into contractual agreements for the purpose of executing approved projects;
- (h) exercising supervisory authority over the Trust Fund Project Implementation Task Force established by section 8 of this Act; and
- (i) carrying out such other activities as are necessary and expedient for the purpose of achieving the objectives set out in this section of this Act.

(2) The Board shall also have power to carry out such activities as may appear to the Board to be incidental or conducive to the attainment of its objects under this Act.

## 4. Power of the Board

The Board shall, subject to the approval of the President, have power to allocate a percentage of monies accruing to the Fund to each of the sectors specified in paragraph (c) of subsection (1) of section 3 of this Act.

## 5. Membership of the Board

(1) The Board shall consist of the following members:-

- (a) the chairman who shall be the chief executive of the Board;
- [1995 No. 1.1]

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

[Schedule.]

## **6. Tenure of office for Board members**

(1) The members of the Board shall hold office for such period of time as may be determined by the President.

(2) The members of the Board shall be paid such remuneration and allowances as the President may, from time to time, determine.

(3) A member of the Board may resign his appointment by a notice in writing under his hand, addressed to the President and which resignation shall take effect only upon acknowledgement by the President.

## **7. Cessation of membership**

(1) A member of the Board shall cease to hold office if--

- (a) he becomes of unsound mind; or
- (b) he becomes bankrupt or makes a compromise with his creditors; or
- (c) he is convicted of a felony or of any offence involving dishonesty; or
- (d) he is guilty of serious misconduct in relation to his duties.

(2) A member of the Board may be removed from office by the President if he is satisfied that it is not in the interest of the Fund or the interest of the public that the member should continue in office.

## **8. Establishment of the Trust Fund Project Implementation Task Force, etc.**

(1) There is hereby established for the purposes of implementing projects approved by the Board under this Act, a Trust Fund Project Implementation Task Force (in this Act referred to as "the Task Force").

(2) The Task Force established by subsection (1) of this section shall-

- (a) consist of such number of persons of proven integrity to be appointed by the Board; and
- (b) be responsible to the Board.

## PART II

### *Staff of the Fund*

#### **9. Appointment of secretary, etc.**

(1) There shall be appointed for the Fund, a secretary who shall be appointed by the President.

(2) The secretary shall, subject to the control of the Board-

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- (a) be responsible for keeping proper records of the proceedings of the Board; and
- (b) be the head of the Board's secretariat and be responsible for the administration thereof with the approval of the Board.

[1995 No. I.]

(3) The secretary shall hold office for such period of time as may be determined by the President.

#### **10. Removal from office of secretary**

Notwithstanding the provisions of section 6 (3) of this Act, the secretary of the Board may be removed from office by the President if any circumstances arise which would require the secretary to cease to hold office as a member of the Board under section 6 of this Act.

#### **11. Appointment of other staff**

(1) The Board may employ such other staff as may, in the opinion of the Board, be necessary to assist the Board in carrying out its functions under this Act.

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(2) The terms and conditions of service (including terms and conditions as to remuneration, allowances, pensions, gratuities and other benefits) of the persons employed by the Board shall be as determined by the Board from time to time.

(3) The Board shall have power to appoint either on transfer or on secondment from any public service in the Federation, such number of employees as may, in the opinion of the Board, be required to assist the Board in the discharge of any of its functions under this Act; and shall have power to pay to persons so employed such remuneration (including allowances) as the Board may, after consultation with the Federal Civil Service Commission, determine.

#### **12. Pensions**

(1) It is hereby declared that service in the Fund is a scheduled service and shall be deemed to be pensionable under the Pensions Act, and accordingly employees of the Fund shall, in respect of their services in the Fund, be entitled to pensions, gratuities and other retirement benefits as are prescribed thereunder.

[Cap. P4.]

(2) Notwithstanding the provisions of subsection (1) of this section nothing in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of a pension and gratuity in respect of that office.

## PART III

### *Financial provisions*

#### **13. Sources of funding**

(1) There shall be paid and credited to the Fund established by this Act-

- (a) all monies accruing to the Fund by virtue of subsection (1) (c) of section 3 of this Act;
- (b) such money as may, from time to time, be lent, deposited with or granted to the Fund by the Government of the Federation;

[1995 No. 1.]

(c) all subventions, fees and charges for services rendered or publications made by

the Fund; and

(d) all other assets which may, from time to time, accrue to the Fund.

(2) The Fund shall be managed in accordance with rules made by the President and without prejudice to the generality of the power to make rules under this subsection, the rules shall in particular contain provisions-

(a) specifying the manner in which the assets of the Fund are to be held and regulating the making of payments into and out of the Fund; and

(b) requiring the keeping of proper accounts and records for the purposes of the Fund in such form as may be specified in the rules.

(3) The Board may, from time to time, apply the proceeds of the Fund for the following purposes-

(a) the cost of administration of the Fund and the Board;

(b) the payment of salaries, fees and other remuneration, allowances, pension and gratuities payable to members or employees of the Fund or experts or professionals appointed by the Board.

#### **14. Budgetary provisions**

The Board shall not later than 31 October submit to the President an estimate of its expenditure and income during the next succeeding year.

#### **15. Expenses to be paid out of the Fund**

All expenses incurred in the administration of the Fund shall be paid by the Board out of the monies of the Fund.

#### **16. A ward of contracts**

The Board shall have power to award contracts up to an amount of NS0,000,000, but shall be required to obtain the approval of the President for any contract in excess of that amount.

### **17. Power to accept gifts**

(1) The Board may accept gifts of land, money or other property upon such terms and conditions, if any, as may be specified by the person or organisation making the gift.

(2) The Board shall not accept any gift if the conditions attached by the person or organisation making the gift are inconsistent with the objectives of the Fund under this Act.

### **18. Exemption from tax**

(1) The Board shall be exempted from the payment of income tax on any income accruing from investments made by the Board or otherwise howsoever.

(2) The provisions of any enactment relating to the taxation of companies or trust funds shall not apply to the Board or the Fund.

### **19. Annual estimates, account and audit**

The Board shall cause to be kept proper accounts of the Fund and proper records in relation thereto and when certified by the Board, such accounts shall be audited by auditors appointed by the Board from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

[1995 No. I.]

### **20. Quarterly report**

The Board shall, notwithstanding the provisions of section 19 of this Act and at the end of every three months, submit to the President a report on its activities and administration of the Board in relation to the Fund.

### **21. Annual report**

The Board shall not later than three months after the end of each year, submit to the President a report on the activities and the administration of the Board in relation to the Fund during the immediately preceding year and shall include in such reports the auditor's report thereon.

[1995 No. I.]

### **22. Power of President to give directives**

Subject to the provisions of this Act, the President may give to the Board such directives of a general nature with regard to the exercise by the Board of its functions under this Act and it shall be the duty of the Board to comply with the directives.

### **23. Regulations**

The President may make such regulations as he deems to be necessary or expedient for giving full effect to the provisions of this Act.

### **24. Interpretation**

In this Act, unless the context otherwise requires-

**"Board"** means the Petroleum (Special) Trust Fund Management Board established by section 2 of this Act;

**"Fund"** means the Petroleum (Special) Trust Fund established by section I of this Act;

**"petroleum products"** includes PMS-Petroleum, AGO-Diesel, FO-Fuel Oil, HHK-Kerosine;

**"President"** means the President of the Federal Republic of Nigeria;

"secretary" means the secretary to the Board appointed by section 9 of this Act.

## 25. Short title

This Act may be cited as the Petroleum (Special) Trust Fund Act.

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### SCHEDULE

[Section 5 (3).]

#### *Supplementary provisions relating to the Board*

##### *Proceedings of the Board*

1. (1) Subject to this Act and section 27 of the Interpretation Act, the Board may make standing orders regulating its proceedings or those of any of its committees.

[Cap. 123.)

(2) The quorum of the Board shall be the chairman and four other members and the quorum of any committee of the Board shall be determined by the Board.

2. (1) The Board shall meet not less than two times in each year and subject thereto, the Board shall meet whenever it is summoned by the chairman; and if the chairman is required to do so by notice given to him by not less than four other members, he shall summon a meeting of the Board to be held within fourteen days from the date on which the notice is given.

(2) 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 number to preside at the meeting.

(3) Where the Board desires to obtain the advice of any person on a particular matter, the Board may eo-opt him to the Board for such period as it thinks fit; but a person who is in attendance by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.

##### *Committees*

3. (1) 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.

(2) A committee appointed under this paragraph shall consist of such number of persons (not necessarily 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.

(3) A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.

##### *Miscellaneous*

4. (1) The fixing of the seal of the Board shall be authenticated by the signature of the chairman or of any other person authorised generally or specially to act for that purpose by the Board.

(2) 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 Board by the chairman or any person generally or specially authorised to act for that purpose by the Board.

(3) Any document purporting to be a document duly executed under the seal of the Board shall be received in evidence and shall, unless and until the contrary is proved, be presumed to be so executed.

5. The validity of any proceeding of the Board or of a committee thereof shall not be adversely affected by any vacancy in the membership of the Board or committee, or by any defect in the appointment of a member of the Board or of a committee, or by reason that a person not entitled to do so took part in the proceedings of the Board or committee.



**SUBSIDIARY LEGISLATION**

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*No Subsidiary Legislation*

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