

ELECTRIC POWER SECTOR REFORM BILL 2004

<DRAFT>

Explanatory Memorandum

This bill seeks to provide for the formation of companies to take over the functions, assets, liabilities, and staff of the National Electric Power Authority; develop competitive electricity markets; establish the Nigerian Electricity Regulatory Commission; provide for the licensing and regulation of the generation, transmission, distribution and supply of electricity; enforce such matters as performance standards, consumer rights and obligation; and to provide for the determination of tariffs; and to provide for matters connected with or incidental to the foregoing.

ELECTRIC POWER SECTOR REFORM BILL 2004

ARRANGEMENT OF CLAUSES

CLAUSES

Part I: Formation of Initial and Successor Companies and the Transfer of Assets and Liabilities of the National Electric Power Authority

1. Formation of the initial holding company No. 1 of 1990.
2. Shareholding in the initial holding company.
3. Transfer of assets and liabilities of the Authority to the initial holding company.
4. Exemption from stamp duty cap. 411 LFN 1990
5. Transfer of employees to the initial holding company and to the Commission etc
6. Directions to the Authority
7. Licensing of the initial holding company
8. Repeal of Cap. 106 LFN 1990 and Cap. 256 LFN 1990
9. Formation of successor companies
10. Shareholdings in the successor companies
11. Transfer of assets and liabilities of the initial holding company to the successor companies.
12. Conclusive evidence
13. Release from liability or obligation
14. Enforcement or continuation of any cause of action or proceedings.
15. Limitation of suit against a transferee.
16. A transfer shall not be deemed to constitute a breach etc of contract.
17. Provision of records etc to a transferee.
18. Further order amending a transfer order
19. Regulations
20. Guarantee or surety
21. Consideration for the transfer of assets to successor companies
22. Transfer of employees to the designated successor companies and Conditions of services of transferred employees
23. Directions to the initial holding company
24. Licensing of the successor companies
25. Privatisation

Part II: Development of a Competitive Electricity Market

26. Competition during the pre-privatisation stage
27. Competition during the post-privatisation stage.
28. Eligible customers
29. Ministerial directives respecting competition transition charges
30. Commission's determinations respecting competition transition charges
31. Public hearing respecting competition transition charges

Part III: Establishment, Functions and Powers of the Nigerian Electricity Regulatory Commission

32. Establishment of the Commission
33. Objects and functions of the Commission
34. General policy directions
35. Appointment of Commissioners
36. Terms of office and conditions of service of Commissioners
37. Conditions for appointment as Commissioner
38. Vacation of office by Commissioner
39. Dismissal or suspension of Commissioners
40. Filling of vacancies in the Commission
41. Chairman and Vice Chairman of the Commission
42. Meetings and procedure of the Commission
43. Remuneration and expenses of Commissioners.
44. Commissioners to disclose certain connections and interests.
45. No invalidity of decisions and acts of the Commission
46. Proceedings of the Commission
47. Decisions and orders of the Commission
48. Commission to consult experts on technical questions
49. Questions of law may be referred to the High Court
50. Rehearing and Appeals
51. Annual programmes and budgets of Commission
52. Funds of the Commission
53. Surplus funds of the Commission
54. Financial year of the Commission
55. Accounts of the Commission
56. Audit of the Commission's accounts
57. Powers of auditors
58. Execution of contracts and instruments by Commission
59. Reports of Commission
60. Staff of Commission
61. Exemption from liability for Commission

Part IV: Licenses and Tariffs

62. Licensing requirement: fines and penalties
63. General duties of licensees
64. General licences
65. Transmission licences
66. System operation licence
67. Distribution licences
68. Trading licences
69. Restrictions on licences
70. An application for a licence.
71. Terms and conditions of licences
72. Renewal of licences
73. Amendment of Licences
74. Cancellation of licences
75. Enforcement of licences

- 76. Tariffs
- 77. Special provisions relating to generation, transmission and distribution companies
- 78. Use of certain conduits for electricity purposes.

Part V: Acquisition of Land and Access Rights

- 79. Notice of construction of railways, roads and telecommunication works and control of other works.

Part VI: Consumer Protection and Licensee Performance Standards

- 80. Consumer protection standards.
- 81. Performance standards and codes

Part VII: Competition and Market Power

- 82. Competition and market power

Part VIII: The Power Consumer Assistance Fund

- 83. Establishment of the Power Consumer Assistance Fund
- 84. Contribution rates for the Power Consumers Assistance Fund
- 85. Contribution payments for the Power Consumers Assistance Fund.
- 86. Payments from the Power Consumers Assistance Fund.
- 87. Fine for non-payment of money owed.

Part IX: Rural Electrification Fund

- 88. Establishment and purpose of the Rural Electrification Fund.
- 89. Contribution rates for rural electrification
- 90. Contribution payments for rural electrification.
- 91. Establishment of criteria for geographical allocation of resources from the rural Electrification Fund.
- 92. Fine for non-payment for amount owed.

Part X: Offences

- 93. False declarations.
- 94. Offences

Part XI: General

- 95. Inspection.
- 96. Regulation.
- 97. Disclosure of confidential information and use of information acquired by inspectors, etc., for personal gain.

Part XII: Consequential and Transitional Provisions

- 98. Consequential and transitional provisions Cap. 106 LFN 1990, Cap. 256 LFN 1990
- 99. Repeal of Cap 256 LFN 1990

Part XIII: Interpretation and Citation

- 100. Interpretation
- 101. Citation.

ELECTRIC POWER SECTOR REFORM BILL 2004

A Bill

For

An Act to provide for the formation of companies to take over the functions, assets, liabilities and staff of the national electric power authority, to develop competitive electricity markets, to establish the Nigeria electricity regulatory commission; to provide for the licensing and regulation of the generation, transmission, distribution and supply of electricity; to enforce such matters as performance standards, consumer rights and obligations; to provide for the determination of tariffs; and to provide for matters connected with or incidental to the foregoing.

[] Commencement.

PART I- FORMATION OF INITIAL AND SUCCESSOR COMPANIES AND THE TRANSFER OF ASSETS AND LIABILITIES OF THE NATIONAL ELECTRIC POWER AUTHORITY

1. The National Council on Privatisation shall, not later than six months after the coming into force of this section of this Act, take such steps as are necessary under the Companies and Allied Matters Act to incorporate a company, limited by shares, which shall be the initial holding company for the assets and liabilities of the Authority. **Formation of the initial holding company. No. 1 of 1990**
2. The shares of the initial holding company on its incorporation shall be held by the Ministry of Finance Incorporated and the Bureau of Public Enterprises in the name of and on behalf of the Federal Government of Nigeria. **Shareholding in the initial holding company.**
3. (1) The National Council on Privatisation, shall by written notice in a gazette fix the date, (in this Act known as the "initial transfer date"), on which the assets and liabilities of the Authority as specified in subsection (2) of this section shall be transferred to the initial holding company. **Transfer of assets and liabilities of the Authority to the initial holding company.**
 - (2) The assets and liabilities vested in the Authority as at the initial transfer date and appearing on the audited balance sheets of the Authority, shall vest in the initial holding company.
 - (3) The vesting of assets and liabilities under subsection (2) of this section shall be provisional until final orders are issued by the National Council on Privatisation under this section.
 - (4) Within eight months from the initial transfer date, the National Council

on Privatisation shall, on the finalisation of the opening balance sheet of the initial holding company, issue final order either confirming or specifying the transfer of assets and liabilities under subsection (2) and this Part applies with necessary modifications to the final order.

(5) The transfer of a liability or obligation under this section releases the Authority from the liability or obligation.

(6) All bonds, hypothecations, securities, deeds, contracts, instruments, documents and working arrangements that subsisted immediately before the initial transfer date and to which the Authority was a party shall, on and after that date, be as fully effective and enforceable against or in favour of the initial holding company as if, instead of the Authority, the initial holding company had been named therein.

(7) Any cause of action or proceeding which existed or was pending by or against the Authority immediately before the initial transfer date shall be enforced or continued, as the case may be, on and after that date by or against the initial holding company in the same way that it might have been enforced or continued by or against the Authority.

(8) No action or other proceeding shall be commenced against the initial holding company in respect of any employee, asset, liability, right or obligation that has been transferred to the initial holding company if, had there been no transfer, the time for commencing the action or other proceeding would have expired.

(9) A transfer under subsection (2) of this section shall not be deemed to-

(i) constitute a breach, termination, repudiation or frustration of any contract, including a contract of employment or insurance;

(ii) constitute a breach of any Act, regulation or by-law, or

(iii) constitute any event of default or force majeure;

(iv) give rise to a breach, termination, repudiation or frustration of any licence, permit or other right;

(v) give rise to any right to terminate or repudiate a contract, licence, permit or other right; and

(vi) give rise to any estoppels.

(10) Subsection (9) of this section does not apply to the contracts as may be prescribed by the regulations.

(11) Subject to subsection (10) of this section nothing in this Act and nothing done as a result of a transfer under subsection (2) of this section

shall create any new cause of action in favour of:

(a) a holder of a debt instrument that was issued by the Authority before the initial transfer date;

(b) a party to a contract with the Authority that was entered into before the initial transfer date.

(12) Any guarantee or suretyship which was given or made by the Federal Government of Nigeria or any other person in respect of any debt or obligation of the Authority, and which was effective immediately before the initial transfer of the principal debt or obligation, shall remain fully effective against the guarantor or surety on and after the initial transfer date in relation to the repayment of the debt or the performance of the obligation, as the case may be, by the initial holding company to which the principal debt or obligation was transferred.

4. Stamp duty shall not be chargeable under the Stamp Duties Act in respect of any transfer made or transaction entered into pursuant to this Part on which, except for the exemption granted under this section, stamp duty would have been payable and in particular, and without derogation from the foregoing, no stamp duty shall be chargeable:

Exemption from stamp duty cap. 411 LFN 1990

(a) during the incorporation of the initial holding company and the successor companies or any subsequent increase to their authorised share capital, prior to the transfer of a majority interest to one or more private investors;

(b) in respect of any security issued in compliance with a transfer order issued under section 10(7);

(c) where any convertible securities were issued in compliance with a transfer order issued under section 10(7), in respect of the exercise of the conversion rights attached to any such security; or

(d) in respect of any other transfer of rights and assets pursuant to this Part.

5 (1) With effect from the initial transfer date, every person employed by the

Transfer of employees to the initial holding company and to the Commission etc

Authority immediately before that date shall be transferred to the service

of either the Commission or the initial holding company, on terms not less

favourable than those enjoyed by him immediately prior to his transfer.

(2) The service rendered by an employee transferred pursuant to subsection (1) of this section to the Authority shall be deemed to be service with the initial holding company for the purpose of determining

employment-related-entitlements as specified in laws of employment in Nigeria.

(3) Until such time as conditions of service are drawn up by the initial holding company or the Commission, as the case may be:

(a) the terms and conditions of service applicable to employees of the Authority shall continue to apply to every person transferred to the initial holding company or to the Commission as if every such person were still in the service of the Authority; and

(b) the initial holding company shall continue to contribute towards a pension scheme to which the Authority was contributing in respect of persons in the employ of the Authority, prior to the initial transfer date.

6 (1) The National Council on Privatisation may give the Board of Directors of the Authority directions in writing in order to ensure the proper transfer of the assets and liabilities of the Authority to the initial holding company, and the Board of Directors shall, without delay, comply with every such direction.

Directions to the Authority

(2) Without derogation from subsection (1) of this section, directions given under that subsection may provide for:

(a) the cessation of all or any of the functions of the Authority;

(b) the termination of any contract entered into between the Authority and any person, provided that no such direction shall authorize the Authority to commit an unlawful breach of any such contract; and

(c) the production of any report and the provision of any information concerning the conduct of the Authority or the Board of Directors of the Authority or anything done by or on behalf of the Authority or the Board of Directors of the Authority.

7 On the initial transfer date, the Commission shall issue an interim licence, to the initial holding company, which shall be valid for a period not exceeding eighteen months.

Licensing of the initial holding company

8 The National Council on Privatisation shall, not later than eight months after the formation of the initial holding company under section 1 of this Act, take such steps as are necessary under the Companies and Allied Matters Act to incorporate such number of additional companies, limited by shares, as the National Council on Privatisation may deem appropriate, which shall be the successor companies for assuming the assets and liabilities of the initial holding company including, but not limited to, companies with functions relating to the generation, transmission, trading, distribution and bulk supply and resale of electricity.

Formation of successor companies

9 All the respective shares of each of the successor companies from the dates of their incorporation shall be held jointly in the name of the Ministry of Finance Incorporated and the Bureau of Public Enterprises for and on behalf of the Federal Government of Nigeria.

Shareholdings in the successor companies

10. (1) The National Council on Privatisation shall, not later than one year from the initial transfer date, by an order, require the initial holding company to transfer employees, assets, liabilities, rights and obligations of the initial holding company to a successor company, as specified in the order.

Transfer of assets and liabilities of the initial holding company to the successor companies.

(2) A transfer order shall be binding on the initial holding company, the transferee and all other persons.

(3) Subsection (2) of this section applies despite any general or special Act or any rule of law, including an Act or rule of law that requires notice or registration of transfers.

(4) A transfer order shall not require the consent of the initial holding company or the successor company, provided that consent of the transferee shall be required if the transferee is a person other than a successor company incorporated by the National Council on Privatisation under section 8.

(5) A transfer order may specify and describe, employees, assets, liabilities, rights or obligations to be transferred:

(a) by reference to specific employees, assets, liabilities, rights or obligations;

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

(c) partly in accordance with subsection (5)(a) of this section and partly in accordance with subsection (5)(b) of this section.

(6) With effect from the date specified in the relevant transfer order, all bonds, hypothecations, securities, deeds, contracts, instruments, documents and working arrangements that subsisted immediately before the subsequent transfer date and to which the initial holding company was a party shall, on and after that date, be as fully effective and enforceable against or in favour of the designated successor company as if, instead of the initial holding company, the designated successor company had been named therein.

(7) A transfer order may-

(a) require the initial holding company or the transferee to pay for anything transferred by or pursuant to the order and may specify to whom the payment shall be made;

- (b) fix the amount of the payment; specify a method for determining the amount of the payment; or provide that the amount of the payment be determined by the National Council on Privatisation or a person designated by the National Council on Privatisation;
- (c) require that the payment be made in cash, by set off, through the issuance of securities or in any other form specified by the order;
- (d) fix the value of anything transferred by or pursuant to the order;
- (e) specify a method consistent with international accounting practices for determining the value of anything transferred by or pursuant to the order;
- (f) provide that the value of anything transferred by or pursuant to the order be determined by the National Council on Privatisation or a person designated by the National Council on Privatisation in a manner consistent with international accounting practices; provided that the value specified in the transfer order ought to have been calculated in accordance with international accounting practices;
- (g) specify the date that a transfer takes effect and any interest in property that is transferred by the order vests in the transferee on that date;
- (h) provide that a transfer shall not take effect until payment has been made for anything transferred by or pursuant to the order;
- (i) provide that a transfer shall be deemed to have taken effect on a date earlier than the date the transfer order is made, but the effective date shall not be earlier than the day on which the relevant successor company was formed;
- (j) provide that transfers specified in the order and other transactions associated with the transfers shall be deemed to have occurred in a sequence and at times specified in the order;
- (k) require the initial holding company or a transferee:
 - (i) to enter into any written agreement or execute any instrument specified in the order; and
 - (ii) to register in accordance with the order any

agreement or instrument entered into or executed under subsection 7(k)(i);

(l) provide that any liability or obligation that is transferred by the order may be enforced against the initial holding company, the transferee, or both of them; and that any right that is transferred by the order may be enforced by the initial holding company, the transferee, or both of them; or

(m) impose conditions on the exercise of powers by the transferee that are related to employees, assets, liabilities, rights or obligations transferred by the transfer order, including a condition that the powers be exercised only with the approval of the Commission.

(8) A transfer order may contain provisions dealing with other matters not specifically referred to in this Part that the National Council on Privatisation considers necessary or advisable in connection with a transfer.

11. (1) A statement, in a registered document to which a successor company is a party, that land described in the document was transferred to the person from the initial holding company by or pursuant to a transfer order, and any other statement in the document relating to the transfer order, shall be deemed to be conclusive evidence of the facts stated.

Conclusive evidence

(2) Nothing in subsection (1) of this section creates, for any person, an interest in land that the initial holding company did not have.

12. Subject to section 10(7)(1), the transfer of a liability or obligation under this Part releases the initial holding company from the liability or obligation.

Release from liability or obligation

13 Subject to section 10(7)(1), any cause of action or proceeding which existed or was pending by or against the initial holding company immediately before the subsequent transfer date shall be enforced or continued, as the case may be, on or after the subsequent transfer date by or against the designated successor company in the same way that it might have been enforced or continued by or against the initial holding company.

Enforcement or continuation of any cause of action or proceedings.

14 An action or other proceeding shall not be commenced against a transferee in respect of any, employee, asset, liability, right or obligation that had been transferred to the transferee if, had there been no transfer, the time for commencing the action or other proceeding would have expired.

Limitation of suit against a transferee.

15. (1) A transfer by or pursuant to a transfer order shall not be deemed to-

A transfer shall not be deemed to constitute a breach etc of contract.

- (a) constitute a breach, termination, repudiation or frustration of any contract, including a contract of employment or insurance;
- (b) constitute a breach of any Act, regulation or by-law;
- (c) constitute any event of default or force majeure;
- (d) give rise to a breach, termination, repudiation or frustration of any licence, permit or other right;
- (e) give rise to any right to terminate or repudiate a contract, licence, permit or other right; or
- (f) give rise to any estoppels.

(2) Subsection (1) of this section does not apply to such contracts as may be prescribed by the regulations.

(3) Subject to subsection (2) of this section, nothing in this Act and nothing done by or pursuant to a transfer order creates any new cause of action in favour of:

- (a) a holder of a debt instrument that was issued by the initial holding company (or deemed to have been issued by it) before the date of its transfer as specified in the relevant transfer order;
- (b) a party to a contract with the initial holding company (or deemed to have been issued by it under section 4(5) that was entered into before the date of its transfer as specified in the relevant transfer order.

16. The initial holding company shall provide a transferee with all records or copies of records, that are in its custody or control and that relate to an officer, employee, asset, liability, right or obligation that is transferred by or pursuant to a transfer order, including personal information.

Provision of records etc to a transferee.

17. The National Council on Privatisation may, at any time within one year after making a transfer order, make a further order amending the transfer order in any way that the National Council on Privatisation considers necessary or advisable, including such order or orders as may be necessary to rectify the transfer of any of the employees, assets, liabilities, rights and obligations pursuant to a verification or an audit of the employees, assets and liabilities of the initial holding company as at the date of the relevant transfer order, and this Part applies with necessary modifications to the amendment.

Further order amending a transfer order

18 (1) The National Council on Privatisation may make regulations

Regulations

- (a) supplementing the provisions of this Part and governing the transfer of, employees, assets, liabilities, rights and obligations under this Part;
 - (b) prescribing contracts or classes of contracts to which section 15(1) does not apply, subject to such conditions or restrictions as may be prescribed by the regulations.
- (2) A regulation made under this section may be general or particular in its application.

19 Any guarantee or surety-ship which was given or made (or is deemed to be given or made under section 3(12) by the Federal Government of Nigeria or any other person in respect of any debt or obligation of the initial holding company, and which was effective immediately before the subsequent transfer of the principal debt or obligation, shall remain fully effective against the guarantor or surety on or after the subsequent transfer date in relation to the repayment of the debt or the performance of the obligation, as the case may be, by the designated successor company to which the principal debt or obligation was transferred.

Guarantee or surety

20 The consideration for the transfer of assets of the initial holding company to a designated successor company shall be as set out in a transfer order issued under section 10(7).

Consideration for the transfer of assets to successor companies

21 (1) Every person employed by the initial holding company immediately before the date specified in the relevant transfer order pursuant to which he is transferred shall be transferred to the service of a designated successor company, on terms not less favourable than those enjoyed by him immediately prior to the transfer.

Transfer of employees to the designated successor companies and Conditions of services of transferred employees

(2) The service rendered by an employee transferred pursuant to a transfer order shall be the service with the designated successor company for the purpose of determining employment-related-entitlements as specified in law.

(3) Until such time as conditions of service are drawn up by the designated successor company:

- (a) the terms and conditions of service applicable to employees of the initial holding company shall continue to apply to every person transferred to the designated successor company as if every such person were still in the service of the initial holding company; and
- (b) an employee may be permitted to continue to contribute towards a pension he was contributing to when he was in the employ of the initial holding company; and
- (c) the designated successor company shall continue to contribute towards a pension scheme to which the initial holding company was contributing in respect of employees in the employ of the initial holding company, prior to the date of

transfer.

22 (1) The National Council on Privatisation may give the Board of Directors of the initial holding company directions in writing in order to ensure the proper transfer of the assets and liabilities of the initial holding company to the designed successor companies or other transferees, and the Board of Directors shall, without delay, comply with every such direction.

Directions to the initial holding company

(2) Without derogation from subsection (1), directions given under that subsection may provide for:

- (a) the cessation of any or all functions of the initial holding company and its voluntary liquidation;
- (b) the termination of any contract entered into between the initial holding company and any person, provided that no such direction shall authorise the initial holding company to commit an unlawful breach of any such contract; and
- (c) the production of any report and the provision of any information concerning the conduct of the initial holding company or the Board of Directors of the initial holding company or anything done by or on behalf of the initial holding company or the Board of Directors of the initial holding company.

23. (1) On the transfer date specified in the relevant transfer order, the Commission shall issue an appropriate interim licence, to each successor company, which shall be valid for a period not exceeding one year.

Licensing of the successor companies

(2) A successor company that has received an interim licence under subsection (1) shall, within six months thereafter, apply to the Commission for a regular licence in accordance with the provisions of Part IV of this Act.

24 (1) The National Council on Privatisation may, at any time and by such means as it deems appropriate, begin the process of privatisation of the successor companies that are holders of generation licences, distribution licences or a transmission licence, in accordance with the provisions of the Public Enterprises (Privatisation and Commercialization) Act.

Privatisation

No. 28 of 1999.

(2) Until such time the Minister has made a declaration in accordance with subsection (3) of this section, the Commission shall prepare, each year, a report for the Minister as to the potential for competition in the Nigerian electricity supply industry and these reports shall present the Commission's analysis and recommendations as to whether the Nigerian electricity supply industry has developed to the point where a more competitive market ought to be established under section 26, having regard to:

- (a) the degree of privatisation that has occurred;

- (b) the existence of a sufficiently large number of potentially competitive entities, so as to avoid the likelihood of an abusive market power; and
 - (c) the existence of other preconditions, including the necessary metering and information technology infrastructures, required for the operation of a more competitive electricity market.
- (3) The Minister shall present to the President and the National Council on Privatisation and National Assembly, each report submitted by the Commission under subsection (2) of this section and when the Minister, in consultation with the President and the National Council on Privatisation is satisfied that the electricity market in Nigeria has developed to the point where a more competitive market ought to be established pursuant to section 26 of this Act, having regard to the criteria described in subsections (a), (b) and (c) of subsection 2 of this section, and the Minister shall issue a declaration that a more competitive electricity market is to be initiated.

PART II

DEVELOPMENT OF A COMPETITIVE ELECTRICITY MARKET

25 Immediately following the issuance of interim licences to the successor companies in accordance with section 23, and prior to the declaration by the Minister, under section 24(3), that a more competitive market is to be initiated:

Competition during the pre-privatisation stage

- (a) the trading licensee holding a bulk purchase and resale licence under section 67(2), or an interim licence for this purpose, and to which the function of bulk procurement and bulk sale of power and ancillary services has been transferred pursuant to Part I of this Act, shall engage in the purchase and resale of electrical power and ancillary services from independent power producers and from the successor generation companies, in accordance with its licence;
- (b) the successor company that has been issued both a transmission licence and a system operation licence pursuant to section 65 (2), or an interim licence for these purposes, shall engage in the transmission of electricity and in system operation, including the procurement of ancillary services, in accordance with its licence;
- (c) successor generation companies shall, in accordance with their licences, sell electrical power to the trading licensee described in subsection (a), distribution companies and eligible customers, pursuant to the terms of any contracts formed with such distribution companies and eligible customers;
- (d) successor generation companies shall, in accordance with their

licences, sell ancillary services to the trading licensee described in subsection (a) or the successor company identified in subsection (b), pursuant to contracts that allow for the novation of the rights and obligations of the successor company identified in subsection (b) to an independent system operator in the event of a transfer of the obligation of system operation by the successor company to an independent system operator under section 26(7);

(e) independent power producers shall, in accordance with their licences, sell electrical power to either:

- (i) the trading licensee described in subsection (a) pursuant to contracts that allow for the novation of the rights and obligations of the trading licensee described in subsection (a) to one or more other licensees, as specified in the contract, following the declaration of a substantially privatised market under section 24; or
- (ii) distribution companies and eligible customers, pursuant to the terms of any contracts formed with such distribution companies and eligible customers;

(f) independent power producers shall, in accordance with their licences, sell ancillary services to either:

- (i) the trading licensee described in subsection (a), pursuant to contracts that allow for the novation of the rights and obligations of the trading licensee described in subsection (a) to one or more other licensees, as specified in the contract, following the declaration of a substantially privatised market under section 24; or
- (ii) the successor company identified in subsection (b), pursuant to contracts that allow for the novation of the rights and obligations of the successor company identified in subsection (b) to an independent system operator in the event of a transfer of the obligation of system operation by the successor company to an independent system operator under section 26(7).

26. (1) Immediately following the declaration by the Minister, under section 24(3), that a more competitive market is to be initiated:

Competition during the post-privatisation stage

(a) the trading licensee described in section 25 (a) shall not enter into any further contracts for the purchase of electrical power or ancillary services and it shall, in accordance with its licence, begin the process of novating its existing rights and obligations to purchase electrical power and ancillary services to other licensees;

(b) successor generation companies shall, in accordance with their

licences, sell electrical power to distribution companies and eligible customers, under the terms of any contracts existing prior to the declaration by the Minister, pursuant to section 24(3), or under the terms of any new contracts with distribution companies and eligible customers;

- (c) successor generation companies shall, in accordance with their licences, sell ancillary services either to:
 - (i) the successor company identified in section 25(b), under the terms of the contracts entered into prior to the declaration by the Minister, under section 24(3), until such contracts are novated to an independent system operator, or under the terms of any new contracts with such successor company; provided that such contracts should allow for novation to the independent system operator in the same manner as specified in section 25(d); or
 - (ii) the independent system operator, once it has been established under section 25(d);
- (d) independent power producers shall, in accordance with their licences, sell electrical power:
 - (i) to the trading licensee described in section 25(a), under the terms of the contracts formed with that trading licensee prior to a declaration by the Minister, under section 24(3), until such contracts are novated to distribution companies or eligible customers; and, following such novations;
 - (ii) to distribution companies and eligible customers, under the terms of any contracts formed with such distribution companies and eligible customers;
- (e) independent power producers shall, in accordance with their licences, sell ancillary services:
 - (i) to the trading licensee described in section 25(a), under the terms of the contracts formed with that trading licensee prior to the declaration by the Minister under section 24(3), until such contracts are novated to distribution companies or eligible customers; and, following such novations,
 - (ii) to the successor company identified in section 25(b), under the terms of the contracts entered into prior to the declaration by the Minister under section 24(3), until such contracts are novated to an independent system operator, or under the terms of any new contracts with such successor company; provided that such contracts should allow for novation to the independent system operator in the same manner as specified in section 25(d); or

- (iii) the independent system operator, once it has been established under subsection (7) of this section;
 - (f) the successor company identified in subsection 1(b) of this section shall, in accordance with its licence, purchase ancillary services pursuant to the terms of the contracts for ancillary services that it has entered into with successor generating companies and with the trading licensee described in subsection 1(a) of this section and with independent power producers prior to the declaration under section 24 and it may also purchase ancillary services under the terms of contracts novated to it under section 25(d)(i), until all such contracts are novated to an independent system operator established pursuant to subsection (7) of this section;
 - (g) distribution licensees shall purchase electrical power in accordance with their obligations to purchase under subsection (1)(b) and (d) of this section and pursuant to those obligations that have been novated to them under subsection (1)(a) of this section, and may also purchase other supplies of power from generation licensees and trading licensees, all in accordance with the terms of their respective distribution licences; and
 - (h) eligible customers shall purchase power in accordance with their obligations to purchase under subsections (1)(b) and (d) of this section and pursuant to those obligations that have been novated to them under subsection (1)(a) of this section, and may also purchase other supplies and powers from generation licensees or from trading licensees.
- (2) The Minister shall recommend to the President for approval of market rules, to be developed by the system operator:
- (a) for the operation of the national grid by the system operator; and
 - (b) for the establishment and governance of markets related to electricity and ancillary services.
- (3) In respect of markets for electricity and ancillary services, the market rules may include provisions:
- (a) governing the making and publication of market rules;
 - (b) settlement of payments among different participants;
 - (c) authorizing and governing the making of orders by the system operator, including orders:
 - (i) imposing financial penalties on market participants;

- (ii) authorising a person to participate in the markets; or
- (iii) terminating, suspending or restricting a person's rights to participate in the markets; and

(d) concerning the administration and enforcement of the market rules, including provisions for market rule amendments, dispute resolution, penalties and market surveillance.

(4) A market rule may be general or particular in its application.

(5) The system operator shall publish the market rules in accordance with the publication provisions within the market rules and shall make the market rules available for public inspection during normal business hours at the offices of the system operator.

(6) Amendments to the market rules shall be developed by the system operator in accordance with the amendment provisions in the market rules, provided that all amendments shall be approved by the Commission before they come into force and provided that the system operator shall, in accordance with the market rules, publish any proposed amendment to the market rules at least 22 days before the proposed amendment comes into force.

(7) At any time following the declaration of a substantially privatised market under section 24, the successor company identified in section 25(b) may transfer the function of system operation to an independent system operator on such terms and conditions as the Commission may direct and on such transfer, the independent system operator shall be subject to the same powers and duties as have been imposed on the transferring successor company under this Act in relation to system operation.

27. The Minister may issue a directive to the Commission specifying the class or classes of end-use customers that, from time to time, shall constitute eligible customers under this Act.

Eligible customers

28 If the Minister determines, following consultation with the President, that a directive given under section 27 will result in decreasing electricity prices to such an extent that a trading licensee or a distribution licensee would have inadequate revenue to enable payment for its committed expenditures or is unable to earn permitted rates of return on its assets, despite its efficient management, the Minister may issue further directives to the Commission on the collection of a competition transition charges from consumers and eligible customers, the distribution of the funds collected to the trading licensee described in section 25(a) and to distribution licensees, and the duration of the competition transition charge.

Ministerial directives
respecting competition
transition charges

29 The Commission shall establish the amount of the competition transition charge and the arrangements for the collection and distribution of the competition transition charge, all in accordance with the Minister's directive or directives issued under section 28.

Commission's
determinations
respecting competition
transition charges

30 Prior to the making of the determinations set out in section 29, the

Public hearing

Commission shall hold a public hearing to obtain the views of any interested parties.

respecting competition transition charges

PART III
ESTABLISHMENT, FUNCTIONS AND POWERS OF THE
NIGERIAN ELECTRICITY REGULATORY COMMISSION

31 (1) There is established a commission to be known as the Nigerian Electricity Regulatory Commission, which shall be a body corporate with perpetual succession which can sue or be sued in its corporate name and subject to this Act, perform all acts that bodies corporate may by law perform.

Establishment of the Commission

(2) The headquarters of the Commission shall be at Abuja.

32 (1) Subject to this Act, the Commission shall have the following principal objects:

Objects and functions of the Commission

(a) to create, promote, and preserve efficient industry and market structures, and to ensure the optimal utilisation of resources for the provision of electricity services;

(b) to maximise access to electricity services, by promoting and facilitating consumer connections to distribution systems in both rural and urban areas;

(c) to ensure that an adequate supply of electricity is available to consumers;

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

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

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

(g) to present quarterly reports to the President and National Assembly on its activities.

(2) For the furtherance of the objects referred to in subsection (1) of this section, the Commission shall perform the following functions:

(a) promote competition and private sector participation, when and where feasible;

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

- (c) establish appropriate consumer rights and obligations regarding the provision and use of electric services;
- (d) license and regulate persons engaged in the generation, transmission, system operation, distribution, and trading of electricity;
- (e) approve amendments to the market rules;
- (f) monitor the operation of the electricity market; and
- (g) undertake such other activities which are necessary or convenient for the better carrying out of or giving effect to the objects of the Commission.

(3) In the discharge of its functions, the Commission shall consult, from time to time, and to the extent the Commission considers appropriate, such persons or groups of persons who may or are likely to be affected by the decisions or orders of the Commission including, but not limited to licensees, consumers, potential investors, and other interested parties.

33 (1) The Minister may issue general policy directions to the Commission on matters concerning electricity, including directions on overall system planning and co-ordination, which the Commission shall take into consideration in discharging its functions under section 32(2), provided that such directions are not in conflict with this Act or the Constitution of the Federal Republic of Nigeria.

General policy directions

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

Appointment of Commissioners

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

- (a) generation, transmission, system operation, distribution or marketing of electricity; and
- (b) law, accountancy, economics, finance or administration.

(3) The seven Commissioners shall be appointed to reflect one Commissioner per geo-political zone and a chairman from any zone.

35. (1) Subject to this Part, a Commissioner shall hold office for a period of five years, provided that, to ensure continuity in the Commission, the period of appointment of the first seven Commissioners shall be as follows:

Terms of office and conditions of service of Commissioners

- (a) the Chairman shall be appointed for five years;
- (b) the Vice Chairman and other Commissioners shall be appointed for

four years.

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

(3) Subject to section 36, a Commissioner shall hold office on such terms and conditions as the President may fix in relation to Commissioners generally.

(4) A Commissioner whose term of office has expired is eligible for re-appointment for another term and no more.

(5) All appointments or reappointments of Commissioners shall be made before expiry of their term of office in accordance with section 34 of this Act.

36 (1) A person shall not be appointed as a Commissioner who:

Conditions
appointment
Commissioner for
as

(a) is neither a citizen of Nigeria nor permanently resident in Nigeria; or

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

(c) has, in terms of a law in force in any country:

(i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or

(ii) made an assignment to, or arrangement or composition with, his creditors which has not been rescinded or set aside; or

(d) has, in terms of a law in force in any country:

(i) been adjudged, by a court of competent jurisdiction, to be of unsound mind;

(ii) been banned from practicing his profession; or

(iii) been convicted of an offence and sentenced to a term of imprisonment imposed with or without the option of a fine, whether or not any portion has been suspended, and has not received a free pardon.

(2) A person who holds the office of Commissioner, and for a period of two years after he ceases to be a Commissioner for any reason whatsoever, shall not acquire, hold or maintain, directly or indirectly, any interest, office, employment or consultancy arrangements, either for remuneration or otherwise, connected with the generation, transmission, system operation, distribution or trading of electricity in Nigeria or any activity connected with any such service or system and if such person acquires any such interest involuntarily or by way of succession or testamentary disposition, he shall divest himself from such interest within a period of three months of such interest being acquired.

37 A Commissioner shall vacate his office and his office shall become vacant:

**Vacation of office by
Commissioner**

(a) three months after the date upon which he gives notice in writing to the President of his intention to resign.

(b) on the date he is convicted:-

- (i) in Nigeria, in respect of an offence; or
- (ii) outside Nigeria, in respect of an offence involving financial impropriety or any conduct which, if committed in Nigeria, would constitute an offence; or

(c) if he becomes disqualified under sections 36(1)(a), (b), (c) or (d), to hold office as a Commissioner; or

(d) if he is required under section 38 to vacate his office; or

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

38(1) The President shall require a Commissioner to vacate his office if the Commissioner:

**Dismissal or suspension
of Commissioners**

(a) has, subject to section 36(2), been found to have conducted himself in a manner that renders him unsuitable as a Commissioner, including a contravention of section 43 or section 57(2); or

(b) has failed to comply with any term or condition of his office fixed by the President under section 35(3); or

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

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

2. A commissioner shall not be removed unless the request is supported by a single majority vote of the Senate.

39. Subject to section 40(6), on the death of, or vacation of office by, a Commissioner, the President shall nominate a candidate to fill that vacancy, and submit that nomination to the Senate, within one month, in accordance with section 34.

**Filling of vacancies in
the Commission**

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

**Chairman and Vice
Chairman of the
Commission**

(2) A Commissioner whose term of office has expired is eligible for re-appointment for another term and no more.

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

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

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

(6) Whenever the office of Chairman or Vice-Chairman falls vacant, or on the death of the Chairman or Vice-Chairman, the President shall, within three weeks, select another Commissioner to fill the vacancy under section 39.

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

**Meetings and procedure
of the
Commission**

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

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

(4) The quorum for the meeting of the Commission shall be four and subject to section 43, at all meetings of the Commission each Commissioner present shall have one vote on each question before the Commission and, in the event of an equality of votes, the Chairman shall have a casting vote.

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

(6) Without derogation from subsection (1) of this section, the Commission may conduct its business by means of written resolutions signed by all the

Commissioners, provided that, if any Commissioner requires that a matter be placed before all the Commissioners for discussion, this subsection shall not apply to such matter.

42.(1) Commissioners shall be paid from the funds of the Commission:

**Remuneration and
expenses of
Commissioners**

(a) such remuneration, if any, as the Commission may from time to time determine, having regard to the recommendations of the National Salaries, Incomes and Wages Commission, ; and

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

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

(a) the specialised nature of work to be performed by the Commission;

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

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

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

43. (1) If a Commissioner:

**Commissioners to
disclose certain
connections and
interests**

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

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

(c) knows or has reason to believe that a relative of the Commissioner,

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

(ii) owns any property or has a right in property or a

direct or indirect pecuniary interest in a company or association of persons which results in the Commissioner's private interests coming or appearing to come into conflict with his functions as a Commissioner, or

(d) if for any reason the private interests of a Commissioner come into conflict with his functions as a Commissioner,

the Commissioner shall forthwith disclose the fact to the Commission.

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

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

(4) A Commissioner who contravenes subsection (1), (2) or (3) of this section commits an offence and liable on conviction to a fine not exceeding fifty thousand Naira or imprisonment for a period not exceeding three months or to both such fine and imprisonment.

44(1) No decision or act of the Commission or act done under the direction of the Commission shall be invalid on the ground that:

No invalidity of decisions and acts of the Commission

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

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

(2) If a Commissioner referred to in section 43 takes part in the consideration of a matter in which his private interests are in conflict with his functions as Commissioner, the other Commissioners may subsequently ratify any such decision or action.

45(1) The Commission shall be entitled to conduct its proceedings, consultations and hearings at its headquarters or at any other place in Nigeria.

Proceedings of the Commission

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

46(1) The Chairman shall ensure that all Commission decisions and orders:

Decisions and orders of the Commission

- (a) contain the basis for the decision or order;
 - (b) are properly recorded in writing; and
 - (c) are accessible to the public at reasonable times and places.
- (2) The Commission shall issue written reasons in respect of any decisions or orders affecting the existing rights of any person, if the affected person requests such written reasons.
- (3) The Commission may issue written reasons in respect of any other decision or order as the Commission deems necessary.
- (4) Every recommendation, declaration, decision or order of the Commission, if purporting to be signed by a person describing himself as the Chairman of the Commission, or by a person describing himself as the Vice-Chairman acting in the capacity of the Chairman, shall, unless the contrary is shown, be deemed to be made by the Commission and to have been so signed and may be proved by the production of a copy thereof purporting to have been so signed.
- (5) The Commission may make interim orders pending the final disposition of a matter before it.

47.(1) The Commission may hold a hearing of any matter, which under this Act or any other enactment is required or permitted to conduct or on which it is required or permitted to take any action and the commission shall hold public hearing on matters which the commission determine to be of significant interest to the general public.

Commission to give notice to interested parties

(2). Where the Commission is required to, or otherwise decides to, hold a hearing, all persons having an interest in such matter shall, as far as reasonably practicable, be notified of the questions at issue and given opportunities for making representations if they so wish.

48 When any matter arises which entails the consideration of any professional or technical question, the Commission may consult such persons as may be qualified to advise thereon.

Commission to consult experts on technical questions

49. (1) If any question of law arises from an order or decision of the Commission, the Commission may, on its own initiative or at the request of any person directly affected by such order, reserve that question for the decision of the High Court.

Questions of law may be referred to the High Court

(2) Where a question has been reserved under subsection (1) of this section, the Commission shall state the question in the form of a special case and file it with the Registrar of the High Court.

50 (1) Subject to this section, any person who is aggrieved by:

Rehearing and Appeals

- (a) a decision of the Commission not to issue a licence;
- (b) any term or condition of a licence issued to him, or a refusal by the Commission to specify a term or condition in a licence;
- (c) a refusal by the Commission to renew a licence ;
- (d) any amendment of a licence or a refusal by the Commission to amend a licence;
- (e) the cancellation of a licence;
- (f) the grant or refusal by the Commission to grant any approval or authority in terms of this Act;
- (g) the outcome of any arbitration or mediation by the Commission of a dispute between licensees;
- (h) a decision of the Commission with respect to prices or tariffs;
- (i) any other decision of the Commission; may apply to the Commission for review of the decision, order or refusal.

(2) The Commission may, reconsider, vary or rescind its decisions before issuing a final decision, in accordance with such procedures as the Commission may establish; provided that such review or reconsideration shall be completed within [sixty] days of the date it is requested.

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

Annual programmes
and budgets of
Commission

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

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

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

52. The funds of the Commission shall consist of

**Funds of the
Commission**

(1) fees, charges and other income accruing to the Commission from licensees and other things done by it in terms of this Act, excluding any fines or penalties recovered pursuant to this Act;

(2) funds allocated to the Commission by the National Assembly, pursuant to a request by the Commission for additional funds required to meet its reasonable expenditures; and

(3) such other moneys as may vest in or accrue to the Commission, whether in the course of its operations or otherwise.

53 If, following an audit of the Commission's accounts under section 56, the auditors determine that a portion of the funds received pursuant to section 52 are surplus to the budgeted requirements of the Commission, such surplus funds shall be paid by the Commission to the Rural Electrification Fund established under Part IX of this Act, subject to approval by the National Assembly.

**Surplus funds of the
Commission**

54 The financial year of the Commission shall be the period of twelve months ending on the 31st December in each year or such other period as the Minister may, determine.

**Financial year of the
Commission**

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

**Accounts of the
Commission**

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

(3) The Commission shall present quarterly reports on all its activities to the President and National Assembly.

56. (1) The Commission shall appoint an auditor in accordance with the guidelines for the appointment of auditors issued by the Auditor-General of the Federation.

**Audit of the
Commission's accounts**

(2) The accounts kept by the Commission under section 55(1) shall be examined by the auditors.

(3) The auditor shall within six months after the end of each financial year, make a report to the Commission and the Minister on the statement of accounts prepared under section 55(2) and such report shall state whether or not, in the opinion of the auditor, the statement of accounts gives a true and fair view of the Commission's affairs.

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

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

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

Powers of auditors

(2) Any Commissioner or employee or agent of the Commission who fails without just cause to comply with a requirement of an auditor in terms of subsection (1) of this section commits an offence and is liable on conviction to a fine not exceeding twenty thousand Naira or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

58 Any agreement, contract or instrument approved by the Commission may be entered into or executed on behalf of the Commission by any persons generally or specially authorised by the Commission for that purpose.

Execution of contracts and instruments by Commission

59.(1) In addition to any report which the Commission is required by this Act to submit to the Minister, the Commission:

Reports of Commission

(a) shall submit to the Minister such other reports as the Minister may require; and

(b) may submit to the Minister such other reports as the Commission considers advisable.

(2) The Minister shall publicly release any reports submitted pursuant to subsection (1) of this section, within two months following the receipt of such a report.

60. (1) The Commission shall employ such persons as it considers expedient for the better exercise of the functions of the Commission.

Staff of Commission

(2) The terms and conditions of service, including remuneration, allowances and pension benefits, of the staff of the Commission shall be as