



KEY PROVISIONS OF THE PETROLEUM INDUSTRY ACT, 2021 (NATURAL GAS SECTOR)

S/N	Section	Key Provisions in PIA 2021
1.	Establishment of the Midstream & Downstream Regulator (Section 29)	The Act establishes the Nigerian Midstream and Downstream Petroleum Regulatory Authority (the “Authority”) which shall be responsible for the technical and commercial regulation of midstream and downstream petroleum operations in the petroleum industry.
2.	Establishment of the Nigerian Upstream Petroleum Regulatory Commission (Section 4)	The Commission is responsible for the technical and commercial regulation of upstream petroleum operations.
3.	Establishment of a midstream infrastructure fund (Section 52 and 104)	The Act establishes the Midstream and Downstream Gas Infrastructure Fund. The source of the Midstream and Downstream Gas Infrastructure Fund shall be: <ul style="list-style-type: none"> - Not more than 0.5% of the levy prescribed in a regulation derived from wholesale price of petroleum products sold in Nigeria and natural gas produced and sold - Proceeds of gas flaring penalties
4.	Activities requiring Licences from the Authority (Section 125)	The Authority is established to grant licenses for the following activities with respect to midstream and downstream gas operations: <ul style="list-style-type: none"> a. establish, construct or operate a facility for the processing of natural gas; b. establish, construct or operate a facility for the storage of natural gas; c. establish, construct or operate a gas transportation pipeline d. engage in bulk transportation of natural gas by rail, barge or other means of transportation;



		<ul style="list-style-type: none"> e. operate a gas transportation network; f. establish, construct or operate a terminal, jetty, or other facility for the export or importation of natural gas; g. engage in wholesale gas supply; h. engage in the construction or operation of petrochemical or fertilizer plants i. retail trading, distribution or supplies of natural gas; j. establishment, construction or operation of a gas distribution network; k. establishment, construction or operation of a facility for the supply or trading of natural gas <p>A holder of a subsisting lease, licence or permit who is engaged in activities in midstream or downstream gas operations prior to the effective date shall, within <u>18 months</u> from the effective date, apply to the Authority for and the Authority may issue the appropriate licence or permit, where applicable.</p>
5.	Wholesale Gas Supply Licence (Section 142 - 145)	Wholesale gas supply licence authorizes the supplier to purchase natural gas directly from any lessee or third party; and sell and deliver wholesale gas to wholesale customers and gas distributors at any location in Nigeria.
6.	Retail Gas Supply Licence (Section 146 – 147)	A retail gas supply licence authorizes the holder to sell or retail compressed or liquefied marketable natural gas to customers based on being a wholesale customer or third party access to gas distribution systems of gas distributors; and also establish, construct and operate facilities to deliver compressed natural gas and small scale facilities for liquefied natural gas, not requiring a gas processing licence, for transportation by truck, railcar or marine vessel to customers in compressed or liquefied form, including customers using LNG as marine bunker fuel.
7.	Gas Distribution Licence (Section 148 - 152)	A Gas Distribution licence authorizes the holder to establish, construct, and operate a gas distribution system and to distribute and sell its natural gas without discrimination to consumers in a local distribution zone. The holder of a gas distribution licence shall also be entitled to sell natural gas to customers that are not wholesale customers.



A gas distribution licence may include provisions for providing third party access to the gas distribution network to a gas retailer or gas distributor on its own initiative, may permit access to a gas retailer to the gas distribution network under terms and conditions agreed to by the parties.

Duties of a Gas distributor shall include:

- a. develop, operate and maintain an economical gas distribution network for the safe and reliable conveyance of natural gas;
- b. ensure a reliable and efficient distribution of natural gas to customers on request, provided that it is economical to do so;
- c. distribute and sell natural gas on request to a customer who is willing and able to pay for connection to the gas distribution network, subject to safety and network capacity constraints;
- d. conduct licenced activities safely and reliably in compliance with any law in force and any health and safety-related regulations issued by the Authority pursuant to this or any other Act;
- e. connect all customers within its local distribution zone in accordance with regulations if economically practicable to do so;
- f. offer and publish terms and conditions of access to its gas distribution network as required and publish gas prices applicable to different classes of customers, which have been approved by the Authority;
- g. comply with customer protection measures set out in sections 164, 165 and 166 of this Act;
- h. prepare a distribution development plan, within one year after the effective date or after having been granted the licence, for connecting customers within its local distribution zone and any amendments thereto as a result of economic or social developments in the zone for the consideration and approval of the Authority; and



		i. abstain from activities, which in the opinion of the Authority may prevent, restrict or distort competition
8.	Third Party Access relating to midstream and downstream operations (Sections 161 - 163)	The Authority shall grant Third Party Access to Pipeline Transportation Network. This also applies to distribution networks even though this was qualified with the use of the word 'may'. "The Authority may develop special terms for third party access to a distribution network"
9.	Natural Gas Price for the Strategic Sector, Gas Distributors & Retailers (Sections 167, Third Schedule)	The Authority shall, in accordance with this section and for each year, determine the domestic base price pursuant to the Third Schedule to this Act, for the purpose of determining the prices for the power sector, commercial sector and gas-based industries. The domestic base price at the marketable gas delivery point shall be determined based on regulations incorporating among such other matters as may apply pursuant to the following principles- <ul style="list-style-type: none"> (a) The price must be of a level to bring forward sufficient natural gas supplies for the domestic market on a voluntary basis by the upstream petroleum industry (b) Unless required to satisfy conditions above, the price shall not be higher than average of similar natural gas prices in major emerging countries that are significant producers of natural gas based on countries determined by the Authority (c) The price shall be adjusted upwards on a yearly basis in order to account for inflation on a yearly amount or percentage basis and (d) The Authority shall determine the domestic base price based on the regulations within three months following the effective date and modify this price where required by the circumstances in the domestic market pursuant to regulations.



10.	Power to regulate and review prices (Section 169)	<p>Where the Authority determines that -</p> <ul style="list-style-type: none"> - a particular licenced activity is a monopoly service; - competition has not yet developed in the market to such an extent as to protect the interests of customers; or - a particular licensee is a dominant provider, <p>the Authority shall regulate the prices charged by licensees in respect of the activities, in a manner consistent with its functions under this Act and with the pricing principles set out in section 170 of this Act.</p> <p>The Authority shall undertake periodic pricing methodology reviews, provided that the pricing methodology review shall not affect arrangements entered into or approvals given for the development of a gas infrastructure or utilisation project prior to the effective date.</p> <p>The Authority shall consult with licensees, industry participants and stakeholders before undertaking a pricing review or establishing a methodology for regulating prices and revenues earned by licensees providing monopoly or dominant services</p>
11.	Pricing principles in relation to Gas (Section 170)	<p>Subject to the provisions of this Chapter, the Authority shall, in the exercise of its powers to regulate prices charged by Licensees, be guided by the following principles –</p> <ul style="list-style-type: none"> (a) marketable natural gas prices shall be disaggregated into the component elements of the supply chain including the costs of wholesale gas, tariffs for gas processing, tariffs for transportation pipelines for natural gas, distribution and supply; (b) the prices charged for each licenced activity shall reflect the costs incurred in the efficient provision of that activity; (c) prices charged shall permit a reasonable return for licensees on their investments; and



		prices shall not discriminate between customers with similar characteristics, such as similar size or a similar consumption profile.
12.	Host Community Obligations (Section 234 - 257)	<p>The holder of an applicable license or lease shall incorporate a trust for the benefit of its host community for which it is responsible. The trust shall be incorporated under CAMA. The settlor shall undertake a needs assessment which will evolve into a community development plan for the purpose of determining the projects to be undertaken by the trust. This plan shall be approved by the Commission or Authority, as the case may be.</p> <p>The trust must be incorporated within 12 months from the effective date of the Act for existing facilities and within 12 months of the existence of new facilities. Failure to comply with the above requirements may result in revocation of the licence or lease.</p> <p>The settlor shall make an annual contribution of 3% of the actual operating expenditure of petroleum operations relating to that host community for upstream companies only</p>
13.	Tax requirements (section 302)	<p>All companies engaged in domestic midstream petroleum operations, downstream gas operations and large-scale gas utilization industries as defined in this Act, shall be entitled to benefit from the incentives provided under section 39 of the Companies Income Tax Act. Investors in gas pipeline will be granted an additional tax-free period of five years at the expiration of the tax-free period granted in section 39 of the Companies Income Tax Act.</p>
14.	Savings Obligations (Sections 311 subsection 10)	<p>Subject to the provisions of subsections 125(6) and 174(6), parties of gas sales agreements related to domestic sales or exports entered into prior to the effective date shall be entitled to continue such agreements unaltered until the termination of such agreements, provided, however, that such agreements shall be submitted for review to the Authority and the Commission and where so ordered by the Authority or Commission, as the case may be, amendments shall be made in such agreements to comply with the Act.</p>



15.	Domestic gas delivery obligations (Section 110)	<p>The Upstream Regulatory Commission has powers to impose domestic gas delivery obligations on gas producers(lessees) and ensure compliance. The lessees are expected to deliver specified volumes of marketable natural gas to strategic sectors of the economy. The gas aggregator shall determine the wholesale customer and the location where the gas is to be delivered. Failure to comply with this obligation attracts a penalty of U\$ 3.50 per MMBtu of gas volumes not delivered. The lessee is also barred from supplying natural gas to any new midstream gas export operations.</p> <p>The Act mandates the Commission to discontinue imposition of the domestic gas delivery obligations where the midstream and downstream regulatory authority determines that the natural gas market has attained full market status</p>
16.	Licences and Leases (Sections 70 – 103)	<p>The Act provides for 3 types of licences for upstream petroleum operations. These are;</p> <ul style="list-style-type: none"> ● Petroleum exploration licence (PEL) – 3 years and can be renewed for another 3-year term. ● Petroleum prospecting licence (PPL) – Maximum period of 6 years for onshore and shallow waters and a maximum period of 10 years for deep offshore and shallow acreages ● Petroleum mining lease (PML) – 20 years and subject to renewal where the field continues to produce in paying quantities and continuation of fiscal obligations under the Act. <p>Under a PPL, where a significant gas discovery has been declared, the holder of the PPL, shall retain the area for a period not exceeding 10 years. Where the licensee fails to declare a commercial gas discovery, it shall relinquish the said area after 10 years and the PPL will expire.</p>



		<p>Voluntary conversion for existing holders of PPL and PML within 18 months of the effective date of the Act or the expiration date of the oil mining lease, whichever is earlier. The conversion contract shall contain a termination clause of all outstanding arbitration and court cases, stability provisions by NNPC and incentive provisions of the Petroleum Profit Tax Act.</p> <p>As part of the conditions for the grant of a licence, a licensee is required to pay a prescribed financial contribution to an environmental remediation fund established either by the Commission of Authority for the rehabilitation or management of negative environmental impacts with respect to the licence or lease.</p>
17.	Prohibition of flaring or venting of natural gas (Section 104 - 108)	<p>Flaring of natural gas is prohibited except in the case of an emergency, exemption or as an acceptable safety practice. Defaulters commit an offence and are liable to a fine.</p> <p>A licensee producing natural gas shall within 12 months of the effective date of the Act, submit a natural gas flare elimination and monetization plan to the Commission</p>