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PETROLEUM INDUSTRY ACT, NO. 6, 2021

ASSIGNMENT OR TRANSFER OF LICENCE AND PERMIT REGULATIONS, 2023

ARRANGEMENT OF REGULATIONS

Regulation :

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4. Change of name.
5. Notification of intention to assign or transfer a licence or permit.
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SCHEDULE

S. I. No. 6 of 2023

PETROLEUM INDUSTRY ACT, NO. 6, 2021

ASSIGNMENT OR TRANSFER OF LICENCE AND PERMIT REGULATIONS, 2023

[27*th Day of February,* 2023] Commencement.

In exercise of the powers conferred on it by sections 33 and 117 of the Petroleum Industry Act, No. 6, 2021 ("theAct") and all other powers enabling it in that behalf, the Nigerian Midstream and Downstream Petroleum Regulatory Authority ("Authority"), makes these Regulations —

1. The objectives of these Regulations are to — Objectives.

(*a*) establish a procedure for the assignment or transfer of licence or permit by the licensee or permit holder ;

(*b*) prescribe fees for such assignment or transfer ; and

(*c*) provide sanctions and administrative penalties for failure to comply with these Regulations.

2. These Regulations shall apply to activities connected with the assignment or transfer of licenses or permits granted by the Authority for midstream and downstream petroleum operations. Application.

3.—(1) For the purpose of these Regulations, an assignment or transfer of licence and permit shall include — Nature of assignment or transfer of licence and permit.

(*a*) assignment or transfer by merger of two or more companies ;

(*b*) assignment or transfer by acquisition of a company or asset ;

(*c*) assignment or transfer to a company in a group of which the transferor is a member, and is to be made for the purpose of reorganisation in order to achieve greater efficiency and acquire resources for effective petroleum operations ;

(*d*) assignment or transfer to a new company ;

(*e*) assignment or transfer by reason of devolution of ownership of shares or interest in ownership of shares by operation of law ;

(*f*) assignment or transfer by exchange or transfer of shares, private placement, or public listing ; and

(*g*) assignment or transfer by testamentary instruments.

(2) The Authority may, by notice, determine any other category of assignment or transfer of licence and permit.

4.—(1) A licensee or permit holder shall notify the Authority prior to a change of name arising from a corporate restructuring or rebranding. Change of name.

(2) Where the Authority has no objection to the change of name, the licensee or permit holder shall —

(*a*) apply to the Authority for a new licence or permit in the new name ;

(*b*) return the licence or permit in the previous name to the Authority for cancellation ; and

(*c*) pay prescribed fees for such change of name on a licence or permit.

(3) A change of name shall not constitute an assignment or transfer of licence for the purpose of these Regulations.

Notification of intention to assign or transfer a licence or permit.

5.—(1) A transferor who intends to assign or transfer a licence or permit shall, prior to the assignment or transfer, notify the Authority of its intention to undertake such assignment or transfer.

(2) A transferor's notification to the Authority shall —

(*a*) state the name, registered address and contact information of the proposed transferee ;

(*b*) state the reason and the method for the conduct of the assignment or transfer, and the possible technical and economic value of such assignment or transfer ;

(*c*) provide the original or a certified true copy of its licence or permit ; and

(*d*) provide or submit any other information and documents stipulated in guidelines issued by the Authority.

(3) The Authority shall not later than 21 working days from date of receipt of the notification, communicate its decision to the transferor on whether or not to proceed to the next stage of the transaction.

(4) Where the Authority fails to communicate its decision within the time frame stipulated in subregulation (3) of this regulation, the transferor may proceed to the next stage of the transaction.

(5) Where the Authority makes a decision for the application to be transfered, the transferor shall publish a notice of the application in the format prescribed in Guidelines issued by the Authority.

Application for assignment or transfer of licence by the transferee.

6.—(1) Following the decision of the Authority in regulation 5(3) and (4) of these Regulations, the transferee shall —

(*a*) apply for an assignment or transfer of the licence or permit to its company ;

(*b*) submit a copy of the title documents, which shall be certified by a court of competent jurisdiction ;

(*c*) where required, make presentations to the Authority on its technical and financial capability to operate such facility ;

(*d*) provide any other information as may be directed by the Authority ; and

(*e*) pay fees as prescribed under the Schedule to these Regulations.

(3) The Authority shall conduct due diligence on the proposed transferee in accordance with guidelines issued by the Authority.

Grant of consent to assign or transfer.

7.—(1) The Authority shall inform an applicant in writing of its consent to approve or refusal of the application within 90 days from the date the application was received by the Authority.

(2) Where the Authority refuses the grant of consent, it shall inform the applicant in writing the reason for the refusal, and the applicant may make further representations for the application within 21 days of such refusal being communicated.

(3) Where the Authority fails to communicate its decision within 90 days, the application shall be deemed to be approved.

Prohibition of assignment or transfer of licence or permit without the consent of the Authority.

8. A holder of a licence or permit shall not assign or transfer the licence or permit, or any right or obligation arising from the licence or permit to any person without the prior written consent of the Authority.

Fees.

9. The fees in the Schedule to these Regulations shall be applicable to the assignment and transfer of licenses and permits in midstream and downstream petroleum operations in Nigeria.

Authority to make Guidelines etc.

10. The Authority may issue guidelines, directives, and notices for the effective implementation of these Regulations.

Contraventions and administrative penalties..

11.—(1) A person contravenes the provisions of these Regulations where the person —

(*a*) fails to comply with any provisions of these Regulations or any directives given or condition of any permit or licence issued under these Regulations ; or

(*b*) makes a false declaration to the Authority or willfully furnishes information so required which is in any respect false or insufficient.

(2) A person who contravenes the provisions of these Regulations, is liable to pay to the Authority an administrative penalty —

(*a*) for midstream processing facilities, installations, terminals and pipelines, USD100,000 per licence or permit and in addition any permit, licence or authorisation granted to that person may be suspended, cancelled, or revoked ;

(*b*) for blending facilities and petroleum product storage facilities, USD50,000 or its equivalent in Naira per licence or permit and in addition, any permit, licence or authorisation granted to that person may be suspended, cancelled, or revoked ; and

(*c*) for oil and gas retail outlets, ₦2,000,000 per licence or permit and in addition, any permit, licence or authorisation granted to that person may be suspended, cancelled, or revoked.

Interpretation.

12. In these Regulations —

"*acquisition*" means a corporate transaction where one company purchases all or a substantial interest, portion, shares, or facility of another company, such that the acquired company becomes a subsidiary or division of the acquiring company ;

"*Act*" means the Petroleum Industry Act, No 6, 2021 ;

"*asset*" means any facility, installation or system for measuring, processing, transporting, storing, blending, distributing or handling of crude oil or its derivatives, natural gas or its derivatives, petroleum product or any form of petroleum liquids ;

"*assignment*"means the transfer of a licence or permit or an interest, power or right in it by any company or person with equity, participating, contractual or working interest in the licence or permit through merger, acquisition, takeover, divestment of shares or property, or any such transaction that may alter the ownership, equity, rights or interest of the assigning company in question, not minding the nature of business arrangement that the assigning company may be involved in ;

"*assignment or transfer by acquisition*" means direct or indirect take over or acquisition of the entire rights or interest in a licence or permit, and associated assets of the assigning company, including acquisition of interest by an entity in aparent company whose affiliate has interest in a licence or permit, or associated assets in Nigeria ;

"*assignment or transfer by exchange or transfer of shares*"means the acquisition of part or all the shares of a company which holds a licence or permit in Nigeria ;

"*assignment or transfer by merger*" means where a company which holds a licence or permit combines with one or more companies to form another company by way of payment, exchange of shares or by any other means whatsoever ;

"*assignment or transfer through private placement or public listing*" means Private Placement or Public listing in Stock Exchange, of a part or of the whole of the shares of a company which holds a licence or permit ;

"*assignment or transfer by testamentary instrument*" means the assignment or transfer of shares or an asset by means of a Will or Letters of Administration ;

"*change in ownership or control*" means a change in ownership or control of a permit or licence to operate a midstream or downstream facility, or a change in ownership or control of an interest or rights therein either through lease, lien, assignment, mortgage, or a change in ownership or control of an interest or rights therein of a corporate body either through merger, acquisition, takeover, shares divestment in part or whole or similar transaction ;

"*merger*" means the fusion of two or more companies into one new legal entity ;

"*NGN*" means Nigerian Naira ;

"*operation of law*" refers to a judgment by a competent court of law, an award by an arbitration panel, the appointment of a receiver, receiver/manager or administrator under the Companies and Allied Matters Act, No. 3, 2020 or any comparable legislation in a foreign jurisdiction ;

"*takeover*" means a transfer or purchase of the shares of a publicly listed company by a person which gives the person control over management and affairs of the company ;

"*title documents*" means deed of assignment, certificate of occupancy, deed of lease, deed of sublease, purchase agreement and any other document evidencing ownership ;

"*transferee*" means an assignee or the proposed new holder of the licence or permit ;

"*transferor*" means the assignor or current holder of the licence or permit prior to the Authority's approval of an assignment or transfer of the licence or permit ; and

"*USD*" mean United States Dollars.

13. These Regulations may be cited as the Assignment or Transfer of Licence and Permit Regulations, 2023. Citation.

SCHEDULE

TABLE OF FEES

The transferee shall be required to pay the applicable assignment or transfer of licence or permit processing fee in the table below, or five percent (5%) of the value of transaction, whichever is higher —

S/No.	*Facility*	*Processing Fees*
1.	Petrol liquids or gas retail outlets	₦500.000
2.	Depots	₦10.000.000
3.	Blending Plants, Waste Recycling Plants, Bitumen Emulsion Plants, Refilling Plants or Thermal Desorption Units	₦3,000.000
4.	Hydrocarbon Processing Plant (Refineries, Petrochemicals and Gas Processing facilities)	USD10,000 for capacities less than 1.000BPSD, or less than 6MMSCFD
		USD 50,000 for capacities between 1,000 and 30.000 BPSD, or between 6 MMSCFD and 180MMSCFD
		USD 150,000 for capacities above 30,000 BPSD, or above 180 MMSCFD
5.	Pipeline	USD 500 per km
6.	Pipeline Distribution Network	USD 200 per km
7.	Pipeline Transportation Network	USD250 per km
8.	Terminals	USD200.000
9.	CNG Compression Station/Small Scale LNG Installations	NGN 500,000

MADE at Abuja this 27th day of February, 2023.

ENGR. FAROUK AHMED
Authority Chief Executive
Nigerian Midstream and Downstream Petroleum
Regulatory Authority

EXPLANATORY NOTE

(This Note does not form part of the above Act but is intended to explain its purport)

These Regulations seeks to establish a procedure for the assignment or transfer of licence or permit by the licensee or permit holder, prescribe fees for such assignment or transfer and provide sanctions and administrative penalties for failure to comply with these Regulations.