

NIGERIA UPSTREAM PETROLEUM HOST COMMUNITIES DEVELOPMENT REGULATIONS, 2022.

1. The Nigeria Upstream Petroleum Host Communities Development Regulations, 2022 (in these Regulations referred to as the “Principal Regulations”) are to be amended as follows:
2. Amendment of PART II thereof-
The principal Regulation is amended-
By substituting PART II with a new PART II as follows-

The ROLE OF THE COMMISSION WITH RESPECT TO HOST COMMUNITY TRUST

3. Amendment of Regulation 3(a) thereof-
Regulation 3(a) of the principal Regulation is hereby repealed
4. Amendment of Regulation 3(a) thereof-
The principal Regulation is amended-
By substituting sub- regulation 3(a) with a new Regulation 3(a) as follows-

3(a) regulate the obligations of Licencees and Lessees with respect to Chapter 3 of the Act and the activities of the trust using the Host Community Development Trust administration On-line portal established by the Commission.

5. Amendment of Regulation 3 thereof-
The principal Regulation is amended-
By inserting immediately after Regulation 3(a) thereof, the following new Regulation (3)(b) as follows-

3(b) Monitor the activities of the trust to ensure that the trust and its trustees are fulfilling the objectives of the establishment of the trust as provided in the Act.

6. Amendment of Regulation 4 thereof-
The principal Regulation is amended-
By substituting sub- regulation 4(1) with a new Regulation 4(1) as follows-

4(1) A licensee or lessee shall ensure compliance with its obligations under these Regulations and the Act. A Licencee or Lessee in compliance with the

requirement to incorporate host communities development trust pursuant to the Act shall be responsible for the following:

- (a) meeting all administrative requirements by the Commission prior to the incorporation of the trust**
- (b) Conduct a host communities needs assessment with respect to the communities under a trust within 6 months of the incorporation of the trust and submit a report to the Commission. The needs assessment shall cover in the minimum a 10 year(s) period**
- (c) Prepare a host communities development plan based on the need assessment report with respect to the communities under a trust within 90 days of the submission of a needs assessment report and submit same to the Commission. The development plan shall cover at the minimum the minimum period of years in the assessment report divided into yearly implementable targets or goals**
- (d) Prepare and provide for the Board of Trustees a distribution matrix in accordance with the provision of these regulations**
- (e) Notify the Commission in writing within 14 days of fulfilling its obligation to make annual contribution to the trust**
- (f) Prepare a matrix for the distribution of the trust fund which shall be subject to the approval of the Commission**
- (g) comply with section 242 (3) of the Act .**
- (h) Submission of the annual report and audited accounts of the trust to the Commission**
- (i) Responsible for payment of the administrative cost of the trust and its special projects from the portion of the yearly contribution to the trust year maxed as administrative cost, including the Host Community Development Fund on-line administrative portal set up by the Commission for the implementation of this regulation.**

7. Amendment of Regulation 4 thereof-

The principal Regulation is amended-

By inserting immediately after sub-Regulation (4)(1) thereof, the following new Regulation 4(2) as follows-

(4)(2) all applications, reports and submissions under sub-paragraph 4(1) shall be made through the Host Community Fund Administrative On-line Portal.

8. Amendment of Regulation 5 thereof-

The principal Regulation is amended-

By substituting regulation 5 with a new Regulation 5 as follows-

(5) An area of operation shall be a territory within the boundary of the licence or lease in which upstream petroleum operations are carried on and any area which hosts a licensee or lessee's operating facilities other than offices used for administrative purposes in accordance with the provisions of section 318 of the Act.

9. Amendment of Regulation 9 thereof-
The principal Regulation is amended-
By substituting sub-regulation 9(2) with a new Regulation 9(2) as follows-

(9) A settlor that fails to incorporate a trust within the timeline stated in the notice under sub-regulation (1) of this regulation, shall, unless where the delay in incorporating the trust is as a result of a legal dispute relating to the incorporation of the trust, be liable to an administrative penalty of \$2,500 or its equivalent in Naira per day from the date of expiration of the 45 days' notice period issued under sub-regulation (1) of this regulation until the trust is incorporated.

10. Amendment of Regulation 10 thereof-
The principal Regulation is amended-
By substituting sub-regulation 10(3) with a new Regulation 10(3) as follows-

10(3) The Commission shall give the Board of Trustees reasonable time to provide the information requested pursuant to sub-regulation (2) of this regulation and the trustees shall make available the information requested within the timeline specified by the Commission.

11. Amendment of Regulation 10 thereof-
The principal Regulation is amended-
By substituting sub-regulation 10(6) with a new Regulation 10(6) as follows-

10(6) Where the Board of Trustees fails to take any remedial actions pursuant to sub-regulation (5) of these Regulations, the Commission shall require the settlor to remove the members of the board of trustees and replace them in accordance with the constitution of the Trust and the powers of the settlor to remove members of the board of trustees under the Act.

12. Amendment of Regulation 13 thereof-
The principal Regulation is amended-
By substituting sub-regulation 13(6) with a new Regulation 10(6) as follows-

13(6) The Board of Trustees or settlor shall not advertise the name of a proposed trustee or register a trustee with the Corporate Affairs Commission unless the trustee has been approved or deemed approved by the Commission.

13. Amendment of Regulation 16 thereof-

The principal Regulation is amended-

By substituting sub-regulation 16(1) with a new Regulation 16(1) as follows-

16(1) The settlor shall have power to recommend to the Board of Trustees the removal of a trustee from office in accordance with the constitution of the trust.

14. Amendment of Regulation 16 thereof-

The principal Regulation is amended-

By substituting sub-regulation 16(2) with a new Regulation 16(2) as follows-

16(2) A trustee shall be removed from office where at any time during the trustee's tenure, the trustee becomes disqualified as a trustee in accordance with regulation 12(3) of these Regulations and in accordance with the constitution of the trust.

15. Amendment of Regulation 16 thereof-

The principal Regulation is amended-

By substituting sub-regulation 16(3) with a new Regulation 16(3) as follows-

16(3) The Board of Trustees shall remove a trustee within 30 days of becoming aware that any trustee has become disqualified in accordance with regulation 12(3) of these Regulations and the constitution of the trust

16. Amendment of Regulation 16 thereof-

The principal Regulation is amended-

By substituting sub-regulation 16(4) with a new Regulation 16(4) as follows-

16(4) Where the Board of Trustees fails to remove a trustee as specified by these Regulations or any applicable law, the trustees shall be liable to pay an administrative penalty of \$2,500 or its equivalent in Naira for every day the disqualified trustee continues to hold office.

17. Amendment of Regulation 16 thereof-

The principal Regulation is amended-

By substituting sub-regulation 16(5) with a new Regulation 16(5) as follows-

16(5) For the purpose of sub-regulation (3) of this regulation, the Board of Trustees shall be deemed to have notice of any matter which disqualifies a trustee under regulation 14 of these Regulations where such matters are publicly known or reasonably ought to have been known by the trustee.

18. Amendment of Regulation 16 thereof-

The principal Regulation is amended-

By substituting sub-regulation 16(6) with a new Regulation 16(6) as follows-

16(6) The Board of Trustees shall within 14 days of removal of a trustee, notify the Commission of such removal and provide the Commission with supporting documents evidencing the grounds for such disqualification or reason for removal.

19. Amendment of Regulation 17 thereof-

The principal Regulation is amended-

By substituting sub-regulation 17(1) with a new Regulation 17(1) as follows-

17(1) A trustee may resign from office voluntarily at any time, subject to giving a 21 days notice of resignation to the Board of Trustees.

20. Amendment of Regulation 17 thereof-

The principal Regulation is amended-

By substituting sub-regulation 17(2) with a new Regulation 17(2) as follows-

17(2) The Board of Trustees shall within seven days of receipt of the letter of resignation of a trustee or upon otherwise having notice of the resignation of a trustee, notify the settlor and the Commission of the resignation.

21. Amendment of Regulation 18 thereof-

The principal Regulation is amended-

By inserting immediately after Regulation 17 thereof, the following new Regulation 18 as follows-

18. A settlor shall be not liable from the performance or non-performance of the obligations of the trust or the board of trustees of the fund

22. Amendment of Regulation 18 thereof-

The principal Regulation is amended-

By substituting sub-regulation 18(2)(a) with a new Regulation 18(2)(a) as follows-

18(2)(a) a representative of each of the host community, nominated by the relevant host community or advisory committee as a non-executive member ;

23. Amendment of Regulation 20 thereof-

The principal Regulation is amended-

By substituting sub-regulation 20(1) with a new Regulation 20(1) as follows-

20(1) The settlor shall, in carrying out the need assessment of the host communities under a trust establish;

- (a) The education infrastructural requirements of the communities aimed at attaining set targets of improvement established in the report. Such infrastructural requirements to include teachers training and retraining, school building requirements and facilities school uniforms and feeding.**
- (b) The basic utilities and social infrastructure requirements of the communities, such as provision of portable water, electricity, roads, bridges and housing aimed at attaining set targets of improvements established in the report**
- (c) Health, social and sporting amenities requirements aimed at attaining set targets of improvements established in the report**
- (d) Economic and business enhancement requirements of the communities aimed at attaining set targets of improvement established in the report**
- (e) Such other needs that may be required for the advancement of the lives and living conditions of the people in the host communities as may be determined by the settlor.**

24. Amendment of Regulation 20 thereof-

Regulation 20(2) of the principal Regulation is hereby repealed

25. Amendment of Regulation 20 thereof-

The principal Regulation is amended-

By substituting sub-regulation 20(3) with a new Regulation 20(2) as follows-

20(2) The settlor shall carry out a review of the needs assessment report every five years to update with the current needs of the communities

26. Amendment of Regulation 20 thereof-

Regulation 20(4)(5)(6)(7)(8) of the principal Regulation is hereby repealed

27. Amendment of Regulation 21 thereof-
The principal Regulation is amended-
By substituting sub-regulation 21(1) with a new Regulation 21(1) as follows-

21(1) The host communities development plan shall be managed and implemented by the Board of Trustees and shall—

28. Amendment of Regulation 21 thereof-
The principal Regulation is amended-
By substituting sub-regulation 21(3) with a new Regulation 21(3) as follows-

21(3) The Commission shall approve a host communities development plan if it substantially conforms with the requirements set out in sub-regulation 21(1).

29. Amendment of Regulation 23 thereof-
The principal Regulation is amended-
By substituting sub-regulation 23(3)(d) with a new Regulation 23(3)(d) as follows-

23(2)(d) the administrative cost account to be administered by the Settlor, into which an amount not exceeding 5% of any amount standing to the credit of the collection account shall be paid and utilised in accordance with regulation 20(4) of these Regulations.

30. Amendment of Regulation 23 thereof-
The principal Regulation is amended-
By substituting sub-regulation 23(5)(b) with a new Regulation 23(5)(b) as follows-

23(5)(b) details of signatories to the bank account and sub-accounts, except the administrative cost account, which shall comprise the representatives of Board of Trustees ;

31. Amendment of Regulation 23 thereof-
The principal Regulation is amended-
By substituting sub-regulation 23(5)(c) with a new Regulation 23(5)(c) as follows-

23(5)(c) a copy of the Board of Trustees' resolution approving the opening of the bank accounts and sub-accounts comprising the Fund and the bank account mandate; and

32. Amendment of Regulation 24 thereof-
The principal Regulation is amended-

By substituting sub-regulation 24(1) with a new Regulation 24(1) as follows-

24(1) The settlor shall make its first annual contribution to the Fund within one month after the collection account has been established by the Board of Trustees, and thereafter make contributions on a yearly basis within three months from the end of each year.

33. Amendment of Regulation 24 thereof-

The principal Regulation is amended-

By substituting sub-regulation 24(9) with a new Regulation 24(9) as follows-

24(9) The settlor shall submit to the commission, its annual audited report of the preceding year within three months to the end of the current year and the report shall include the details of the settlor's annual operating expenditure in the preceding financial year in the upstream petroleum operations affecting the host communities for which the Fund was established.

34. Amendment of Regulation 27 thereof-

Regulation 27(b) of the principal Regulation is hereby repealed

35. Amendment of Regulation 30 thereof-

The principal Regulation is amended-

By substituting sub-regulation 30(1) with a new Regulation 30(1) as follows-

30(1) The Board of Trustees shall render quarterly returns to the settlor in relation to the Fund, which shall include—

36. Amendment of Regulation 30 thereof-

The principal Regulation is amended-

By inserting immediately after Regulation 30(1) thereof, the following new Regulation (30)(2) as follows-

30(2) The settlor shall submit the statement in paragraph 30(1) to the Commission on a quarterly basis

37. Amendment of Regulation 30 thereof-

The principal Regulation is amended-

By substituting sub-regulation 30(3) with a new Regulation 30(4) as follows-

30(4) Where the Settlor provides evidence that the inability to provide quarterly returns as at and when due arises from the refusal of the Board of Trustees to provide same promptly, the administrative penalty imposed

pursuant to sub-regulation (2) of this regulation shall not apply and the Commission shall give the settlor extension of time to provide the quarterly returns following its liaison with the Board of Trustees.

38. Amendment of Regulation 30 thereof-

The principal Regulation is amended-

By substituting sub-regulation 30(5) with a new Regulation 30(6) as follows-

30(6) Where the Commission discovers that a withdrawal was made from the Fund knowingly in contravention of the approved host communities development plan or the Act without compliance with the appropriate procedures under these Regulations by the Board of Trustees or any other person whether with or without the authority of the Board of Trustees, the Commission shall—

39. Amendment of Regulation 30 thereof-

The principal Regulation is amended-

By substituting sub-regulation 30(5)(a) with a new Regulation 30(6)(a) as follows-

30(6)(a) immediately direct the Board of Trustees or any such person to refund such monies into the Fund, provided that such refund, shall not serve as a defence to any criminal liability that may apply where the Commission decides to institute criminal proceedings; and

40. Amendment of Regulation 30 thereof-

Regulation 30(5)(6) of the principal Regulation is hereby repealed

41. Amendment of Regulation 31 thereof-

The principal Regulation is amended-

By substituting sub-regulation 31(2) with a new Regulation 31(2) as follows-

31(2) The Fund Manager shall be appointed within three months of the establishment of the fund.

42. Amendment of Regulation 31 thereof-

The principal Regulation is amended-

By substituting sub-regulation 31(4) with a new Regulation 31(4) as follows-

31(4) Any appointment made in contravention of sub-regulation (3) of this regulation shall be null and void and any trustee who participates in the appointment of a fund manager in contravention of the provisions of this regulation shall be liable to removal as a member of the Board of Trustees.

43. Amendment of Regulation 31 thereof-

The principal Regulation is amended-

By substituting sub-regulation 31(5) with a new Regulation 31(5) as follows-

31(5) Where the Commission discovers that a fund manager has been appointed in contravention of sub-regulation (3) of this regulation, the Commission may by notice require the Settlor to make a recommendation to the Board of Trustees to immediately appoint a fund manager in compliance with sub-regulation (3) of this regulation and the Board of Trustees shall appoint another fund manager within 14 days of receiving such recommendation.

44. Amendment of Regulation 35 thereof-

The principal Regulation is amended-

By substituting sub-regulation 35(1) with a new Regulation 35(1) as follows-

35(1) A settlor shall obtain from the Board of Trustee the year Mid-year and Annual report of the trust for submission to the Commission within 30 days from the expiration of the period prescribed therein.

45. Amendment of Regulation 36 thereof-

The principal Regulation is amended-

By substituting sub-regulation 36(2)(f) with a new Regulation 36(2)(f) as follows-

36(2)(f) fails to provide any information, document or report required to be provided to the Commission pursuant to the Act or these Regulations within the prescribed period,

shall be liable to a penalty issued by the Commission not exceeding \$250,000 or its equivalent in Naira and in addition the Commission may make a recommendation to the Minister, for the revocation of the license or lease in the case of a defaulting settlor.

46. Amendment of Regulation 37 thereof-

The principal Regulation is amended-

By substituting sub-regulation 37(1) with a new Regulation 37(1) as follows-

37(1) Where an act of vandalism, sabotage or civil unrest is suspected to have occurred that causes damage to the facilities used in upstream petroleum operations of the settlor within the host communities or disrupts

production activities, the settlor shall notify the Commission and the Board of Trustees within 24 hours of the disruptive act

47. Amendment of Regulation 37 thereof-

The principal Regulation is amended-

By substituting sub-regulation 37(2) with a new Regulation 37(2) as follows-

37(2) A settlor shall within 30 days of the notice in sub-regulation 1 of these regulations, submit a report on the disruptive act to the Commission and the Board of Trustees

48. Amendment of Regulation 37 thereof-

The principal Regulation is amended-

By substituting sub-regulation 37(5) with a new Regulation 37(5) as follows-

37(5) The Commission shall review the report submitted by the settlor pursuant to sub-regulation (2) of this regulation to determine whether the disruptive act was due to technical or natural cause or third-party interference and establish the costs and tax recovery under regulation 37(3) of these Regulations and any adjustment required in the cash-flow pursuant to regulation 37(3)(g) of these Regulations.

49. Amendment of Regulation 37 thereof-

The principal Regulation is amended-

By substituting sub-regulation 37(6) with a new Regulation 37(6) as follows-

37(6) Provided that in the case of an event resulting in a spill, the Commission shall require the Settlor to deal with the spill in accordance with existing procedures and regulations on the treatment of spills pending the determination of the cause of the spill and the cost of dealing with the spill by the Commission in order to arrest further damage to the environment.

50. Amendment of Regulation 3 thereof-

The principal Regulation is amended-

By inserting immediately after Regulation 37(7) thereof, the following new Regulation (37)(8) as follows-

37(7) Where it is established that the disruptive act is due to third party interferences involving the host communities, the costs associated with regulations 37(3)(d), (e) and (f) shall be deductible from the actual annual operating expenditure of the financial year

51. Amendment of Regulation 39 thereof-

The principal Regulation is amended-

By substituting sub-regulation 39(10) with a new Regulation 39(10) as follows-

39(10) Where the dispute is not resolved within 45 days after the commencement of the mediation or such other extended period as may have been agreed, or an aggrieved party fails or ceases to participate in the mediation before the 45 days expiry period, or the mediation terminates before 45 days, an aggrieved party may refer the dispute to the Commission, who shall attempt in good faith to resolve the dispute.

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