

[SB. 126]

A BILL

FOR

AN ACT TO PROHIBIT FLARING OF NATURAL GAS IN NIGERIA
AND FOR MATTERS CONNECTED THEREWITH

Sponsored by Senator Osita Izunaso
(Imo West Senatorial District)

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1 BE IT ENACTED by the National Assembly of the Federal Republic of
Nigeria—

Commence-
ment.
Prohibition of

2 1.—(1) Natural gas shall not be flared in any Oil and Gas production
3 operation, block or field onshore or offshore or Gas Facility (Processing
4 treatment Plant, etc.) which shall commence operations after the
5 commencement of this Act.

Gas flare
Flaring of Gas

6 (2) No company engaged in the production of oil and gas shall after 31
7 December 2008 flare natural gas produced whether in association with oil or
8 not.

to cease by
the 31st day
of December
2008.

9 (3) (i) No person shall direct, permit or otherwise aid, empower or
10 authorize howsoever, any company engaged in oil and gas operations to
11 flare gas, provided that the Minister may grant a permit to flare gas in cases
12 of startup, Equipment failure or shut down

Prohibition of
Directive or
Authorization
to flare gas,
except during
a startup,
equipment
failure and
shut down.

13 (ii) Any person who flares gas during without the permission of the
14 Minister in the circumstances mentioned in Section 3 above, shall be liable
15 to pay a fine which shall not be less than the cost of Gas at the international
16 market.

Availability of

17 2.—(1) (a) No Licence or Lease for the production of Oil and Gas whether
18 on shore or offshore shall be granted to any applicant unless the application
19 for such a Licence or Lease is accompanied by a comprehensive programme
20 for the utilization of natural gas both for general, domestic (e.g. Integrated
21 power plants, industries, etc.) and export purposes.

gas utilization
or re-injection
programme
as a condition
precedent to
the issuance
of new
Licence or
Lease.

22 (b) No Licence or Lease for the production of Oil and Gas in Nigeria shall
23 be granted to any applicant unless the Minister is satisfied with the applicant's
gas utilization programme.

Minister's
satisfaction
with the Gas
Utilization
Programme.

Programme

	1	(c) The utilization programme referred to in subsection (1) (a) above,
	2	must be in consonance with the National Gas Master Plan, Domestic Gas
	3	supply obligation, and National policies as may be made in respect of the
	4	gas sector from time to time by the Federal Government.
for gas	5	(2) (a) Licensees and Lessees operating oil and gas fields in Nigeria
gathering,	6	before the commencement of this Act, shall within three months of the
utilization, or	7	commencement of this Act submit to the Minister any feasibility study,
re-injection to	8	programme or proposals that they may have for the gathering, utilization and
be submitted	9	or re-injection of any natural gas, whether associated with oil or not, which
within three	10	has been discovered in the relevant area.
months.	11	(b) Any Licensee or lessee who fails to comply with subsection (2) (a)
Penalty for	12	above shall be liable to pay a to be fixed at the discretion of the Minister.
defaulters.	13	(c) The Minister shall make appropriate arrangement for the exercise
Enforcement	14	of the right vested in the Federal Government by Paragraph 35 (b) (i) of the
of the right of	15	First Schedule to the Petroleum Act 1969, PROVIDED ALWAYS that:
the Federal	16	(i) lack of due exercise of the right of the Federal Government to take natural
Government	17	gas produced with crude oil shall not be a ground for flaring such gas;
Cap. P10,	18	(ii) the Licensee and Lessee operating the field, group of fields or facility
2004 Laws	19	from which gas is produced shall re-inject such gas that he is not able to
of the	20	harness for valuable utilization as prescribed by the Associated Gas Re-
Federation of	21	injection Act, rather than dispose through the flare.
Nigeria.	22	(iii) the Licensee and Lessee operating the field from which gas is produced
Continued	23	shall shut in such a field where he is of the view that the gas produced
	24	there-from, cannot be re- injected or utilized as provided in sub-section
	25	2 (a) of this Section.
	26	3. Where gas flaring continues after the commencement of this Act, up
Flaring.	27	to the 31st day of December 2008, the operator of the field, group of fields, or
Reporting	28	facility from which the gas is flared shall pay the sum of US \$ 3.5 per million
of gas flare	29	standard cubic feet of gas flared (US\$ 3.5/mscf)
	30	4.—(1) From the 31st of December, 2008, Any person, group of persons,
		or community may lodge a report of gas flaring with the nearest office of the

1	Department of Petroleum Resources, the NOSTRA and the NESRA.	
2	(2) The Director shall appoint an Officer to receive and record report of	incidence
3	gas flaring.	after 31st December 2008.
4	(3) The Minister or the Director, acting on his behalf shall, on receipt of	Shut Down Order.
5	a gas flare report issue a Shut Down Order, and ensure actual shut down of	
6	such field, group of fields or facility involved in gas flaring.	
7	(4) A shut Down Order shall attract a Penalty as the Minister may by	Flaring after 31st day of December,
8	regulation prescribe, provided always that such penalty:	
9	(i) shall be based on each day the flare continues in contravention of a	
10	Shut Down Order;	
11	(ii) is distinct from the gas flare penalty prescribed under Section 5 of this	
12	Regulation.	
13	(iii) shall not be less than the cost of Gas at the International Market.	
14	5.—(1) (a) Any person who flares gas after the 31st day of December,	
15	2008 contrary to Section 1 (2) of this Act, commits an offence under this Act,	2008.
16	and shall be liable conviction and pay a fine which shall be equal to the cost	
17	of gas at the international market Provided that, any payment due under this	Revocation of license.
18	paragraph shall be made in the same manner and be subject to the same	
19	procedure as for the payment of royalties	Certificate of
20	(b) The operator of the field or group of fields from which gas is flared	
21	in contravention of Section 1 (2) of this Act, shall also be liable to pay an	
22	amount equivalent to fifty percentage of the penalty prescribed in paragraph	
23	(a) of this subsection, as compensation through the office of the Minister for	
24	community development where the gas flare activity is perpetrated.	
25	(c) The penalty payable on the volume of gas flared by any person from	
26	the commencement of this Act, and for each day the flare continues shall also	
27	be made public.	
28	(d) A Demand Order for payment of Penalty shall also be made public.	
29	(e) Failure to comply with a Demand Order issued under paragraph (d)	
30	shall attract a penalty for each day non- compliance continues.	
31	(2) (a) Without prejudice to sub-section 1 of this Section, the concessions	
	granted in the particular field or group of fields from which gas is being flared	

	1	in contravention of Section 1 (2) of this Act shall be forfeited
	2	(b) The Minister shall revoke the Licence or Lease under which the field
	3	or group of fields from which the offence under Section 1 (2) of this Act was
	4	committed.
Forfeiture and Revocation Order.	5	(c) A Certificate of Forfeiture and the Revocation Order shall be issued
	6	and made public.
	7	(3)(a) It shall be an offence to fail, refuse and or neglect to forward a
	8	gas flare report lodged or falsify an report under Section 4 of this Section, to
Failure to forward report. Act to Apply in Exclusive Zone.	9	the Director for appropriate action.
	10	(b) Any person guilty of an offence committed under paragraph (a) of
	11	this subsection shall be liable to three months imprisonment or an option
	12	of fine.(A fine which will not be less than the value of 50% of the volume of
	13	gas flared.
	14	6. The provisions of this Act shall apply to the Exclusive Zone and free
	15	trade zones as they apply to land as defined in section 1 of the Petroleum
Miscellaneous Provisions.	16	Act.
	17	7. The Minister shall be answerable to the National Assembly for failure,
Power to Make Regulations.	18	refusal, and or neglect to shut down or implement the penalties on any field,
	19	group of fields, or facility which contravenes the provisions of this Act
	20	8. The Minister shall immediately after the coming into effect of this Act
Delegation of the Powers of the Minister.	21	make Regulations to prescribe:
	22	(a) the manner in which any Order, Directive, or application in accordance
	23	with the provisions of this Act shall be made and the Form to be used.
	24	(b) the procedure for making a Gas Flare Report, recording and filing of
	25	Report, publication of Shut Down Order.
	26	(c) the terms and conditions for reviewing where he deems fit in the
	27	national interest without jeopardizing the health, safety and ecological
	28	preservation of the community, a Shut Down Order, and a Licence/Lease
	29	Revocation Order for the purpose of re-opening a field , group of fields or
	30	facility shut down under the provisions of this Act.
	31	(d) generally for carrying into effect the purposes and provisions of this
		Act.

1 9. The powers conferred on the Minister by this Act or any of them may
2 be exercised by the Director for Petroleum Resources.

3 10.—(1) Department of Gas, means the Department of Gas in the
4 Ministry of Energy, or such other Department, Agency or Parastatal as may
5 be established from time to time by the Federal Government and charged
6 with responsibility for management of natural gas resources.

Definition.

Short Title.

7 (a) The Associated Gas Re-Injection Act, No 99 of 1979, CAP. A 25 of the
8 Laws of the Federation of Nigeria 2004 and the Regulations issued there
9 under, to the extent that:

10 (i) It stipulated 1 April 1980 as the ultimatum for every company
11 producing oil and gas in Nigeria to submit to the Minister, a Preliminary
12 Programme for schemes for the viable utilization of all associated gas
13 produced from a field or groups of field, and project or projects to
14 re-inject all gas produced in association with oil but not utilized in an
15 industrial project;

16 (ii) It vests the Minister with powers to issue Certificate for continued
17 flaring of gas.

18 (b) The Petroleum (Drilling and Production) Regulations 1969 (LN. 69
19 of 1969) Cap. P10 of the Laws of the Federation of Nigeria 2004, to
20 the extent that it gives the licensee or lessee up to five years after the
21 commencement of production from the relevant area, to submit to the
22 Minister any feasibility study, programme or proposals that he may have
23 for the utilization of any natural gas, whether associated with oil or not,
24 which has been discovered in the relevant area.

25 (2) Any legislation, subsidiary legislation or Regulation, Guideline,
26 Prescription, Fees, Directive, and or Order made pursuant to any principal
27 legislation amended by this Act, shall, in so far as it is not inconsistent with this
28 Act and subject to section 1 of this Third Schedule, remain in operation until
29 revoked or replaced by an amendment to this Act or by subsidiary Legislation
30 made under this Act, and shall be deemed for all purposes to have been made
31 under this Act.

“Minister” means the Minister charged with responsibilities for matters

1 relating to Gas.

2 "Director" means the Director, Department of Petroleum Resources

3 11. This Act may be cited as the Gas Flaring (Prohibition and Punishment)

4 Bill, 2008.

5

FIRST SCHEDULE

6

Consequential Amendments

7

(1) Notwithstanding anything to the contrary in any enactment,
the power of the Minister to issue Certificate for continued flaring of gas

existing immediately before the commencement of this Act, under Section 3 (2) of the associated Gas Re-Injection Act, No. 99 of 1979, CAP A 25 of the Laws of the Federation of Nigeria 2004 shall, upon the commencement of this Act, be revoked, and the Minister's power shall be limited to the scope of the power and obligations of the Minister as specified in this Act.

(2) Upon the coming into force of this Act, any enactment for the time being in force in Nigeria shall be amended to the extent that it is inconsistent with the provisions of this Act. In particular:

SECOND SCHEDULE

TRANSITIONAL AND SAVINGS PROVISIONS

The Certificates issued under Section 3 (2) of the Associated Gas Re-Injection Act, No. 99 of 1979, Cap. A 25 of the Laws of the Federation of Nigeria 2004 shall

continue to have effect until the 3rd day of December, 2008 subject however to the payment of the gas flare penalty stipulated in this Act.

EXPLANATORY MEMORANDUM

This Bill seeks to make provisions for the prohibition of Gas Flaring in any oil and gas production operation, blocks, field on share or offshore and Gas facility treatment plant in Nigeria.