NATIONAL ENVIRONMENT MANAGEMENT BILL, 2025

ARRANGEMENT OF SECTIONS

Section

PART IV - FINANCIAL PROVISIONS

PART V – ENVIRONMENTAL PLANNING

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NATIONAL ENVIRONMENT MANAGEMENT BILL, 2025

A BILL ENTITLED

AN ACT to provide for the implementation of environmental and related policies and action plans as well as the regulation of environmental management and protection in The Gambia including public participation and all other matters connected thereto and to also provide for the implementation and regulation of bilateral and multilateral environmental agreements to which The Gambia is a party to and to make provision for connected matters.

[ ]

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

1. Short title

This Act may be cited as the National Environment Management Act, 2025.

2. Interpretation

In this Act, unless the context otherwise requires –

"Agency" means the National Environment Agency established under section 14;

"**air quality**" means the concentration prescribed under or pursuant to this Act, of a pollutant in the atmosphere at the point of measurement;

"**ambient air**" means the atmosphere surrounding the earth but does not include the atmosphere within a structure or within any underground space;

"analysis" means the testing or examination of any matter, substance or process for the purpose of determining its composition or qualities or its effect (whether physical, chemical or biological) on any a segment of the environment or examination of emissions or recording of noise or sub-sonic vibrations to determine the level or other characteristics of the noise or sub-sonic vibration or its effect on any segments of the environment;

"analyst" means the person who conduct laboratory analysis and signs the certificate of analysis described under section 111;

"**beneficial use**" means a use of the environment or any element or segment of the environment that is conducive to public health, welfare or safety and which requires protection from the effects of wastes, discharges, emissions and deposits;

"**biological diversity**" means the variability among living organisms from all sources including inter-alia, terrestrial ecosystems and aquatic ecosystems and the ecological complexes of which they are part of and this includes diversity within species, between species, and of ecosystem;

"Board" means the Board of Directors of the Agency established under section 16.

"**Complaints Committee**" means the Public Complaints Committee established under section 32;

"**chemical**" means a chemical substance in any form whether by itself or in a mixture or preparation whether manufactured or derived from nature and includes industrial chemicals, pesticides, fertilizers, and drugs;

"**coastal zone**" means the zone identified as such by way of regulations;

"**Council**" means the National Environment Management Council established under section 12;

"**developer**" means any person who proposes or has undertaken the development of a project;

"**effluent**" means wastewater or other fluid of domestic, agricultural or industrial origin, treated or untreated and discharged directly or indirectly into environment;

"**element**", in relation to the environment, means any of the principal constituent parts of the environment including water, atmosphere, soil, vegetation, climate, sound, odour, aesthetics, fish and wildlife;

"**environment**" means the physical factors of the surroundings of the human being including land, water, atmosphere, the biological factors of fauna and flora and the social factor of aesthetics and includes both the natural and the built environment;

"**environmental Audit**" means the systematic documentation and periodic and objective evaluation of how well an entity is performing in protecting and conserving the environment with respect to set conditions and standards;

"**environmental impact assessment**" means a systematic examination conducted to determine whether or not an activity may have any adverse impacts on the environment;

"environmental levy" means a fee charged on activities and considerations that have potential negative impact on the environment;

"environmental tax" means a tax on something that has a proven or a specific negative impact on the environment;

"**environmental monitoring**" refers to the tools and techniques designed to observe an environment, or an element of the environment, characterize its quality, and establish environmental parameters for the purpose of accurately quantifying the impact an activity has on the said environment or its element;

"**environmental planning**" means the process of facilitating decision making with respect to development works with consideration of the natural environment, social and economic factors within a holistic framework that is intended to achieve a sustainable outcome and includes short-term, mid-term and long-term planning;

"**environmental resources**" mean the resources of the air, the land and the water including their aesthetical qualities;

"**ex-situ**" means conservation outside the natural habitat of the biological organism;

"**Executive Director**" means the Executive Director of the Agency;

"Fund" means National Environment Agency Fund established under section 38;

"genetic engineering" means the technique by which heritable material, which does not usually occur or will not occur naturally in the organism or cell concerned, generated outside the organism or the cell is inserted into said cell or organism. It shall also mean the formation of new combinations of genetic material by incorporation of a cell into a host cell, where they occur naturally (self cloning) as well as modification of an organism or in a cell by deletion and removal of parts of the heritable material;

"**genetic resources**" means genetic material of actual or potential value;

"**good environmental practice**" means practice that is in accordance with adopted technical norms and specifications and consistent with the provisions of this Act and any other law;

“**hazardous substance**” means any chemical pesticide, waste, gas, medicine, drug, plant, animal or microorganism which is injurious to human or animal health or the environment;

“**in-situ**” means conservation within the natural ecosystem and habitat of the biological organism;

“**inspector**” means the environmental inspectors of the Agency and its other program staff as well as staff of other environmental Ministries whose roles relate to responsibilities provided under 108;

“**lead agency**” means any Ministry, department or agency that holds statutory mandate over the implementation of policies and plans that relate to the implementation of this Act;

“**local environment action plan**” means the plan provided for under section 50;

“Manual of Procedures” means the Agency`s service rules and guidelines;

“microorganisms" include all the bacteria, viruses, fungi, mycoplasma, cells lines, algae, protozoa and nematodes;

“Minister” means the Minister designated with the affairs of the Agency;

“**noise**” means any undesirable sound that is intrinsically objectionable or that can cause adverse effects on human health, or the environment and that is not from a natural source;

“Gambia Environment Action Plan” means the Gambia Environment Action Plan prepared under section 49;

“occupier” in relation to any land or premise, means the person in actual occupation of, or in charge of, or responsible for, managing the land or premise;

“occupational air quality” means the concentration prescribed under or pursuant to this Act of a pollutant in the atmosphere within a structure or underground space in which human activities take place;

“**oil**” includes crude oil, diesel oil, fuel oil and lubricating oil; and any other description of oil which may be prescribed by the Council;

“person” means a natural or legal person;

“**owner**” means,

(a) in relation to any premises includes;

(i) the registered proprietor of the premises;

(ii) the lessee or sub-lessee of premises, whether registered or not;

(iii) the agent or trustee of any of the owners described in sub-paragraphs (i) and (ii) or where such owner as described in sub-paragraphs (i) and(ii) cannot be traced or has died, his legal personal representative;

(iv) the person receiving the rent of the premises whether on his own account or as agent, or trustee for any other person or as receiver or who would receive the rent if such premises were let to a tenant; and

(b) in relation to any ship, the person registered as the owner or charterer of the ship r in the absence of registration, the person in actual possession of the ship except that in the case of a ship owned by any country and operated by a company which in that country is registered as the ship's operator owner shall include such country;

"**ozone layer**" means the layer of atmosphere containing ozone above the planetary boundary layer;

"**pollutant**" means any substance whether liquid, solid or gaseous which directly or indirectly; alters the quality of any segment or element of the receiving environment so as to affect any beneficial use adversely; or is hazardous or potentially hazardous to health and includes objectionable odours, radio-activity, noise, vibration, temperature change or physical chemical or biological change to any segment or element of the environment;

"**pollution**" means any direct or indirect alteration of the physical, thermal, chemical, biological, or radioactive properties of any part of the environment by discharging, emitting, or depositing wastes so as to affect any beneficial use adversely, to cause a condition which is hazardous or potentially hazardous to public health, safety, or welfare, or to animals, birds, wildlife, fish or aquatic life, or to plants or to cause a contravention of any condition, limitation, restriction under this Act;

"polluter pays principle" means the principle that the person or institution responsible for pollution or any other damage to the environment shall bear the cost of restoration and clean-up of the affected area to its natural or acceptable state;

"**practicable**" means capable of being done within reasonable natural, social, economic and technological having regard, among other things, to local conditions and circumstances and to the current state of technical knowledge; natural, social, economic, technical and technological constraints;

“**precautionary principle”** means the principle that, lack of scientific certainty should not be used as a reason to postpone measures to prevent environmental degradation, or possible environmental degradation, where there is a threat of serious or irreversible environmental damage, because of the threat;

“**premises**” includes buildings, land, and hereditament in every, tenure, machinery, plant, vehicle or other designated structures used in connection with any trade;

“**prescribed**” means prescribed by or under this Act or continued in operation by this Act under regulations, standards and guidelines made pursuant to this Act and any other relevant legislation;

“**project**” means any activity, which has or is likely to have an impact on the environment;

“**radiation**” includes ionizing radiations and any other radiation likely to have adverse effects on human or animal health and the environment;

“**Restoration Fund”** means the National Environment Trust Fund established under section 44;

“**segment**” in relation to the environment means any portion of the environment expressed in terms of volume, space, area, quantity, quality or time or any combination thereof;

“**soil**” includes earth, sand, rock, shale, minerals and the fauna and flora in the soil and derivatives thereof;

“**standard**” means the limits of pollution established under section 28 or under regulations made pursuant to this Act or any other law;

"Strategic environment assessment" means the process of subjecting public policy, programmes and plans to tests for compliance with sound environmental management;

“**Strategic environmental assessment report**” means the part of the plan or programme documentation containing the information required in Section 78;

“**sustainable development**” means the principle for meeting human development goals while simultaneously sustaining the ability of natural systems to provide the natural resources and ecosystem services on which the economy and society depend for the needs of the present while not compromising that for the future;

“**Sustainable use**” means present use which does not comprise the ability to use the same resource by future generation;

"**Technical Advisory Committee**" means the committee established under section 27 of the Act;

"**Technical Working Group**" means the Working Group established under section 30 of this Act;

"trade" means any business or undertaking whether originally carried on at fixed premises or at varying places which results in the discharge of wastes and includes any activity prescribed to be a trade, business or undertaking for the purpose of this Act or any other law;

"**Trust Fund"** means the National Environment Trust Fund established under section 43;

"**Vessel**" includes ship, boat, floating structure, or aircraft;

"**waste**" includes any matter prescribed to be waste, and any rejected matter, whether liquid, solid, gaseous, or radioactive, which is discharged, emitted, or deposited in the environment in such volume, composition or manner likely to adversely affect the environment;

"**water**" includes drinking water, river, stream, watercourse reservoir, well, dam, canal, channel, lake, swamp, open drain, sea, or underground water; and

"**Wetland**" means an area permanently or seasonally flooded by water where plants and animals have become adapted.

PART II - GENERAL PRINCIPLES

3. Right to clean, safe and healthy environment

(1) Every person in The Gambia shall have a right to clean, safe and healthy environment.

(2) The right to clean, safe and healthy environment shall include the right of access by any person to the various public elements or segments of the environment for recreational, educational, health, spiritual, cultural and economic purposes.

4. Right to bring an action on environment

(1) If a person alleges that the right to a clean, safe and healthy environment-

(a) has been,

(b)is being or

(c) is likely to be denied, violated, infrigned or threatened,

in relation to him or her, then without prejudice to any other action with respect to the same matter which is lawfully available, the person may on his or her behalf or on behalf of a group or class of persons, members of an association or in the public interest, may apply to the High Court for redress.

(2) The High Court may take such orders, issue such writs or give such directions as it may deem appropriate to –

(a) prevent, stop or discontinue any activity or omission, which is likely to cause harm to human health or the environment;

(b) compel any public officer to take measures to prevent or discontinue any act or omission, which is likely to cause harm to human health or environment;

(c) require that any on-going activity or omission be subjected to an environmental impact assessment, audit or monitoring;

(d) require the person whose activity or omission is likely to cause harm to human health or the environment, to take measures to protect the environment or human health;

(e) compel the person responsible for the environmental degradation to restore the degraded environment as far as practicable to its condition immediately prior to the damage; and

(f) provide compensation for any victim of harm or omission and the cost of beneficial uses lost as a result of an activity that has caused harm to human health or the environment.

(2) A person proceeding under subsection (1) of this section shall have the capacity to bring an action notwithstanding that such a person cannot show that the defendant’s act or omission has caused or is likely to cause him any personal loss or injury provided that such action –

(a) is not frivolous or vexations; or

(b) is not an abuse of the court process.

(3) A court in exercising the jurisdiction conferred upon it under subsection (1), the High Court shall be guided by the following principles of environment and sustainable development –

(a) the precautionary principle;

(b) polluter pays principle;

(c) the principle of eco-system integrity;

(d) the principle of public participation in the development of policies, plans and processes for the management of the environment;

(e) the principle of access to justice;

(f) the principle of inter-generational equity and intra-generational equity;

(g) the principle of international co-operation in management of environmental resources shared by two or more states; and

(h) the principle of common but differentiated responsibilities.

5. Duty to protect the environment

(1) Every person in The Gambia shall have a stake and a duty to safeguard and enhance the environment and to inform the Agency or any relevant authority of any activity that affect or are likely to affect the environment adversely.

(2) Every person shall cooperate with state organs to protect and conserve the environment and to ensure the ecological sustainable development and use of natural resources.

(3) The Agency shall on its volition or on receipt of information referred to under subsection (1) instruct the person whose activities affect or are likely to affect the environment adversely-

(a) to discontinue the activities; or

(b) suject the activities to environmental monitoring or auditing as may be necessary.

(4) The Agency may instruct any public officer to take measures to prevent or discontinue any acts deleterious to the environment.

(5) Notwithstanding sub-sections (3) and (4), the Agency may petition the Attorney General requesting him or her to bring a public interest action if-

(a) a person instructed under sub-section (3), refuses to follow the instructions given; or

(b) the activities of a person have adversely affected or are likely to adversely affect the environment.

(6) A person may bring a public interest action to protect the environment provided that the fiat of the Attorney General is obtained.

6. Principles of environmental management

(1) The objective of this Act is to provide for and promote the enhancement, protection, conservation and management of the environment.

(2) In the promotion of the objective referred to under sub-section (1), this Act provides a legal framework necessary for co-ordinating harmonious and conflicting activities with a view to integrating such activities into an overall sustainable environmental management system by providing key technical support to Ministries and Agencies and the private sector.

(3) In achieving the objective of this Act, every person exercising powers under this Act shall observe the principle that –

(a) the environment is the common heritage of present and future generations;

(b) adverse effects be prevented and minimised through long-term integrated planning and coordination, integration and co-operation of efforts, which consider the entire environment as a unit;

(c) the precautionary principle, which requires that where there is risk of serious irreversible adverse effects occurring, a lack of scientific certainty should not prevent or impair the taking of precautionary measures to protect the environment;

(d) the polluter pays principle, which requires that any person causing adverse effect on the environment shall be required to pay in full social and environmental costs of avoiding, mitigating, and or remedying those adverse effects;

(e) the public participation principle, which requires the involvement of the people in the development of policies, plans, regulations and processes for the management of the environment;

(f) access to environmental information, which enables citizens to make informed personal choices and encourages improved performance by industry and government;

(g) access to justice, which gives individuals, the public and interest groups of persons the opportunity to protect their rights to participation and to contest decisions that do not take their interest into account;

(h) the generation of waste be minimised, wherever practicable, waste should, in order of priority, be re-used, recycled, recovered and disposed of safely in a manner that avoids creating adverse effects or if this is not practicable, is least likely to cause adverse effects;

(i) the environment and natural resources are vital to people's livelihood, to be used sustainably in order to achieve poverty reduction, and social economic development;

(j) non-renewable natural resources only be used prudently, taking into account the consequences for the present and the future generations;

(k) renewable natural resources and ecosystems only be used in a manner that is sustainable and does not prejudice their viability and integrity; and

(l) responsibilities and obligations in environmental protection should reflect socio-economic conditions and historical contributions to the problem at hand.

(4) With regard to observance of the objective stipulated under sub-section (1), the Agency shall be responsible for fostering co-ordination between-

(a) Government;

(b) local government authorities;

(c) private sector players; and

(c) other bodies engaged in environmental management as a cross-cutting issue,

and shall in that respect maintain a system of collaboration, consultation and co-operation with any person having functions provided under the Act.

7. Obligation to give effect to environmental principles

A person performing a public function who, in the course of performing that function is required to take any action, make a decision, create, revise, or implement any policy, plan, strategy, legislation, guideline, procedure or standard that is likely to affect the management, conservation or enhancement of the environment or the sustainable management of natural and cultural resources shall have regard to principles of environmental management.

8. Promotion of the National Environmental Action Plan

A person exercising powers under the Act or under any other written law having a bearing on the management of the environment shall, strive to promote and have regard to the National Environmental Action Plan.

9. Freedom of Access to Environmental Information

(1) Subject to the Constitution and the law relating to access to information, every person has the right to access any information that relates to the implementation of the Act that is in the possession of the Agency, lead agencies or any other person.

(2) A person desiring the information referred to in sub-section (1) shall apply to the Agency or a lead agency and may be granted access to such information on payment of the prescribed fee.

(3) The right referred to in sub-section (1) above shall be subjected to the duty of the Agency or the lead agencies to protect confidential information of third parties and other conditions to be specified in the Regulations.

10. Prohibition of Hazardous Substances

A person shall not put into circulation of substances for use where, when handled incorrectly, they, their derivatives or waste may present a danger to the environment or indirectly endanger people.

PART III - ADMINISTRATIVE PROVISIONS

11. Establishment of the National Environment Management Council

(1) There is established by this Act, the National Environment Management Council.

(2) The Council shall consist of –

(a) the President, who shall be the Chairperson;

(b) the Vice-President as Vice Chairperson;

(c) the Minister responsible for finance and economic affairs;

(d) the Minister responsible for Environment, climate change conservation of forests and wildlife;

(e) the Minister responsible for fisheries and water resources;

(f) the Minister responsible for energy and extraction of natural resources;

(g) the Minister responsible for agriculture;

(h) the Minister responsible for health;

(i) the Minister responsible for landsand local governments;

(j) the Minister responsible for trade,Industry and employment ;

(k) the Minister responsible for justice as a co-opted member; and

(l) such other person as the President may co-opt.

(3) The Executive Director of the Agency shall be the Secretary to the Council.

12. Functions of the Council

(1) The Council shall be the ultimate decision making body for environmental management in the country and shall –

(a) establish the need for new environmental policy and related regulations;

(b) set national goals and objectives for such environmental policies and regulations;

(c) subject to this Act, approve the formulation and adoption of policies and related plans, Regulations, standards and guidelines as may be proposed by the Agency under the provisions of this Act;

(d) approve of the review and revision policies and related plans, regulations, standards and guidelines as well as adoption of these revisions as may be proposed by the Agency under provisions of this Act;

(e) approve of the harmonisation of policies and related plans as may be proposed by the Agency;

(f) approve of, commission and publish, national-level environmental studies and research

(g) promote co-operation and coordination among public institutions, local authorities, private sector and other non-state actors and such other organizations engaged in environmental management programmes and activities; and

(h) perform such other functions as are assigned under this Act or as may be deemed necessary for the overall sustainable management and use of the country's natural resources.

(2) The Council may delegate its functions to the Board, and where necessary the Council may authorise the Chairperson of the Board to represent the Council before National Assembly as the case may be.

13. Meetings of the Council

(1) The Council shall meet at least once in every six months at such places and times as the President may appoint.

(2) The President shall preside at all meetings of the Council and in his or her absence shall designate the Vice President to preside.

(3) The decision of the Council shall be carried by majority vote of members present and voting and in the event of equality of votes, the Chaiperson shall have a casting vote.

(4) At every meeting of the Council one-half of the members present shall constitute a quorum.

(5) The Chairperson may invite any person to attend and participate in the meetings of the Council, as may be necessary, provided such a person shall not have the right to vote.

(6) The Secretary to the Council shall prepare and keep all the records of the business conducted at the meetings of the Council and such records shall be signed by both the Chairperson and the Secretary and sealed with the seals of their respective roles as President and Executive Director.

(7) The Secretary shall propose discussion points for meetings of the Council to the Chairperson for approval before scheduling the meeting.

(8) The powers or decisions of the Council shall not be affected by any vacancy in the membership thereof nor by any defect in the appointment of a person purporting to be a member of the Council.

(9) Subject to this section, the Council shall regulate its own procedure.

14. Establishment of the National Environment Agency

(1) There is established by this Act, the National Environment Agency that shall be the Secretariat of the Council and shall –

(a) be a body corporate with perpetual succession and a common seal;

(b) in its corporate name, be capable of suing and be sued;

(c) for, and in connection with, the purposes of this Act, be capable of holding, purchasing and otherwise acquiring and disposing of movable and immovable property; and

(d) enter into contracts and conduct its own business purposely for the funding and performance of its statutory mandate.

(2) The application of the common seal of the Agency shall be authenticated by the signature of the Executive Director or such other person as may be authorised by the Executive Directive in writing to sign on behalf of the Agency.

(3) A document bearing the imprint of the common seal of the Agency is deemed to be properly sealed, unless the contrary is proved.

(4) The Agency shall –

(a) be the advisory body to the Council on the formulation, review, revision and repealing of environmental policies and related action plans; be the advisory body to the Council on the need for formulation of environmental regulations, standards and guidelines;

(b) be the principal body for environmental management in the country through coordination of the implementation of environmental policies and related plans as may be provided for by this Act;

(c) be responsible for the regulation of the implementation of environmental and related policies as well as guidelines and standards for environmental protection in the country through the formulation and enforcement of such regulations within the context of partnerships;

(d) be the lead role in the management of sectors of the environment such as the coastal and marine zone that are affected by more than one environmental policy;

(e) play the lead role in the management of environmental issues that are of central interest to multiple environmental, and related, policies and plans through programming and regulation;

(f) lead and coordinate environmental studies and research that are required for the implementation of environmental policies and related plans;

(g) support the implementation of various environmental policies and related plans through mobilisation of funds and relevant resources including the provision of technical support;

(h) through the Executive Director be the Government's principal adviser on environmental matters; and

(i) do or perform all such other things or acts for the proper administration of this Act, which may lawfully be performed by a body corporate.

(5) The Agency shall composed of the Executive Director as the administrative head and accounting officer of the Agency and such other members as may be proposed by the Executive Director and approved by the Board.

15. Objects and functions of the Agency

(1) The object for which the Agency is established is to exercise general co-ordination over all matters relating to the environment and to be the principal instrument of Government in co-ordinating the implementation of all policies relating to all aspects of the environment in addition to the regulation of the said policies and related plans.

(2) Without prejudice to sub-section (1), the Agency shall –

(a) implement the policies of the Council on the environment;

(b) liase with the various Ministries, departments, and agencies of Government on all issues relating to the environment and ensure that environmental concerns are integrated into all spheres of national planning and project implementation;

(c) liase with the private sector, inter-govrnmental organizations, non-governmental organizations, governmental agencies of other states on all issues relating to the environment;

(d) prepare proposals for environmental policies and strategies for the Council;

(e) co-ordinate the various environmental protection and management activities being undertaken by the lead agencies and promote the integration of environmental considerations into development policies, plans, programmes and projects with a view to ensuring the proper management and rational utilization of environmental resources on a sustainable yield basis for the improvement of the quality of human life in The Gambia;

(f) administer and enforce the Act and other environmental laws as may be prescribed;

(g) promote full compliance with environmental laws;

(h) in collaboration with lead Ministries and Agencies, review and approve environmental impact assessments submitted in accordance with this Act or any other law;

(i) take stock, in consultation with the relevant lead Ministries and Agencies, of the natural resources in The Gambia and their utilisation and conservation;

(j) establish and review in consultation with the relevant lead Ministries the land use guidelines;

(k) examine land use patterns to determine their impact on the quality and quantity of natural resources;

(l) carry out surveys which will assist in the proper management and conservation of the environment;

(m) advise the Government on legislative and other measures for the management and protection of the environment and the implementation of international conventions, treaties and agreements in the field of environment and to which the Gambia is party to;

(n) advise the Government on regional and international environmental conventions, treaties and agreements to which The Gambia should be a party and follow up the implementation of such agreements where Gambia is a party;

(o) undertake and co-ordinate research, investigation and surveys in the field of environment and collect, collate and disseminate information about the findings of such research, investigation or survey;

(p) mobilise and monitor the use of financial and human resources for environmental management;

(q) identify projects for which Environmental Impact Assessment (EIA) is required;

(r) identify programmes or types of projects, plans and policies for which strategic environmental assesment, audit or environmental monitoring must be conducted under this Act;

(s) carry out environmental audits and monitoring;

(t) initiate and evolve procedures and safeguards for the prevention of accidents which may cause environmental degradation and evolve remedial measures where accidents occur;

(u) monitor and assess activities, including activities being carried out by relevant lead Ministries and Agencies, in order to ensure that the environment is not degraded by such activities, environmental management objectives are adhered to and adequate early warning on impending environmental emergencies are given;

(v) undertake, in co-operation with relevant lead Ministries and Agencies, programmes intended to enhance environmental education and public awareness about the need for sound environmental management for enlisting public support and encouraging the effort made by other entities in that regard;

(w) in partnerhip with lead MInistires and Agency and other key stakeholders promote environmental education in basic, secondary and tertiary education;

(x) publish and disseminate manuals, codes or guidelines relating to environmental protection, management and prevention or abatement of environmental degradation;

(y) render advice and technical support, where possible, to entities engaged in natural resources management and environmental protection so as to enable them to carry out their responsibilities satisfactorily; and

(z) prepare and issue the state of the environment report in The Gambia every five years and in this regard may direct any lead Ministry and Agency to prepare and submit to it a report on the state of the sector of the environment under the administration of that lead Ministry or Agency.

(3) Without prejudice to sub-section (1), the Agency shall –

(a) be the principal source of data and information, processed and unprocessed, for the purpose of advising decision making on environmental management and protection in the country;

(b) support environmental education in particular at the early childhood and basic cycle schools through establishment of environmental resources centers at the schools and development of environmental education materials in partnership with the lead Ministry;

(c) attend to any complaint relating to the environment and addrressed to it;

(d) to impose and collect environmental levies in accordance with this Act andsubsidiary regulations thereunder.

(e) be the regulator of environmental management and protection in the Gambia through the formulation and enforcement of regulations for the implementation of environmental and related policies, guidelines and action plans through partnerships with lead agencies; and

(f) perform such other functions as the Council may assign to the Agency or as are incidental or conducive to the exercise by the Agency of any or all of the functions provided under this Act or any other law.

(4) Subject to this Act, the Agency may, by resolution either generally or in any particular case, delegate to any committee of the Agency or to any member, officer, employee or agent of the Agency, the exercise of any of the powers or the performance of any of the functions or duties of the Agency under the Act.

16. The Board

(1) There is established by this Act, Board of Directors of the Agency which shall be the governing body of the Agency.

(2) The Board shall consist of–

(a) a Chairperson appointed by the President in consultation with Council;

(b) the Secretary General and Head of the Civil Service;

(c) Permanent Secretary, Ministry responsible for the Environment

(d) the Executive Director of the Agency;

(e) the Vice Chancellor, University of The Gambia;

(f) the Chief Executive Officer, Gambia Chamber of Commerce and Industry;

(g) representative of Non-Governmental organisations active in the environmental field to be appointed by the President;

(h) a legal practitioner, appointed by the President in consultation with the Council;

(i) the Permanent Secretary, Personnel Management Office; and

(j) the Permanent Secretary, Ministry of Finance and Economic Affairs;

(3) The head of the legal unit of the Agency shall serve as the Board Secretary and shall be responsible for –

(a) arranging the business of the Board's meetings in consultation with the Chairperson;

(b) keeping record of the proceedings of the Board; and

(c) such other duties as the Board may direct.

(4) A person shall not be appointed under sub-sections (1)(a) and (g) unless such person holds at least a post-graduate degree from a recognized university in the fields of environmental law, environmental science, natural resource management or a relevant social science with proven working experience in the relevant field.

(5) The members appointed under sub-section (1) (a) and (g) shall hold office for a term of four years and shall be eligible for reappointment for a further term of four years.

(6) The members referred to under sub-section (1) (a) and (g) shall be appointed at different times so that the respective expiry dates of their terms of office shall not overlap.

(7) The Board shall elect a Vice-Chairperson from among any member under sub-section (1) except for (b) and (c) who are members of the public service

(8) A person shall not be appointed as a member of the Board if he or she is —

(a) not a citizen of The Gambia;

(b) an undischarged bankrupt;

(c) affected by a mental disability which makes the member incapable of performing the functions of a member; or

(d) convicted of an offence under this Act or any other law and has been sentenced to imprisonment for a period exceeding six months without the option of a fine.

(9) A member may resign upon giving one month's notice, in writing, to the Council.

17. Meetings of the Board

(1) The Board shall meet at least quarterly.

(2) The Chairperson shall preside at every meeting of the Board at which he or she is present, but in his or her absence the Vice-Chairperson shall preside, and in the absence of the vice-chairperson, the members present shall elect one member amongst themselves who shall, with respect to that meeting and the business transacted therein have all the powers as vested in the Chairperson.

(3) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and in the case of an equality of votes, the Chairperson or person presiding shall have a casting vote.

(4) The quorum for the transaction of the business of the Board shall be sixty percent of members including the person presiding; and all acts, matters or things authorised or required to be done by the Board, shall be effected by a resolution passed by a majority of the members present and voting.

(5) A member who has direct or indirect personal interest in the outcome of the deliberations of a meeting of the Board in relation to a matter shall disclose the nature of the interest at that meeting which shall be recorded in the minutes of the meeting and the member shall withdraw from the deliberations of the Board in respect of that matter and shall not vote on the matter.

(6) A resolution of the Board is valid, even though it is not passed at a meeting of the Board, if –

(a) it is signed or assented to by a majority of members of the Board; and

(b) the notice in writing of the proposed resolution was given to each member.

(7) The Secretary to the Board shall not have a voting right.

18. Cessation of membership of the Board

(1) The appointment of a member of the Board may be terminated by the appointing authority where the member –

(a) has been absent from four consecutive ordinary meetings of the Board without the permission of the Board Chairperson, whereas in the case of the chairperson, he or she shall notify the vice chairperson of his or her none availability;

(b) is adjudged bankrupt;

(c) is convicted of a felony or an offence involving moral turpitude;

(d) is incapacitated by prolonged physical or mental illness from performing his or her duties as a member of the Board; or

(e) becomes, for any reason, incapable or incompetent of properly performing the functions of his or her office.

(2) Where a member of the Board dies or resigns or otherwise vacates office before the expiry of his or her term of office, the appointing authority shall appoint another person in the place of such member.

19. Powers of the Board

(1) The Board shall have all powers necessary for the proper performance of its functions.

(2) under this Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have powers to –

(a) supervise and administer the assets of the Agency in such manner as best promotes the purpose for which the Agency is established;

(b) guide the provisions to be made for capital and recurrent expenditure and for reserves of the Agency;

(c) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;

(d) enter into association with other bodies or organisations within or outside The Gambia as the Agency may consider desirable or appropriate and in furtherance of the purpose for which the Agency is established; and

(e) oversee the implementation and successful operation of the policy and functions of the Agency;

(f) review the policy and strategic plan of the Agency;

(g) be responsible for the appointment and discipline of the Agency's staff in accordance with the Agency's Manual of Procedure;

(h) provide guidance to the Agency;

(i) approve the annual budget and plans of the Agency; and

(j) establish and approve rules and procedures for the appointment, discipline, termination and terms and conditions of service of the staff of the Agency;

20. Lead agencies

The Agency may after giving directions to a lead agency to perform, within such time and in such manner as it shall specify, any of the duties imposed upon the lead agency by or under the Act or any other written law, in the field of environment and if the lead agency fails to comply with such directions, the Agency may itself perform or cause to be performed the duties in question, and the expense incurred by it in so doing shall be a civil debt recoverable by the Agency from the lead agency concerned.

21. Appointment, removal, etc., of the Executive Director

(1) The Executive Director of the Agency shall be the Chief Executive Officer of the Agency.

(2) The Executive Director shall be appointed by the President on the recommendation of the Council after consultation with the Board and the Public Service Commission.

(3) The Executive Director shall be appointed on such terms and conditions of service as may be stated in his or her letter of appointment.

(4) Subject to the general guidance of the Council and the Board, the Executive Director is responsible for –

(a) the day-to-day operations of the Agency that includes programming of activities and the definition of new program areas;

(b) the management of the funds, property, and business of the Agency;

(c) the administration, organisation, and control of the officers and staff of the Agency; and

(d) the effective administration and implementation of the provisions of this Act;

(5) The Executive Director shall not hold office for a continuous period of more than ten years unless the person -

(a) resigns in writing addressed to the President; or

(b) is removed on grounds referred to in sub-section (6).

(6) The appointment of the Executive Director may be terminated by the President for –

(a) misconduct that warrants a termination;

(b) inability or incapacity in the performance of his or her duties of office; and

(c) incompetence in the performance of his or her duties of office to warrant termination.

(7) The Executive Director may delegate to any officer of the Agency any duty, power, or function conferred or imposed on the Executive Director under this Act and other laws, other than the power or function delegated to him or her.

22. The Manual of Procedures of the Agency

The Agency shall adopt its own Manual of Procedures that shall state in details, among others, the appointment of staff of the Agency except for the Executive Director, staff disciplinary measures and procedure, scheme of service, programs and staffing salary and allowances, staff welfare among others.

23. Appointment of other Staff of the Agency

(1) The appoitment of other staff of the Agenecy shall be in accordance with the Agency's Manual of Procedures that also Board shall, in consultation with the Executive Director, appoint the Deputy Executive Director and other Directors of the Agency.

(2) The Executive Director may, on such terms and conditions of service as in the Agency's Strategy Plan and Manual of Procedures may determine, appoint such officers or other staff of the Agency as are necessary for the proper and effective discharge of the functions of the Agency under this Act or any other written law.

24. Remuneration of Staff of the Agency

The Agency shall pay the Executive Director and other staff of the Agency such salaries and allowances as may, from time to time, be determined by management and presented to the Board for approval and detailed in the Agency's Strategy Plan and Manual of Procedures and those salaries and allowances shall not be altered to their detriment.

25. The common seal of the Agency

The common seal of the Agency shall be kept in such custody of the Executive Director and shall not be used except on the order of the Executive Director.

26. Protection or Immunity from personal liability

An act done by a member of the Agency or any officer, employee or agent of the Agency shall, if the act is done in good faith in executing the functions, powers or duties of the Agency , render the member, officer, employee or agent or any person acting on his or her directions personally not liable to any action, claim or demand whatsoever.

27. Establishment of the Technical Advisory Committee

(1) There is established by this Act, the Technical Advisory Committee which shall be an advisory body to the Agency.

(2) The membership of the Technical Advisory Committee shall be as needed for the effective and efficient functioning of the Agency but shall not be more than twenty-five members whose expertise shall reflect the various fields of environmental management.

(3) The members of the Technical Advisory Committee shall be appointed by the Board on the advice of the Executive Director and shall serve as representative of his or her institution or in a personal capacity if applicable.

(4) A member of the Technical Advisory Committee serving in an individual capacity may at any time resign his/her position in writing addressed to the Executive Director.

(5) Wherever a vacancy arises on the Technical Advisory Committee due to any cause, such vacancy shall be filled in accordance with sub-section (3).

28. Functions of the Technical Advisory Committee

The Technical Advisory Committee shall advise the Agency on any issue which may be referred to it by the Agency and in particular, it shall –

(a) review the achievements of the Agency; of its goals and targets as set by the Council, and advise the Agency;

(b) review and advise the Agency on any environmental impact assessments of major projects;

(c) review and advise the Agency on any environmental plans;

(d) review and advise the Agency on any environmental standards, guidelines and regulations made pursuant to this Act; and

(e) perform such other advisory services to the Agency as are necessary.

29. Proceedings of the Technical Advisory Committee

(1) The Executive Director shall be Chairman of the Technical Advisory Committee.

(2) The Technical Advisory Committee shall meet at such time and place as the Chairperson may appoint.

(3) The Technical Advisory Committee may, where it deems it necessary, invite any person to attend and participate in the meetings of the Committee provided that such person shall not have a right to vote at such meeting.

(4) The Executive Director shall designate from among the staff of the Agency not below the position of Programme Manager to serve as Secretary to the Technical Advisory Committee.

30. Technical Working Groups

(1) Considering the coordinating function of the Agency in particular, each Program of the Agency shall have a Technical Working Group that shall serve as an advisory body for the effective performance of that Program.

(2) The membership of the Group may be from both Government and non-Government bodies and shall be proposed by the head of the Program in view of the functions of the Program and approved by the Executive Director.

(3) Where a matter requires specialized technical consideration, the Executive Director may establish a Technical Working Group for the purpose and whose membership may be Government and non-Government bodies.

31. Local Environment Committees

(1) There is hereby established a Local Environment Committee in each District in each Local Government Area established under the Local Government Act and also in each Municipality establsihed under the Local Government Act.

(2) The membership of the Local Environment Committee shall be proposed by the Agency with clear justification for each member and adopted through national and local consultative processes.

(3)The membership of the Local Environment Committee shall have representation of existing Committees specific to the management of various sectors of the environment and related matters.

(4) The proceedings of the Local Environment Committees shall be established by the Committees themselves and supported by the Agency.

(5) The Local Environment Committees shall -

(a) serve as responsible for the proper management of the environment within the Local Government Area in respect of which they are appointed;

(b) serve as forum for integration of environmental considerations into all plans, projects, and strategies of the Area Council, the City Council or the Municipal Council, as the case may be;

(c) support the co-ordination of the activities of the Agency relating to the management of the environment and natural resources within their jurisdiction;

(d) initiate and promote by-laws relating to the environment to be adopted by their various areas;

(e) co-ordinate with the Agency and other lead agencies dealing with the environment and co-ordinate the village or ward environment Committees, as the case maybe;

(f) receive reports from village Environment Committees or Ward Committees, as the case may be;

(g) serve as forum for the integration of the views of the public, through wide consultation, into environmental policies and decisions;

(h) coordinate with the Agency the development of a local environment action plan as provided for in section 50;

(i) coordinate with the Agency the preparation of a local state of the environment report for the area under its jurisdiction at such intervals and in such form as may be prescribed; and

(j) perform such additional functions as are prescribed by the Act or as may, from time to time, be assigned by the Minister by notice in the Gazette.

32. Establishment of the Public Complaints Committee

(1) There is established by this Act, the Public Complaints Committee which shall consist of –

(a) a Chairman appointed by the Minister designated to handle the affairs of the Agency and who shall be a person qualified for appointment as a Judge of the High Court of The Gambia;

(b) a representative of the Attorney-General;

(c) a representative of the Gambia Bar Association;

(d) a representative of non-governmental organisations appointed by the National Association of Non-Governmental Organisations and who shall be the secretary of the Complaints Committee; or

(e) a representative of the business community appointed by the Minister.

(2) The members of the Complaints Committee, other than the members appointed under sub-section (1)(b), shall hold office for a period of three years but shall be eligible for reappointment once. No member shall hold office for more than two terms.

(3) A member of the Complaints Committee other than the member appointed under sub-section (1)(b) may –

(a) at anytime resign from office by notice in writing to the Minister through the Chairman; or

(b) be removed from office by the Board if the member –

(i) has been absent from three consecutive meetings of the Committee without permission from the chairman;

(ii) is convicted of a felony or criminal offence involving moral turpitude;

(iii) is incapacitated by physical or mental illness; or

(iv) is otherwise unable or unfit to discharge his or her functions.

(4) If a member of the Complaints Committee vacates office before the expiry of his or her term, the appointing authority shall appoint a suitable replacement therefor.

(5) Where a member of the Complaints Committee is unable to perform the functions of his or her office due to any temporary incapacity which may be prolonged, the appointing authority may appoint a substitute for the member until such time as the Minister determines the incapacity has ceased.

(6) Subject to this Act, the Complaints Committee shall regulate its own procedure.

33. Functions of the Complaints Committee

The functions of the Complaints Committee shall be –

(a) to investigate -

(i) any allegations or complaints against any person or against any decisions of the Agency in relation to the condition of the environment in The Gambia; or

(ii) on its own motion, any suspected case of environmental degradation, and to make a report of its findings together with its recommendations thereon to the Board;

(b) to prepare and submit to the Board, periodic reports of its activities which report shall form part of the annual report on the state of the environment; and

(c) to perform such other functions and exercise such powers as may be assigned to it by the Board.

34. Powers of the Public Complaints Committee

(1) The Complaints Committee may, by notice in writing, require any person to –

(a) give to the Complaints Committee all reasonable assistance in connection with the investigation of any complaint that it is investigating; or

(b) appear before the Complaints Committee for examination concerning matters relevant to the investigation of any complaint being investigated.

(2) A person who –

(a) refuses or fails to comply with the requirement of the Complaints Committee which is applicable to him or her, to the extent to which he or she is able to comply with it; or

(b) obstructs or hinders the Complaints Committee in the exercise of its powers under this Act; or

(c) furnishes information or makes a statement to the Complaints Committee which he or she knows to be false or misleading in any material particular; or

(d) when appearing before the Complaints Committee for examination, makes a statement which he or she knows to be false or misleading in any material particular,

commits an offence.

(3) A person convicted of an offence under subsection (2) of this section shall be liable to a fine not exceeding fifty thousand dalasis or imprisonment for six months.

(4) Where an offence under subsection (2) is a continuing offence, the person convicted shall, in addition to the penalty prescribed in subsection (3), be liable to a fine of one thousand dalasis for each day during which the offence continues.

35. Protection of the members of the Complaints Committee from personal liability

A proceeding shall not be instituted against the Chairperson or any member of the Complaints Committee in respect of anything done in good faith in the performance of the duties of the Complaints Committee under the Act.

36. Disclosure of interest by members of Complaint Committee

(1) If a member of the Complaints Committee is directly or indirectly interested in any matter before the Complaints Committee and is present at a meeting of the Complaints Committee at which the matter is the subject of investigation, he or she shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the fact and shall not:

(a) take part in the consideration or discussion,
(b) vote on, any questions in respect of the matter, or
(c) be counted in the quorum of the meeting during the consideration of the matter.

(2) A disclosure of interest made under subsection (1) of this section shall be recorded in the minutes of the meeting at which it is made.

37. Remuneration and other expenses of the Complaints Committee

(1) There shall be paid to the Chairperson and members of the Complaints Committee, such remuneration, fees or allowances for expenses as the Council may determine.

(2) The remuneration fees or allowances referred to in subsection (1) together with any other expenses incurred by the Complaints Committee in the execution of its functions under this Act shall be paid from the funds of the Agency.

PART IV - FINANCIAL PROVISIONS

38. The National Environment Agency Fund

(1) There is established by this Act, the National Environmental Agency Fund.

(2) The following sources of monies shall be paid into the Fund –

(a) monies appropriated to the Agency by the National Assembly;

(b) fees charged by the Agency for services it renders;

(c) court fines, levies, forfeitures for environmental offence;

(d) percentage of environmental tax on petroleum products;

(e) percentage of licensing of oil exploration in The Gambia;

(f) percent of all mining royalties paid to the istitution responsible of geology and mining;

(g) percent of all taxs leavied on vehicles imported into The Gambia as green house gas emission levy;

(h) fees charged on environment impact assessment;

(i) seventy-five percentage of environmental fines paid in court;

(j) employee environmental tax;

(k) environmental levy on second hand goods;

(l) Environmental tax on imports

(m) environmental levy on emmission from industries;

(n) grants, gifts and donations, provided the terms and conditions attached are not inconsistent with the functions of the Agency; and

(o) such other funds as may accrue to the Agency from other sources not listed herein.

39. Expenses of the Agency

The following expenses may be defrayed from the National Environmental Agency Fund established under section 38 –

(a) the cost of administration of the Agency including the execution of its programs and activities;

(b) the reimbursement to members of the Council, Board or a Committee of the Agency including Local Environment Committees for such expenses as may be provided in the Manual of Procedures;

(c) the payments of allowances and other amounts payable to the Council members, Board members, employees of the Agency, Committee members, experts, professionals or agents appointed by the Agency and for the organisation of meetings and workshops, travels among others as may be provided for in the Agency's Manual of Procdures;

(d) payment for study, analysis and research relating to state of the environment; and

(e) meeting such other expenses as may be approved by the Executive Director for the purposes of this Act.

40. Financial year

The financial year of the Agency shall be the same period of twelve months ending on the 31st of December in each year.

41. Annual estimate

(1) At least three months before the commencement of each financial year, the Agency shall cause to be prepared annual estimates of the revenue and expenditure of the Agency for that year.

(2) The annual estimates shall make provisions for the estimated expenditure of the Agency for the ensuing financial year and in particular, the estimates shall provide for –

(a) the payment of the salaries, allowances and other charges in respect of the staff of the Agency ;

(b) the payment of pensions, gratuities and other charges in respect of the staff of the Agency ;

(c) the proper maintenance of the buildings and grounds of the Agency;

(d) the maintenance, repair and replacement of the equipment and other property of the Agency ; and

(e) the creation of such reserve funds to meet future contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Authority may deem appropriate.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and after the Board's approval, the Agency shall not increase the annual estimates without the consent of the Board.

42. Accounts and Audits

(1) The Agency shall cause to be kept all proper books and records of accounts of the income, expenditure and assets of the Agency .

(2) Within a period of four months from the end of each financial year, the Agency shall submit to the Auditor-General or to an auditor appointed by the Board with the approval of the Auditor-General, the accounts of the Agency together with –

(a) a statement of the income and expenditure of the Agency during the preceding financial year; and

(b) a statement of the assets and liabilities of the Agency on the last day of the previous financial year.

(3) The accounts of the Agency shall be audited and reported upon in accordance with the generally accepted and prevailing audit standards by the Auditor-General or by an auditor appointed by the Board with the approval of the Auditor-General.

43. National Environment Trust Fund

(1) There is established a fund to be known as the National Environment Trust Fund.

(2) The Trust Fund shall consist of -

(a) such sums of money as may be received by the Trust Fund in the form of donations, endowments, grants and gifts from whatever source subject to section 39 and specifically designated for the Trust Fund;

(b) such sums of money or other assets as may be specifically designated to the Trust Fund by the Agency out of its general fund; and

(c) such moneys as the National Assembly may appropriate for the purpose of the Fund;

(3) The Trust Fund shall be vested in the Agency and, subject to this Act, shall be administered by the Board on such terms and conditions as it deems fit.

(4) The object of the Trust Fund shall be to facilitate research intended to further the requirements of environmental management, capacity building, environmental awards, environmental publications, scholarships and grants.

(5) The Board may, on the recommendation of the senior management of the Agency, determine that certain donations to the Trust Fund shall be applied specifically and reserved only for prizes and awards for exemplary services to the environment. Such prizes and awards shall be applied by the recipient exclusively to the management of the environment.

44. National Environment Restoration Fund

(1) There is hereby established a fund to be known as the National Environment Restoration Fund.

(2) The Restoration Fund shall consist of –

(a) such proportion of fees or deposit bonds as may be determined by the Agency from time to time;

(b) Such sums as may be donated or levied from industries and other projects proponents as a contribution towards the Restoration Fund.

(3) The Restoration Fund shall be vested in the Agency and, subject to this Act, shall be administered by the Executive Director.

(4) The object of the Restoration Fund shall be as supplementary insurance for the mitigation of environmental degradation where the perpetrator is not identifiable or where exceptional circumstances require the Agency to intervene towards the control or mitigation of environmental degradation.

(5) The Minister may, by Notice in the Gazette, issue Orders for the levying of funds from project proponents towards the Restoration Fund.

45. Investment of funds and disposal of assets

(1) Subject to the Act, the Agency may, invest any of its funds in securities in which trustees may, for the time being, invest trust funds or in any other securities which the Board may, from time to time, approve for that purpose.

(2) Subject to the Act, the Agency may place on deposit with such bank or banks as it may determine, any moneys not immediately required for its purposes.

(3) The assets of the Agency may be disposed of –

(a) if they are current assets, in the normal course of business carried on by the Agency; and

(b) where the disposal and the utilization of the proceeds have been taken into account in an annual estimate prepared and approved in accordance with section 42,

by way of sale or otherwise with the approval of the Board where such disposal has not been taken into account in the estimates.

46. Annual Financial Report

(1) The Executive Director shall submit to the Board and Council a financial report concerning the activities of the Authority during such financial year not later than three months after the expiry of the financial year.

(2) The report of the Executive Director under sub-section (1) shall include information on the financial affairs of the Agency and shall be appended to the report –

(a) an audited statement of income and expenditure of the previous financial year; and

(b) estimates of income and expenditure of the Authority for the next ensuing financial year.

(3) The Executive Director shall lay the report referred to in sub-section (1) before the appropriate committee of the National Assembly.

47. Deposit Bonds

(1) The Agency shall create a register of those activities and industrial plants and undertakings which have or are most likely to have significant adverse effects on the environment when operated in a manner that is not in conformity with good environmental practices.

(2) The Minister responsible for finance may, on the recommendations of the Agency, prescribe that persons engaged in activities or operating industrial plants and other undertakings identified under sub-section (1) pay such deposit bonds as may constitute appropriate security for best environmental practice.

(3) The deposit bond determined in accordance with sub-section (2) shall be refunded to the operator of the activity, industrial plant or any other undertaking by the Agency after such duration not exceeding twenty-four months without interest where the operator has observed best environmental practices to the satisfaction of the Agency

(4) The Agency may, after giving the operator an opportunity to be heard, confiscate a deposit bond where the operator is responsible for environmental practice that is in breach of the provisions of this Act, and the Agency may in addition cancel any license issued to the operator if the Agency is satisfied that the operator has become a habitual offender.

(5) Where an operator is dissatisfied with the confiscation of his deposit bond under this Act, the aggrieved operator may refer the matter to the Environment Court or any competent court of law.

(6) The proceeds of every refundable deposit bond levied under this section shall be paid into the Restoration Fund and shall be treated as part of the Restoration Fund until refunded to the depositor subject to sub-section (3) or confiscated by the Authority.

(7) Any interest accruing from monies deposited into the Restoration Fund under this section shall be for the benefit of the Agency.

PART V – ENVIRONMENTAL PLANNING

48. National Environment Action Plan

(1) The Agency shall, in consultation with lead agencies and its partners, after every five years, prepare a National Environment Action Plan and which plan shall be the key instrument for national environmental planning.

(2) The National Environment Action Plan shall relate to all matters affecting the environment and shall identify key environmental issues and strategies for preventing, controlling or mitigating any deleterious effects on the environment and shall include the conservation of and sustainable use of natural resources.

(3) The Agency shall take into account the views of the public in the preparation of the National Environment Action Plan through conducting open public consultations

(4) The National Environment Action Plan and any revision thereto shall be approved by resolution of the National Assembly and shall be a binging document

49. Provisions of the National Environment Action Plan

The National Environment Action Plan shall -

(a) contain an analysis of the natural resources of The Gambia with an indication as to any pattern of change in their distribution and quantity over time;

(b) contain an analytical profile of the various uses and value of the natural resources incorporating considerations of intergenerational equity;

(c) recommend appropriate legal and fiscal incentives that may be used to encourage the business community to incorporate environmental requirements into their planning and operational processes;

(d) recommend methods for building national awareness through environmental education on the importance of sustainable use of the environment and natural resources for national development;

(e) set out operational guidelines for the planning and management of the environment and natural resources;

(f) identify actual or likely problems as may affect the natural resources and the broader environment context in which they exist;

(g) identify and appraise trends in the development of urban and rural settlements, their impacts on the environment, and strategies for the amelioration of their negative impacts;

(h) propose guidelines for the integration of standards of environmental protection into development planning and management;

(ic) identify and recommend policy and legislative approaches for preventing, controlling or mitigating specific as well as general adverse impacts on the environment;

(i) prioritise areas of environmental research and outline methods of using such research findings;

(j) have clearly defined responsibilities for policy-implementing ministerial departments and other lead agencies in the implementation of the action plan developed in line with provided strategic objectives;

(l) without prejudice to the foregoing, be reviewed and modified from time to time to incorporate emerging knowledge and realities; and

(m) be binding on all persons and all government departments, agencies, state corporations or other organs of Government upon adoption by the National Assembly.

50. Local Environment Action Plan

(1) The Agency, in partnership and coordination with the respective Local Environment Committees, after every five years, prepare a *Local* Government Area environment action plan for local environmental planning at that particular local government *area* that incorporates the relevant matters contained in the National Environmental Action Plan in relation to their respective Local Government Area.

(2) The environment action plan prepared by the Local Environment Committee in any Local Government Area shall:

(a) be conformity with the National Environment Action Plan;

(b) be binding on all organs, agencies and persons within the Local Government Area;

(c) be co-ordinated with plans prepared under the Physical Planning and Development Control Act;

(d) contain such matters may be prescribed and shall take into account local concern and needs expressed throughout public consultations;

(e) be approved by the Banjul City Council, Kanifing Municipal Council or the Area Council; and

(f) be disseminated to the public.

PART VI – PROTECTION AND CONSERVATION OF THE ENVIRONMENT

51. Protection of rivers, lakes and wetlands

(1) A person shall not, without the prior written approval of the Executive Director given after an environmental impact assessment, in relation to a river, lake, wetland or all other natural water bodies in The Gambia, carry out any of the following activities -

(a) erect, reconstruct, place, alter, extend, remove or demolish any structure or part of any structure in, or under the river, lake or wetland;

(b) excavate, drill, tunnel or disturb the river, lake or wetland;

(c) introduce any animal, whether alien or indigenous, dead or alive, in any river, lake or wetland;

(d) introduce or plant any part of a plant specimen, whether alien or indigenous, dead or alive, in any river, lake or wetland;

(d) deposit any substance in a lake, river or wetland whether in, or under its bed, if that substance would or is likely to have adverse environmental effects on the river, lake or wetland or the potential impacts of that substance are not understood for whatever reason(s);

(e) divert a river or lagoon;

(f) redirect or block any river, lake, wetland or any water body for that matter from its natural and normal course; or

(g) drain any lake, river, wetland or any natural water body for that matter.

(2) The Minister may, in consultation with the Council and on the recommendation of the Agency , by Notice in the Gazette, declare a lake shore, wetland, coastal zone or river bank to be a protected area and impose such restrictions as the Minister considers necessary, to protect the lake shore, wetland, coastal zone and river bank from environmental degradation and shall, in doing so, take into consideration the following factors –

(a) the geographical size of the lake shore, wetland, coastal zone or riverbank; and

(b) the interests of the communities resident around the lake shore, wetland, coastal zone or river bank concerned.

(3) The Minister may, on the recommendation of the Agency, by Notice in the Gazette, issue general and specific orders, regulations or standards for the management of river banks, lake shores, wetlands or coastal zones and such orders, regulations or standards may include management, protection, or conservation measures in respect of any area at risk of environmental degradation and shall provide for –

(a) the development of an overall environmental management plan for a lake, river, wetland or coastal area, taking into account the relevant sectoral interest;

(b) measures for the prevention or control of coastal erosion;

(c) the conservation of mangrove, other environmentally sensitive areas;

(d) plans for the harvesting of minerals within the coastal zone, including strategies for the restoration of mineral sites;

(e) contingency plans for the prevention and control of all deliberate and accidental discharge of pollutions into the sea, lakes or rivers;

(f) plans for the protection of wetlands;

(g) the regulation of harvesting of aquatic living and non-living resources to ensure optimum sustainable yield;

(h) special guidelines for access to and exploitation of living and non-living resources in the continental shelf, territorial sea and the Exclusive Economic Zone;

(i) promotion of environmentally friendly tourism; and

(j) the management of biological resources.

(4) The Agency shall, in consultation with the relevant lead agencies, issue guidelines for the management of the environment of lakes, rivers and other natural water bodies.

(5) The Council, on the recommendation of the Agency, may declare protected zones in any area of the coastal zone, river, wetland and exclude or restrict human activities, if it thinks that such an area-

(a) is at great risk from unsustainable human activities; or

(b) is of biological, cultural or aesthetic significance.

(6) A person who contravenes or fails to comply with any orders, regulations or standards issued under this section shall be guilty of an offence.

52. Conservation of biological diversity

The Agency shall, in consultation with the relevant lead agencies, prescribe measures necessary to ensure the conservation of biological diversity in The Gambia and in this respect the Agency shall –

(a) advice the Council to commission specific ecological surveys with the intention of understanding the status of country's faunal and floral biodiversity;

(b) identify, prepare and maintain an inventory of biological diversity of The Gambia;

(c) determine which components of biological diversity are endangered, rare or threatened with extinction;

(d) identify potential threats to biological diversity and devise measures to remove or arrest their effects;

(e) undertake measures intended to integrate the conservation and sustainable utilisation ethics in relation to biological diversity in existing government activities and activities by private persons;

(f) specify national strategies, plans and government programmes for conservation and sustainable use of biological diversity;

(g) regulate the protection and overall conservation of the country's biological diversity taking into account the country's obligations to international treaties on the subject among others;

(h) protect indigenous property rights of local communities in respect of biological diversity; and

(i) measure the value of unexploited natural resources in terms of watershed protection, influences on climate, cultural and aesthetic value, as well as actual and potential genetic value thereof.

53. Conservation of biological resources in-situ

The Agency shall, in consultation with the relevant lead agencies, prescribe measures adequate to ensure the conservation of biological resources in situ and in this regard shall issue guidelines for –

(a) land use methods that are compatible with conservation of biological diversity;

(b) the selection and management of protected areas so as to promote the conservation of the various terrestrial and aquatic ecosystems under the jurisdiction of The Gambia;

(c) selection and management of buffer zones near protected areas;

(d) special arrangements for the protection of species, ecosystems and habitats threatened with extinction;

(e) prohibiting and controlling the introduction of alien species into natural habitats; and

(f) integrating traditional knowledge for the conservation of biological diversity with mainstream scientific knowledge.

54. Conservation of biological resources ex-situ

The Agency shall, in consultation with the relevant lead agencies -

(a) prescribe measures for the conservation of biological resources ex-situ especially for those species threatened with extinction;

(b) issue guidelines for the management of -

   (i) germplasm banks;

   (ii) botanical gardens;

   (iii) zoos or aquaria;

   (iv) animal orphanages; and

   (v) any other facilities recommended to the Agency by any of its Committees or considered necessary by the Agency ;

(c) ensure that species threatened with extinction which are conserved ex-situ are re-introduced into their native habitats and ecosystems where -

(i) the threat to the species has been terminated; or

(ii) a viable population of the threatened species has been achieved.

55. Access to genetic resources of The Gambia and prohibition of use of microorganisms of genetically engineered organisms, products or cells

(1) The Agency shall, in consultation with the relevant lead agencies, issue guidelines and prescribe measures for the sustainable management and utilisation of genetic resources of The Gambia for the benefit of its people.

(2) Without prejudice to the general effect of sub-section (1), the guidelines issued or measures prescribed under that subsection shall specify -

(a) appropriate arrangements for access to genetic resources of The Gambia by non-Gambians including the issue of licences and fees to be paid for that access;

(b) measures for regulating the import or export of germplasm;

(c) the sharing of benefits derived from genetic resources of The Gambia;

(d) biosafety measures necessary to regulate biotechnology;

(e) measures necessary to regulate the development, access to and transfer of biotechnology; and

(f) any other matter that the Agency/Authority considers necessary for the better management of the genetic resources of The Gambia.

(3) A person shall not import, export, transport, manufacture, process, use or sell any microorganisms of genetically engineered organisms or cells except with the approval of the Agency.

(4) Substances and products, which contain genetically engineered organisms or cells or microorganisms shall not be produced, sold, imported or used except with the approval of the Agency.

(5) Food stuffs, ingredients in food stuffs and additives including processing and containing or consisting of genetically engineered organisms or cells, shall not be produced, sold, imported or used except with the approval of the Agency.

(6) The Council shall inconsultaton with the Agency and lead agencies make regulations for the:

(a) manufacture, export, import and use of microorganisms of genetically engineered organisms or cells in The Gambia;

(b) classification of microorganisms of genetically engineered organisms or cells into animal, pathogens and plant pests;

(c) application procedures for the grant of use of microorganisms of genetically engineered organisms or cells; and

(d) any other matter that is necessary for the regulation of microorganisms of genetically engineered organisms or cells and food stuffs in The Gambia.

56. Protection of environmentally significant areas

(1) The Council may, on advice of the Agency and prove of consultation with the relevant lead agencies, by notice in the Gazette, declare any area of land, sea, lake or river to be a protected natural environment for the purpose of promoting and preserving specific ecological processes, natural environment systems, natural beauty or species of indigenous wildlife or the preservation of biological diversity in general.

(2) Without prejudice to sub-section (1), the Agency may, in consultation with the relevant lead agencies, issue guidelines and prescribe measures for the management and protection of any area of environmental significance declared to be a protected natural environment area under this section.

57. Environmental land use planning directives

The Agency may, in consultation with the Ministry responsible for land, give general and specific environmental and land use planning directives which shall be incorporated or taken into account by-

(a) the National Land Use Planning Commission;

(b) Department of Physical Planning and Housing;

(c) the Area Planning Committees established under any law regulating urban planning;

(d) sewerage authorities;

(e) local government authorities responsible for any rural or urban planning functions;

(f) relevant local government authorities when preparing any land use regulations designating areas set aside for residential, commercial, industrial, pastoral and agricultural purposes; and

(g) any other institution carrying on responsibility touching on land use.

58. Obligation to use land sustainably

Land users and occupiers shall be responsible for the protection, improvement and nourishment of the land, and for using it in an environmentally sustainable manner as may be prescribed by the Agency.

59. Protection of the coastal and marine zone

(1) The Council may, on advice of the Agency and prove of consultation with lead agencies, by notice in the Gazette, declare an area of the coastal and marine zone to be a protected.

(2) As soon as practicable upon the commencement of this Act, the Agency shall, in consultation with the relevant lead ministries, departments, any approved non-governmental body or private sector player conduct a study or survey of the coastal and marine zone that shall –

(a) provide an inventory of all structures, roads, excavations, harbours, outfalls, dumping sites and other works located in the coastal zone;

(b) provide status of mangroves and other wetland ecologies, river, lake and all other freshwater surface water bodies;

(c) provide an inventory of all areas of scenic, recreational and cultural value or of specific ecological significance such as being sensitive;

(d) provide an inventory of areas within the coastal zone of special value for research in respect of fisheries, erosion, biodiversity conservation, littorals movement and such other similar subjects;

(e) provide an estimate of the quantities of sand, coral seashells and other minerals and related matter being removed from the coastal zone on an annual basis;

(f) provide an estimate of the deposits of sand, coral seashells and other minerals and related matter available within the coastal zone;

(g) provide a description of the impacts of erosion on the coastal zone;

(h) an estimate of the extent, nature, cause and sources of coastal pollution and degradation;

(k) an estimate of the groundwater system and its status such as the level of possible saltwater intrusion;

(l) inventory of wildlife including fish through standard wildlife survey methods for each class of wildlife and a description status of such wildlife;

(m) provide a description of the nature and prevalence of various socioeconomic activities such as agricultural, tourism, fisheries to mention a few;

(n) provide the extent of mining and quarrying, providing the socioeconomic importance of the activities as well as the current and potential environmental problems;

(o) provide a description of the impacts of climate change, identifying high risk zones in the process;

(p) provide a projection on the status of environmental resources including wildlife, environmental problems and such matters as may be deemed important for the sustainable management of the said and such projection shall factor the impacts of climate change; and not the least

(q) any other relevant data or information that may be deemed appropriate; and, not the least

(3) Based on the survey or study in sub-section (2), prepare an integrated coastal zone management plan for the rational and sustainable use of the coastal and marine environment of the country.

(4) The Agency shall, from time to time, not exceeding every five years, review the integrated coastal zone management plan prepared under sub-section (2) of this section.

(5) Any person who releases or causes to be released into the coastal and marine zone any polluting or hazardous substances contrary to the provisions of this Act or any other law in force as it relates to the coastal and marine environment shall be guilty of an offence and liable upon conviction to a fine of not more than one million dalasis or to imprisonment for a period not exceeding three years or to both such fine and imprisonment or as may be punishable under any other relevant law.

(6) The Agency shall, in consultation with the lead agencies, issue appropriate regulations for the protection of the coastal and marine environment for the purpose of preventing, reducing and controlling pollution or other form of environmental damage in the coastal zone.

(7) Notwithstanding the generality of sub-section (6) of this section and in addition to the Marine Pollution Act 2013 as amended, the Regulations made thereunder shall provide for the control and prevention of pollution –

(a) of the coastal and marine environment from land-based sources including rivers, estuaries, pipelines and outfall structures;

(b) from vessels, aircrafts and other engines used in the coastal and marine zone;

(c) from installations and devices used in the exploration or exploitation of the natural resources of the seabed and subsoil of the exclusive economic zone;

(d) of the marine environment arising from or in connection with seabed activities and from artificial islands installations and other structures in the exclusive economic zone; and

(e) any other possible of source of pollution.

[Act No.5 of 2013]

60. Protection of the ozone layer

(1) The Agency shall undertake or commission other persons to undertake national studies and give due recognition to developments in scientific knowledge relating to substances, activities and practices that deplete the ozone layer to the detriment of public health and the environment.

(2) The Agency shall issue guidelines and institute programmes concerning the –

(a) elimination of substances that deplete the stratospheric ozone layer;

(b) control of activities and practices likely to lead to the degradation of the ozone layer and the stratosphere;

(c) reduction and minimisation of risks to human health created by the degradation of the ozone layer and the stratosphere; and

(d) formulation of strategies, preparation and evaluation of programmes for phasing out ozone depleting substances.

(3) Three years after coming into force of this Act, no automotive vehicle older than ten years shall be imported into The Gambia.

(4) The Agency shall regulate the use of ozone depleting substances and products

61. Fiscal incentives

(1) Notwithstanding the provisions of any relevant revenue Act, the Minister responsible for Finance may, on the recommendation of the Agency, propose to Government tax and other fiscal incentives, disincentives or fees to induce or promote the proper management of the environment and natural resources or the prevention or abatement of environmental degradation.

(2) Without prejudice to the generality of sub-section (1) of this section the tax and fiscal incentives, disincentives or fees may include-

(a) customs and excise waiver in respect of imported capital goods which prevent or substantially reduce environmental degradation caused by an undertaking;

(b) tax rebates to industries or other establishments that invest in plants, equipment and machinery for pollution control, re-cycling of wastes, water harvesting and conservation, prevention of floods and for using other energy resources as substitutes for hydrocarbons;

(c) tax disincentives to deter bad environmental behaviour that leads to depletion of environmental resources or that cause pollution; or

(d) user fees to ensure that those who use environmental resources pay proper value for the utilization of such resources.

PART VII – ENVIRONMENTAL IMPACT ASSESSMENT

62. Application for an Environmental Approval

(1) Notwithstanding any approval, permit or license granted under the Act or any other law in force in The Gambia, a person, being a proponent of a project, shall before any financing, commencing, proceeding with, carrying out, executing or conducting or causing to be financed, commenced, proceeded with, carried out, executed or conducted by another person any undertaking specified in the Schedule to the Act, submit a project report to the Agency, in the prescribed form, giving the prescribed information by the Agency and which shall be accompanied by the prescribed fee.

(2) If after considering the project report in sub-section (1) of this section, the Agency, after necessary consultations is of the view that the proposed project will not have any adverse impact on the environment, it may grant environmental approval for the project or require the proponent to undertake a limited assessment that the Agency deems appropriate.

(3) If after considering the project report in sub-section (1) of this section the Agency, after necessary consultations, is of the view that the proposed will have significant environmental and/or socioeconomic impacts the proponent of the project shall undertake or cause to be undertaken at his or her own expense an environmental and social impact assessment study and prepare an environmental and social impact report which shall be .submitted to the Agency for review

(4) The Agency may, after being satisfied as to the adequacy of an environmental impact assessment study, evaluation or review report, and having considered the possible comments that may arise pursuant to sections 65, 66, 67 and 68 of this Act as well as all matters referred to in Part B of the Schedule, may –

(a) issue an environmental approval on such terms and conditions as may be appropriate and necessary to facilitate sustainable development and sound environmental management and inform the relevant lead agencies and key stakeholders of such issuance;

(b) require the project to provide further information or conduct further assessment before environmental approval is granted;

(c) require modifications in the project, including designs, before environmental approval is granted;

(d) reject environmental approval for the project; or

(e) require any other measure be undertaken as may be prescribed

(5) Where the Agency grants environmental approval, the cost of any required compliance with the approval as well as monitoring of the implementation of the environmental approval shall be borne by the proponent of the project

(6) The Council may, on the advice of the Agency given after consultation with the relevant lead agencies, amend the Schedule to this Act by notice in the Gazette.

(7) Environmental impact assessment studies and reports required under this Act shall –

(a) be conducted or prepared respectively by individual experts or a firm of experts duly accredited in that behalf by the Agency;

(b) the Agency shall maintain a register of all individual experts or firms duly authorized by the Agency to conduct or prepare environmental and social impact assessment studies; and

(c) the register shall be a public document and may be inspected at reasonable hours by any person on the payment of a prescribed fee; and

(d) Panel to recommend applicants for registration.

(8) The Executive Director shall, in consultation with the relevant lead agency, approve any application by an expert wishing to be authorised to undertake environmental impact assessment, and such application shall be made in the manner prescribed in the regulation in sub-section (9) and accompanied by any fees that may be required.

(9) Environmental impact assessment shall be conducted in accordance with the environmental impact assessment regulations, guidelines and procedures issued under this Act.

(10) The Executive Director shall respond to the applications for environmental approval within ninety working days from date of receipt of the application.

(11) Any person who upon submitting his application does not receive any communication from the Executive Director within the period stipulated under sub-section (8) may start his undertaking.

63. Inspection visit for purpose of review of Environmental Impact Assessment report

(1) The Agency shall in collaboration with the relevant lead agencies, during the review process visit for purposes of inspection or verification any site or place associated with the proposed project or undertaking at the applicant’s cost.

(2) The Environmental Impact Statement review process shall be based on the following criteria –

(a) the balance between short and long term socio-economic benefits of the project and the detriment to the human and physical environment;

(b) the nature of the project or undertaking and how it is likely to meet environmental standards;

(c) the possible mitigation alternatives or other remedial measures;

(d) enhancement measures in place for the augmentation of the positive impacts of the project;

(e) comments received during public hearings and other consultative processes; and

(f) any other review criteria as prescribed in the regulations.

64. Public participation in Environmental Impact Assessment

(1) The Executive Director shall prepare guidelines on public participation, especially those likely to be affected by the project being the subject of an Environmental Impact Assessment study or review.

(2) Without prejudice to sub-section (1), upon receipt of the Environmental Impact Statement, the Agency shall solicit oral or written comments by any appropriate means, of the people who will be affected.

65. Publication of Environmental Impact Assessment

(1) Upon receipt of an environmental impact assessment study report from any proponent under section 63(3), the Agency shall cause to be published in at least two widely read newspapers a notice for comments on the report, which shall state -

(a) a summary description of the project;

(b) the place where the project is to be carried out;

(c) the place where the environmental impact assessment study report may be inspected; and

(d) a time limit of not exceeding ten working days for the submission of oral or written comments on the environmental impact assessment study report.

(2) The Agency may, on application by any person extend the period stipulated in sub-section (1) (d) so as to afford reasonable opportunity for such person to submit oral or written comments on the environmental impact assessment report.

66. Comments on Environmental Impact Assessment report by Lead Agencies

(1) A lead agency shall, upon the written request of the Executive Director or on its own volition, submit written comments indicating its satisfaction or otherwise of the environmental impact assessment study, evaluation and review report within fifteen working days from the date of the written request.

(2) In the event a lead agency is dissatisfied with the environmental impact assessment study, evaluation and review report, it shall indicate in writing the reasons of dissatisfaction and recommend improvements.

67. Technical Advisory Committee on Environmental Impact Assessment

The Agency may set up a technical advisory committee to advise it on environmental impact assessment related reports and the Executive Director shall prescribe the terms of reference and rules of procedure for the technical advisory committee appointed hereunder.

68. Submission of fresh Environmental Impact assessment report after Environmental Approval is issued

(1) The Agency may at any time after the issue of an Environmental Approval direct the holder of such approval to submit at his own expense a fresh environmental impact assessment study, evaluation or review report within such time as the Agency may specify where -

(a) there is a substantial change or modification in the project or in the manner in which the project is being operated;

(b) the project poses environmental threat which could not be reasonably foreseen at the time of the study, evaluation or review; or

(c) it is established that the information or data given by the proponent in support of his application for an environmental impact assessment licence under was false, inaccurate or intended to mislead.

(2) Any person who fails, neglects or refuses to comply with the directions of the Agency issued under sub-section (1) of this section shall be guilty of an offence.

69. Transfer of Environmental Approval

(1) An environmental approval may be transferred by the holder to another person only in respect of the project in relation to which such licence was issued.

(2) Where an environmental approval is transferred under this section, the person to whom it is transferred and the person transferring it shall jointly notify the Executive Director in writing of the transfer, not later than thirty days after the transfer.

(3) Where no joint notification of a transfer is given in accordance with sub-section (2), the registered holder of the environmental approval shall be deemed for the purposes of this Act to be the owner or the person having charge or management or control of the project as the case may be.

(4) Any transfer of an environmental approval under this section shall take effect on the date the Executive Director is notified of the transfer.

(5) Any person who contravenes any provisions of this section, shall be guilty of an offence.

(6) Fee, approval of Executive Director, name change, change of ownership,

70. Protection in respect of an Environmental Approval

(1) No civil or criminal liability in respect of a project or consequences resulting from a project shall be incurred by the Government, the Agency or lead agency for any environmental impact assessment study, evaluation or review report or grant of an environmental approval or by reason of any condition attached to such approval.

(2) The issuance of an environmental approval in respect of a project shall afford no defence to any civil action or to a prosecution that may be brought or preferred against a proponent in respect of the manner in which the project is executed, managed or operated.

71. Revocation, suspension or cancellation of Environmental Approval

(1) The Executive Director may cancel, revoke or suspend any environmental approval where the developer contravenes the provisions of the approval and the relevant Lead Agency shall be duly notified of the decision and the reasons thereof.

(2) Whenever an environmental approval is revoked, suspended or cancelled, the holder thereof shall not proceed with the project which is the subject of the licence until a new developer is issued by the Agency.

(3) The Agency shall maintain a register of all environmental approvals issued under this Act.

(4) The register shall be a public document and may be inspected at reasonable hours by any person on the payment of a prescribed fee.

PART VIII – STRATEGIC ENVIRONMENTAL ASSESSMENT

72. Strategic environmental assessment of new strategies

(1) After the coming into force of this Act, all lead agencies shall carry out strategic environmental assessment for all proposals for policy, plans and programmes which are likely to have significant environmental effect.

(2) Subject to Section 76 a strategic environmental assessment shall be carried out for all policies, plans and programmes:

(a) which are prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, environemntal management, telecommunications, tourism, town and country planning or land use, preservation of natural habitats and wildlife (flora and fauna) and implementation of which set the framework for types of activity, or which contain types of activity and projects, that under legislation require an environmental impact assessment; or

(b) which, in view of the likely effect on sites, have been determined to require an assessment by the Agency.

(3) The assessment carried out under this sub-section (1) shall consider the effect of implementation of alternative policy, plan or programme actions taking into consideration –

(a) the use of natural resources;

(b) the protection and conservation of biodiversity;

(c) human settlement and cultural issues;

(d) socio-economic factors; and

(e) the protection, conservation of natural physical surroundings of scenic beauty as well as protection and conservation of built environment of historic or cultural significance.

(4) This section applies to policies, plans and programmes which are:

(i) subject to preparation or adoption, or both, by a lead agency at national, regional or local level; or

(ii) without prejudice to the generality of sub-paragraph (i), prepared by a lead agency for adoption through a legislative procedure.

(5) In this section, any reference to policies, plans or programmes includes reference to modification of policies, plans or programmes.

(6) In this section, any reference to policies, plans or programmes includes any form of strategy for implementation of activities with potentially significant effect on the environment.

(7) The Agency shall regulate the procedure and other related matters for strategic environment assessment.

73. Principles of strategic environmental assessment

(1) The objectives of a strategic environmental assessment are to promote sustainable development by ensuring environmental protection, safety of livelihoods of people and protection of their health, and integrating environmental considerations during the preparation and adoption of public planning documents.

(2) A strategic environmental assessment shall be carried out on the basis of the principles of rule of law, transparency, scientific validity, comprehensiveness, prevention of environmental damage, long-term forecasting, public participation and international environmental cooperation.

(3) The Government and all lead agencies shall in the development of sector or national policy, incorporate principles of strategic environmental assessment.

74. Submission of strategic environmental assessment reports

(1) Where a lead agency carries out a strategic environmental assessment under section 72 of this Act, it shall shall prepare and submit a strategic environemental assessment report together with the draft policy, plan or programe to the Agency.

(2) For the avoidance of doubt, a lead agency shall submit the strategic environmental assessment report to the Agency, where -

(a) the policy, plan or programme is to be submitted to a legislative procedure for the purposes of its adoption, before its submission; or

(b) in any other case, before its adoption.

(3) A strategic environmental assessment report prepared under sub-section (1) shall contain the following information -

(a) an outline of the contents, main objectives of the policy, plan or programme and relationship with other relevant policies, plans and programmes;

(b) the relevant aspects of the current state of the environment and the likely evolution thereof without implementation of the policy, plan or programme;

(c) the environmental characteristics of areas likely to be significantly affected by the implementation of the policy, plan or programme;

(d) any existing environmental problems which are relevant to the policy, plan or programme including, in particular, those relating to any areas of a particular environmental importance;

(e) the environmental protection objectives which are relevant to the policy, plan or programme and the way those objectives and any environmental considerations have been taken into account during its preparation;

(f) the likely significant effects on the environment, including on issues such as biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscape and the interrelationship between the above factors;

(g) the measures envisaged to prevent, reduce and as fully as possible offset any significant adverse effects on the environment as a result of implementing the policy, plan or programme;

(h) an outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties (such as technical deficiencies or lack of know-how) encountered in compiling the required information;

(i) a description of the measures envisaged concerning monitoring in accordance with this Act;

(j) a non-technical summary of the information provided under the above headings; and

(k) any other matters as may be prescribed by the Agency.

(4) The proposed policy, plan or programme or specified under this section shall state—

(a) the purpose and rational of the policy, plan or programme taking into consideration socio-economic, environmental and cultural issues;

(b) alternatives and strategies of the policy, plan or programme;

(c) areas and sectors affected by the policy, plan, programme, or proposed activities;

(d) an environmental analysis covering—

(i) baseline information focusing on areas potentially affected;

(ii) relevant legislative framework and related policy documents;

(iii) summary of views of key stakeholders consulted;

(iv) predicted impacts of the policy, programme or plan;

(v) alternative policy options and comparison against environmental indicators;

(vi) ongoing projects and how they fit in the proposed policy, programme or plan;

(e) recommendations outlining—

(i) suggested policy changes;

(ii) proposed mitigation measures;

(iii) strategic environment assessment; and

(f) relevant technical appendices such as stakeholders meetings referred to in the assessment.

75. Consideration and review of the strategic environmetal assessment report and draft policies, plans or programs

(1) The Agency shall study the strategic environmental assessment report and the draft policies, plans or programs submitted to it by a lead agency under section 74 of this Act.

(2) Where the Agency draft policy, plan, programe and the strategic enviromental assessment report to be in compliance with section 74, it shall make available to the public, other lead agencies and any interested Government department or agency who shall be given an early and effective opportunity within appropriate time frames to express their opinion on the draft policy, plan or programme and the accompanying strategic environmental assessment report before the adoption of the policy, plan or programme or its submission to the legislative procedure.

(3) The Agency may decide whether to -

(a) approve the draft policy, plan or programme if it satisfied that it is in compliance with the provisions of this Act or any regulation or guidelines made pursuant to this Act;

(b) require that the lead agency to provide further information;

(c) reject the strategic environmental assessment report if it is not in compliance with the provisions of this Act or any regulation or guidelines made pursuant to this Act; and

(d) take any other measures that may be prescribed by the Agency.

76. Exempted policies, programs and plans

The following policies, plans and programmes shall not be sudbjected to strategic environmental assesment referred to under section 73:

(a) plans and programmes the sole purpose of which is to serve national defence or civil emergency;

(b) plans of mitigation and elimination of consequences of natural disasters; and

(c) financial or budget plans and programmes.

77. Environmental approval for policies, plans and programmes

Where the Agency approves the draft policy, plan or programme and the accompanying strategic environemtal assessment report under Section 75, it shall issue an approval on such terms and conditions as it may deem necessary.

78. Strategic environmental assessment for existing policies, programs and plans

(1) Within six months after the coming into force of this Act, all lead agencies shall carry out strategic environmental assessment in respect of all existing policies, plans and programs in relation to the environment.

(2) Lead Agencies shall prepare strategic environmental assessment reports on all existing policies, plans or programs and submit them together with the existing policies, plans or programs to the Agency in accordance with section 72 of the Act.

79. Monitoring of implementation of qualifying policies, plans and programmes

(1) The Agency shall monitor the significant environmental effects of the implementation of every qualifying policy, plan or programme for which it has carried out an environmental assessment.

(2) The Agency shall do so in a manner, which may comprise or include arrangements established otherwise than for the express purpose of compliance with sub-section (1), that enables the Agency to:

(a) identify any unforeseen adverse effects at an early stage; and

(b) undertake appropriate remedial action.

PART IX – ENVIRONMENTAL AUDIT AND MONITORING

80. Environmental audit

(1) The Agency shall be responsible for carrying out environmental audit of all environmental approvals issued under this Act.

(2) An environmental inspector appointed under this Act may enter any land or premises for the purposes of determining how far the activities carried out on that land or premises conform to the environmental approval issued by the Agency for the said activities.

(3) The proponent of a project or an activity for which an environmental approval has been issued shall keep accurate records and make annual reports to the Agency describing how far the project conforms to the conditions set in the associated environmental approval.

(4) The proponent of a project or an activity shall take all reasonable measures to mitigate any undesirable effects not contemplated in the environmental impact assessment study report submitted to the Agency and shall prepare and submit an environmental audit report on those measures to the Agency annually or as the Agency may, in writing, require.

(5) Any cost associated with environmental audit shall be borne by the proponent of the activity concerned

81. Environmental monitoring

(1) The Agency shall, in consultation with the relevant lead agencies, monitor -

(a) all environmental phenomena with a view to making an assessment of any possible changes in the environment and their possible impacts; or

(b) the operation of any industry, project or activity with a view of determining its compliance with this Act and other sector specific laws and environmental approvals, where applicable, and its immediate and long-term effects on the environment.

(2) An environmental inspector appointed under this Act may enter upon any land or premises for the purposes of monitoring the effects upon the environment of any activities carried on that land or premises.

(3) The cost of environmental monitoring for any activity issued with environmental approval under this Act shall be borne by the proponent of the activity.

PART X – ENVIRONMENTAL QUALITY STANDARDS & REGULATIONS

82. Establishment of an Environmental Quality Standards Regulations Committee

(1) There is hereby established an Environmental Quality Standards and Regulations Committee as an advisory body of the Agency.

(2) The Environmental Quality Standards and Regulations Committee shall consist of the following members –

(a) the Deputy Executive Director of the Agency as Chairperson;

(b) representatives of Government Ministries responsible for the following policies and not below the rank of a Director –

(i) Water resources;
(ii) Energy;
(iii) Fisheries;
(iv) Forestry;
(iv) Wildlife;
(v) Extraction of mineral resources;
(vii) Agriculture;
(viii) Public health;
(viii) Tourism;
(ix) Research and technology;
(ix) Economic development;
(x) Human rights; and

(c) representatives of the following Agencies not below position of a Director or equivalent –

(i) University of The Gambia;
(ii) National Agricultural Research Institute;
(ii) Gambia Standards Bureau;
(iii) The Petroleum Commission;
(iv) The Gambia Maritime Administration; and
(v) The Gambia Bureau of Statistics.

(3) The Executive Director may co-opt other persons into the Committee and such persons have no right to vote.

(4) A Director of the Agency appointed by the Executive Director shall be the secretary to the Committee.

(5) The Environmental Quality Standards and Regulations Committee shall regulate its own procedure.

(6) The Environmental Quality Standards and Regulations Committee may co-opt any person to attend its meetings and a person so co-opted shall participate at the deliberations of the Committee but shall have no vote.

(7) The Environmental Quality Standards and Regulations Committee shall meet at least once every six months for the transaction of its business.

83. Functions of the Environmental Standards and Regulations Committee

(1) The Environmental Quality Standards and Regulations Committee shall, in consultation with the relevant lead agencies develop, review and make proposals for environmental standards, guidelines, criteria and regulations to the Executive Director for ultimate approval by the Council.

(2) With respect to standards, guidelines and criteria, the Committee shall develop, review and make proposals for the following -

(a) water quality;

(b) conditions for discharge of effluents into the environment;

(c) air quality;

(d) control of noise and vibration;

(e) sub-sonic vibrations;

(f) soil quality;

(g) control of noxious smells;

(h) radiation;

(i) industrial products;

(j) materials used in industries, agriculture and for domestic purposes;

(k) solid waste management;

(l) light pollution;

(m) protection of the ozone layer; and

(n) any other environmental quality standard.

(3) With respect to regulations, the Committee shall develop, review and make proposals for the implementation of the following policies and matters related to multiple policies such as waste management -

(a) water resources management;
(b) fisheries resources management;
(c) forest management;
(d) wildlife conservation
(e) extraction of mineral resources;
(f) soil management;
(g) integrated coastal zone management;
(h) general waste management;
(i) protection of the atmosphere.

(4) The Committee shall cause the standards, guidelines, criteria and regulations to be published in the Gazette and in at least two widely read daily newspapers in The Gambia with a view to invite comments to be made in writing on the proposed standards within such period as may be prescribed.

(5) Upon approval of environmental quality standards, guidelines, criteria and regulations by the Council, the Agency shall publish them in the Gazette.

84. Compliance with environmental quality standards, guidelines, criteria and regulations

A person undertaking any activity shall be required to comply with environmental quality standards, guidelines, criteria and regulations related to that activity.

85. Enforcement of standards, guidelines, criteria and regulations

(1) In enforcing environmental quality standards, the Agency may -

(a) order or carry out investigations of actual or suspected environmental pollution including the collection of samples, records and data;

(b) upon reasonable notice served on the occupier enter, inspect and examine any place, area, premises or any vehicle, vessel, boat, aircraft or any carriage of any description on which it has reasonable grounds to believe that the activity therein is likely to lead to violation of environmental standards;

(c) take necessary measures to ensure that industry and other facilities adopt cleaner technology to meet the requirements of standards established under the Act;

(d) monitor emission concentration and nature of pollutants emitted;

(e) make guidelines to minimize greenhouse gases and other emissions and identify suitable technologies for minimization of air pollution; or

(f) do or perform anything or act that is necessary for the monitoring and control of environmental pollution.

(2) A person that contravenes or cause to contravene any environmental quality standards, guidelines, criteria and regulations stipulated pursuant to this Act, commits an offence.

(3) The Agency shall maintain close collaboration with lead agencies and such other institutions for the purposes of enforcement of environmental quality standards, guidelines, criteria and regulations.

86. Water quality standards

The Environmental Quality Standards and Regulations Committee shall –

(a) prescribe criteria and procedure for measuring standards for water quality;

(b) establish the minimum quality standards for all waters of The Gambia; or

(a) establish minimum quality standards for different uses of water including –

(i) drinking water;
(ii) water for agricultural purposes;
(iii) water for recreational purpose.
(iv) water for fisheries and wildlife;
(v) water for industry; and
(vi) water for any other purposes.

87. Prohibition of Water pollution

(1) A person, who upon the coming into force of this Act, discharges or applies any poison, toxic, noxious or obstructing matter, radioactive waste or other pollutants or permits any person to dump or discharge such matter into the aquatic environment commit an offence and liable to imprisonment for a term not exceeding two years or to a fine not exceeding one million dalasis, or to both.

(2) A person found guilty under sub-section (1) shall, in addition to any sentence or fine imposed –

(a) pay the cost of the removal of any poison, toxic, noxious or obstructing matter, radioactive waste or other pollutants, including the costs of restoration of the damaged environment which may be incurred in that respect;

(b) pay third parties' reparation, cost of restoration, restitution or compensation as may be determined by a court of law on application by such third parties.

88. Standards for discharge of effluent into the environment

(1) The Environmental Quality Standards and Regulations Committee shall –

(a) establish standards for the discharge of any effluent into the environment;

(b) establish measures for the treatment of effluent before their final discharge into sewage systems; and

(c) prescribe requirements for the operator of any plant or undertaking to undertake such works as it considers necessary for the treatment of effluent before it is finally discharged into the sewage system.

(2) Every owner or operator of a trade or industrial undertaking shall discharge any effluents or other pollutants originating from the trade or industrial undertaking only into existing sewerage systems and the relevant Local Authority operating or supervising such sewerage system shall issue, at a prescribed fee, the necessary licence for discharge.

(3) The license referred to in sub-section (2) of this section shall not be issued without the permit referred to in section 90.

(4) The proponent or owner of a trade or an industrial undertaking shall, prior to being granted a licence to discharge effluents into the environment, install an appropriate plant for the treatment of such effluents before they are discharged into the environment.

89. Permit to discharge effluents

(1) No Local Authority or any other entity operating a sewerage system or owner or operator of any trade or industrial undertaking shall discharge any effluents or other pollutants into the environment without an effluent discharge permit issued by the Agency.

(2) Every owner or operator of a trade or an industrial undertaking discharging any effluents or other pollutants into the environment before the commencement of this Act shall, within twelve months of such commencement apply to the Agency for an effluent discharge permit.

(3) Every application for an effluent discharge permit shall be in the prescribed form and accompanied by the prescribed fee.

(4) Before the issuance of a permit under sub-sections (1) and (2), the Agency shall –

(a) solicit the comments of local authorities concerned and organisations and persons as it may deem fit;

(b) take into consideration the possible effects of effluents or pollutants to be discharged on the quality of an affected water course or other source of water;

(c) take into consideration the existing licences affecting the concerned water course or other source; and

(d) take into consideration the water requirements of residents and ecosystems, human settlements, and agricultural schemes which depend on the affected water course.

(5) Where the Agency rejects an application for the grant of an effluent discharge permit it shall within twenty-one days notify the applicant of its decision and state in writing its reasons for so rejecting the application.

(6) An effluent discharge permit issued under this Act shall be in a prescribed form, be subject to such conditions as may be prescribed or as may be specified in the permit and shall remain valid for such period and may be renewed for such further periods as may be prescribed or specified in the permit.

90. Cancellation of effluent discharge permit

The Agency may in writing, cancel any effluent discharge licence-

(a) if the holder of the licence contravenes any provision of this Act or any regulations made thereunder;

(b) if the holder fails to comply with any condition specified in the permit; or

(c) if the Agency considers it is in the interest of the protection of the environment or in the public interest so to do.

91. Register of effluent discharge permits

(1) The Agency shall maintain a register of all effluent discharge permits issued under this Act.

(2) The register shall be a public document and may be inspected at any reasonable hour by any person on the payment of a prescribed fee.

92. Duty to supply plant information to the Agency

All owners or operators of irrigation project schemes, sewerage systems, industrial production workshops or any other undertaking which may discharge effluents or other pollutants shall within ninety days upon the coming into force of this Act or as may be demanded from time to time by the Agency, submit to the Agency accurate information about the quantity and quality of such effluent or other pollutant.

93. Air quality standards

The Environmental Quality Standards and Regulations Committee shall –

(a) prescribe criteria and procedure for measurement for air quality;

(b) establish ambient air quality standards;

(c) establish occupational air quality standards;

(d) establish emission standards for various sources;

(e) prescribe criteria and guidelines for air pollution control for both mobile and stationary sources; and

(f) any other air emission quality standards.

94. Standards for the control of noxious smells

The Environmental Quality Standards and Regulations Committee shall –

(a) prescribe procedures for the measurement and determination of noxious smells;

(b) set minimum standards for the control of pollution of the environment by noxious smells; and

(c) prescribe guidelines for measurements and the abatement of noxious smells, whether from human activities or natural phenomenon.

95. Standards for the control of noise and vibration pollution

The Environmental Quality Standards and Regulations Committee shall –

(a) prescribe procedures for the measurement and determination of noise and vibrations standards;

(b) set minimum standards for emissions of noise and vibrations pollution into the environment as are necessary to preserve and maintain public health and the environment; ;

(c) establish criteria and procedures for the measurement of noise and vibration pollution into the environment from existing and future sources;

(d) prescribe guidelines for the abatement of unreasonable noise or vibration pollution emitted to the environment;

(e) establish noise levels and noise emission standards applicable to construction sites, plants, machinery, motor vehicles, aircraft including sonic booms, industrial and commercial activities and residential areas;

(f) establish appropriate measures to ensure the abatement and control of noise from sources referred to in paragraph(e);

(g) determine criteria and procedures for the measurement of sub-sonic vibrations;

(h) determine standards for the emission of sub-sonic vibrations which are likely to have a significant impact on the environntent:

(i) issue guidelines for the minimization of sub-sonic vibrations referred to in paragrapli (g) from existing and future sources: and

(j) issue guidelines for the abatement of unreasonable noise and vibration poliution emitted into the environment from any source.

96. Standards for minimization of radiation

(1) The Environmental Quality Standards and Regulations Committee shall –

(a) establish the standards for the minimization of ionizing and other radiation in the environment;

(b) establish criteria and procedure for the measurement of ionizing and other radiation;

(c) provide information aimed at warning and protecting the public and the environment against actual or potential exposure to radioactive material or ionizing radiation and, prescribe safe practices to protect persons involved in activities prone to radiation exposure; and

(d) do all things necessary for the monitoring and control of pollution from radiation.

(2) The Agency shall –

(a) inspect and examine any area, place or premises or any vehicle, vessel, boat or any carrier of any description in or upon which the Authority has reasonable cause to believe that radioactive material or any source of ionizing radiation is stored, used, transported or disposed of;

(b) examine any person with respect to matters under this Act, where there is reasonable cause to believe that person is contaminated with radioactive material, or is in unlawful possession of an ionizing radiation and radioactive sources;

(c) in collaboration with the Environmental Quality Standards and Regulations Committee, conduct an ionizing radiation monitoring programme and advise on ionizing and radiation control and protection measures;

(d) maintain records of release of radioactive contaminants into the environment;

(e) keep records of baseline data on radiation in the environment;

(f) maintain a register of all radioactive substances imported into The Gambia; and

(g) do all such things as may be necessary for the monitoring and control of pollution from radiation.

(3) The Council shall make Regulations for the effective implemetation of this section.

97. Soil quality standards

The Environmental Quality Standards and Regulations Committee shall –

(a) establish criteria and procedures for the measurement and determination of the quality of soil;

(b) set minimum standards for the management of the quality of soil;

(c) prescribe guidelines for, the disposal of any waste in the soil, the optimal utilization of any soil, identification of the various soils and practices that are necessary in order to conserve soil and prohibition of activities that may degrade the soil; and

(d) do any other thing necessary for the monitoring and control of soil degradation.

98. Standards for waste

The Environmental Quality Standards and Regulations Committee shall, in consultation with the relevant lead agencies, recommend to the Agency measures necessary to –

(a) identify materials and processes that are dangerous to human health and the environment;

(b) issue guidelines and prescribe measures for the management of the materials and processes identified under paragraph (a);

(c) prescribe standards for waste, their classification and analysis, and formulate and advise on standards and guidelines for disposal methods and means for such wastes; and

(d) make Regulations for the handling, storage, transportation, segregation and final disposal of any type of waste.

99. Prohibition against dangerous handling and disposal of wastes

(1) A person shall not discharge or dispose of any wastes, whether generated within or outside The Gambia, in such manner as to cause pollution to the environment or ill health to any person.

(2) A person shall not transport any waste other than –

(a) in accordance with a valid permit to transport wastes issued by the Agency; and

(b) to a wastes disposal site established in accordance with a licence issued by the Agency;

(3) A person shall not operate a wastes disposal site or plant without a permit issued by the Agency.

(4) Every person whose activities generate wastes shall employ measures essential to minimize wastes through treatment, reclamation and recycling.

(5) Any person who contravenes any provisions of this section shall be guilty of an offence and liable to imprisonment for a term of not less than five years, or a fine of not less than five million Gambian Dalasi, or to both.

100. Application for waste permit

(1) A person intending to transport wastes within The Gambia, operate a wastes disposal site or plant or to generate hazardous waste, shall prior to transporting the wastes, commencing with the operation of a wastes disposal site or plant or generating hazardous wastes, as the case may be, apply to the Agency in writing for the grant of an appropriate permit.

(2) A permit to operate a waste disposal site or plant may only be granted subject to the payment of the appropriate fee and any other permit that may be required by the relevant Local Authority.

(3) Where the Agency rejects an application made under this section, it shall within twenty-one days of its decision, notify the applicant of the decision specifying the reasons therefor.

101. Permits for existing wastes disposal sites and plants

Any person who, at the commencement of this Act, owns or operates a waste disposal site or plant or generates hazardous waste, shall apply to the Agency for a permit under this part, within six months after the commencement of the Act.

102. Court orders to cease operation

The Agency may apply to a competent court for orders compelling any person to immediately stop the generation, handling, transportation, storage or disposal of any wastes where such generation, handling, transportation, storage or disposal presents an imminent and substantial danger to public health and the environment in general.

103. Prohibition of pollution

(1) A person shall not pollute or permit any other person to pollute the environment in excess of any standards or guidelines established under Section 84 of this Act.

(2) A person who pollutes or permits any other person to pollute the environment in excess of the standards and guidelines established under this Act commits an offence.

(3) In addition to any sentence that may be imposed on a polluter under sub-section (2), the court shall require the person to-

(a) pay the full cost of cleaning up the environment and of removing the effects of the pollution; and

(b) clean up the environment and remove the effects of the pollution.

(4) Without prejudice to any provisions of sub-sections (2) and (3), the court may also require the polluter to meet the cost of the pollution to third parties through compensation, restoration or restitution.

PART XI – ENVIRONMENTAL RESTORATION ORDERS, ENVIRONMENTAL CONSERVATION ORDERS AND ENVIRONMENTAL EASEMENTS

104. Issue of Environmental Restoration Orders

(1) Notwithstanding any other provisions of this Act, the Agency may issue and serve on any person in respect of any matter relating to the management of the environment an order in this Part referred to as an environmental restoration order.

(2) An environmental restoration order issued under sub-section (1) shall be issued to –

(a) require the person on whom it is served to restore the environment as near as it may be to the state in which it was before the taking of the action which is the subject of the order;

(b) prevent the person on whom it is served from taking any action which would or is reasonably likely to cause harm to the environment;

(c) award compensation to be paid by the person on whom it is served to other persons whose environment or livelihood has been harmed by the action which is the subject of the order;

(d) levy a charge on the person on whom it is served, which in the opinion of the Agency represents a reasonable estimate of the costs of any action taken by an authorised person or organisation to restore the environment to the state in which it was before the taking of the action which is the subject of the order.

(3) An environmental restoration order may contain such terms and conditions and impose such obligations on the persons on whom it is served as will, in the opinion of the Agency, enable the order to achieve all or any of the purposes set out in sub-section (2).

(4) Without prejudice to the general effect of the purposes set out in sub-section (2), an environmental restoration order may require a person on whom it is served to -

(a) take such action as will prevent the commencement or continuation or cause of pollution or any form of environment;

(b) restore land, including the replacement of soil, the replanting of trees and other flora and the restoration as far as may be, of outstanding geological, archaeological or historical features of the land or the area contiguous to the land or sea as may be specified in the particular order;

(c) take such action to prevent the commencement or continuation or cause of environmental hazard;

(d) cease to take any action which is causing or may contribute to causing pollution or an environmental hazard;

(e) remove or alleviate any injury to the environment in general including public health and the amenities of the area;

(f) prevent damage to the environment both on land and in water including the underground and seabed and below seabed specified in the order;

(g) remove any waste or refuse deposited on the land or sea specified in the order and dispose of the same in accordance with the provisions of the order;

(h) pay any compensation specified in the order.

(5) In exercising the powers under this section, the Agency shall –

(a) be guided by the principles of good environmental management in accordance with the provisions of this Act; and

(b) explain the right of appeal of the persons against whom the order is issued.

105. Contents of environmental restoration orders

An environmental restoration order shall specify clearly and in a manner which may be easily understood –

(a) the activity to which it relates;

(b) the person or persons to whom it is addressed;

(c) the time at which it comes into effect;

(d) the action which must be taken to remedy the harm to the environment and the time, being not more than thirty calendar days or such further period as may be prescribed in the order, within which the action must be taken;

(e) the powers of the Agency to enter any land and undertake the action specified in paragraph (d);

(f) the penalties which may be imposed if the action specified in paragraph (d) is not undertaken; and

(g) the right of the person served with an environmental restoration order to appeal to a Court against that order, except where the order is issued by a court of competent jurisdiction, in which case the right of appeal shall lie with superior courts.

(2) An Environmental Inspector of the Agency may inspect or cause to be inspected any activity to determine whether that activity is harmful to the environment and may take into account the evidence obtained from that inspection in any decision on whether or not to serve an environmental restoration order.

(3) The Agency may seek and take into account any technical, professional and scientific advice which it considers to be desirable for a satisfactory decision to be made on an environmental restoration order.

(4) An environmental restoration order shall continue to apply to the activity in respect of which it was served notwithstanding that it has been complied with.

(5) A person served with an environmental restoration order shall, subject to the provisions of this Act, comply with all the terms and conditions of the order that has been served on him.

(6) It shall not be necessary for the Agency or its Inspectors in exercising the powers under sub-section (2), to give any person conducting or involved in the activity which is the subject of the inspection or residing or working on or developing land on which the activity which is the subject of the inspection is taking place, an opportunity of being heard by or making representations to the person conducting the inspection.

106. Reconsideration of environmental restoration order

(1) At any time within twenty-one days after the service of an environmental restoration order, a person upon whom the order has been served may, by giving reasons in writing, request the Agency to re-consider that order.

(2) Where the Agency exercises the power under sub-section (1), the expenses necessarily incurred by it in the exercise of that power shall be a civil debt recoverable summarily by it from the person referred to in sub-section (1).

107. Environmental protection action

(1) Without prejudice to the powers of the Agency under this Act, a court of competent jurisdiction may, in proceedings brought by any person, issue an environmental restoration order against a person who has harmed, is harming or is reasonably likely to harm the environment.

(2) For the avoidance of doubt, it shall not be necessary for a plaintiff under this section to show that he has a right or interest in the property, environment or land alleged to have been or likely to be harmed.

108. Relief that may be claimed in an environmental protection action

Where a person brought an action under this Act or any other relevant environmental legislation for the protection of the environment, he or she or it may claim any or all of the following –

(a) a declaratory order;

(b) an order, including an interlocutory order, requiring the defendant to refrain from doing anything that, in the opinion of the court, may constitute an offence under this Act;

(c) an order, including an interlocutory order, requiring the defendant to do anything that, in the opinion of the court, may prevent the continuation of an offence under this Act;

(d) an order to the parties to negotiate a plan to correct or mitigate the harm to the environment or to human, animal or plant life or health, and to report to the court on the negotiations within a time set by the court; and

(e) any other appropriate relief, including the costs of the action, but not including damages.

109. Limitation period for environmental protection action

(1) An environmental protection action may be brought only within a limitation period of three years beginning when the plaintiff becomes aware of the conduct on which the action is based, or should have become aware of it.

(2) The limitation period does not include any time following the plaintiff's application for an investigation by the Agency but before the plaintiff receives a report of such investigation.

110. Exceptions for environmental protection action

(1) An environmental protection action may not be brought if the alleged conduct was taken-

(a) to correct or mitigate harm or the risk of harm to the environment or to human, animal or plant life or health, or

(b) to protect national security, support humanitarian relief efforts, participate in multilateral military or peace-keeping activities under the auspices of international organizations; and

(c) was reasonable and consistent with public safety.

(2) An environmental protection action may not be brought against a person if the person was convicted of an offence under the Act, or environmental protection alternative measures were used to deal with the person, in respect of the alleged conduct on which the action is based.

111. Notice of environmental protection action

(1) The plaintiff in an environmental protection action shall give notice of the action to the Agency no later than 10 days after the document originating the action is first served on a defendant.

(2) In an environmental protection action, the court may order any party to the action to give notice to the Agency of any matter relating to the action, within the time specified by the court.

(3) A plaintiff shall serve the Attorney General of The Gambia with a copy of the document originating an environmental protection action within 20 days after first serving the document on a defendant.

112. Attorney General may participate in an environmental protection action

(1) The Attorney General is entitled to participate in the action, either as a party or otherwise. Notice of his or her decision to participate shall be given to the plaintiff within thirty days after the copy of the originating document is served on the Attorney General.

(2) The Attorney General is entitled to appeal against a judgment in the action and to make submissions and present evidence in an appeal.

113. Other participants in an environmental protection action

(1) A court may allow any person to participate in an environmental protection action in order to provide fair and adequate representation of the private and public interests involved.

(3) The court may determine the manner and terms of the person’s participation, including the payment of costs.

114. Burden and standard of proof

The offence alleged in an environmental protection action and the resulting significant harm are to be proved on a balance of probabilities.

PART XII – INSPECTION, ANALYSIS AND RECORDS

115. Environmental Inspectors

(1) The Executive Director may, by Notice published in the Gazette, appoint duly qualified persons whether public officer or otherwise, whether by name or by title of office, to be environmental inspectors of the Agency for such jurisdiction units as shall be specified in the Gazette Notice appointing them.

(2) An environmental inspector shall –

(a) monitor compliance with the environmental standards, guidelines, criteria and regulations established under this Act;

(b) monitor the activities of other sector-specific environmental inspectorates;

(c) monitor the pattern of use of environmental resources;

(d) conduct environmental audits; and

(e) perform such other functions as may be required under this Act or under the Gazette Notice appointing him or her.

(3) An environmental inspector may, in the performance of his or her duties under this Act or any regulations made thereunder, at all reasonable times and without a warrant –

(a) enter any land, premises, vessel, any form of vehicle or container and make examinations and enquiries to determine whether the provisions of this Act are being complied with;

(b) require the production of licenses, registers, records and other documents related to this Act or any other law relating to the environment and the management of natural resources and to inspect, examine and copy such licences, registers, records and other documents;

(c) take samples of any articles and substances to which this Act relates and, as may be prescribed, submit such samples for test and analysis;

(d) carry out periodic inspections of all establishments and undertakings within their respective jurisdictional limits which manufacture, produce as by-products, import, export, store, sell, distribute or use any substances that are likely to have significant impact on the environment, to ensure that the provisions of this Act and other laws relating to the environment are complied with;

(e) seize any article, vessel, motor vehicle, plant, equipment, container, substance or any other thing which he reasonably believes has been used in the commission of an offence under this Act or the regulations made thereunder;

(f) with the written approval of the Executive Director order the immediate closure of any manufacturing plant or other establishment or undertaking which pollutes or is likely to pollute or cause any form of harm to the environment contrary to the provisions of this Act and to require the owner or operator of such establishment or undertaking to implement any remedial measures that the environmental inspector may direct in the notice closing down the establishment or undertaking. Any establishment or undertaking closed down under this paragraph may resume its operations only with the written approval of the Executive Director;

(g) with the approval of the Executive Director issue an improvement notice requiring the owner or operator of any manufacturing plant, vessel, motor vehicle or other establishment or undertaking to cease any activities deleterious to the environment and to take appropriate remedial measures, including the installation of new plant and machinery, if necessary, within such reasonable time as the Executive Director may determine; the Executive Director may, during this period, also order such places be sealed-off allowing entry for authorised personnel associated with the remedial works

(h) seek the support of a Police officer from the Gambia Police Force to arrest any person whom he/she reasonably believes has committed an offence under this Act that warrants his/her arrest; and

(i) install any equipment on any land, premise, vessel or motor vehicle for purposes of monitoring compliance with the provisions of this Act, or the regulations made thereunder upon giving the owner or occupier of the land three months written notice.

(4) In exercising his powers under this Act, the environmental inspector shall suitably identify himself.

(5) An inspector may at any time install any equipment or material, including a seal restricting entry, on any land, premises, manufacturing plant, motor vehicle or vessel or container for the purpose of monitoring compliance with this Act.

(6) A person who tampers with any installation under subsection (5) commit an offence and is liable on conviction to a fine of not more than one hundred thousand Dalasis or to imprisonment for a term of not more than 5 years.

116. Powers to prosecute

(1) The Agency shall have power to institute and undertake legal proceedings against any person before any lower court of competent jurisdiction in respect of any offence alleged to have been committed by that person under this Act.

(2) The Agency shall only exercise its powers to institute and undertake criminal proceedings in sub-section (1) through its staff who are enrolled to the bar.

(3) Notwithstanding sub-section (1) and subject to the Constitution, the Agency may only institute and undertaken legal proceeding in the superior courts subject to the approval of the Attorney General.

(4) The Agency may discontinue at any stage with the approval of the Attorney General, before judgment is delivered any such proceedings instituted or undertaken by the Agency.

117. Procedures for laboratories' analysis of samples

(1) The Executive Director may, by Notice in the Gazette, designate such number of laboratories as he or she may consider necessary, analytical or reference laboratories for the purpose of this Act.

(2) The Agency shall, on the advice of the Environmental Quality Standards and Regulations Committee, prescribe the form and manner in which samples will be taken for analysis.

118. Certificate of analysis and its effect

(1) A laboratory accredited as an analytical or reference laboratory shall issue a certificate of analysis stating the result of analysis of any substance submitted to it under this Act.

(2) The certificate of analysis shall state the methods of analysis followed and shall be signed by the analyst or the reference analyst, who conducted the analysis.

(3) A certificate issued under sub-section (1) and complying with sub-section (2) shall be sufficient evidence of the facts stated in the certificate for all purpose under this Act.

(4) The results of any analysis made by the laboratory shall be open to inspection by all interested parties.

119. Records to be kept

(1) The Executive Director shall, by Notice in the Gazette, prescribe the activities for which records shall be kept for the purposes of this Act, the contents of such records and the manner in which they shall be kept at a site or establishment.

(2) The records kept in accordance with subsection (1) of this section and any other records available at the site of an establishment or undertaking shall be made available at such reasonable time to any environmental inspector for the purpose of –

(a) an environmental audit;
(b) environmental monitoring and evaluation;
(c) pollution control;
(d) inspection; or
(e) any other purpose that may be prescribed by the Executive Director from time to time.

120. Transmission of records to the Agency

The records kept under section 119 shall be transmitted annually to the Agency or its designated representative to be received not later than one month after the end of each calendar year. The Agency shall keep all records transmitted hereunder and may maintain their confidentiality if the applicable circumstances so require.

121. Public Access to records transmitted to the Agency

(1) Subject to the provisions of this Act, any person may have access to any records transmitted to the Agency under this Act.

(2) Without prejudice to sub-section (1) of this section, the Executive Director may designate some records, or parts thereof, as restricted hence limiting or even denying, access to them

(3) A person desiring access to such records referred to in sub-section (1) of this section may on application to the Agency, be granted access to the said records on the payment of a fee prescribed by the Agency.

PART XIII – INTERNATIONAL TREATIES, CONVENTIONS AND AGREEMENTS

122. Multi-lateral and bilateral environmental agreements

Where The Gambia is a party to an international treaty, convention or agreement concerning the management of the environment, the Agency shall, subject to the direction and control of the Council, in consultation with relevant lead agencies –

(a) initiate legislative proposals for consideration by the Cabinet and National Assembly, for purposes of giving effect to such treaty, convention or agreement in or for enabling The Gambia to perform her obligations or exercise her rights under such treaty, convention or agreement; and

(b) identify other appropriate measures necessary for the national implementation of such treaty, convention or agreement.

123. Negotiation

The Agency shall, in relation to the formation of international treaties, conventions or agreements on the environment, assist the relevant lead agencies in negotiating such treaties, conventions or agreements.

124. Treaty register

The Agency shall keep a register of all international treaties, agreements or conventions in the field of the environment to which The Gambia is a party.

125. Environmental management programmes

(1) The Council may, in consultation with the Agency and the appropriate lead agencies, collaborate with the relevant authorities of neighbouring countries on environmental management programmes and measures to avoid and minimise trans-boundary environmental impacts.

(2) The Council shall, in cooperation with lead agencies, initiate and implement transboundary environmental management programmes with neighbouring countries.

PART XIV – ATOMIC AND RELATED ENERGY

126. Possession and use of nuclear, radiation sources and radioactive materials

(1) A person shall not acquire, own, possess, operate, import, export, hire, loan, receive, use, install, commission, decommission, transport, store, sell, distribute, dispose of, transfer, modify, upgrade, process, manufacture or undertake any practice related to the application of atomic energy unless permitted by an authorisation issued under this Act.

(2) A person who contravenes sub-section (1) commits an offence and is liable, on conviction, to a fine not less than five million dalasi or to imprisonment not less than five years, or both.

127. Exempted practices

The Agency may, by statutory order, specify practices –

(a) that do not require an authorisation; or

(b) that do not require an authorisation so long as certain prescribed circumstances apply, or any condition specified in the order is complied with.

128. Notification of the Agency

(1) Any person who intends to carry out any practice specified in section 126 shall notify the Agency of the intended practice.

(2) Notice given under sub-section (1) shall be in the prescribed form and shall contain –

(a) the name and address of the person;

(b) the location of the proposed practice;

(c) the nature and technical description of the proposed practice;

(d) details of the proposed practice and identification of each source of ionising radiation;

(e) the legal status and technical competence of the applicant;

(f) the impact of the proposed practice on public and private interests and possible mitigation measures; and

(g) reports on studies undertaken, including an environmental impact assessment and a safety assessment of the proposed practice.

(3) The Agency shall, within forty-five working days after receipt of a notice under sub-section (1), cause a notice to be published in the Gazette and in at least one national newspaper of wide circulation in The Gambia.

(4) A notice published under sub-section (3) shall –

(a) contain a summary of the information given under sub-section (2); and

(b) inform members of the public that the notice may be inspected at the offices of the Agency and at a public office within the jurisdiction of the local council affected by the proposed practice.

(5) The Agency shall invite directly affected parties and lead agencies to make comments on the proposed practice as contained in the notice referred to in sub-section (2), within thirty working days after publication of the notice in the Gazette.

(6) The Agency may, not more than thirty working days after receipt of comments under sub-section (5), issue a permit, in the prescribed form, to the applicant.

(7) A permit issued under sub-section (6) shall allow the applicant to carry out studies and other activities that may be necessary to enable the applicant to prepare an application for an authorisation.

129. Application for authorisation

(1) An application for an authorisation shall be submitted to the Agency in the prescribed form and shall contain –

(a) the legal status and technical competence of the applicant;

(b) a technical description of the practice to be carried out;

(c) the planned time of commencement and completion of the construction of installations relating to the practice;

(d) the name and qualifications of at least one person designated as a radiation safety officer for purposes of the practice;

(e) the impact of the proposed practice on public and private interests, including the interests of affected landowners and holders of other rights and possible mitigation measures;

(f) reports and studies undertaken, including an environmental impact assessment and a safety assessment of the proposed practice;

(g) an emergency response plan for the proposed practice;

(h) consents and permits required under any other law; and

(i) any further information that the Agency may require.

(2) The Agency shall, within forty-five working days after receipt of an application for an authorisation, confirm in writing to the applicant that the application is complete in all aspects; and where the application is not complete, shall request the applicant to re-submit the application.

(3) The Agency shall process every application for an authorisation expeditiously and in any case, not later than ninety working days after receipt of the application.

130. Grounds for grant or rejection of application

(1) The Agency shall, in granting or rejecting an application for an authorisation, take into consideration, as far as is adequate for the practice applied for –

(a) the legal status of the applicant;

(b) the impact of the practice on the social, cultural and recreational life of the community;

(c) the need to protect the environment and to conserve natural resources;

(d) the land use and siting of the practice;

(e) the ability of the applicant to operate in a manner designed to protect the health and safety of users, workers, beneficiaries and other members of the public who would be affected by the practice; and ensure the security of radiation sources and installations;

(e) public and private interests affected by the practice; and

(f) the ability of the applicant to mitigate against all possible environmental impacts of the proposed activity

(2) The Agency may, on application, grant an authorisation subject to the conditions set out under sub-section (1).

(3) The Agency shall, where it refuses to grant an authorisation, give the applicant a statement of its reasons for the refusal within thirty days after the decision.

(4) A person aggrieved by the decision of the Agency under sub-section (3) may appeal to the Environment Court provided for in Part XVI of this Act.

(5) Nothing in this Act shall prevent the holder of an authorisation who has fulfilled all the obligations under that authorisation from applying for and obtaining any other authorisation under the Act.

131. Transferability of authorisations

(1) An authorisation shall not be transferred without the written approval of the Agency.

(2) An authorised person may apply to the Agency, in the prescribed form and manner, for the transfer of an authorisation.

(3) An application under sub-section (2) shall be accompanied by the application, in the prescribed form, of the person to whom the authorised person intends to transfer the authorisation and the prescribed transfer fee shall be paid to the Agency on the approval of the transfer.

(4) The Agency shall satisfy itself of the legal and technical competence of the person to whom the authorisation is to be transferred.

(5) The Agency shall not unreasonably withhold consent to an application to transfer an authorisation unless it has reason to believe that the public interest or radiation safety is likely to be prejudiced by the transfer.

(6) The decision of the Agency to grant or deny the transfer of an authorisation is final.

132. Renewal of authorisation

(1) The Agency may renew an authorisation on such terms and conditions as it may determine.

(2) An authorised person may, within ninety days before the expiry of an authorisation, apply to the Agency, in the prescribed form, for the renewal of the authorisation.

(3) An application for renewal shall be in writing to the Agency and shall be accompanied by the prescribed fee.

133. Power of the Agency to review, amend or vary authorisation

(1) The Agency may, at any time after informing the authorised person of the course of action the Agency intends to take, and after giving the authorised person a reasonable opportunity to be heard or to give written representations –

(a) vary the duration of the authorisation; or

(b) add to or remove terms, conditions or limitations of the authorisation.

(2) A directive requiring an authorised person to comply under sub-section (1) shall be sent to the authorised person and to other directly affected parties and shall –

(a) contain the relevant condition of the authorisation or requirement of the Act, regulations, codes or standards to which the breach relates;

(b) contain the acts, omissions or other facts which, in the opinion of the Agency, constitute a contravention of the condition or requirement;

(c) specify a period, not being less than twenty days from the date of receiving the notice, within which representations or objections may be made by the authorised person or directly affected parties; and

(d) specify the period within which the authorised person may rectify the or contravention.

(3) The Agency shall take into consideration all representations made under section 133 breach before notifying the authorised person and directly affected parties of its decision to either-

(a) uphold the order of compliance;

(b) vary the original order of compliance; or

(c) withdraw the order of compliance.

134. Revocation of authorisation

(1) The Agency may revoke an authorisation with immediate effect where it is satisfied that the authorised person is not operating in accordance with the terms and conditions of the authorisation or of this Act or regulations, codes or standards or guidelines made under this Act if the breach –

(a) inflicts, or is likely to inflict, significant damage on the environment including public or private interests; or

(b) gives the Agency strong reasons to believe that the authorised person may not be able to fulfil his or her obligations under the authorisation or this Act.

(2) The Agency shall, on revoking an authorisation, take such action as is necessary to ensure that all the activities pertaining to the authorisation cease immediately.

(3) A person aggrieved by the revocation of an authorisation under this section may appeal to the Environment Court within 30 days after the revocation.

135. Notice of intention to terminate

(1) Where an authorised person intends to terminate the authorised practice, such authorised personal shall notify the Agency of his or her intended termination of the practice three months before the termination.

(2) The Agency shall prescribe the decommissioning procedure within a reasonable time, not exceeding sixty days after receipt of notification of the intended decommissioning from the authorised person.

(3) The authorised person shall proceed with the decommissioning process at his or her own expense and to the satisfaction of the Agency.

(4) The decommissioning of a practice shall be in accordance with the standards and guidelines set out by the Agency and any other relevant law.

136. Notice of accident

(1) An authorised person shall, as soon as possible, but in any case, within forty-eight hours of the occurrence of an accident or incident in connection with a practice or a radiation source in any part of the practice, send to the Agency notice of the accident together with details of –

(a) any loss of life and serious personal injury caused by the accident or incident; and

(b) any mitigation measures undertaken by the authorised person.

(2) Nothing in subsection (1) shall absolve an authorised person from the requirement to comply with the provisions of any other written law relating to accident.

137. Registration

(1) The Agency shall register all persons using ionising radiation for practices of low or moderate risk as determined by the Agency.

(2) A person who uses ionising radiation for practices of low or moderate risk shall apply to the Agency for registration in the prescribed manner.

(3) The Agency shall issue a certificate of registration to every person registered under this section.

(4) A person who uses ionising radiation for practices of low or moderate risk shall prepare and submit to the Agency a safety assessment of the facilities and equipment.

138. Safety and security of radioactive and nuclear material sources

(1) Every authorised person shall ensure the safety and security of all sources of radioactive and nuclear materials under his or her responsibility, from the moment of acquisition, throughout their entire operational life, up to final disposal

(2) Every authorised person shall, for the purpose of safeguarding the safety of the radiation source, ensure that a multi-layer system of provisions for protection and safety (Defence in Depth) that commensurate the magnitude and likelihood of the potential exposure involved is applied to the radiation sources under his or her responsibility such that a failure at one layer is compensated for or corrected by subsequent layers, for the purpose of –

(a) preventing accidents that may cause exposure;

(b) mitigating the consequences of any such accident should it occur; and

(c) restoring sources to safe conditions after any accident

(d) preventing the sources from falling on to wrong hands and be used for non-peaceful purposes

(3) An authorised person shall ensure that, as applicable and appropriate, the location, design, construction and assembly, commissioning, operation and maintenance, and decommissioning of radiation sources are based on sound engineering practice which –

(a) takes into account approved codes and standards and technical and scientific developments;

(c) is supported by reliable managerial and organisational features; and

(d) includes adequate safety margins in the design, construction and operation of sources.

139. Accountability and security of radiation sources

An authorised person shall make arrangements for the security of radiation sources under his or her responsibility by ensuring that –

(a) control of a source is not relinquished without compliance with all relevant requirements specified in the license and without immediate communication to the Agency of information regarding any decontrolled, lost, stolen or missing source;

(b) a source is not transferred unless the receiver possesses a valid authorisation;

(c) records are maintained of source inventory, including records of receipt, transfer and disposal of sources; and

(d) a periodic inventory of sources is conducted at intervals specified in the license to confirm that they are in their assigned locations and are secure and such periodic reports submitted to the Agency.

PART XV – PROTECTION OF THE MARINE ENVIRONMENT

140. Prevention of marine pollution

(1) The Agency shall, in consultation with the lead agencies, shall take measures to prevent, reduce or control pollution of the marine environment.

(2) In taking measures to prevent, reduce or control pollution of the marine environment, the Agency shall include those necessary to protect and preserve rare or fragile ecosystems as well as habitat of depleted, threatened or endangered species and other forms of marine life.

(3) A person shall not discharge any dangerous material, or substance, oil or mixture containing into any marine environment except in accordance with the regulations prescribed by the Council.

(4) A person who discharges any hazardous substance or material, oil or mixture containing oil in any marine environment contrary to this sub-section (3) commits an offence.

(5) Where a person is convicted under sub-section (4) the court may in addition to any penalty imposed by it, require that person to-

(a) pay the cost of the removal of the hazardous material or substance, oil, mixture containing oil, including any cost to Government in restoring the damaged marine environment; and

(b) pay the costs incurred by third parties resulting from the discharge.

(6) The owner of the vessel or production from which a discharge occurs contrary to this section has a duty to mitigate the impact of the discharge by-

(a) giving notice of the discharge to the Agency and other public officers;

(b) commencing clean-up operations using the best available methods; or

(c) complying with such directions as the Agency may give.

PART XVI – ENVIRONMENTAL PROTECTION REQUIREMENTS FOR THE PETROLEUM INDUSTRY

141. Petroleum exploration and development

(1) The Agency shall, in collaboration with the lead agency, ensure that exploration and development of oil and gas is undertaken in an environmentally friendly manner.

(2) The Minister, on the recommendation of the Agency and the lead agency, shall make regulations –

(a) requiring licensees and lessees to adopt precautions to prevent pollution and disposal of waste from petroleum operations in accordance with applicable regulations, as may be approved by the lead agency, ministry or department;

(b) to prevent the adverse effects of petroleum activities on health, safety and the environment and promotes high standards of health and safety;

(c) to provide the minimum health and safety requirements applicable to contractors, subcontractors and other players within the industry;

(d) to set standards relating to the design and operation of facilities, systems and equipment, maritime facilities, load-bearing structures, drilling and well systems, emissions and discharges, decommissioning, risk analysis and emergency preparedness and reporting; and

(e) to set guidelines for the regulation of upstream, midstream and downstream petroleum operations.

(3) The peculiar nature of the petroleum industry shall at all times be taken into consideration in drawing specific regulations and guidelines for the industry.

PART XVII – THE ENVIRONMENT COURT

142. Establishment of the Environment Court

(1) There is established by this Act, the Environment Court which shall be designated by the Chief Justice by Notice published in the Gazette.

143. Composition of the Environmental Court

(1) An Environment Court shall consist of the following members –

(a) a chairperson appointed by the Judicial Service Commission, who shall be a person qualified for appointment as a Principal Magistrate; and

(b) three other members of proven integrity who have demonstrated exemplary academic or professional competence in the field of environmental management appointed by the Chief Justice on the recommendation of the Council.

(2) All appointments to the Court shall be by name and by Gazette Notice issued by the Council.

(3) The members of the Environmental Court shall be appointed at different times so that the respective expiry dates of their terms of office shall fall at different times.

(4) The office of a member of the Environmental Court shall become vacant –

(a) at the expiration of three years from the date of his/her appointment;

(b) if he or she accepts any office the holding of which, if he or she were not a member of the Environment Court, would make him ineligible for appointment to the office of a member of the Environment Court;

(c) if he or she is removed from membership of the Environment Court by the Chief Justice for failure to discharge the functions of his or her office (whether arising from infirmity of body or mind or from any other cause) or for misbehaviour; and

(d) if he or she resigns the office of member of the Environment Court.

144. Jurisdiction of the Environmental Court

(1) Subject to this Act, an Environmental Court shall have the power to hear and determine –

(a) appeals from the decisions of the Agency or any of its Committees;

(b) hear any matter in relation to the enforcement of the provisions of this Act or any other law in relation to the environment; and

(b) all environmental offences under this Act and other relevant environmental legislations.

(4) The Court shall also exercise any other jurisdiction conferred on it by this Act or any other law.

145. Proceedings of the Court

(1) The Court shall not be bound by the rules of evidence as set out in the Evidence Act, 1994.

(2) The Court shall, upon an appeal made to it in writing by any party or a referral made to it by the Agency on any matter relating to this Act, inquire into the matter and make an award, give directions, make orders or make decisions thereon, and every award, direction, order or decision made shall be notified by the Court to the parties concerned, the Agency or any relevant committee thereof, as the case may be.

(3) The Court shall sit at such times and in such places as it may appoint.

(4) The proceedings of the Court shall be open to the public save where the Court, for good cause, otherwise directs.

146. Rules of Court

(1) The Chief Justice may make rules prescribing the procedure to be followed in an Environment Court and in particular as to the recording of evidence, the manner of arriving at and recording of findings and others matters.

(2) Subject to sub-section (1), the Court shall regulate its proceedings as it deems fit, which shall be as informal as possible.

(3) The Court may –

(a) make such orders for the purposes of securing the attendance of any person at any place where the Court is sitting, discovery or production of any document concerning a matter before the Court or the investigation of any contravention of this Act as it deems necessary or expedient;

(b) take evidence on oath and may for that purpose administer oaths; or

(c) on its own motion summon and hear any person as witness.

(3) Any person who –

(a) fails to attend the Court after having been required to do so under sub-section (1)(a);

(b) refuses to take oath or affirmation before the Court or being a public officer refuses to produce any article or document when lawfully required to do so by the Court;

(c) knowingly gives false evidence or information which he knows to be misleading before the Court; or

(d) at any sitting of the Court –

(i) wilfully insults any member or officer of the Court;

(ii) wilfully interrupts the proceedings or commits any contempt of the Court; or

(iii) fails or neglects to comply with a decision order, direction or notice confirmed by the Court,

Commits an offence under this Act.

147. Quorum for determination by Court

(1) For the purposes of hearing and determining any cause or matter under this Act, the Chairperson and two members of the Court shall form a quorum.

(2) A member of the Court who has a direct interest in any matter, which is the subject of the proceedings before the Court shall not take part in those proceedings.

148. Appeals to the Court

(1) Any person who is aggrieved by –

(a) a refusal to grant a permit or to the transfer of his or her permit under this Act or regulations made thereunder;

(b) the imposition of any condition, limitation or restriction on his or her permit under this Act or regulations made thereunder;

(c) the revocation, suspension or variation of his or her permit under this Act or regulations made thereunder;

(d) the amount of money, which he or she is required to pay as a fee under this Act or regulations made thereunder; or

(e) the imposition against him of an environmental restoration order or environmental improvement order by the Agency under this Act or regulations made thereunder,

may within thirty days after the occurrence of the event against which he or she is dissatisfied, appeal to the Environment Court in such manner as may be prescribed by the rules of Court.

(2) Unless otherwise expressly provided in this Act, where this Act empowers the Executive Director, the Agency or Committees of the Agency to make decisions, such decisions may be subject to an appeal to the Environment Court in accordance with such procedures as may be established by the Court for that purpose.

(3) Upon any appeal, the Court may –

(a) confirm, set aside or vary the order or decision in question;

(b) exercise any of the powers, which could have been exercised by the Agency in the proceedings in connection with which the appeal is brought; or

(c) make such other order, including an order for costs, as it may deem just.

(4) Upon any appeal to the Court under this section, the status quo of any matter or activity, which is the subject of the appeal, shall be maintained until the appeal is determined.

149. Appeals to the High Court

(1) Any person aggrieved by a decision or order of the Court may, within thirty days of such decision or order, appeal against such decision or order to the High Court.

(2) No decision or order of the Court shall be enforced until the time for lodging an appeal has expired or, where the appeal has been commenced, until the appeal has been determined.

(3) Notwithstanding the provisions of sub-section (2), where the Executive Director is satisfied that immediate action must be taken to avert serious injuries to the environment, the Executive Director shall have the power to take such reasonable action to stop, alleviate or reduce such injury, including the powers to close down any undertaking, until the appeal is finalised or the time for appeal has expired.

(4) Upon the hearing of an appeal under this section, the High Court may –

(a) confirm, set aside or vary the decision or order in question;

(b) remit the proceedings to the Court with such instructions for further consideration, report, proceedings or evidence as the court may deem fit to give;

(c) exercise any of the powers, which could have been exercised by the Court in the proceedings in connection with which the appeal is brought; or

(d) make such other order as it may deem just, including an order as to costs of the appeal or of earlier proceedings in the matter before the Court.

150. Power to appoint Environment Assessors

The Chairperson of the Court may appoint any persons with special skills or knowledge on environmental issues, which are the subject matter of any proceedings or inquiry before the Court to act as assessors in an advisory capacity in any case where it appears to the Court that such special skills or knowledge are required for proper determination of the matter.

151. Power to seek the directions of the Court in complex matters

(1) When any matter to be determined by the Agency under this Act appears to it to involve a point of law or to be of unusual importance or complexity, it may, after giving notice to the concerned parties, refer the matter to the Court for direction.

(2) Where any matter has been referred to the Court under sub-section (1), the Agency and the parties thereto shall be entitled to be heard by the Court before any decision is made in respect of such matter and may appear personally or be represented by a legal practitioner.

(3) A person who is a party to proceedings before the Court may appear in person or be represented by a legal practitioner before the Court.

152. Immunity

(1) The Chairperson or other members of the Court shall not be liable to be sued in a civil court for an act done or omitted to be done or ordered to be done by them in the discharge of their duty as members of the Court, whether or not within the limits of their jurisdiction, provided they, at the time, in good faith, believed themselves to have jurisdiction to do or order the act complained of.

(2) No officer of the Court or other person bound to execute the lawful warrants, orders or other process of the Court shall be liable to be sued in any court for the execution of a warrant, order or process which he or she would have been bound to execute if within the jurisdiction of the Court.

(3) It shall be an offence for any person to engage in acts or make omissions amounting to contempt of the Court and the Court may punish such person for contempt in accordance with the provisions of this Act.

153. Remuneration of members of Court

There shall be paid to the Chairperson and the members of the Court such remuneration and allowances as the Council shall determine.

154. Appointment of a Registrar to the Court

The Chief Justice shall appoint a public officer to be the Registrar to the Court who shall be paid such remuneration and allowances as the Judicial Service Commission shall determine.

155. Powers to establish other Courts

The Chief Justice may establish such other branches of the Environment Court in any part of The Gambia as he or she deems appropriate.

PART XVIII – ENVIRONMENTAL OFFENCES

156. Offences relating to inspection

(1) A person who –

(a) hinders or obstructs an environmental inspector in the exercise of his or her duties under this Act or regulations made thereunder;

(b) fails to comply with a lawful order or requirement made by an environmental inspector in accordance with this Act or regulations made thereunder;

(c) refuses an environmental inspector entry upon any land or into any premises, vessel or motor vehicle which he is empowered to enter under this Act or regulations made thereunder;

(d) impersonates an environmental inspector;

(e) refuses an environmental inspector access to records or documents kept pursuant to the provisions of this Act or regulations made thereunder;

(f) fails to state or wrongly states his name or address to an environmental inspector in the cause of his or her duties under this Act or regulations made thereunder;

(g) misleads or gives wrongful information to an environmental inspector under this Act or regulations made thereunder;

(h) fails, neglects or refuses to carry out an improvement order issued under this Act by an environmental inspector,

commits an offence.

(2) A person who commits an offence under sub-section (1) is liable on conviction –

(a) in the case of a natural person, to a fine of not less than one hundred thousand dalasis, or imprisonment for a term not more than one year, or both; and

(b) in the case of a corporate body or organisation, to a fine of not less than five hundred thousand dalasis

157. Offences relating to Environmental Impact Assessment

(1) A person who –

(a) fails to submit a project report as part of the screening of the project contrary to the requirements of this Act;

(b) fails to prepare an environmental impact assessment report in accordance with the requirements of this Act or regulations made thereunder;

(c) fraudulently makes false information in the project report stated under subsection 1 (a) of this section;

(d) fraudulently makes false statements in an environmental impact assessment report submitted under this Act or regulations made thereunder;

(e) carry out any work or undertaken for any activity that is subject of Environmental Impact Assessment without obtaining a permit issued under the provisions of this Act or regulations made thereunder,

commits an offence.

(2) A person who commits an offence under sub-section (1) is liable on conviction-

(a) in the case of a natural person, to a fine of not less than seventy-five thousand dalasis and not more than two hundred and fifty thousand dalasis, or imprisonment for a term of not more than five years, or both; and

(f) in the case of a corporate body or organisation, to a fine of not less than seven hundred thousand dalasis and the closure of the related activities until such a permit, or similar authority, is issued by the Agency

158. Offences relating to records

(1) A person who –

(a) fails to keep records required to be kept under this Act;

(b) fraudulently alters any records required to be kept under this Act;

(c) fraudulently makes false statements in any records required to be kept under this Act,

commits an offence.

(2) A person who commits an offence under sub-section (1) is liable on conviction-

(g) in the case of a natural person, to a fine of not less than one hundred thousand Dalasis and not more than three hundred thousand Dalasis, or imprisonment for a term not more than five years, or both; and

(h) in the case of a corporate body, to a fine of not less than seven hundred and fifty thousand Dalasis.

159. Offences relating to environmental standards, criteria and guidelines

(1) A person who –

(a) contravenes any environmental standard, criteria or guideline prescribed under this Act;

(b) contravenes any measure prescribed under this Act;

(c) uses the environment or natural resources in a wasteful and destructive manner contrary to measures prescribed under this Act,

commits an offence.

(2) A person who commits an offence under sub-section (1) is liable on conviction-

(a) in the case of a natural person, to a fine of not less than fifty thousand Dalasis and not more than two hundred and fifty thousand Dalasis and the correction of the damage, or imprisonment for a term not more than five years, or both; and

(b) in the case of a corporate body, to a fine of not less than one million Dalasis and the correction of the damage caused.

160. Offences relating to waste

A person who –

(a) fails to manage any waste and related materials, which includes the storage, handling, transportation and disposal in accordance with this Act;

(b) imports any waste contrary to this Act;

(c) knowingly mislabels any waste matter;

(d) aids or abets illegal trafficking in wastes and related substances;

(e) disposes of any wastes contrary to this Act;

(f) withholds information or provides false information about the management of wastes,

commits an offence.

(2) A person who commits an offence under sub-section (1) is liable on conviction-

(c) in the case of a natural person, to a fine of not less than fifty-thousand Dalasis and not more than five hundred thousand Dalasis and the remedy of any problem that may arise therefrom, or imprisonment for a term not less than five years, or both; and

(d) in the case of a corporate body, to a fine of not less than one million Dalasis.

161. Offences relating to pollution

(1) A person who –

(a) inappropriately discharges any hazardous materials and substances including fumes, oil, oil mixtures, sludge, mud etc. into land, aquatic environments, air contrary to the provisions of this Act;

(b) pollutes the environment contrary to the provisions of this Act; or

(c) discharges any pollutant into the environment contrary to the provisions of this Act,

commits an offence.

(2) A person commits an offence under sub-section (1) is liable on conviction-

(e) in the case of a natural person, to a fine of not less than one hundred and fifty thousand Dalasis and not more than five hundred thousand Dalasis, or imprisonment for a term not more than five years, or both; and

(f) in the case of a corporate body, to a fine of not less than two million dalasis.

(2) In addition to any sentence that the Court may impose upon a polluter under sub section (1), the Court may direct that person to –

(a) pay the full cost of cleaning up the polluted environment and of removing the pollution; and

(b) clean up the polluted environment and remove the effects of pollution to the satisfaction of the Agency .

(3) Without prejudice to the provisions of sub-sections (1) and (2), the Court may direct the polluter to meet the cost of the pollution to any third parties through adequate compensation, restoration or restitution.

162. Offences relating to Environmental restoration orders, easements, and conservation orders

(1) A person who –

(a) fails, neglects or refuses to comply with an environmental restoration order made under the Act;

(b) fails, neglects or refuses to comply with an environmental easement order issued under this Act; and

(c) fails, neglects or refuses to comply with an environmental conservation order made under the Act,

commits an offence.

(2) A person commits an offence under sub-section (1) is liable on conviction-

(g) in the case of a natural person, to a fine of not less than fifty thousand dalasis and not more than two hundred thousand dalasi, or imprisonment for a term not more than three years, or both; and

(h) in the case of a corporate body, to a fine of not less than two million dalasis.

163. Offences relating to protected areas

A person who fails, neglects or refuses to comply with guidelines prescribed to regulate environmentally protected areas commits an offence and is liable, upon conviction, to a fine of not less than one hundred thousand dalasis and not more than five hundred thousand dalasi, or imprisonment for a term not exceeding five years, or to both.

164. Offences relating to biological diversity

(1) A person who —

(a) trades in any component of biological resources contrary to the provisions of this Act or any other written law;

(b) unlawfully possesses any biological resources; or

(c) unlawfully disturbs the habitat of a biological resource in contravention of this Act,

commits an offence.

(2) A person commits an offence under sub-section (1) is liable on conviction-

in the case of a natural person, to a fine of not less than one hundred and fifty thousand Dalasis and not more than three hundred thousand dalasi, or imprisonment for a term not more than three years, or both; and

in the case of a corporate body, to a fine of not less than two million Dalasis.

165. General penalty

Any person who commits an offence against any provision of this Act or of regulations made thereunder for which no other penalty is specifically provided is liable on conviction, to a fine of not less than seventy-five thousand dalasis and not more than five hundred thousand dalasis, or imprisonment for a term not more than two years, or to both.

166. Offences by bodies corporate, partnerships, principals and employers

(1) When an offence against this Act, is committed by a body corporate, the body corporate and every director or officer of the body corporate who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act, shall be guilty of an offence.

(2) Where an offence is committed under this Act by a partnership, every partner or officer of the partnership who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act, commits an offence.

(3) A person shall be personally liable for an offence against this Act, whether committed by him or her on his or her own account or as an agent or servant of another person.

(4) An employer or principal shall be liable for an offence committed by an employee or agent against this Act, unless the employer or principal proves that the offence was committed against his or her express or standing directions.

167. Presumptions

(1) For the purposes of this Act, an adverse effect is deemed to have been caused by an act or omission if it is possible that the adverse effect could have resulted from the act or omission, if it was reasonably foreseeable that the effect could have resulted from the act or omission, and if there was no other plausible cause for the adverse effect.

(2) For the purposes of this Act, an act or thing done or omitted to be done by a director, officer, employee or agent of a body corporate or unincorporate body in the exercise of their powers, functions or duties is deemed to be an act or thing done or omitted to be done by the body corporate or unincorporate body.

168. Civil damages

(1) The Agency may, without prejudice to any other remedy available under this Act or any other written law, institute an action against any person for damage caused by that person to the environment.

(2) Any damages payable under this section shall be paid to the Agency.

(3) A court may liquidate the damage done to the environment where the damage to the environment cannot be quantified in a precise manner.

169. Forfeiture, cancellation and other orders

(1) The Court before which a person is charged for an offence under this Act or any regulations made thereunder may, in addition to any other order –

(a) upon the conviction of the accused; or

(b) if it is satisfied that an offence was committed notwithstanding that no person has been convicted of the offence,

order that the substance, motor vehicle, equipment and appliance or other thing by means whereof the offence concerned was committed or which was used in the commission of the offence be forfeited to the Agency, on behalf of the State, and be disposed of as the court may direct.

(2) In making the order to forfeit under sub-section (1), the Court may also order that the cost of disposing of the substance, motor vehicle, equipment, appliance or any other thing provided for in that subsection be borne by the person convicted thereunder.

(3) The Court may further order that any licence, permit or any authorisation given under this Act, and to which the offence relates, be cancelled.

(4) The Court may further issue an order requiring that a convicted person restores at his or her own cost, the environment to as near as it may be to its original state prior to the offence.

(5)The court may, in addition, issue an environmental restoration order against the person convicted in accordance with the provisions of this Act.

170. Level of fines

When assessing the level of a fine to be imposed in respect of an offence under this Act, the court imposing the fine shall take into account –

(a) the measure of any benefit the person gained or was likely to gain by reason of the offence;

(b) any disadvantage or inconvenience suffered by the public or any section of the public, or any consumer or consumers by virtue of the offence;

(c) the size of the business carried on by the public utility and the likely effect the imposition of the fine would have on that business;

(d) the length of any period during which the conduct giving rise to the offence continued;

(e) whether the person has previously been convicted of an offence of the same or similar nature and, if so, on how many occasions;

(f) and (f) any special, unusual or unexpected circumstance that gave rise to the commission of the offence.

171. Summary imposition of penalties

(1) The Agency may, where satisfied that any person has committed an offence or where a person has admitted the commission of an offence under the Act, summarily demand from the person the payment of a fine in respect of the offence.

(2) The Agency shall, where it demands a payment under sub-section (1), inform the person against whom the demand is made of the right to admit or dispute the liability.

(3) A person from whom payment of a fine has been demanded under sub-section (1) may elect to admit liability and pay the fine, or dispute liability.

(4) The payment of a fine shall operate as a bar to any further criminal proceedings against the person making the payment in respect of the offence concerned.

(5) Where the Agency receives payment of a fine, it shall give a receipt to the person making the payment in such form as may be prescribed.

(6) An officer of the Agency who receives a payment under this section and

(a) fails to issue a receipt to the person making the payment as required under sub-section (5); or

(b) fails to account for any payment made under this section; or

(c) in any manner, misuses or puts to personal use any payment made under this section;

commits an offence and is liable, upon conviction, to a fine not less than one hundred and fifty thousand dalasis and not more than three hundred thousand dalasi or to imprisonment for a period not exceeding three years, or both.

PART IX- LEGAL PROCEEEDINGS

172. Limitation of suit against the Agency

(1) When a suit is commenced agaisnt the Agency for any act done in pursuance or execution, or intended execution of any Act or law, or of any public duties or authority, or in respect of any alledged neglect or default in the execution of that Act, law, duty or authority, the suit shall not be instituted in any court unless it is commenced within twelve months after the act, neglect, or default complained of.

(2) A suit shall not be commenced agaisnt the Agency until two month at least after written notice of intention to commence the same has been served by delivering the same to the Executive Director.

(3) The notice shall state the cause of action, the names and place of abode of the intending plaintiff and the relief claimed.

173. Representation of the Agency at hearing of suit.

(1) In any suit pending before a Magistrates' Court or any other surbodinate court, the Agency may be represented in court at any stage of the proceeedings by an employee of the Agency who shall satisfy the court that he or she is duly authorized in writing by the Agency in that behalf.

(2) For the purposes of this section, "suit" included an action and means a civil proceeding and does not include a criminal proceeding.

PART XX – MISCELLANEOUS

174. Amendment of the Schedule

The Council may, by order published in the Gazette, amend the Schedule.

175. Delegation of powers and functions by the Council and the Executive Director

(1) The Council may by order delegate any of its functions and powers to a Minister, the Executive Director, the Chief Executive Officer of a local government or any other public officer not below the rank of the Executive Director provided that the power so delegated shall not be sub-delegated.

(2) The Executive Director may delegate any of his or her powers and functions, in writing, to any member of the senior staff of the Agency not below the level of a Program Manager or Deputy Director, the Chief Executive Officer of a Local Government or other public officer not below the level of a Program Manager or Deputy Director provided that the power so delegated shall not be sub-delegated.

176. Power to make regulations

(1) The Minister, may, on the recommendation of the Agency, and upon consultation with the relevant lead agencies, make regulations for the proper implementation of the Act.

(2) Regulations made under sub-section (1) may –

(a) make provisions for the issue, amendment and revocation of any licence;

(b) provide for the charging of fees and levying of charges; and

(c) adopt wholly or in part or with modifications any rules, standards, guidelines, regulations, by-laws, codes, instructions, specifications, or administrative procedures prescribed by any lead agency either in force at the time of prescription or publication or as amended from time to time.

177. Consistency of laws

Any written law, in force immediately before the coming into force of the Act, relating to the management of the environment shall have effect subject to modifications as may be necessary to give effect to this Act, and where the provisions of any such law conflict with any provisions of this Act, the provisions of this Act shall prevail.

178. Repeals and savings

(1) The National Environment Management Act is repealed.

[Cap. 72:01]

(2) Notwithstanding the repeal –

(a) all employees in the employment of National Environmental Agency immediately prior to the repeal of the National Environmental Management Act shall continue to be employed by the Agency established under this Act;

[Cap. 72:01]

(b) any subsidiary legislation made under the National Environmental Management Act repealed shall continue to be in force until it is repealed.

[Cap. 72:01]

(c) it is declared that, without limiting the provisions of the Interpretation Act, the repeal by this Act shall not affect any document made or done under the enactment so repealed;

[Cap. 4:01]

(d) certificate, notice, authorization, consent, application, request or thing – made or issued, or give or done, under the repealed Act, that are in force at the commencement of this Act, so far as it could have been made, issued, given or done under this Act, shall continue in force and have effects as if made, issued, given or done under this Act;

(e) all assets, funds, resources and other moveable property of which immediately before the commencement of this Act were vested in the National Environment Agency established under the National Environmental Management Act shall be vested in the Agency established under this Act; and

[Cap. 72:01]

(f) all rights, interests, obligations and liabilities of the National Environment Agency existing immediately before the commencement of this Act shall be vested in or inherited by the Agency established under this Act.

SCHEDULE

[section 62]

Environmental Impact Assessment

PART A

PROJECTS TO BE CONSIDERED FOR ENVIRONMENTAL IMPACT ASSESSMENT

1. General -

(a) an activity out of character with its surrounding;
(b) any structure of a scale not in keeping with its surrounding;
(c) major changes in land use.

2. Urban Development including -

(a) designation of new townships;
(b) establishment of industrial estates;
(c) establishment or expansion of recreational areas;
(d) establishment or expansion of recreational townships in hilly areas, national parks and game reserves;
(e) shopping centres and complexes.
(f) hotels and other tourist facilities

3. Transportation including -

(a) all major roads;
(b) all roads in scenic, wooded, hilly areas or wetlands;
(c) bridges
(d) railway lines;
(e) airports and airfields;
(f) pipelines
(g) oil and gas pipelines;
(h) water transport.
(i) ports and landing sites

4. Dams, rivers and water resources including -

(a) storage dams, barrages and wiers;
(b) river diversions and water transfer between catchments;
(c) flood control schemes;
(d) drilling for the purpose of utilising ground water resources including geothermal energy.

5. Aerial spraying.

6. Fisheries especially large scale commercial projects.

7. Mining, including quarrying and open-cast extraction of -

(a) precious metals;
(b) diamonds
(c) gemstones;
(d) metalliferous ores;
(e) coal;
(f) phosphates;
(g) limestone and dolomite;
(h) stone and slate
(i) aggregates, sand, laterite and gravel;
(j) clay;
(k) exploration for the production of petroleum in any form;
(l) extracting alluvial gold with use of mercury;
(m) Offshore activities.

8. Forestry related activities including -

(a) timber harvesting;
(b) clearance of forest areas;
(c) reforestation and afforestation.
(d) establishment of wood plantations

9. Agriculture including -

(a) large-scale agriculture;
(b) use of pesticide;
(c) introduction of new crops and animals;
(d) use of fertilizers;
(e) irrigation.

10. Processing and manufacturing industries including -

(a) mineral processing, reduction of ores and minerals;
(b) smelting and refining of ores and minerals;
(c) foundries;
(d) brick and earthware manufacture;
(e) cement works and lime processing;
(f) glass works;
(g) fertilizer manufacture or processing;
(h) explosive plants;
(i) oil refineries and petro-chemical works;
(j) tanning and dressing of hides and skins;
(k) abattoirs and meat-processing plants;
(l) chemical works and process plants;
(m) brewing and malting;
(n) bulk grain processing plants;
(o) fish-processing plants;
(p) pulp and paper mills;
(q) food-processing plants;
(r) plants for the manufacture of assembly of motor vehicles;
(s) plant for the construction or repair of aircraft or railway equipment;
(t) plants for the manufacturing or processing of rubber;
(u) plants for the manufacture of tanks, reservoirs and sheet-metal containers;
(v) plants for the manufacture of groundnutbriquettes or other briquettes;
(w) mechanical workshops;
(x) plant for manufacturing batteries.
(y) cottage industries.
(z)

11. Electrical infrastructure including -

(a) electricity generation stations;
(b) electrical transmission lines (high voltage);
(c) electrical sub-stations;
(d) pumped storage-schemes.

12. Management of hydrocarbons including -

the storage of natural gas and combustible or explosive fuels.

13. Waste disposal including -

(a) sites for solid waste disposal;
(b) sites for hazardous waste disposal;
(c) sewage disposal works;
(d) works involving major atmospheric emissions;
(e) works emitting offensive odours.

14. Natural conservation areas including -

(a) creation of national parks, game reserves and buffer zones;
(b) establishment of wilderness areas;
(c) formulation or modification of forest management policies;
(d) formulation or modification of water catchment management policies;
(e) policies for the management of ecosystems, especially by use of fire;
(f) commercial exploitation of natural fauna and flora;
(g) introduction of alien species of fauna and flora into ecosystems;
(h) Establishment of natural heritage areas.

15.Nuclear Reactors.

16. Major developments in biotechnology including the introduction and testing of genetically modified organisms.

PART B

Issues to be considered in making Environmental Impact Assessment

The following issues may, among others, be considered in the making of environmental impact assessments.

1. Ecological consideration, in particular biological diversity-

(a) effect of proposal on number, diversity, breeding habits, etc., of wild animals and vegetation;

(b) gene pool of domesticated plants and animals, for example monoculture versus wild-types.

2. Sustainable use including-

(a) effect of proposal on soil fertility;

(b) breeding populations of fish and game; and

(c) natural regeneration of woodland and sustainable yield.

3. Ecosystem maintenance, including

(a) effect of proposal on food chains;

(b) nutrient cycle;

(c) aquifer recharge, water run-off rates; etc.

(d) areal extent of habitats.

4. social consideration, including

(a) Effect of proposal on generation or reduction of employment in the area;

(b) Social cohesion or disruption;

(c) Effect on human health;

(d) Immigration or emigration;

(e) Communication – roads opened up, closed, re- routed; and

(f) Local economy.

5. Landscape including-

(a) views opened up or closed;

(b) visual impacts (features, removal of vegetation, etc.)

(c) compatibility with surrounding areas;

(d) amenity opened up and closed, for example recreation possibilities.

6. Land use

(a) effects of proposal on current land uses and land use potentials in the project area;

(b) possibility of multiple use;
(c) effects of proposal on surrounding land uses and land use potentials.

OBJECTS AND REASONS

This Bill seeks to establish a comprehensive and robust legal framework that promotes the enhancement, protection, conservation, and sustainable management of the environment. This Bill further seeks to coordinate and harmonize conflicting activities to ensure that environmental considerations are integrated into the national development agenda. It is also aims to safeguard the environment as a common heritage for both present and future generations by reinforcing principles such as sustainable development, accountability, public participation, the polluter-pays principle, and the precautionary principles.

Relatedly, this Bill proposes to align national environmental policies with international obligations and foster cooperation among governmental bodies, the private sector, and local communities. This will ensure that environmental protection becomes a shared responsibility among all stakeholders, and invariably contribute significantly to safeguarding natural resources, improving public health, and promoting socio-economic development, thereby ensuring a balanced relationship between development and environmental conservation.

This Bill ascends from the growing recognition of the adverse impacts of environmental degradation on public health, biodiversity, and socio-economic development. It will address the need for long-term planning, integrated environmental governance, and public involvement. It will also ensure that environmental protection measures are not delayed due to scientific uncertainty and hold polluters accountable for the costs associated with mitigating environmental damage.

Thus, the enactment of the Bill is essential in fostering an environmentally sustainable future for The Gambia.

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HON. ROHEY JOHN MANJANG
MINISTER OF ENVIRONMENT,
CLIMATE CHANGE AND NATURAL RESOURCES