

# Environmental Regulations in Nigeria: A Lesson from United Kingdom

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**Abstract:** Environmental regulation is seen as an imposition of limitations or tasks on individuals, corporations and other entities for the purpose of preventing environmental damage or improving degraded environment. The paper is a reviewed work on environmental regulations in Nigeria and the possible lesson to be learnt from the United Kingdom experience. Methodology employed for this study is the used of secondary data which were sourced from textbooks, internet journals and environmental publications relevant to the reviewed work. Data were presented in form of figures or snapshots and table. The main observation has shown some level of changes in Nigeria regulatory nomenclature with little change in improves functions of the system. The paper has recommended among several issues that the regulatory body improve on information exchange and feedback mechanisms between the Regulatory Agency, the Industries and the Regulated Communities.

**Key words:** Environmental laws, Regulations, Contaminated land, Enforcement, Sustainable development.

## I. INTRODUCTION

The changing economic climate and technological advancement has led to requirement for strategy to manage and protect scarce resources. Such management is essential for achieving sustainable development. In this paper, environmental regulation is seen as the use of both legislation through parliament and the regulations established by organisations saddled with the responsibility of protecting the environment (McManus, 2009). It is one approach to environmental management and it occurs in every sphere of human activity. Environmental regulations and standards came out of the growing concern for the environment and the demands for pollution control. Pollution is simply defined as the introduction by man into the environment of substances or energy liable to cause hazards to human health, harm to living resources and ecological system, damage to structure or amenity or interference with the legitimate uses of the environment.

Environmental laws address such worries and intended to meet high public expectations about improving the environment. The British actually set the pace by the nineteenth century environmental laws which set a wide statutes and case law intended to penalized polluters. Low key-regulations developed, leading to prevention strategies which have been gaining support on a daily basis.

## II. METHODOLOGY

The study is a reviewed work and it examine the United Kingdom environmental laws vi-a-vis the Nigerian environmental laws. The data for the study are basically secondary data sourced from books, online materials (including online books, journals and other relevant publication of environmental laws). The environmental laws that were examined are strictly that of the United Kingdom and Nigeria. Most of the materials used were the laws of the Federation of Nigeria, Federal Environmental Protection Agency (Amendment) Decree, No. 59 of 1992. [Online]: available at [www.nigeria-law.org/pdf..](http://www.nigeria-law.org/pdf..), McEldowney F. J, and McEldowney S., 2001. Environmental Law and Regulation and National Environmental Standard Regulations Enforcement Agencies; 2008, a historical background of federal environmental agencies in Nigeria [online]: available at [www.nesrea.org/faq.php](http://www.nesrea.org/faq.php) pdf.

## III. CONCEPTUAL FRAMEWORK

### *Environmental law in UK*

An environmental law in the UK passed several stages and has change from a reactive subject providing remedies for environmental pollutions in the pass to a more proactive subject providing standards to meet and avoid environmental problems. The preventive measures were aimed at reducing or eliminating the risk of environmental damage and regulation process becomes important to avoid or mitigate any harm.

*Sources of environmental law in UK-* Wolf, White and Stanley(2002), state that environmental laws in the UK is a mix of primary legislation(act of parliaments) secondary legislation (statutory instruments), judicial decisions reported in law reports, common law principles, European community legislation, which are transposed into national law (form of regulation), European treaties and international laws(treaties, convention and protocols).Furthermore, the major principles that guide environmental laws according to McEldowney and McEldowney (2001),are the principles of sustainable development, the principles of polluters pay and the precautionary principles.

Figure 1, show different kind of legislative acts on the environment and how it has metamorphosed.

Figure 1 the main environmental status

**Environmental Protection Act (EPA) 1990**—contains the main bulk of provisions on air pollution from stationary sources, waste management and disposal, litter, the environmental impact of genetically modified organisms (GMOs), noise, and the statutory control of environmental nuisances.

**Town and Country Planning Act (TCPA) 1990**—consolidated most of the relevant statutory law on town and country planning, and tree protection (major changes to the planning of development have been made by the Planning and Compulsory Purchase Act 2004).

**Pollution Prevention and Control Act (PPCA) 1999**—provides for a permitting system to control industrial processes in an integrated way (which is fleshed out in Regulations).

**Water Resources Act (WRA) 1991**—contains much of the law on water pollution and water resources (the latter significantly revised by the Water Act 2003).

**Water Industry Act (WIA) 1991**—matters relating to water supply and sewerage, including economic regulation of the water and sewerage companies.

**Wildlife and Countryside Act (WCA) 1981**—includes much of the relevant law on nature conservation in Pts I and II (significantly amended by the Countryside and Rights of Way Act 2000).

**Environment Act 1995**—introduced new legal provisions in relation to liability for contaminated land (as Pt IIA of EPA 1990). Also created the Environment Agency, which took over functions related to waste regulation, water pollution and water resources, radioactive substances, and most aspects of integrated pollution control, although without any major changes in the substance of the law.

None of these Acts is a full code in relation to the relevant subject matter. There are numerous individual issues dealt with by separate pieces of legislation, such as on radioactivity or on pesticides. There are other issues in relation to which the controls are still spread among a large number of Acts, such as in relation to landscape protection. In addition, much of the detailed law in any area is actually provided in statutory instruments and a wide range of other documents made under the relevant Acts. This is especially true of much of the vast body of law with its origins in EC environmental Directives.

Source: Bell and McGillivray, 2008

#### IV. THE ENVIRONMENTAL PRINCIPLES

**The principles of sustainable development:** this set agenda for the future by ensuring that environmental problems are

addressed and controlled. It ensures that the benefits of any development outweigh its cost including environmental cost. Figure 2 shows UK government commitment in incorporating sustainable development principles in public bodies.

Figure 2. Examples of the application of sustainable development in UK legislation

#### Examples of the application of sustainable development in UK legislation<sup>34</sup>

Every local authority must prepare a strategy... for promoting or improving the economic, social and environmental well-being of their area and contributing to the achievement of sustainable development in the United Kingdom.

(Local Government Act 2000, s. 4)

The [Welsh] Assembly shall make a scheme setting out how it proposes, in the exercise of its functions, to promote sustainable development.

(Government of Wales Act 1998, s. 121)

Source: Bell and McGillivray, 2008



*The principles of 'polluters pays'*- it emphasize that the polluters pays any costs that arise from harm to the environment or ill-health or injury to individuals caused by

the pollution. Figure3 shows party who may pay for contaminated land

### Paying for contaminated land

There are essentially four possible parties who might 'pay' for historically contaminated land:

- the polluter might be made liable—that is, the Polluter Pays Principle;
- the current owner or occupier might be liable;
- the state might pay—that is, through some public clean-up mechanism—meaning that the public would pay through some form of taxation;
- the loss might lie where it falls—that is, a *Polluted Pays Principle*—meaning that the environment, the local community, the fishery owners, the water companies, etc., would effectively 'pay'.

For a policymaker, the issue is how to come up with a solution that is effective, efficient, and fair, while the tools that are available include, but are not limited to, legal mechanisms.

Source: Bell and McGillivray 2008

*The 'precautionary principle'*-this principles means that the absent of scientific proof for a risk of environmental harm is not enough reason for failing to take preventive action. Precautionary principles are about being 'safe rather than sorry' (Bell and McGillivray 2008). Other principles are:-

*The preventive principles*- this is often link to precautionary principles, it promotes the prevention of environmental harm as an alternative to remedying already caused. An example is use of best available techniques (BAT) to prevent pollution under the integrated pollution prevention and control regime.

*Integration principles*: this principles search for environmental considerations across all policies area. The aim is to avoid contradictory policies objectives failure to take into account environmental protection of resource conservation goals

*Public participation*: environmental issues are best handle with the participation of the all concerned at all level. The aim is to encourage widespread and informed public participation in decision making.

*Substitution principles*: this principle is new and encourages the replacement of dangerous substances or processes by other, less, harmful substances or processes.

### V. ENVIRONMENTAL STANDARDS

Environmental standard simply set out techniques for regulating the environments. The standard comes from different form and variety of sources. Below are list of different categories of standard that may be identify:

*Emission standards*- set the standard level of discharge into different media. It can relate to emission from sources such as food industry, the chemical industry, the energy producing industries and transport.

*Quality standard*- targets are set such as the maximum allowable levels of pollutions in the environment also quality standard for sulphur dioxide level, air quality levels, noise level for aeroplanes, others are standard for drinking water and for bathing.

*Process standards*- this applied to fixed installations like factories and chimneys. It stipulates the means of production leaving no discretion to the polluters. It is targeted at manufacturer and requires information and analysis of dangerous stages in the manufacturing process.

*Products standards*- this is targeted at pharmaceuticals, foods, packaging and labelling. Scientific information is often given on labels and instructions for usage and warning about hazards may also form part of the requirement e.g. pesticides and chemicals of everyday use. There several other standard such as ISO 9000(certificate showing that company have effective environmental management structure), ISO140219 (standard relating to green claim made by manufacturer for their products).

### VI. MAIN REGULATORY BODIES IN THE UNITED KINGDOM

In UK the main regulatory bodies are the regional government of Northern Ireland, Wales and Scotland based on devolution of power. The environmental act 1995 established the

environmental agency for England and Wales, and for Scotland a Scottish environmental protection agency (SEPA), the aim is to protect and enhance the environment. Regulation 2010/90 established the European environment agency in 1993, its aim is to provide member states with information and analysis of data relating to the European environment.

**VII. THE ENFORCEMENT OF ENVIRONMENTAL STANDARDS IN UK**

There is no uniform enforcement procedure of environmental standards in UK by the regulatory agency. However, environmental agencies have various powers at their disposal which enable them to ensure that authorized dischargers comply with consent conditions, to investigate any breach of consents and also to detect and investigate any pollution incidents. They can prohibit or revoke consent and can decide to bring a criminal proceeding against a person who contravenes the provision of the act. The court functions principally as an adjudicator, as an interpreter and a supervisory role (Wolf, White and Stanley, 2002). The environmental standard in UK could be enforced through civil or criminal procedure. The court in UK is an important player in the enforcement of environmental standards.

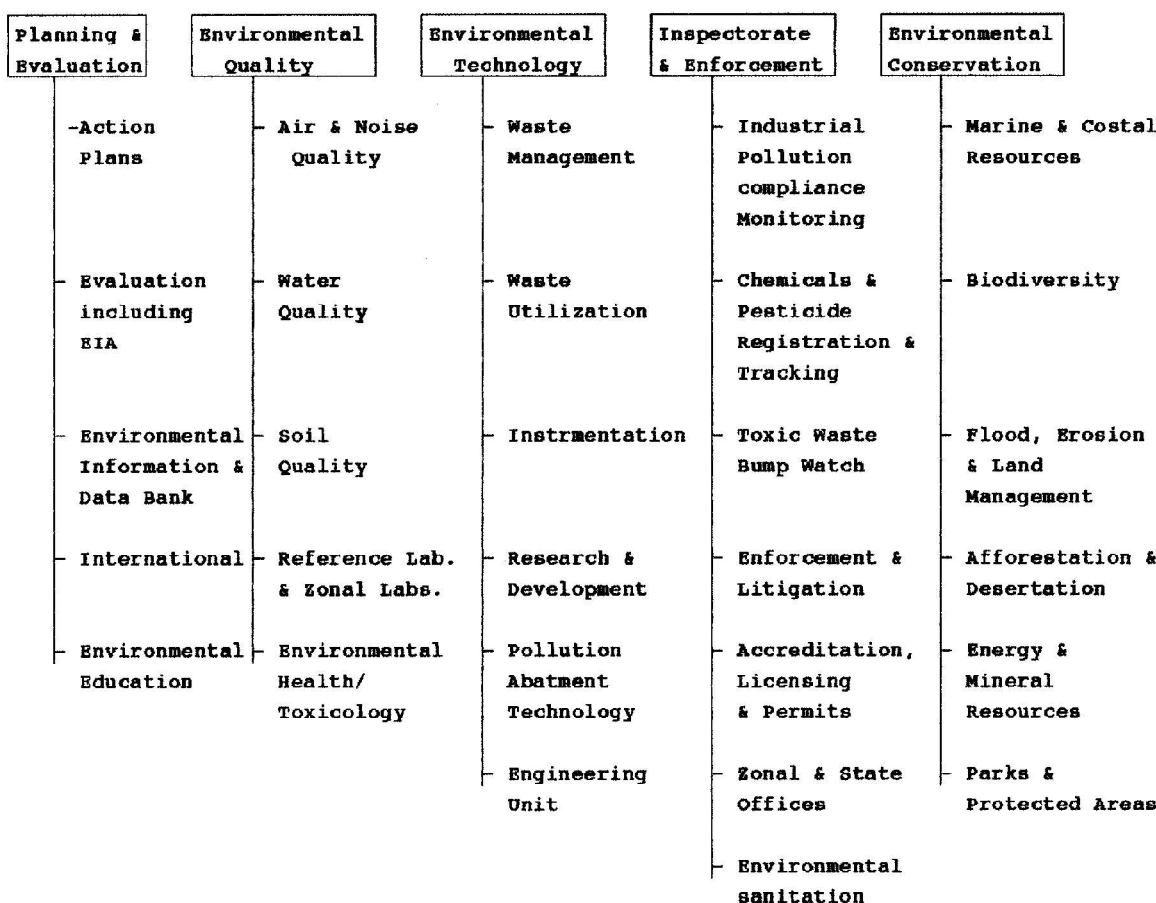
**VIII. ENVIRONMENTAL REGULATION IN NIGERIA**

Environmental law was not well developed in Nigeria for a very long period of time, until 1988 after a toxic waste saga in Koko town of now Delta state which led to a conscious effort by government to enact harmful waste decree 42 of 1988 and incidentally facilitated the establishment of FEPA through decree 58 of 1988.

*Sources of Nigerian environmental law-* Environmental law came out of the pressure to protect the environment and to achieve sustainable use of resources. Ladan (2009), states that Environmental law in Nigeria is that branch of public law which contains rules and regulations which have as their object or effect the protection of the environment. This means that any public rule that is aimed at protecting the environment is considered as environmental law in Nigeria.

*Federal environmental protection authority-* In Nigeria, the federal environmental protection authority was enacted by decree 59 of 1992, law of the federal republic of Nigeria. Its functions can be summarised in figure 5 below.

Figure 5 Functional organizational chart of federal environmental protection authority, Nigeria 1991-1993



Source: Adegoke, 1991

The guidelines and standards in environmental pollution abatement strategy of [FEPA] relate to six areas of environmental pollution control:

- Effluent limitations,
- Water quality for industrial water uses at point of intake,
- Industrial emission limitations,
- Noise exposure limitations,
- Management of solid and hazardous wastes,
- Pollution abatement in industries.

The federal environmental protection authority was face with problems among them is no autonomy and lacks the power to enforce environmental laws, which leads to establishment of NESREA in 2007.

#### IX. NATIONAL ENVIRONMENTAL STANDARD REGULATIONS ENFORCEMENT AGENCY (NESREA)

By the NESREA Act, the Federal Environmental Protection Agency Act Cap F 10 LFN 2004 has been repealed. It aim include-

To protect the environment, Enforcement of Laws and Regulations on the Environment, Maintaining Environmental Standards, To create environmental awareness, To engage in partnership in the protection of the environment.

*Power of the regulatory Agency (NESREA)*- NESREA is responsible for enforcing all environmental laws, guidelines, policies, standards and regulations (except for the petroleum industry), The ministry of environment housing and urban development is responsible for monitoring and certifying environmental assessment on projects. The agency can also prohibit processes and use of equipment or technology that undermine environmental quality, conduct field follow-up of compliance with set standards and take procedures prescribed by law against any violator, subject to the provision of the Constitution of the Federal Republic of Nigeria, 1999, and in collaboration with relevant judicial authorities establish mobile courts to expeditiously dispense cases of violation of environmental regulation.

#### X. PUBLIC PARTICIPATION AND ENVIRONMENTAL REGULATION IN NIGERIA

There has been increasing concern over cases of sub-standard quality, counterfeiting and the dumping of near – end – of -life and end - of -life electrical and electronic appliances in Alaba International Market, Lagos. In an effort to address these problems, three Government Agencies: the National Environmental Standards and Regulations Enforcement Agency (NESREA); the Consumer Protection Council (CPC) and the Standard Organisation of Nigeria (SON), have signed a Memorandum of Understanding (MoU) with Alaba International Market Amalgamated Traders Association (AIMATA) to check these vices. This historic event took place at the Secretariat of the Electronic Section, Alaba International Market, Lagos on Thursday 30th July, 2009. Here both parties agreed on certain environmental rules

#### *Lesson from the UK experience*

The industrial revolution and experiences in UK came with lots of environmental hazard which actually led to establishing laws to reduce the impact on the people and the environment. Nigerian as a developing economy would not want to make the mistakes experience in UK, hence it will be wise to comply with the international treaties on the environment to guide it environmental policies (Humphrey, 2010), of which UK plays an international role in setting the agenda. Although Nigeria has also adopted the UK preventive measures through regulation to mitigate impact on the environment, it is important to make sure that such mitigation measures are adhere too.

Nigeria has also adopted and supported reduction, recycling, composting and anaerobic digestion of waste material commonly practice in the UK so as to reduce waste disposal on the environment and make waste a useful product. It's seems however that such adoptions and acceptance are mere words with less or no action at all. Plans should be put in the pipeline to see how this waste could be used to generate energy as it is done in the UK.

It is expected when these policies are implemented; it will reduce business risk and increase the confidence of the investment markets in Nigeria. It will create and sustain jobs and also improve the health of the workforce and the wider public.

#### XI. RECOMMENDATIONS FOR NIGERIAN ENVIRONMENTAL REGULATORS

The agency under the Federal Environmental Protection Authority in Nigeria should be truly autonomous. It should understand that it has been accorded power to enforce environmental laws that was why it name was change to NESREA. It should create its own baseline information and data. It should engage in industrial investigation to ascertain whether they comply with gases and liquid waste emission laws. It should employed qualify and relevant professional for the discharge of its duties. It should create public awareness and education on environmental standards and regulations. It should improve on information exchange and feedback mechanisms between the Regulatory Agency, the Industries and the Regulated Communities. Its proper function is important for the realization of the aim it was established. It is hope that it will not require weapons to carry out its duties someday.

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