

CLIENT ALERT

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New Technical Regulator for the Power Sector

The Federal Government of Nigeria has enacted the Nigerian Electricity Management Services Authority Act (the “Act”) to provide for the technical regulation of the power sector. The Act establishes the Nigerian Electricity Management Services Authority (“NEMSA”) to assume the functions of the Electricity Management Services Plc which was established by the Federal Government in 2007 to take over all the non-core professional and ancillary functions of the former federal power utility, the Power Holding Company of Nigeria (“PHCN”), that were left over after it was unbundled into eighteen successor companies. By virtue of the Act, NEMSA will undertake the technical regulation of the Nigerian electricity supply industry – basically, inspection, testing and certification of electrical installations and the enforcement of all statutory technical standards.

The enactment of the NEMSA Act has been generally condemned given the clear conflict with the roles of the existing sector regulator, the Nigerian Electricity Regulatory Commission (“NERC”), which was established by the Electric Power Sector Reform Act 2005 (“ESPRA”), as the commercial and technical regulator for the power sector. According to section 32 of the ESPRA, one of the principal objects of NERC is to “ensure the safety, security, reliability and quality of service in the production and delivery of electricity to consumers”. It is required to establish safety, security, reliability and quality standards and employ inspectors to inspect undertakings to ensure the safety of operations. In furtherance of these powers, on March 15, 2015, NERC had issued the **Nigerian Electricity Supply and Installation Standards Regulations, 2015** to regulate the engineering, design, installation, commissioning and maintenance of electric power systems in the industry. These Regulations repeal the Electrical Installation Regulations and the Electricity Supply Regulations, (which was issued pursuant to the repealed Electricity Act and grandfathered by the ESPRA) and provide for inspections and certifications to be conducted by inspectors authorized by NERC.

The NEMSA Act is an attempt to restrict NERC’s regulatory remit to the commercial regulation of the power sector. However, NERC has recently appointed technical inspectors to undertake this function in spite of the NEMSA Act. Without doubt, a turf war is afoot between NERC and NEMSA, which needs to be urgently addressed in order not to undermine the power sector reform process.

If you have any questions or require more information, please contact any member of our [team](#).