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**LAW NO. 98/015 OF 14 JULY 1998
RELATING TO ESTABLISHMENTS
CLASSIFIED AS DANGEROUS,
UNHEALTHY OR OBNOXIOUS**

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The National Assembly deliberated and adopted,
The President of the Republic hereby enacts
the law set out below:

PART 1

GENERAL PROVISIONS

Article 1:

This law governs, within the framework of the principles of environmental management and protection of public health, establishments classified as dangerous, unhealthy or obnoxious.

Article 2:

- (1) The following shall be subject to the provisions of this law: factories, workshops, depots, building sites, quarries and, in general, industrial, handicraft or commercial installations operated or owned by any natural person or corporate body, private or public, and constituting or potentially constituting either a danger to health, safety, public hygiene, agriculture, nature and the environment in general, or an inconvenience to the neighbourhood.
- (2) The types of establishments subject to the provisions of this law and their classification shall be laid down by regulations.

Article 3:

Dangerous, unhealthy or obnoxious establishments shall be divided into two classes according to the dangers or the gravity of the inconveniences inherent in their activities:

- (a) Class I shall comprise establishments whose activities can be authorized only if measures are taken to prevent the dangers or inconveniences referred to in Section 2 above; such authorization may be subject to the location of the said establishments outside residential areas or far away from water catchments, the sea or buildings occupied by third parties;
- (b) Class II shall comprise establishments which, although not constituting major dangers or inconveniences to the interests referred to in Section 2 above are nonetheless subject to the general prescriptions aimed at protecting such interests.

PART II

SPECIFIC PROVISIONS APPLICABLE TO CLASS I ESTABLISHMENTS

Article 4:

The setting up and operation of Class I establishments shall be subject to the prior issue of an authorization by the minister in charge of classified establishments, upon the recommendation of the other government services concerned.

Article 5:

(1) The manager of a class I establishment shall, prior to the opening of the said establishment, conduct studies on dangers in accordance with conditions laid down by regulations.

Article 6:

(1) Applications for authorization to set up Class I establishments shall be subject to a public investigation opened by the minister in charge of classified establishments, under conditions laid down by regulations.

(2) The authorization shall specify the conditions for locating and operating the establishment as well as the technical prescriptions for the protection of the interests mentioned in Section 2 above.

(3) The authorization shall be issued, subject to third party rights.

Article 7:

As concerns the protection of the interests referred to in Section 2 of this law, the minister in charge of classified establishments shall, under conditions laid down by regulations, demarcate a security zone around Class I establishments within which the building of homes and the carrying out of any other activity incompatible with the functioning of the said establishments shall be forbidden.

Article 8:

(1) Class I establishments which cause solid, liquid or gaseous pollution shall monitor their waste.

(2) Standards set by regulations shall determine the acceptable levels of waste emissions.

PART III

SPECIFIC PROVISIONS APPLICABLE TO CLASS II ESTABLISHMENTS

Article 9:

The opening of a Class II establishment shall be subject to a prior written declaration sent to the minister in charge of classified establishments who shall, upon the recommendation of the other government services concerned, take a decision under conditions laid down by regulations.

Article 10:

Class II establishments shall be subject to the general prescriptions laid down by the regulations for the protection of the interests referred to in Section 2 of this law.

Article 11:

- (1) Supplementary prescriptions may, as and when necessary, be laid down against the inconveniences inherent in the operation of a Class II establishment, under conditions laid down by regulations.
- (2) The manager of a Class II establishment may, by an application with reasons therefore sent to the minister in charge of classified establishments, obtain the cancellation or alleviation of some of the prescriptions to which he is subjected.

PART IV

COMMON PROVISIONS APPLICABLE TO CLASSIFIED ESTABLISHMENTS

Chapter I

FUNCTIONING OF CLASSIFIED ESTABLISHMENTS

Article 12:

- (1) The operator of any classified establishment shall be bound to draw up an emergency plan through which the competent authorities and neighbouring inhabitants can be alerted in case of disaster or impending disaster. Such plan shall also provide for the evacuation of personnel as well as the means to contain the disaster.
- (2) The emergency plan must be approved by the competent government services which shall periodically ascertain the good state and reliability of the equipment needed to execute the plan.

Article 13:

Any change of operator or of the name of a classified establishment shall be reported.

Article 14:

An additional authorization or a new declaration shall be required for the transfer of a classified establishment to another site or for modifications thereto, depending on its class.

Article 15:

Where a classified establishment has been authorized or declared but is not operational within two years with effect from notification of the authorization or issue of the declaration receipt, or where it has not been operating for two consecutive years, a new authorization or declaration shall be required before it resumes its activities.

Article 16:

The minister in charge of classified establishments may close down a classified establishment whose operation is dangerous or inconvenient to the interests mentioned in Section 2 of this law.

Chapter II

INSPECTION AND CONTROL OF CLASSIFIED ESTABLISHMENTS

Article 17:

Within the meaning of this law and its instruments of application, inspection and control of a dangerous, unhealthy or obnoxious classified establishment shall refer to all the operations carried out within the establishment for administrative and technical supervision purposes, and designed to avert the dangers and inconveniences mentioned in Section 2 above.

Article 18:

Classified establishments shall be inspected and controlled by sworn officials of the ministry in charge of such establishments or of any other competent government service.

Article 19:

(1) The task of the officials referred to in Section 18 above shall consist in:

- controlling the functioning of classified establishments;
- auditing them and drawing up reports thereon;
- ensuring compliance with the technical prescriptions and with the provisions of this law and of its instruments of application.

(2) They shall have the right to visit establishments subject to their supervision at any time, and at least once every six months.

Article 20:

The ministry in charge of classified establishments may approve specialized natural persons or corporate bodies either to control and audit classified establishments, or to run laboratories which can determine the quantity and type of effluent dumped by the said establishments. This shall be done under conditions laid down by regulations.

PART V

FINANCIAL PROVISIONS

Article 21:

Establishments classified as dangerous, unhealthy or obnoxious shall be required to pay a fee for the issue of the operating authorization or of the declaration receipt at rates fixed by regulations.

Article 22:

(1) Periodic inspection and control fees of Class II establishments shall be calculated on the basis of the area occupied by the establishments, and concurrently according to successive brackets, as follows:

Area	Fee
from 0m ² to 10 m ² inclusive	10,000 CFAF
from 10 m ² to 50 m ² inclusive	200 CFAF/m ²
from 50 m ² to 100 m ² inclusive	120 CFAF/m ²
from 100 m ² to 200 m ² inclusive	60 CFAF/m ²
from 200 m ² to 1,000 m ² inclusive	40 CFAF/m ²
above 1,000 m ²	30 CFAF/m ²

(2) The above rates shall be halved for the non-built-on areas of the establishments concerned.

(3) These rates shall be reduced by 50% for craftsmen employing not more than 4(four) workers.

Article 23:

The fees for the inspection and control of Class 1 establishments shall be calculated following the method provided for in Section 22 above. The amount of the fees shall be doubled.

Article 24:

The fees for the inspection and control of classified establishments shall be borne by the operators thereof.

Article 25:

- (1) Classified establishments which pollute the environment shall be liable to an annual pollution tax.
- (2) The amount of the tax paid by each establishment shall be equal to the product of a base rate times a multiplier coefficient.
- (3) The rate and method of calculating the pollution tax shall be determined by the finance law.
- (4) The parameters relating to the type and quantity of waste produced by such establishments shall be determined under conditions laid down by regulations.

Article 26:

- (1) Classified enterprises which import equipment used in eliminating greenhouse gases, carbon dioxide and chlorofluorocarbons from their production processes or products, or to reduce any form of pollution, shall be granted a reduced customs tariffs on such equipment in the proportions and for periods determined as and when necessary by the finance law.
- (2) Operators of classified establishments who take environmental protection measures shall be granted a deduction from taxable profits under conditions laid down by the finance law.

Article 27:

- (1) The fee for the issue of the operating authorization or the declaration receipt, inspection and control fees, the pollution tax as well as the penalties provided for in this law shall be calculated by the sworn inspectors for classified establishments and collected by treasury officials.
- (2) The fees for the control and inspection of classified establishments, the annual pollution tax and various penalties must be paid within 45 (forty-five) days following notification of the statements of amounts due prepared by the sworn inspectors who carried out a control or established the lack of waste treatment equipment or the presence of a public health hazard.

- (3) The sums collected are entirely transferred to the treasury and distributed in accordance with the terms and conditions set by the finance law.

TITRE VI

ADMINISTRATIVE PENALTIES

Article 28:

- (1) Without prejudice to the penalties provided for under this law, where an inspector responsible for controlling classified establishments records the non-compliance with the conditions required of the operator, the minister in charge of the said establishments shall serve the operator with a notice, requesting him to fulfil the conditions within a time-limit to be determined by him but, in any case not exceeding three months.
- (2) If, upon expiry of the above time-limit, the operator fails to comply, the minister in charge of classified establishments may:
- automatically execute the prescribed measures at the operator's cost;
 - oblige the operator to pay to the public accountant an amount corresponding to the cost of work to be carried out, which amount shall be reimbursed to the operator as the work progresses and, if need be, collect such funds by force;
 - suspend the activities of the establishment by order until the imposed conditions are complied with.

Article 29:

- (1) Where a classified establishment is operated without the declaration or authorization required by this law, the minister in charge of classified establishments shall serve notice on the operator, requesting him to regularize his situation within a determined time-limit not exceeding 2 (two) months. The minister in charge of classified establishments shall, by order issued with reasons therefore, suspend the activities of a dangerous, unhealthy and obnoxious establishment until it files its declaration or applies for the authorization to operate.
- (2) Where the operator of a classified establishment ignores the notice issued him to regularize his situation or where his application for authorization is rejected, the minister in charge of classified establishments may, if necessary, close down or ban such establishment.
- (3) Where the operator of a classified establishment fails to comply within the time-limit fixed, the minister in charge of classified establishments shall apply the measures laid down in Section 28 above.

Article 30:

The minister in charge of classified establishments shall use the forces of law and order to seal any such establishment which continues to operate either in violation of a closure or ban order or an order rejecting the operation of such establishment.

Article 31:

During the period of suspension imposed in accordance with the provisions of Sections 28 and 29 above, the operator of a classified establishment shall be bound to take steps to provide security in the premises of such establishment.

PART VII

LIABILITY AND PENALTIES

Chapter I

LIABILITY

Article 32:

- (1) Without prejudice to the penalties inflicted on persons with criminal liability, and notwithstanding the inspection carried out by inspectors responsible for controlling classified establishments, any operator thereof shall, without need to prove an offence committed made by them, be vicariously liable where their establishment causes bodily injury or damage due to the improper functioning of such establishment.
- (2) The liability referred to in paragraph (1) above shall be shared where the person who caused the bodily injury or damage can prove that it occurred as a result of the victim's fault. The person shall be exonerated in case of force majeure.

Article 33:

The proprietor, operator, director or manager, as the case may be, of a classified establishment where the offence was committed may be declared vicariously liable to repairs of the site.

Chapter II

PENALTIES

Article 34:

- (1) A fine of from 500,000 (five hundred thousand) to 2,000,000 (two million) CFA francs and imprisonment for from six months to one year, or both such imprisonment and fine, shall be imposed on whoever:
 - operates an establishment falling under one of the categories of classified establishments without prior authorization or declaration,
 - continues to operate a classified establishment which has been ordered to be closed,
 - obstructs the inspection, control, evaluation and analysis provided for under this law,
- (2) In case of a repeat offence, the highest of the penalties provided for in paragraph (1) above shall be doubled and imposed on him.

Article 35:

The penalties laid down in this law shall be supplemented by those provided for by the Penal Code and the laws relating to environmental protection.

Article 36:

The provisions of Sections 54 and 90 of the Penal Code relating to suspended sentence and extenuating circumstances shall not be applicable to the penalties provided for in this law.

Chapter III

RECORDING VIOLATIONS

Article 37:

- (1) Without prejudice to the prerogatives of the legal department and of judicial police officers with general jurisdiction, the sworn officials of the government services in charge of classified establishments or the other government services concerned, in particular those in charge of the environment and health, shall be responsible for making enquiries, recording cases of violation and instituting legal proceedings against offenders in accordance with the provisions of this law.
- (2) The persons referred to in paragraph (1) above shall, at the request of the service concerned, take an oath before a competent court under the conditions defined in the decree to implement this law.
- (3) While on duty, the sworn officials referred to above shall be bound to carry their professional cards

Article 38:

- (1) Any violations shall be duly recorded in a report.
- (2) Violations shall be detected and recorded by 2 (two) persons who shall sign the report which shall be considered authentic until proved otherwise.

Article 39:

- (1) A report on established violations must be submitted forthwith to the government service in charge of classified establishments and notified to the offender. The latter shall be allowed 20 (twenty) days from the date of notification to file a petition against the report. No petition shall be accepted after that period.
- (2) In the event of a petition filed within the time-limit provided for in paragraph (1) above, the matter shall be examined by the service in charge of classified establishments.

Where the petition is founded, the report shall be considered null and void.

Conversely, and in the absence of settlement, the service in charge of classified establishments shall institute proceedings in accordance with the laws in force.

Chapter IV

SETTLEMENT

Article 40:

- (1) The ministry in charge of classified establishments shall have full powers to enter into a settlement. To that end, the matter should be duly referred to it by the offender.
- (2) The amount of the settlement shall be fixed in consultation with the ministry in charge of finance. This amount may not be less than the corresponding minimum penal fine.
- (3) The settlement procedure shall precede any possible legal procedure, under pain of being declared null and void.
- (4) The proceeds of the settlement shall be paid in full to the National Environment and Sustainable Development Fund, as provided for in Section 11 of Law No. 96/12 of 5 August 1996: outline law on environmental management.

PART VIII

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

Article 41:

Where the operation of an unclassified establishment poses serious inconveniences for the protection of the interests mentioned in Section 2 of this law, the minister in charge of classified establishments may:

- notify the operator to take the necessary measures to eliminate such dangers and inconveniences;
- if need be, suspend the operation of the establishment pending its classification.

Article 42:

For the purpose of applying this law to classified establishments operated by national defence or security services, the duties conferred on sworn employees of the ministry in charge of classified establishments or of other ministries concerned shall be performed by officers and civilian employees of the armed forces appointed for this purpose. Such appointment shall be notified to the ministry in charge of classified establishments.

Article 43:

Classified establishments run by government services, regional and local authorities and charity institutions shall be exempted from inspection and control fees.

Article 44:

- (1) The authorizations granted and the receipts issued before the publication of this law shall remain valid.
- (2) Operators of classified establishments governed by this law shall have a time-limit of 6 (six) months with effect from the date of enactment of the said law to comply with it.

Article 45:

Decrees to implement this law shall define, as and when necessary, the conditions thereof.

Article 46:

All previous provisions repugnant hereto, in particular those of Law No. 76/3 of 8 July 1976 to fix the fees for the inspection and control of dangerous, unhealthy or obnoxious establishments, are hereby repealed.

Article 47:

This law shall be registered, published in accordance with the procedure of urgency, and inserted in the Official Gazette in English and in French./-

Yaounde, 14 July 1998
The President of the Republic
Paul BIYA,