

*Extraordinary*



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# A BILL

## FOR

AN ACT TO AMEND THE ENERGY COMMISSION OF NIGERIA ACT, CAP E10 LFN, 2004 TO MAKE IT COMPULSORY FOR THE FEDERAL GOVERNMENT THROUGH THE COMMISSION TO HARNESS, EXPLORE AND UTILIZE OTHER SOURCES OF ENERGY OTHER THAN THE HYDRO AND GAS ENERGY SOURCES IN NIGERIA, AND FOR RELATED MATTERS

*Sponsored by Hon. Yusuf Buba Yakub*

[ ] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

- 1           **1.** The Energy Commission of Nigeria Act, Cap E10 LFN, 2004  
2 (herein referred to as the “Principal Act”) Amendment of  
Cap. E 10 LFN,  
2004
- 3           **2.** Section 1 of the Principal Act is amended by deleting "and" in  
4 sub-section (2) (d), and introduce new sub-section (2) (e, f and g), and re- Amendment of  
Section 1  
5 number the existing sub-section (2) (e) as new (2) (h), thus:  
6           “(e) Solar Power development;  
7           (f) Wind Power development department; and  
8           (g) Coal Power development department.”
- 9           **3.** Section 2 of the Principal Act is amended by deleting the Amendment of  
Section 2  
10 provisions of section 2 (a) (i) thereof and subsequently re-number the  
11 remaining paragraphs.
- 12           **4.** Section 5 of the Principal Act is amended by introducing new Amendment of  
Section 5  
13 section 5 (k-o) and re-number the existing section 5 (k) accordingly, thus:  
14           “(k) to establish a technical Implementation Committee to make it  
15 compulsory for the Federal Government to explore, harness and utilize other  
16 energy sources other than hydro and gas sources of energy;”  
17           (l) the technical implementation committee comprising of the  
18 Director-General as Chairman and other professionals from relevant

1 agencies and bodies as may be determined by the Commission shall, in  
2 conjunction with the department of Solar Power, Wind Power and Coal Power  
3 explore, harness and utilize the energy generated which shall be made available  
4 to Nigerians;"

5 (m) the Commission shall receive application form the public on type  
6 of energy sources required, and which shall be determined by the prevalent  
7 energy source required in the particular area;

8 (n) the energy source available in an area shall be determined by the  
9 prevalent source of energy in that area;

10 (o) the Commission shall approve the tariffs payable depending on  
11 the source of energy subject to the approval of the President; and"

Amendment of  
Section 8

12 **5.** Section 8 of the Principal Act is amended by introducing new sub-  
13 section 8 (4) as follows:

14 "(4) tariffs paid to the Commission shall be paid to the Commission  
15 treasury single account (TSA); and"

Short title

16 **6.** This Bill may be cited as the Energy Commission of Nigeria Act  
17 (Amendment) Bill, 2019.

#### EXPLANATORY MEMORANDUM

This Bill seeks to amend sections 1, 2, 5 and 8 of the Energy Commission Act (1979) seeks to give power of exploration, harnessing and generation of solar, wind and coal energy sources to the Energy Commission of Nigeria for the benefit of Nigeria.

FOR

*Sponsored by Hon. Jarigbe Agom Jarigbe*

[ ] Commencement

1	1.-(1) There is hereby established the Federal Medical Centre	Establishment of Federal Medical Centre Ogoja
2	Ogoja (in this Act referred to as “the Federal Medical Centre”) and the	
3	Medical Centre shall serve as the Medical Centre subject to the provision of	
4	this Act.	
5	(2) The hospital:	
6	(a) shall be a body corporate;	
7	(b) May sue and be sued in its corporate name;	
8	(c) Shall have perpetual succession and a common seal.	
9	2. There is hereby established for the management of the Medical	Establishment of the Board of Management of the Medical Centre
10	Centre a Board of Management (in this Act referred to as “Board”) which	
11	shall be constituted and have the functions and powers set out in this Act.	
12	3.-(1) The Board shall consist of:	Membership of the Board
13	(a) a chairman;	
14	(b) the Chief Medical Director of the Medical Centre;	
15	(c) the Director of Clinical Services;	
16	(d) the Director of Administration;	
17	(e) the Director of Finance;	
18	(f) the Director of Maintenance;	
19	(g) a representative of the president	
20	(h) the Federal Ministry of Health;	
21	(i) the National Planning Commission;	

	1	(j) the Society of Gynaecology and Obstetrics of Nigeria;
	2	(k) the Pharmaceutical Society of Nigeria;
	3	(l) the Paediatric Association of Nigeria;
	4	(m) the National Association of Nigerian Nurses and Midwives; and
	5	(n) one person to represent public interest.
	6	(2) The chairman and members of the Board, other than ex-officio
	7	members, shall be:
	8	(a) appointed by the President; and
	9	(b) persons of proven integrity and ability.
	10	(3) The supplementary provisions set out in the Schedule to this Act
	11	shall have effect with respect to the proceedings of the Board and the other
	12	matters contained therein.
	13	<i>[Schedule.]</i>
Tenure of office	14	<b>4.</b> Subject to the provisions of section 5 of this Act, a member of the
	15	Board, other than ex-officio members, shall each hold office:
	16	(a) for a term of three years in the first instance and may be re-
	17	appointed for a further term of three years and no more; and
	18	(b) on such terms and conditions as may be specified in his letter of
	19	appointment.
Cessation of membership	20	<b>5.-(1)</b> Notwithstanding the provisions of section 4 of this Act a person
	21	shall cease to hold office as a member of the Board if:
	22	(a) he becomes bankrupt, suspends payment principal loan with his
	23	creditors;
	24	(b) he is convicted of a felony or any offence involving dishonesty or
	25	fraud;
	26	(c) he becomes of unsound mind or is incapable of carrying out his
	27	duties;
	28	(d) he is guilty of a serious misconduct in relation to his duties; or
	29	(e) in the case of a person possessed of professional qualifications, he
	30	is disqualified or suspended, other than at his own request, from practising his

1 profession in any part of the world by an order of a competent authority  
2 made in respect of that member; or

3 (f) he resigns his appointment by a letter addressed to the President.

4 (2) If a member of the Board ceases to hold office for any reason  
5 whatsoever, before the expiration of the term for which he is appointed,  
6 another person representing the same Interest as that member shall be  
7 appointed to the Board for the unexpired term.

8 (3) A member of the Board may be removed by the President if he is  
9 satisfied that it is not in the interest of the Medical Centre or the interest of  
10 the public that the member continues in office.

11 6. There shall be paid to every member of the Board such Allowances of  
12 allowances and expenses as the Revenue Mobilization Allocation and Fiscal members  
13 Commission may, from time to time, direct.

14 PART II - FUNCTIONS AND POWERS OF THE BOARD, ETC.

15 7.-(1) The Board shall:

16 (a) equip, maintain and operate the Medical Centre so as to provide Functions of the  
17 facilities for diagnosis, curative, promotive and rehabilitative services in Board  
18 medical treatment;

19 (b) construct, equip, maintain and operate such training schools  
20 and similar institutions as the Board considers necessary for providing the  
21 Medical Centre at all times with a proper staff of the Medical Centre  
22 technicians and nurses;

23 (c) construct, equip, maintain and operate such clinics, out-patient  
24 departments, laboratories, research or experimental stations and other like  
25 institutions as the Board considers necessary for the efficient functioning of  
26 the Medical Centre.

27 (2) The Board shall ensure that the standards of teaching provided  
28 at all establishments under its control and the standards of treatment and care  
29 provided for patients at those establishments do not fall below those usually  
30 provided by similar establishments of international repute.

Powers of the  
Board

1 (3) Subject to this Act, the Board shall perform such other functions  
2 which in its opinion are calculated to facilitate the carrying out of its functions  
3 under this Act.

4 **8.** The Board shall have power to:

5 (a) Provide the general policies and guidelines relating to major  
6 expansion programmes of the Medical Centre;

7 (b) provide facilities for the training of medical students of associate  
8 universities;

9 (c) manage and superintend the affairs of the Medical Centre;

10 (d) subject to the provisions of this Act, make, alter and revoke rules  
11 and regulations for carrying on the functions of the Medical Centre;

12 (e) fix terms and conditions of service, including remuneration of the  
13 employees of the Medical Centre subject to the approval of National Salaries  
14 Incomes and Wages Commission;

15 (f) do such other things which in the opinion of the Board are  
16 necessary to ensure the efficient performance of the functions of the Medical  
17 Centre.

#### 18 PART III - STAFF OF THE MEDICAL CENTRE

Medical Director  
of the Medical  
Centre

19 **9.-(1)** There shall be for the Medical Centre a Chief Medical Director  
20 who shall be appointed by the President on the recommendation of the Board  
21 and on such terms and conditions as may be specified in his letter of  
22 appointment or as may be determined, from time to time, by the National  
23 Salaries Income and Wages Commission.

24 (2) The Chief Medical Director shall:

25 (a) be the chief executive and accounting officer of the Medical  
26 Centre;

27 (b) be responsible to the Board for the day-to-day administration of  
28 the Medical Centre;

29 (c) be appointed for a term of four years in the first instance and may

1 be reappointed for a further term of four years subject to satisfactory  
2 performance;

3 (d) be a person who is a medical practitioner and shall have been so  
4 qualified for a period of not less than 15 years;

5 (e) have considerable administrative experience in matters of  
6 health;

7 (f) hold a post-graduate specialist qualification obtained not less  
8 than ten years prior to the appointment as Chief Medical Director.

9 **10.-(1)** The Board shall appoint for the Medical Centre:

Appointment of  
Directors and  
other staff of the  
Medical Centre

10 (a) a Director of Administration, who shall:

11 (i) be responsible to the Chief Medical Director for the effective  
12 functioning of all the administrative divisions of the Medical Centre;

13 (ii) conduct the correspondence of the Board and keep the records  
14 of the Medical Centre; and

15 (iii) perform such other functions as the Board or the Chief Medical  
16 Director, as the case may be, may, from time to time, assign to him;

17 (b) a Director of Clinical Services;

18 (c) a Director of Finance;

19 (d) a Director of Maintenance.

20 (2) The Directors appointed under paragraphs (b), (c) and (d) of  
21 subsection (1) of this section shall each be responsible to the Chief Medical  
22 Director for the effective running of the clinical services, the finance and  
23 accounts and the co-ordination of the maintenance of the Medical Centre, as  
24 the case may be.

25 (3) The Board shall appoint for the Medical Centre such number of  
26 employees as may in the opinion of the Board be expedient and necessary  
27 for the proper and efficient performance of the functions of the Medical  
28 Centre.

29 (4) Notwithstanding the provisions of subsections (1) and (2) of  
30 this section the Board shall have power to appoint for the Medical Centre



1 either directly or on secondment from any public service in the Federation,  
2 such number of employees as may, in the opinion of the Board, be required to  
3 assist the Medical Centre in the discharge of any of its functions under this Act.

4 (5) Nothing in subsection (4) of this section shall preclude the Board  
5 from appointing persons from outside the public service of the Federation or of  
6 the State whenever it deems it necessary so to do.

7 (6) The terms and conditions of service (including remuneration,  
8 allowances, benefits and pensions) of the employees of the Medical Centre  
9 shall be as determined by the National Salaries Income and Wages  
10 Commission.

Service in the  
Medical Centre  
to be pensionable

11 11.-(1) Service in the Medical Centre shall be approved service for the  
12 purposes of the Pensions Reforms Act.

13 (2) The officers and other persons employed in the Medical Centre  
14 shall be entitled to pensions, gratuities and other retirement benefits as are  
15 enjoyed by persons holding equivalent grades in the civil service of the  
16 Federation.

17 (3) Nothing in subsections (1) and (2) of this section shall prevent the  
18 appointment of a person to any office on terms which preclude the grant of  
19 pension and gratuity in respect of that office.

Establishment  
for the Medical  
Advisory  
Committee, etc.

20 12.-(1) There shall be for the Medical Centre a Medical Advisory  
21 Committee which shall:

22 (a) consist of a chairman who shall be the Director, Clinical Services  
23 and such number of other members as may be determined from time to time;

24 (b) be responsible to the Chief Medical Director for all the clinical and  
25 training activities of the Medical Centre; and

26 (c) be appointed by the Board.

27 (2) Subject to this Act, the Board shall have power to appoint either  
28 directly or on secondment and discipline consultants holding or acting in any  
29 office in the hospital; and any such appointment shall be made having due  
30 regard to the approved personnel establishment of the Medical Centre.

1 (3) Notwithstanding anything to the contrary, the Board may, from  
2 time to time, appoint consultants outside the hospital to perform such  
3 medical duties as the Board or the Chief Medical Director may assign to  
4 such consultants.

5 PART IV - FINANCIAL PROVISIONS

6 **13.** There shall be established and maintained for the Medical Fund of the  
7 Centre a fund into which shall be paid and credited: Medical Centre

8 (a) all subventions and budgetary allocation from the Government  
9 of the Federation;

10 (b) all fees and funds accruing from the sale of drugs and other  
11 services;

12 (c) all sums accruing to the Medical Centre by way of gifts,  
13 endowments, bequests, grants or other contributions by persons and  
14 organisations;

15 (d) foreign aid and assistance from bilateral agencies; and

16 (e) all other sums which may, from time to time, accrue to the  
17 Medical Centre.

18 **14.** The hospital shall, from time to time, apply the funds at its Expenditure of  
19 disposal to: the Medical Centre

20 (a) the cost of administration and maintenance of the Medical  
21 Centre;

22 (b) publicize and promote the activities of the Medical Centre;

23 (c) pay allowances, expenses and other benefits of members of the  
24 Board and committees of the Board;

25 (d) pay the salaries, allowances and benefits of employees of the  
26 Medical Centre;

27 (e) pay other overhead allowances, benefits and other  
28 administrative costs of the Medical Centre; and

29 (f) undertake such other activities as are connected with all or any  
30 of the functions of the Medical Centre under this Act.

Power to accept gifts	1	<b>15.-(1)</b> The Medical Centre may accept gifts of land, money or other
	2	property on such terms and conditions, if any, as may be specified by the person
	3	or organisation making the gift.
	4	(2) The Medical Centre shall not accept any gift if the conditions
	5	attached by the person or organisation making the gift are inconsistent with the
	6	functions of the Medical Centre under this Act.
Annual estimates and expenditure	7	<b>16.-(1)</b> The Board shall, not later than 30 September in each year,
	8	submit to the President through the Secretary to the Government of the
	9	Federation an estimate of the expenditure and income of the Medical Centre
	10	during the next succeeding year.
	11	(2) The Board shall cause to be kept proper accounts of the Medical
	12	Centre in respect of each year and proper records in relation thereto and shall
Annual report	13	cause the accounts to be audited not later than six months after the end of each
	14	year by auditors appointed from the list and in accordance with the guidelines
	15	supplied by the Auditor-General for the Federation.
	16	<b>17.</b> The Board shall prepare and submit to the President, not later than
	17	30 June in each year, a report in such form as the President may direct on the
	18	activities of the Medical Centre during the immediately preceding year, and
Power to borrow	19	shall include in the report a copy of the audited accounts of the Federal Medical
	20	Centre for that year and the auditor's report thereon.
	21	<b>18.-(1)</b> The Medical Centre may, from time to time, borrow by
	22	overdraft or otherwise such sums as it may require for the performance of its
	23	functions' under this Act.
	24	(2) The Medical Centre shall not, without the approval of the
	25	President, borrow money which exceeds, at any time, the limit set by the
	26	President.
	27	(3) Notwithstanding subsection (I) of this section, where the sum to be
	28	borrowed is in foreign currency, the Medical Centre shall not borrow the sum
	29	without the prior approval of the President.

1	<b>19.</b> -(1) The Medical Centre shall not pay income tax on any income	Exemption from tax	
2	derived by the Federal Medical Centre under this Act or accruing to it from		
3	any of its investments.		
4	(2) Accordingly, the provisions of any enactment relating to the		
5	taxation of companies or trust funds shall not apply to the Board of the		
6	Federal Medical Centre.		
7	<b>20.</b> The Medical Centre shall not pay customs duty on or be	Exemption from customs duties, etc	
8	restricted or prohibited from importing any equipment, material, supply and		
9	any other thing required by the Medical Centre for the purposes of this Bill.		
10	PART V - GENERAL		
11	<b>21.</b> -(1) Notwithstanding anything to the contrary contained in any	Discipline of students	
12	other enactment, where it appears to the Board that any student of the		
13	Medical Centre has been guilty of misconduct, the Board may, without		
14	prejudice to any other disciplinary powers conferred on it by regulations,		
15	direct:		
16	(a) that the student shall not, during such period as may be specified		
17	in the direction, participate in such activities of the Medical Centre, or make		
18	use of such facilities of the Medical Centre as may be so specified;		
19	(b) that the activities of the student shall, during such period as may		
20	be specified in the direction, be restricted in such manner as may be so		
21	specified;		
22	(c) that the student be rusticated for such period as may be specified		
23	in the direction; or		
24	(d) that the student be expelled from the Medical Centre.		
25	(2) The fact that an appeal from a direction is brought in pursuance		
26	of subsection (1) of this section shall not affect the operation of the direction		
27	while the appeal is pending.		
28	(3) The Board may delegate its powers under this section to a		
29	disciplinary committee consisting of such members of the Medical Centre		
30	as the Board may nominate.		

Removal and  
discipline of  
clinical,  
administrative  
and technical  
staff

1 (4) Nothing in this section shall be construed as preventing the  
2 restriction or termination of student's activities at the Medical Centre otherwise  
3 than on the ground of misconduct.

4 (5) A direction issued under subsection (1) (a) of this section may be  
5 combined with a direction issued under subsection (1)(b) of this section.

6 (6) Nothing in this Act shall affect the provisions of any enactment  
7 relating to the discipline of medical practitioners, pharmacists, midwives,  
8 nurses or members of any other profession or calling.

9 **22.**-(1) If it appears to the Board that there are reasons for believing  
10 that any person employed as a member of the clinical, administrative or  
11 technical staff of the Medical Centre, other than the Chief Medical Director,  
12 should be removed from his office or employment, the Board shall require the  
13 Director of Administration to:

14 (a) give notice of those reasons to the person in question;

15 (b) afford him an opportunity of making representations in person on  
16 the matter to the Board; and

17 (c) if the person in question so requests within a period of 1 month  
18 beginning with the date of the notice, make arrangements for:

19 (i) a committee to investigate the matter and report on it to the Board;  
20 and

21 (ii) the person in question to be afforded an opportunity of appearing  
22 before and being heard by an investigating committee set up with respect to the  
23 matter, and if the Board, after considering the report of the investigating  
24 committee, is satisfied that the person in question should be removed as  
25 aforesaid, the Board may so remove him by a letter signed on the direction of  
26 the Board.

27 (2) The Chief Medical Director may, in a case of misconduct by a  
28 member of the staff which in the opinion of the Chief Medical Director is  
29 prejudicial to the interest of the Medical Centre, suspend any such member and  
30 any such suspension shall forthwith be reported to the Board.

1                   (3) For good cause, any member of staff may be suspended from  
2                   his duties or his appointment may be terminated or he may be dismissed by  
3                   the Board and for the purposes of this section, "good cause" means:

4                   (a) a conviction for any offence which the Board considers to be  
5                   such as to render the person concerned unfit for the discharge of the  
6                   functions of his office;

7                   (b) any physical or mental incapacity which the Board, after  
8                   obtaining medical advice, considers to be such as to render the person  
9                   concerned unfit to continue to hold his office;

10                  (c) conduct of a scandalous or other disgraceful nature which the  
11                  Board considers to be such as to render the person concerned unfit to  
12                  continue to hold his office; or

13                  (d) conduct which the Board considers to be such as to constitute a  
14                  failure or inability of the person concerned to discharge the functions of his  
15                  office or to comply with the terms and conditions of his service.

16                  (4) Any person suspended shall, subject to subsections (2) and (3)  
17                  of this section be on half pay and the Board shall before the expiration of a  
18                  period of three months after the date of such suspension consider the case  
19                  against that person and come to a decision as to:

20                  (a) whether to continue the person's suspension and if so, on what  
21                  terms (including the proportion of his emoluments to be paid to him);

22                  (b) whether to reinstate the person, in which case the Board shall  
23                  restore his full emoluments to him with effect from the date of suspension;

24                  (c) whether to terminate the appointment of the person concerned,  
25                  in which case he shall not be entitled to the proportion of his emoluments  
26                  withheld during the period of suspension; or

27                  (d) whether to take such lesser disciplinary action against the  
28                  person (including the restoration of his emoluments that might have been  
29                  withheld), as the Board may determine, and in any case where the Board,  
30                  pursuant to this section, decides to continue a person's suspension or decides

1 to take further disciplinary action against a person, the Board shall before the  
2 expiration of a period of three months from such decision come to a final  
3 determination in respect of the case concerning any such person.

4 (5) It shall be the duty of the person by whom a letter of removal is  
5 signed in pursuance of subsection (1) of this section to use his best endeavors to  
6 cause a copy of the letter to be served as soon as reasonably practicable on the  
7 person to whom it relates.

8 (6) Nothing in the foregoing provisions of this section shall preclude  
9 the Board from making such regulations not inconsistent with the provisions of  
10 this Act for the discipline of students and all other categories of employees of  
11 the hospital as the Board may prescribe.

12 (7) Regulations made under subsection (6) of this section need not be  
13 published in the Gazette but the Board shall cause them to be brought to the  
14 notice of all affected persons in such manner as it may, from time to time,  
15 determine.

Discipline of  
junior staff

16 **23.**-(1) If any junior staff is accused of misconduct or inefficiency, the  
17 Chief Medical Director may suspend him for not more than a period of 3  
18 months and shall direct a committee to:

19 (a) consider the case; and

20 (b) make recommendations as to the appropriate action to be taken by  
21 the Chief Medical Director.

22 (2) In all cases under this section of this Act, the officer shall be  
23 informed of the charge against him and given a reasonable opportunity to  
24 defend himself.

25 (3) The Chief Medical Director may, after considering the  
26 recommendation made pursuant to subsection (1) (b) of this section, dismiss,  
27 or take such other disciplinary action against the officer concerned.

28 (4) Any person aggrieved by a decision of the Chief Medical Director  
29 made under subsection (3) of this section may, within a period of 21 days from  
30 the date of the letter communicating the decision to him, address a petition to

1 the Board to reconsider his case.

2 PART VI - MISCELLANEOUS

3 **24.**-(1) The Board may, with the approval of the President, make Regulations  
4 regulations

5 (a) as to the access of members of the public either generally or of a  
6 particular class, to premises under the control of the Board and as to the  
7 orderly conduct of members of the public on those premises; and

8 (b) for safeguarding any property belonging to or controlled by the  
9 Board from damage by members of the public.

10 (2) Bye-laws under this section shall not come into force until they  
11 are confirmed (with or without modification) by the National Assembly and  
12 published in such manner as he may direct.

13 **25.** The President may give to the Board directions of a general Power to give  
14 character or relating generally to particular matters (but not to any individual directives  
15 person or case) with regard to the exercise by the Board of its functions  
16 under this Act, and it shall be the duty of the Board to comply with the  
17 directions; but no direction shall be given which is inconsistent with the  
18 duties of the Board under this Act.

19 **26.**-(1) On the commencement of this Act, any person employed by Transition and  
20 or serving in, the Medical Centre shall be deemed to have been employed or savings provision  
21 serving in the Medical Centre established under this Act.

22 (2) All Assets or liabilities belonging to the Medical Centre shall be  
23 deemed to belong to the Medical Centre established under this Act.

24 **27.** In this Act, unless the context otherwise requires: Interpretation

25 "associate universities" means the universities whose medical students  
26 receive aspects of their training from the Medical Centre;

27 "Board" means the Board of Management of the Medical Centre;

28 "chairman" means the chairman of the Board;

29 "functions" include powers and duties;

30 "Federal Medical Centre "means the Medical Centre Ogoja;



1 "junior staff" means staff of such grade as may be determined, from time to  
2 time, by the Board;

3 "medical student" means a student whose course of instruction is:

4 (a) designed (either alone or in conjunction with other courses) to  
5 enable him to qualify as a medical practitioner; or

6 (b) designed for the further training of medical practitioners;

7 "Minister" means the Minister charged with responsibility for matters relating  
8 to health and "Ministry" shall be construed accordingly;

9 "student" means a person enrolled at an institution controlled by the Board for  
10 the purpose of pursuing a course of instruction at the institution.

Short title

11 **28.** This Bill may be cited as the Federal Medical Centre Ogoja  
12 (Establishment) Bill, 2019.

13 SCHEDULE

14 [Section 3 (3).]

15 SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD, ETC.

16 *Proceedings of the Board*

17 1.-(1) Subject to this Act and section 27 of the Interpretation Act, the  
18 Board may make standing orders regulating its proceedings or those of any of  
19 its committees.

20 (2) The quorum of the Board shall be the chairman or the person  
21 presiding at the meeting and 5 other members of the Board, 2 of whom shall be  
22 ex-officio members, and the quorum of any Committee of the Board shall be as  
23 determined by the Board.

24 2.-(1) The Board shall meet whenever it is summoned by the  
25 chairman and if the chairman is required to do so by notice given to him by not  
26 less than 8 other members, he shall summon a meeting of the Board to be held  
27 within 14 days from the date on which the notice is given.

28 (2) At any meeting of the Board, the chairman shall preside but if he is  
29 absent, the members present at the meeting shall appoint one of their number to  
30 preside at the meeting.

1 (3) Where the Board desires to obtain the advice of any person on a  
2 particular matter, the Board may co-opt him to the Board for such period as it  
3 deems fit, but a person who is in attendance by virtue of this sub-paragraph  
4 shall not be entitled to vote at any meeting of the Board and shall not count  
5 towards a quorum.

6 *Committees*

7 3.-(1) The Board may appoint one or more committees to carry out,  
8 on behalf of the Board, such functions as the Board may determine.

9 (2) A committee appointed under this paragraph shall consist of  
10 such number of persons as may be determined by the Board and a person  
11 shall hold office on the committee in accordance with the terms of his  
12 appointment.

13 (3) A decision of a committee of the Board shall be of no effect until  
14 it is confirmed by the Board.

15 *Miscellaneous*

16 4.-(1) The fixing of the seal of the Medical Centre shall be  
17 authenticated by the signatures of the Chairman, the Chief Medical Director  
18 or any person generally or specifically authorized by the Board to act for that  
19 purpose.

20 (2) Any contract or instrument which, if made or executed by a  
21 person not being a body corporate, would not be required to be under seal  
22 may be made or executed on behalf of the Medical Centre by the Chief  
23 Medical Director or any person generally or specifically authorized by the  
24 Board to act for that purpose.

25 (3) A document purporting to be a document duly executed under  
26 the seal of the Medical Centre shall be received in evidence and shall, unless  
27 and until the contrary is proved, be presumed to be so executed.

28 5. The validity of any proceedings of the Board or of a committee  
29 shall not be adversely affected by:

30 (a) a vacancy in the membership of the Board or committee;

- 1                   (b) a defect in the appointment of a member of the Board or  
2   committee; or  
3                   (c) reason that a person not entitled to do so took part in the  
4   proceedings of the Board or committee.

EXPLANATORY NOTE

This Bill seeks to establish the Federal Medical Centre Ogoja and to equip, maintain and operate the Medical Centre so as to provide facilities for diagnosis, curative, promotive and rehabilitative services in medical treatment.



	1	(j) the Society of Gynaecology and Obstetrics of Nigeria;
	2	(k) the Pharmaceutical Society of Nigeria;
	3	(l) the Paediatric Association of Nigeria;
	4	(m) the National Association of Nigerian Nurses and Midwives; and
	5	(n) one person to represent public interest.
	6	(2) The chairman and members of the Board, other than ex-officio
	7	members, shall be:
	8	(a) appointed by the President; and
	9	(b) persons of proven integrity and ability.
	10	(3) The supplementary provisions set out in the Schedule to this Act
	11	shall have effect with respect to the proceedings of the Board and the other
	12	matters contained therein.
	13	<i>[Schedule.]</i>
Tenure of office	14	<b>4.</b> Subject to the provisions of section 5 of this Act, a member of the
	15	Board, other than ex-officio members, shall each hold office:
	16	(a) for a term of three years in the first instance and may be re-
	17	appointed for a further term of three years and no more; and
	18	(b) on such terms and conditions as may be specified in his letter of
	19	appointment.
Cessation of membership	20	<b>5.-(1)</b> Notwithstanding the provisions of section 4 of this Act a person
	21	shall cease to hold office as a member of the Board if:
	22	(a) he becomes bankrupt, suspends payment principal loan with his
	23	creditors;
	24	(b) he is convicted of a felony or any offence involving dishonesty or
	25	fraud;
	26	(c) he becomes of unsound mind or is incapable of carrying out his
	27	duties;
	28	(d) he is guilty of a serious misconduct in relation to his duties; or
	29	(e) in the case of a person possessed of professional qualifications, he
	30	is disqualified or suspended, other than at his own request, from practising his

1 profession in any part of the world by an order of a competent authority  
2 made in respect of that member; or

3 (f) he resigns his appointment by a letter addressed to the President.

4 (2) If a member of the Board ceases to hold office for any reason  
5 whatsoever, before the expiration of the term for which he is appointed,  
6 another person representing the same Interest as that member shall be  
7 appointed to the Board for the unexpired term.

8 (3) A member of the Board may be removed by the President if he is  
9 satisfied that it is not in the interest of the Medical Centre or the interest of  
10 the public that the member continues in office.

11 6. There shall be paid to every member of the Board such Allowances of  
12 allowances and expenses as the Revenue Mobilization Allocation and Fiscal members  
13 Commission may, from time to time, direct.

14 PART II - FUNCTIONS AND POWERS OF THE BOARD, ETC.

15 7.-(1) The Board shall:

16 (a) equip, maintain and operate the Medical Centre so as to provide Functions of the  
17 facilities for diagnosis, curative, promotive and rehabilitative services in Board  
18 medical treatment;

19 (b) construct, equip, maintain and operate such training schools  
20 and similar institutions as the Board considers necessary for providing the  
21 Medical Centre at all times with a proper staff of the Medical Centre  
22 technicians and nurses;

23 (c) construct, equip, maintain and operate such clinics, out-patient  
24 departments, laboratories, research or experimental stations and other like  
25 institutions as the Board considers necessary for the efficient functioning of  
26 the Medical Centre.

27 (2) The Board shall ensure that the standards of teaching provided  
28 at all establishments under its control and the standards of treatment and care  
29 provided for patients at those establishments do not fall below those usually  
30 provided by similar establishments of international repute.

	1	(3) Subject to this Act, the Board shall perform such other functions
	2	which in its opinion are calculated to facilitate the carrying out of its functions
	3	under this Act.
Powers of the Board	4	<b>8.</b> The Board shall have power to:
	5	(a) Provide the general policies and guidelines relating to major
	6	expansion programmes of the Medical Centre;
	7	(b) provide facilities for the training of medical students of associate
	8	universities;
	9	(c) manage and superintend the affairs of the Medical Centre;
	10	(d) subject to the provisions of this Act, make, alter and revoke rules
	11	and regulations for carrying on the functions of the Medical Centre;
	12	(e) fix terms and conditions of service, including remuneration of the
	13	employees of the Medical Centre subject to the approval of National Salaries
	14	Incomes and Wages Commission;
	15	(f) do such other things which in the opinion of the Board are
	16	necessary to ensure the efficient performance of the functions of the Medical
	17	Centre.
	18	PART III - STAFF OF THE MEDICAL CENTRE
Medical Director of the Medical Centre	19	<b>9.-(1)</b> There shall be for the Medical Centre a Chief Medical Director
	20	who shall be appointed by the President on the recommendation of the Board
	21	and on such terms and conditions as may be specified in his letter of
	22	appointment or as may be determined, from time to time, by the National
	23	Salaries Income and Wages Commission.
	24	(2) The Chief Medical Director shall:
	25	(a) be the chief executive and accounting officer of the Medical
	26	Centre;
	27	(b) be responsible to the Board for the day-to-day administration of
	28	the Medical Centre;
	29	(c) be appointed for a term of four years in the first instance and may

1 be reappointed for a further term of four years subject to satisfactory  
2 performance;

3 (d) be a person who is a medical practitioner and shall have been so  
4 qualified for a period of not less than 15 years;

5 (e) have considerable administrative experience in matters of  
6 health;

7 (f) hold a post-graduate specialist qualification obtained not less  
8 than ten years prior to the appointment as Chief Medical Director.

9 **10.-(1)** The Board shall appoint for the Medical Centre:

Appointment of  
Directors and  
other staff of the  
Medical Centre

10 (a) a Director of Administration, who shall:

11 (i) be responsible to the Chief Medical Director for the effective  
12 functioning of all the administrative divisions of the Medical Centre;

13 (ii) conduct the correspondence of the Board and keep the records  
14 of the Medical Centre; and

15 (iii) perform such other functions as the Board or the Chief Medical  
16 Director, as the case may be, may, from time to time, assign to him;

17 (b) a Director of Clinical Services;

18 (c) a Director of Finance;

19 (d) a Director of Maintenance.

20 (2) The Directors appointed under paragraphs (b), (c) and (d) of  
21 subsection (1) of this section shall each be responsible to the Chief Medical  
22 Director for the effective running of the clinical services, the finance and  
23 accounts and the co-ordination of the maintenance of the Medical Centre, as  
24 the case may be.

25 (3) The Board shall appoint for the Medical Centre such number of  
26 employees as may in the opinion of the Board be expedient and necessary  
27 for the proper and efficient performance of the functions of the Medical  
28 Centre.

29 (4) Notwithstanding the provisions of subsections (1) and (2) of  
30 this section the Board shall have power to appoint for the Medical Centre



1 either directly or on secondment from any public service in the Federation,  
 2 such number of employees as may, in the opinion of the Board, be required to  
 3 assist the Medical Centre in the discharge of any of its functions under this Act.

4 (5) Nothing in subsection (4) of this section shall preclude the Board  
 5 from appointing persons from outside the public service of the Federation or of  
 6 the State whenever it deems it necessary so to do.

7 (6) The terms and conditions of service (including remuneration,  
 8 allowances, benefits and pensions) of the employees of the Medical Centre  
 9 shall be as determined by the National Salaries Income and Wages  
 10 Commission.

Service in the  
 Medical Centre  
 to be pensionable

11 11.-(1) Service in the Medical Centre shall be approved service for the  
 12 purposes of the Pensions Reforms Act.

13 (2) The officers and other persons employed in the Medical Centre  
 14 shall be entitled to pensions, gratuities and other retirement benefits as are  
 15 enjoyed by persons holding equivalent grades in the civil service of the  
 16 Federation.

17 (3) Nothing in subsections (1) and (2) of this section shall prevent the  
 18 appointment of a person to any office on terms which preclude the grant of  
 19 pension and gratuity in respect of that office.

Establishment  
 fo the Medical  
 Advisory  
 Committee, etc.

20 12.-(1) There shall be for the Medical Centre a Medical Advisory  
 21 Committee which shall:

22 (a) consist of a chairman who shall be the Director, Clinical Services  
 23 and such number of other members as may be determined from time to time;

24 (b) be responsible to the Chief Medical Director for all the clinical and  
 25 training activities of the Medical Centre; and

26 (c) be appointed by the Board.

27 (2) Subject to this Act, the Board shall have power to appoint either  
 28 directly or on secondment and discipline consultants holding or acting in any  
 29 office in the hospital; and any such appointment shall be made having due  
 30 regard to the approved personnel establishment of the Medical Centre.

1 (3) Notwithstanding anything to the contrary, the Board may, from  
2 time to time, appoint consultants outside the hospital to perform such  
3 medical duties as the Board or the Chief Medical Director may assign to  
4 such consultants.

5 PART IV - FINANCIAL PROVISIONS

6 **13.** There shall be established and maintained for the Medical Fund of the  
7 Centre a fund into which shall be paid and credited: Medical Centre

8 (a) all subventions and budgetary allocation from the Government  
9 of the Federation;

10 (b) all fees and funds accruing from the sale of drugs and other  
11 services;

12 (c) all sums accruing to the Medical Centre by way of gifts,  
13 endowments, bequests, grants or other contributions by persons and  
14 organisations;

15 (d) foreign aid and assistance from bilateral agencies; and

16 (e) all other sums which may, from time to time, accrue to the  
17 Medical Centre.

18 **14.** The hospital shall, from time to time, apply the funds at its Expenditure of  
19 disposal to: the Medical Centre

20 (a) the cost of administration and maintenance of the Medical  
21 Centre;

22 (b) publicize and promote the activities of the Medical Centre;

23 (c) pay allowances, expenses and other benefits of members of the  
24 Board and committees of the Board;

25 (d) pay the salaries, allowances and benefits of employees of the  
26 Medical Centre;

27 (e) pay other overhead allowances, benefits and other  
28 administrative costs of the Medical Centre; and

29 (f) undertake such other activities as are connected with all or any  
30 of the functions of the Medical Centre under this Act.

Power to accept gifts	1	<b>15.</b> -(1) The Medical Centre may accept gifts of land, money or other
	2	property on such terms and conditions, if any, as may be specified by the person
	3	or organisation making the gift.
	4	(2) The Medical Centre shall not accept any gift if the conditions
	5	attached by the person or organisation making the gift are inconsistent with the
	6	functions of the Medical Centre under this Act.
Annual estimates and expenditure	7	<b>16.</b> -(1) The Board shall, not later than 30 September in each year,
	8	submit to the President through the Secretary to the Government of the
	9	Federation an estimate of the expenditure and income of the Medical Centre
	10	during the next succeeding year.
	11	(2) The Board shall cause to be kept proper accounts of the Medical
	12	Centre in respect of each year and proper records in relation thereto and shall
Annual report	13	cause the accounts to be audited not later than six months after the end of each
	14	year by auditors appointed from the list and in accordance with the guidelines
	15	supplied by the Auditor-General for the Federation.
	16	<b>17.</b> The Board shall prepare and submit to the President, not later than
	17	30 June in each year, a report in such form as the President may direct on the
	18	activities of the Medical Centre during the immediately preceding year, and
Power to borrow	19	shall include in the report a copy of the audited accounts of the Federal Medical
	20	Centre for that year and the auditor's report thereon.
	21	<b>18.</b> -(1) The Medical Centre may, from time to time, borrow by
	22	overdraft or otherwise such sums as it may require for the performance of its
	23	functions' under this Act.
	24	(2) The Medical Centre shall not, without the approval of the
	25	President, borrow money which exceeds, at any time, the limit set by the
	26	President.
	27	(3) Notwithstanding subsection (I) of this section, where the sum to be
	28	borrowed is in foreign currency, the Medical Centre shall not borrow the sum
	29	without the prior approval of the President.

1	<b>19.</b> -(1) The Medical Centre shall not pay income tax on any income	Exemption from tax	
2	derived by the Federal Medical Centre under this Act or accruing to it from		
3	any of its investments.		
4	(2) Accordingly, the provisions of any enactment relating to the		
5	taxation of companies or trust funds shall not apply to the Board of the		
6	Federal Medical Centre.		
7	<b>20.</b> The Medical Centre shall not pay customs duty on or be	Exemption from customs duties, etc	
8	restricted or prohibited from importing any equipment, material, supply and		
9	any other thing required by the Medical Centre for the purposes of this Bill.		
10	PART V - GENERAL		
11	<b>21.</b> -(1) Notwithstanding anything to the contrary contained in any	Discipline of students	
12	other enactment, where it appears to the Board that any student of the		
13	Medical Centre has been guilty of misconduct, the Board may, without		
14	prejudice to any other disciplinary powers conferred on it by regulations,		
15	direct:		
16	(a) that the student shall not, during such period as may be specified		
17	in the direction, participate in such activities of the Medical Centre, or make		
18	use of such facilities of the Medical Centre as may be so specified;		
19	(b) that the activities of the student shall, during such period as may		
20	be specified in the direction, be restricted in such manner as may be so		
21	specified;		
22	(c) that the student be rusticated for such period as may be specified		
23	in the direction; or		
24	(d) that the student be expelled from the Medical Centre.		
25	(2) The fact that an appeal from a direction is brought in pursuance		
26	of subsection (1) of this section shall not affect the operation of the direction		
27	while the appeal is pending.		
28	(3) The Board may delegate its powers under this section to a		
29	disciplinary committee consisting of such members of the Medical Centre		
30	as the Board may nominate.		

Removal and  
discipline of  
clinical,  
administrative  
and technical  
staff

1 (4) Nothing in this section shall be construed as preventing the  
2 restriction or termination of student's activities at the Medical Centre otherwise  
3 than on the ground of misconduct.

4 (5) A direction issued under subsection (1) (a) of this section may be  
5 combined with a direction issued under subsection (1)(b) of this section.

6 (6) Nothing in this Act shall affect the provisions of any enactment  
7 relating to the discipline of medical practitioners, pharmacists, midwives,  
8 nurses or members of any other profession or calling.

9 **22.**-(1) If it appears to the Board that there are reasons for believing  
10 that any person employed as a member of the clinical, administrative or  
11 technical staff of the Medical Centre, other than the Chief Medical Director,  
12 should be removed from his office or employment, the Board shall require the  
13 Director of Administration to:

14 (a) give notice of those reasons to the person in question;

15 (b) afford him an opportunity of making representations in person on  
16 the matter to the Board; and

17 (c) if the person in question so requests within a period of 1 month  
18 beginning with the date of the notice, make arrangements for:

19 (i) a committee to investigate the matter and report on it to the Board;  
20 and

21 (ii) the person in question to be afforded an opportunity of appearing  
22 before and being heard by an investigating committee set up with respect to the  
23 matter, and if the Board, after considering the report of the investigating  
24 committee, is satisfied that the person in question should be removed as  
25 aforesaid, the Board may so remove him by a letter signed on the direction of  
26 the Board.

27 (2) The Chief Medical Director may, in a case of misconduct by a  
28 member of the staff which in the opinion of the Chief Medical Director is  
29 prejudicial to the interest of the Medical Centre, suspend any such member and  
30 any such suspension shall forthwith be reported to the Board.

1                   (3) For good cause, any member of staff may be suspended from  
2                   his duties or his appointment may be terminated or he may be dismissed by  
3                   the Board and for the purposes of this section, "good cause" means:

4                   (a) a conviction for any offence which the Board considers to be  
5                   such as to render the person concerned unfit for the discharge of the  
6                   functions of his office;

7                   (b) any physical or mental incapacity which the Board, after  
8                   obtaining medical advice, considers to be such as to render the person  
9                   concerned unfit to continue to hold his office;

10                  (c) conduct of a scandalous or other disgraceful nature which the  
11                  Board considers to be such as to render the person concerned unfit to  
12                  continue to hold his office; or

13                  (d) conduct which the Board considers to be such as to constitute a  
14                  failure or inability of the person concerned to discharge the functions of his  
15                  office or to comply with the terms and conditions of his service.

16                  (4) Any person suspended shall, subject to subsections (2) and (3)  
17                  of this section be on half pay and the Board shall before the expiration of a  
18                  period of three months after the date of such suspension consider the case  
19                  against that person and come to a decision as to:

20                  (a) whether to continue the person's suspension and if so, on what  
21                  terms (including the proportion of his emoluments to be paid to him);

22                  (b) whether to reinstate the person, in which case the Board shall  
23                  restore his full emoluments to him with effect from the date of suspension;

24                  (c) whether to terminate the appointment of the person concerned,  
25                  in which case he shall not be entitled to the proportion of his emoluments  
26                  withheld during the period of suspension; or

27                  (d) whether to take such lesser disciplinary action against the  
28                  person (including the restoration of his emoluments that might have been  
29                  withheld), as the Board may determine, and in any case where the Board,  
30                  pursuant to this section, decides to continue a person's suspension or decides

1 to take further disciplinary action against a person, the Board shall before the  
2 expiration of a period of three months from such decision come to a final  
3 determination in respect of the case concerning any such person.

4 (5) It shall be the duty of the person by whom a letter of removal is  
5 signed in pursuance of subsection (1) of this section to use his best endeavors to  
6 cause a copy of the letter to be served as soon as reasonably practicable on the  
7 person to whom it relates.

8 (6) Nothing in the foregoing provisions of this section shall preclude  
9 the Board from making such regulations not inconsistent with the provisions of  
10 this Act for the discipline of students and all other categories of employees of  
11 the hospital as the Board may prescribe.

12 (7) Regulations made under subsection (6) of this section need not be  
13 published in the Gazette but the Board shall cause them to be brought to the  
14 notice of all affected persons in such manner as it may, from time to time,  
15 determine.

Discipline of  
junior staff

16 **23.**-(1) If any junior staff is accused of misconduct or inefficiency, the  
17 Chief Medical Director may suspend him for not more than a period of 3  
18 months and shall direct a committee to:

19 (a) consider the case; and

20 (b) make recommendations as to the appropriate action to be taken by  
21 the Chief Medical Director.

22 (2) In all cases under this section of this Act, the officer shall be  
23 informed of the charge against him and given a reasonable opportunity to  
24 defend himself.

25 (3) The Chief Medical Director may, after considering the  
26 recommendation made pursuant to subsection (1) (b) of this section, dismiss,  
27 or take such other disciplinary action against the officer concerned.

28 (4) Any person aggrieved by a decision of the Chief Medical Director  
29 made under subsection (3) of this section may, within a period of 21 days from  
30 the date of the letter communicating the decision to him, address a petition to

1 the Board to reconsider his case.

2 PART VI - MISCELLANEOUS

3 **24.**-(1) The Board may, with the approval of the President, make Regulations  
4 regulations

5 (a) as to the access of members of the public either generally or of a  
6 particular class, to premises under the control of the Board and as to the  
7 orderly conduct of members of the public on those premises; and

8 (b) for safeguarding any property belonging to or controlled by the  
9 Board from damage by members of the public.

10 (2) Bye-laws under this section shall not come into force until they  
11 are confirmed (with or without modification) by the National Assembly and  
12 published in such manner as he may direct.

13 **25.** The President may give to the Board directions of a general Power to give  
14 character or relating generally to particular matters (but not to any individual directives  
15 person or case) with regard to the exercise by the Board of its functions  
16 under this Act, and it shall be the duty of the Board to comply with the  
17 directions; but no direction shall be given which is inconsistent with the  
18 duties of the Board under this Act.

19 **26.**-(1) On the commencement of this Act, any person employed by Transition and  
20 or serving in, the Medical Centre shall be deemed to have been employed or savings provision  
21 serving in the Medical Centre established under this Act.

22 (2) All Assets or liabilities belonging to the Medical Centre shall be  
23 deemed to belong to the Medical Centre established under this Act.

24 **27.** In this Act, unless the context otherwise requires: Interpretation

25 "associate universities" means the universities whose medical students  
26 receive aspects of their training from the Medical Centre;

27 "Board" means the Board of Management of the Medical Centre;

28 "chairman" means the chairman of the Board;

29 "functions" include powers and duties;

30 "Federal Medical Centre "means the Medical Centre Onitsha;



1 "junior staff" means staff of such grade as may be determined, from time to  
2 time, by the Board;

3 "medical student" means a student whose course of instruction is:

4 (a) designed (either alone or in conjunction with other courses) to  
5 enable him to qualify as a medical practitioner; or

6 (b) designed for the further training of medical practitioners;

7 "Minister" means the Minister charged with responsibility for matters relating  
8 to health and "Ministry" shall be construed accordingly;

9 "student" means a person enrolled at an institution controlled by the Board for  
10 the purpose of pursuing a course of instruction at the institution.

Short title

11 **28.** This Bill may be cited as the Federal Medical Centre Onitsha  
12 (Establishment) Bill, 2019.

13 SCHEDULE

14 [Section 3 (3).]

15 SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD, ETC.

16 *Proceedings of the Board*

17 1.-(1) Subject to this Act and section 27 of the Interpretation Act, the  
18 Board may make standing orders regulating its proceedings or those of any of  
19 its committees.

20 (2) The quorum of the Board shall be the chairman or the person  
21 presiding at the meeting and 5 other members of the Board, 2 of whom shall be  
22 ex-officio members, and the quorum of any Committee of the Board shall be as  
23 determined by the Board.

24 2.-(1) The Board shall meet whenever it is summoned by the  
25 chairman and if the chairman is required to do so by notice given to him by not  
26 less than 8 other members, he shall summon a meeting of the Board to be held  
27 within 14 days from the date on which the notice is given.

28 (2) At any meeting of the Board, the chairman shall preside but if he is  
29 absent, the members present at the meeting shall appoint one of their number to  
30 preside at the meeting.

1 (3) Where the Board desires to obtain the advice of any person on a  
2 particular matter, the Board may co-opt him to the Board for such period as it  
3 deems fit, but a person who is in attendance by virtue of this sub-paragraph  
4 shall not be entitled to vote at any meeting of the Board and shall not count  
5 towards a quorum.

6 *Committees*

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11 shall hold office on the committee in accordance with the terms of his  
12 appointment.

13 (3) A decision of a committee of the Board shall be of no effect until  
14 it is confirmed by the Board.

15 *Miscellaneous*

16 4.-(1) The fixing of the seal of the Medical Centre shall be  
17 authenticated by the signatures of the Chairman, the Chief Medical Director  
18 or any person generally or specifically authorized by the Board to act for that  
19 purpose.

20 (2) Any contract or instrument which, if made or executed by a  
21 person not being a body corporate, would not be required to be under seal  
22 may be made or executed on behalf of the Medical Centre by the Chief  
23 Medical Director or any person generally or specifically authorized by the  
24 Board to act for that purpose.

25 (3) A document purporting to be a document duly executed under  
26 the seal of the Medical Centre shall be received in evidence and shall, unless  
27 and until the contrary is proved, be presumed to be so executed.

28 5. The validity of any proceedings of the Board or of a committee  
29 shall not be adversely affected by:

30 (a) a vacancy in the membership of the Board or committee;

- 1                   (b) a defect in the appointment of a member of the Board or  
2   committee; or  
3                   (c) reason that a person not entitled to do so took part in the  
4   proceedings of the Board or committee.

EXPLANATORY NOTE

This Bill seeks to Provide for the Legal Framework to upgrade General Hospital Onitsha to Federal Medical Centre Onitsha.

FACTORING ASSIGNMENTS (ESTABLISHMENT, ETC) BILL, 2019

ARRANGEMENT OF SECTIONS

*Sections*

PART 1: DEFINITIONS AND INTERPRETATION

1. Definitions
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# A BILL

## FOR

AN ACT TO ESTABLISH FACTORING ASSIGNMENTS ACT TO PROVIDE FOR PRINCIPLES AND TO ADOPT RULES RELATING TO THE ASSIGNMENT OF RECEIVABLES IN ORDER TO CREATE CERTAINTY AND TRANSPARENCY AND TO PROMOTE THE MODERNIZATION OF THE LAW RELATING TO ASSIGNMENTS WHILST PROTECTING EXISTING ASSIGNMENT PRACTICES AND FACILITATING THE DEVELOPMENT OF NEW PRACTICES AND ENSURING ADEQUATE PROTECTION FOR THE INTERESTS OF DEBTORS IN ORDER TO PROMOTE THE AVAILABILITY OF CAPITAL AND CREDIT AND TO FACILITATE DOMESTIC AND INTERNATIONAL TRADE AND FOR RELATED MATTERS

*Sponsored by Hon. Ossai Nicholas Ossai*

[ ] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

### 1 PART 1 - DEFINITIONS AND INTERPRETATION

2 1. -(1) In this Act unless the context otherwise requires:

Definitions

3 "assignment" means the transfer by agreement from client to the factor of all  
4 or part of or an undivided interest in a receivable payable by a debtor and  
5 whether or not notice of the assignment has been given to the debtor. The  
6 creation of rights in a receivable as security of indebtedness or other  
7 obligation is deemed to be a transfer;

8 "client" (in business sometimes called an "assignor" but not in this Act)  
9 means the person who assigns a trade receivable to the factor, whether or not  
10 the trade receivable was initially payable to that person;

11 "competing claimant" means:

- 1 (a) a creditor of the client; or
- 2 (b) an insolvency administrator.
- 3 (c) another factor or assignee of the same trade receivable from the
- 4 same client, including a person who, by operation of law, claims a right in the
- 5 assigned trade receivable as a result of its rights in other property of the client;
- 6 "domestic assignment" means an assignment where the client and the factor are
- 7 located in the same country at the time that the factoring contract is concluded
- 8 between them;
- 9 "domestic trade receivable" means a trade receivable where, at the time
- 10 entering into the supply contract, the client and the debtor are located in the
- 11 same country when the supply contract is concluded between them;
- 12 "existing trade receivable" means a trade receivable that arises upon or before
- 13 the factoring contract is concluded between the client and the factor;
- 14 "factor" (in business sometimes called an "assignee" but not in this Act) means
- 15 the person to whom a receivable is assigned;
- 16 "factoring contract" means a contract concluded between a client and a factor
- 17 pursuant to which:
- 18 (a) the client assigns or will assign or will offer to assign to the factor
- 19 trade receivables arising from supply contracts between the client and its
- 20 debtors; and
- 21 (b) the factor is to perform at least one of the following functions:
- 22 (i) Providing or procuring finance for the client, including loans and
- 23 advance payments that are directly related to the value of each trade receivable
- 24 and its perceived credit risk at the time the receivable is created or at any time
- 25 thereafter;
- 26 (ii) maintenance of accounts (Ledgering) relating to the assigned
- 27 receivables; or
- 28 (iii) collection of assigned receivables and:
- 29 (a) unless otherwise agreed any collection is for its own account and
- 30 not as agent for the client;

1 (b) any collection made by the client for the benefit of the factor is  
2 deemed to be made by the factor;

3 (c) protection against default in payment by debtors solely because  
4 of their financial inability to pay may not be given; and

5 (d) notice of the assignment of the receivables may not be  
6 given to debtors.

7 "Financial contract" means any spot, forward, future, option or swap  
8 transaction involving interest rate, commodities, currencies, equities,  
9 bonds, indices or any other financial instrument, any repurchase or  
10 securities lending transaction, and any other transaction similar to any of  
11 these transactions entered into in financial markets and any combination of  
12 these;

13 "financial 'services" means any service of a financial nature, including (but  
14 not limited to):

15 (a) transactions on a regulated exchange;

16 (b) Insurance - related services consisting of:

17 (i) direct life assurance;

18 (ii) direct insurance other than life assurance;

19 (iii) reinsurance and retrocession;

20 (iv) insurance intermediation, such as brokerage and agency;

21 (v) services auxiliary to insurance, such as consultancy, actuarial,  
22 risk assessment and claim settlement services;

23 (e) banking and other financial services consisting of:

24 (i) accepting deposits and other repayable funds;

25 (ii) lending (including consumer credit, mortgage credit, factoring  
26 and financing of commercial transactions);

27 (iii) financial leasing;

28 (iv) payment and money transmission services (including credit,  
29 charge and debit cards, travellers' cheques and bankers' drafts);

30 (v) providing guarantees or commitments;



- 1 (vi) financial trading (as defined in this Act);
- 2 (vii) participating in issues of any kind of securities (including
- 3 underwriting and placement as an agent, whether publicly or privately) and
- 4 providing services related to such issues;
- 5 (viii) money brokering;
- 6 (ix) asset management, such as cash or portfolio management, all
- 7 forms of collective investment management, pension fund management,
- 8 custodial, depository and trust services;
- 9 (x) inter-bank payment systems, inter-bank payment agreements,
- 10 settlement and clearing services for financial assets (including securities,
- 11 derivative products and other negotiable instruments);
- 12 (xi) providing or transferring financial information, and financial data
- 13 processing or related software (but only by suppliers of other financial
- 14 services);
- 15 (xii) providing advisory and other auxiliary financial services in
- 16 respect of any activity listed in sub-paragraphs (i) to (ix) (including credit
- 17 reference and analysis, investment and portfolio research and advice, advice on
- 18 acquisitions and on corporate restructuring and strategy).
- 19 "financial trading" means trading for own account or for account of customers,
- 20 whether on an investment exchange, in an over-the-counter market or
- 21 otherwise, in:
- 22 (a) money market instruments (including cheques, bills and
- 23 certificates of deposit) and other negotiable instruments and financial assets
- 24 (including bullion);
- 25 (b) foreign exchange;
- 26 (c) derivative products (including futures and options);
- 27 (d) exchange rate and interest rate instruments (including products
- 28 such as swaps and forward rate agreements);
- 29 (e) transferable securities;
- 30 "future trade receivable" means a receivable that arises after the factoring

- 1 contract is concluded between the factor and the client;
- 2 "insolvency administrator" means the person or body, including one  
3 appointed on an interim basis, authorized in an insolvency proceeding to  
4 administer the reorganization or liquidation of the client's assets or affairs;
- 5 "insolvency proceeding" means a collective judicial or administrative  
6 proceeding, including an interim proceeding, in which the assets and affairs  
7 of the client are subject to control or supervision by a court or other  
8 competent authority or person for the propose of reorganization or  
9 liquidation;
- 10 "international assignment" means an assignment of a trade receivable where  
11 the client and the factor are located in different countries at the time of  
12 conclusion of the factoring contract;
- 13 "international trade receivable" means a trade receivable where, at the time  
14 the supply contract is concluded, the client and the debtor are located in  
15 different countries;
- 16 "netting agreement" means an agreement between two or more parties that  
17 provides for one or more of the following:
- 18 (a) the net settlement of payments due in the same currency on the  
19 same date whether by novation or otherwise;
- 20 (b) upon the insolvency or other default by a party, the termination  
21 of all outstanding transactions at their replacement or fair market values,  
22 conversion of such sums into a single currency and netting into a single  
23 payment by one party to the other;
- 24 (c) the set-off of amounts calculated, as set forth in sub-paragraph;
- 25 (b) immediately above in this definition, under two or more netting  
26 agreements;
- 27 "notice of the assignment" means a communication in writing which  
28 reasonably identifies the assigned receivable and the factor and states  
29 expressly that the receivables has been assigned to the factor;
- 30 "priority" means the right of a person in preference to the right of another

1 person and, to the extent relevant for such purpose, includes the determination  
2 whether the right is a personal or a property right, whether or not it is a security  
3 right for indebtedness or other obligation, whether the assignment  
4 accomplishes a true-sale of all right, title and ownership interest of the  
5 assignor in the receivable to the assignee, and whether any requirements  
6 necessary to render the right effective against a competing claimant have been  
7 satisfied;

8 "proceeds" means whatever is received in respect of an assigned trade  
9 receivable, whether in total or partial payment, discharge or other satisfaction  
10 of the receivable; the term includes whatever is received in respect of proceeds;  
11 the term does not include returned goods;

12 "prohibition against assignment" means:

13 (a) that part of any agreement between the initial or any subsequent  
14 client and debtor or any subsequent factor which;

15 (i) prohibits, restricts, or requires the consent of the debtor to the  
16 assignment or transfer of, or the creation, attachment, perfection, or  
17 enforcement of a right or interest in the receivable; or

18 (ii) provides that the assignment or transfer or the creation,  
19 attachment, perfection or enforcement of the security interest may give rise to a  
20 default, breach, right of set-off, claim, defence, termination, right of  
21 termination, or remedy under the supply contract; and

22 (b) any rule of law, statute, order or regulation which, in respect of the  
23 assignment of, or the creation, attachment, perfection, or enforcement of a right  
24 or interest in the receivable which:

25 (i) prohibits, restricts, or requires the consent of the government, a  
26 governmental body or official, or debtor; or

27 (ii) provides that the same may give rise to a default, breach, right of  
28 set-off, claim, defence, termination, right of termination, or remedy;

29 "receivable" means a contractual right to payment of a monetary sum;

30 "related right" means a personal or property right which secures or assists in

1 payment of the assigned receivable and without prejudice to the generality  
2 of the foregoing it includes:

- 3 (a) right of lien and stoppage in transit;
- 4 (b) guarantees and indemnities;
- 5 (c) documents of title;
- 6 (d) credit and other insurances;
- 7 (e) Evidence of the amount and existence of a receivable;
- 8 (f) Right to compromise disputes and issues receipts.

9 "subsequent assignment" means a further assignment of a receivable by the  
10 initial or any other factor to another person, including an assignment of a  
11 receivable back to the client;

12 "supply contract" means a contract between the client and the debtor from  
13 which an assigned receivable arises;

14 "trade receivable" means any of the following receivables:

15 (a) a receivable representing the payment obligation for a credit  
16 card transaction;

17 (b) a receivable representing the amount owed to the client upon  
18 net settlement of payments due pursuant to a netting agreement involving  
19 more than two parties; or

20 (c) a receivable arising from supply contract that is:

21 (i) for the supply or lease or license of goods or services other than  
22 for financial services;

23 (ii) for a construction;

24 (iii) for the sale or lease of real property; or

25 (iv) for the sale, lease or license of industrial or other intellectual  
26 property or of proprietary information or of intangibles;

27 But it does not include a receivable arising out of any transactions  
28 specifically excluded from the ambit of this Act by sections 4.1 and 4.2  
29 (exclusions and limitations).

30 "writing" means any form of information that is accessible so as to be usable

Rules of  
Interpretation

1 for subsequent reference and where this Law requires a writing to be signed  
2 then that requirement is met if, by generally accepted means or a procedure  
3 agreed to by the person whose signature is required, the writing identifies that  
4 person and indicates that person's approval of the information contained in the  
5 writing;

6           **2.-(1)** A person is located in the country in which it has its place of  
7 business. If the client or the factor has a place of business in more than one  
8 countries, the place of business is that place where the central administration of  
9 the client or the factor is exercised. If the debtor has a place of business in more  
10 than one country, the place of business is that which has the closest relationship  
11 to the supply contract. If a person does not have a place of business, reference is  
12 to be made to the habitual residence of that person in the case of an individual  
13 this is his principal residence. In case of a person registered under law to  
14 undertake business this is the place shown in such registration as its address.

15           (2) Unless the context otherwise provides, the singular includes the  
16 plural and vice versa and a reference to any gender includes any other gender;

17           (3) The headings to any section or part of this Act are for convenience  
18 only and are to be ignored in its interpretation;

19           (4) Any reference to a "person" is to any individual, firm, company,  
20 unlimited partnership, limited liability partnership, corporation or partnership,  
21 unincorporated body, government, government agency or public authority, as  
22 the case may be;

23           (5) The meaning of general words either introduced or followed by  
24 the words "other" or "including" is not to be limited by reference to any  
25 preceding word indicating a particular class of acts, matters or things;

26           (6) Reference to a section or to a part is to the appropriate section or  
27 part of this Act.

28           **PART 2 - SCOPE OF APPLICATION AND LIMITATIONS**

Scope of  
application

29           **3.-(1)** This Act applies to domestic or international assignments of  
30 domestic trade receivables or international trade receivables made under or

1       pursuant to a factoring contract.

2               (2) This Act also applies to subsequent assignments of the  
3       receivables referred to in section 3.1 provided that either:

4               (a) the initial assignment was made under or pursuant to a factoring  
5       contract; or

6               (b) Any prior assignment is governed by this Act.

7               **4. -(1)** This Act does not apply to assignments made:

Exclusions and  
Limitations

8               (a) to an individual for his or her personal, family or household  
9       purposes; or

10              (b) As part of the scale or change in the ownership or legal status of  
11       the business out of which the assigned receivables arose.

12              (2) This Act does not apply to assignments of receivables arising  
13       under or from:

14              (a) transactions on a regulated exchange;

15              (b) financial contracts governed by netting agreements, except a  
16       receivable owed on the termination of all outstanding transactions;

17              (c) Inter-bank payments systems, inter-bank payment agreements  
18       or clearance and settlement systems relating to securities or other financial  
19       assets or instruments;

20              (d) the transfer of security rights in, sale, loan or holding of or  
21       agreement to repurchase securities or other financial assets or instruments  
22       held with an intermediary;

23              (e) a letter of credit or independent guarantee;

24              (f) financial services, including financial trading;

25              (g) security interests created by other statutes;

26              (h) landlord's liens except as to fixtures;

27              (i) receivables assigned from the sale or lease of real property;

28              (j) transfer of interests in or a claim under a policy of insurance;

29              (k) transfers of claims for wages or compensation by employees;

30              (l) the scale of a business;

- 1 (m) set-off claims;
- 2 (n) claims in court proceedings.
- 3 (3) Nothing in this Act affects the rights and obligations of any person
- 4 under the law governing negotiable instruments.
- 5 (4) Nothing in this Act affects the rights and obligations of the client
- 6 and the debtor under laws governing the protection of parties to transactions
- 7 made for personal, family or household purposes.
- 8 (5) Nothing in this Act:
- 9 (a) affects the application of the laws of any state in which real
- 10 property is situated to either:
- 11 (i) an interest in that real property to the extent that under that law the
- 12 assignment of receivable confers such an interest; or
- 13 (ii) the priority of a right in a receivable to the extent that under that
- 14 law an interest in the real property confers such a right; or
- 15 (b) makes lawful the acquisition of an interest in the real property not
- 16 permitted under the law of the state in which the real property is situated.

17 PART 3 - PARTY AUTONOMY.

Party Autonomy

- 18 **5.** The client, the factor and the debtor may derogate from or vary by
- 19 agreement between them any or all provisions of this Act relating to their
- 20 respective rights and obligations except that the client and the debtor may not
- 21 derogate from the provisions of sections 7.1 and 7.2 (nullification of
- 22 prohibitions on assignment) or 8.2 (assignment of rights securing payment).
- 23 Such an agreement does not affect the rights of any person who is not a party to
- 24 the agreement.

25 PART 4 - EFFECTS OF ASSIGNMENT

Effects of  
assignment

- 26 **6.-(1)** Assignments of trade receivables are valid and effective unless
- 27 states otherwise in this Act.
- 28 (2) An assignment is still effective as between the client and the factor
- 29 or as against the debtor or as against a competing claimant, and the right of an
- 30 factor may not be denied priority, on the ground that it is an assignment of more

1 than one receivable, or of future receivable or of parts of a receivable or of an  
2 undivided interest in receivables, provided that the receivables are  
3 described:

- 4 (a) individually as receivables to which the assignment relates; or  
5 (b) in any other manner, provided that they can be identified as  
6 receivables to which the assignment relates either at the time of the  
7 assignment or, in the case of future receivables, at the time the supply  
8 contract is concluded.

9 (3) Unless otherwise agreed, an assignment of one or more future  
10 trade receivable is effective without a new act of transfer being required to  
11 assign each receivable.

12 (4) This Act does not affect any limitations on assignments arising  
13 from any other laws except as stated in section 6.1, sections 7.1 and 7.2  
14 (nullification of prohibitions against assignment) and sections 8.2 and 8.3  
15 (transfer of related rights).

16 7.-(1) An assignment of a receivable is effective notwithstanding a  
17 prohibition against assignment. The debtor may not avoid the supply  
18 contract or its payment obligations because the client is in breach of such a  
19 prohibition.

Nullification of  
prohibitions  
against  
assignments

20 (2) Neither the client nor the factor shall have any liability to the  
21 debtor for a breach of prohibition against assignment nor may the same be  
22 raised by the debtor as a defence or set-off to any claim for payment of an  
23 assigned debt.

24 (3) Neither the Government, nor any governmental body or official  
25 may take any action against the client or the factor for an assignment of a  
26 receivable in breach of any prohibition against assignment.

27 8.-(1) Upon the assignment of a receivable its related rights are also  
28 transferred to the factor without any new act of transfer. If such a right, under  
29 the law governing it, is transferable only with a new act of transfer, the client  
30 is obliged to transfer such right and any proceeds to the factor.

Transfer or  
related rights



1 (2) A related right transferred under Sub-section 8.1 even though  
2 there may be an agreement between the client and the debtor or some other  
3 person granting that right which prohibits, limits, makes impossible or imposes  
4 a condition or other restriction on the client's right to assign either the  
5 receivable or the right securing payment of the assigned receivable.

6 (3) The client shall have no liability to the debtor or other person  
7 referred to in section 8.2 for breach of any agreement referred to in that section.  
8 The other party to that agreement may not avoid the supply contract or the  
9 assignment contract or the right securing payment on the sole ground of such  
10 breach.

11 (4) The transfer of a possessory property right under section 8.1 does  
12 not affect any obligations of the client to the debtor or the person granting the  
13 property right with respect to the property transferred existing under the law  
14 governing that property right.

15 (5) Section 8.1 does not affect any requirement under rules of law  
16 other than this Law relating to the form of registration of the transfer of any  
17 rights securing payment and/or evidencing ownership of the assigned  
18 receivable.

19 PARTS - RIGHTS, OBLIGATIONS AND DEFENCES

20 (A) AS BETWEEN CLIENT AND FACTOR

Rights and  
obligations of  
client and factor

21 **9.** The mutual rights and obligations of the client and the factor arising  
22 from their agreement are determined by the terms and conditions set forth in  
23 that agreement, including any rules or general conditions referred to therein.

Representations  
by the Client

24 **10.-(1)** Unless otherwise agreed between the client and the factor, the  
25 client shall be deemed to represent and warrant to the factor that at the time of  
26 conclusion of the factoring contract and in respect of each trade receivable to  
27 which the factoring contract applies:

28 (a) the client has and will continue to have the right to assign each  
29 existing trade receivable and each future trade receivable free of all  
30 encumbrances including prohibitions on the assignment of the receivable and

1 its related rights; and

2 (b) the client has not previously assigned any existing trade  
3 receivable or future trade receivable to another person; and

4 (c) the debtor does not and will not have any defences, rights of set-  
5 off and of the nature referred to in Section 16.1 or counterclaims

6 (d) no prohibition against the assignment of the receivable

7 (2) Unless otherwise agreed between the client and the actor, the  
8 client does not represent that, in respect of any receivable to which the  
9 factoring contracts applies, the debtor has, or will have, the ability to pay or  
10 otherwise discharge any receivable.

11 11.-(1) Unless otherwise agreed between the client and the factor, Right to give  
12 notice of the assignment and a payment instruction may be sent to the debtor notice of the  
13 by either the client or the factor or both. However after notice of the assignment  
14 assignment has been sent only the factor may sent a payment instruction.

15 (2) Notice of the assignment or payment instruction sent in breach  
16 of any agreement referred to in section 11.1 is still effective for the purpose  
17 of section 15 (debtor discharged by payment).

18 (3) However, nothing in section 11.1 or 11.2 affects any obligation  
19 or liability of the party in breach of such agreement for any consequent  
20 damages.

21 12.-(1) As between the client and the factor, unless otherwise Rights of  
22 agreed and whether or not notice of the assignment has been sent: payment

23 (a) If payment in respect of the assigned receivable is made to the  
24 factor, then the factor is entitled to retain the proceeds and any goods  
25 returned in respect of the assigned receivable; and

26 (b) If payment in respect of the assigned receivable is made to the  
27 client, then the factor is entitled to payment of the proceeds and also to any  
28 goods returned to the client in respect of the assigned receivable; and

29 (c) If payment in respect of the assigned receivable is made to  
30 another person over whom the factor has priority, then the factor is entitled

	1	to payment of the proceeds and also to goods returned to such person in respect
	2	of the assigned receivable;
	3	(d) However the factor may not retain more than the value of its right
	4	in the receivable.
	5	(B) POSITION OF DEBTOR
Protection for the Debtor	6	<b>13.-(1)</b> Except as otherwise provided in this Act, an assignment does
	7	not, without the consent of the debtor, affect the rights and obligations of the
	8	debtor, including the payment terms contained in the supply contract. This Act
	9	does not affect the rights and obligations of the debtor unless, at the time of
	10	conclusion of the Supply Contract, the debtor is located in Nigeria or the law
	11	governing the supply contract is that of Nigeria.
	12	(2) A payment instruction may change the person, address or account
	13	to which the debtor is required to make payment but may not change:
	14	(a) The currency of payment specified in the supply contract; or
	15	(b) The country specified in the supply contract in which payment is
	16	to be made to a country other than that in which the debtor is located.
Notice of the assignment to the Debtor	17	<b>14.-(1)</b> Notice of the assignment or a payment instruction is effective
	18	when received by the debtor if it is in a language that is reasonably expected to
	19	inform the debtor about its contents. It is sufficient if notice of the assignment
	20	or a payment instruction is in the language of the supply contract.
	21	(2) Notice of the assignment or payment instruction may relate to
	22	trade receivable arising after the notice.
	23	(3) Notice of a subsequent assignment shall be deemed to constitute
	24	notice of all prior assignments.
Debtor discharged by payment	25	<b>15.-(1)</b> Until the debtor receives notice of the assignment, the debtor
	26	is entitled to discharge a trade receivable by paying in accordance with the
	27	supply contract.
	28	(2) After the debtor receives notice of the assignment then, subject to
	29	sections 15.3 to 15.8, the debtor can only discharge the trade receivable by
	30	paying the factor. However if there are alternative payment instructions in

1        either the notice of the assignment or in a writing received by the debtor  
2        subsequent to the notice of the assignment, then the debtor is discharged by  
3        payment in accordance x with such instructions.

4                (3) If the debtor receives more than one payment instruction  
5        relating to a single assignment of the same trade receivable by the same  
6        client, then the debtor is discharged by paying in accordance with the last  
7        payment instruction received from factor before payment.

8                (4) If the debtor receives notification of more than one assignment  
9        of the same trade receivable made by same client, then the debtor is  
10       discharged by paying in accordance with the first notification received.

11               (5) If the debtor receives notice of one or more subsequent  
12       assignments, then the debtor is discharged by paying in accordance with the  
13       notice of the assignment in respect to the last of such subsequent  
14       assignments.

15               (6) If the debtor receives notice of the assignment of a part of or an  
16       undivided interest in one or more trade receivables, then the debtor is  
17       discharged by either paying in accordance with such notice or in accordance  
18       with the provisions of this section 15 as if the debtor had not received the  
19       notice. If the debtor pays in accordance with the notice, then the debtor is  
20       discharged only to the extent of the part of undivided interest paid.

21               (7) If the debtor receives a notice of the assignment from the factor,  
22       then the debtor is entitled to request that the factor provide within a  
23       reasonable period of time adequate proof of the assignment from the initial  
24       client to the initial factor and of any intermediate assignments having been  
25       made. Unless the factor does so, the debtor is discharged by paying in  
26       accordance with section 19 (non-recovery of payments) as if notice of the  
27       assignment from factor had not been received. Adequate proof of an  
28       assignment includes but is not limited to any writing emanating from the  
29       client and indicating that the assignment has taken place or authorizing  
30       payment to the factor.

	1	(8) Sections 15.1 to 15.7 do not affect any other ground upon which
	2	payment by the debtor to the person entitled to payment or to a competent
	3	judicial or other authority or to a public deposit fund discharges the debtor.
Debtor's defences and rights of set-off	4	<b>16.</b> In a claim by the factor against the debtor for payment of the
	5	assigned trade receivable, the debtor may raise against the factor all defences
	6	and rights of set-off arising from the supply contract, or any other contract that
	7	was part of or closely connected with the same transaction, of which the debtor
	8	could avail itself, as if the assignment had not been made and such claim were
	9	made by the client.
	10	(2) The debtor may raise against the factor any other right of set-off,
	11	provided that it was available to the debtor at the time notice of the assignment
	12	was received by the debtor.
Agreement not to raise defences or rights of set-off	13	<b>17.-(1)</b> The debtors may agree with the client in a writing signed by
	14	the debtor not to raise against the factor any defences and rights of set-off that it
	15	could raise pursuant to sections 16.1 and 16.2. Such an agreement precludes the
	16	debtor from raising against the factor such defences and rights of set-off. Such
	17	an agreement may be modified only by an agreement in a writing signed by the
	18	debtor. The effect of such modification as against the factor is determined by
	19	Section 18.2 (modification of the supply contract).
	20	(2) The debtor may not waive defences or rights of set-off:
	21	(a) arising from fraudulent acts on the part of the factor; or
	22	(b) based on debtor's incapacity.
Modification of the supply contract	23	<b>18.-(1)</b> An agreement between the client and the debtor concluded
	24	before notice of the assignment is received by the debtor which affects the
	25	factor's rights is also effective as against the factor, whose rights are
	26	correspondingly affected.
	27	(2) An agreement between the client and the debtor concluded after
	28	notice of the assignment is received by the debtor which affects the factor's
	29	rights is ineffective as against the factor unless:
	30	(a) The factor at any time consents to it; or

1 (b) The trade receivable is not fully earned by performance and  
2 either:

3 (i) the modification is provided for in the supply contract; or

4 (ii) In the context of the supply contract, a reasonable factor would  
5 consent to the modification.

6 (3) Sections 18.1 and 18.2 do not affect any rights or obligations of  
7 the clients or the factor arising from breach of any agreement between them.

8 **19.** Failure of the client to perform the supply contract does not  
9 entitle the debtor to recover from the factor a sum paid by the debtor to the  
10 client or the factor. However the rights of the debtor against the client in  
11 respect of such sum paid are unaffected.

Non-recovery of  
payments

12 (C) POSITION OF THIRD PARTIES

13 **20.**-(1) If more than one assignment is made by the same client of  
14 the same trade receivable then priority amongst the factors of their  
15 entitlement to the trade receivable will be determined by general rules of law  
16 and in the absence thereof then the first factor to give notice to the debtor  
17 shall have priority.

Law applicable  
to competing  
rights in a trade  
receivable

18 (2) With the exception of matters that are settled in section 20.1  
19 and elsewhere in this Act the law of the state in which the client is located  
20 governs the priority of the right of a factor in the assigned trade receivable  
21 over the right of a competing claimant.

22 **21.**-(1) if proceeds are received by the factor, then the factor is  
23 entitled to retain those proceeds to the extent that the factor's right and  
24 interest in the assigned trade receivable however arising has priority over the  
25 right if a competing claimant in the assigned trade receivable.

Special rules on  
proceeds

26 (2) If proceeds are received by the client, then the right of the  
27 factor in those proceeds has priority over the right of a competing claimant  
28 in those proceeds to the same extent as the factor's right had priority over the  
29 right in the assigned trade receivable of that claimant if:

30 (a) The client received the proceeds under instructions from the

	1	factor to hold the proceeds for the benefit of the factor; and
	2	(b) The proceeds are held by the client for the benefit of the factor
	3	separately and are reasonably identifiable and segregated from the other assets
	4	of the client, such as in the case of a separate deposit or securities account
	5	containing only proceeds consisting of cash or securities.
	6	(3) Nothing in section 21.1 affects the priority of a person having
	7	against the proceeds a right of set-off or a right created by agreement and not
	8	derived from a right in the trade receivable.
Subordination	9	<b>22.</b> A factor entitled to priority may at any time subordinate its
	10	priority unilaterally or by agreement in favour of any existing or future factors.
Form of a factoring contract	11	<b>23.-(1)</b> A factoring contract concluded between persons who are
	12	located in the same country is formally valid as between them if it satisfies the
	13	requirements of either the law which governs such contract or the law of the
	14	country in which it is concluded.
	15	A factoring contract concluded between persons who are located in different
	16	countries is formally valid as between them if it satisfies the requirements of
	17	either the law which governs such contracts or the law of one of those
	18	countries.
	19	PART 6 - INTERNATIONAL FACTORING
Relations between factors in International Factoring Transactions	20	<b>24.-(1)</b> Relations between factors concerning the assignment
	21	between them of international trade receivables in international factoring
	22	transactions and which are commonly known as:
	23	(a) export factoring;
	24	(b) import factoring;
	25	Shall be governed by the rules (if any) of an association established for such
	26	purposes of which the factors are both members and in the absence of such
	27	rules, by the law agreed to between them.
	28	Unless agreed otherwise by the factors involved or regulated by the rules of an
	29	association of which the factors are both members, the law set out in Parts 1 to 5
	30	of this Act shall apply accordingly. To the extent that any of the same shall not

1        apply to any aspect of their relationship then the applicable law shall be that  
2        of the county in which the factor giving the assignment is located.

3                                PART 7 - ENTRY INTO FORCE AND APPLICATION

4                                **25.** This Bill may be cited as the Factoring Assignments      Citation  
5        (Establishment, etc) Bill, 2019.

6                                (2) This Law applies only to assignments if the factoring contract  
7        is concluded on or after the date when this Law comes into force.

   EXPLANATORY MEMORANDUM

This bill seeks to create an avenue where interest of contractual rights to payment of a monetary sum by a debtor is transferred by agreement to a third party called the factor. It is a service involving a financial transaction receivables (i.e invoices) to a third party called the factor, with the factor assuming full credit and collection of responsibilities.





# A BILL

## FOR

AN ACT TO REPEAL THE NATIONAL SECURITY AGENCIES ACT CAP N74 OF 1986 AND TO ENACT THE NATIONAL SECURITY AGENCIES ACT 2019 AND TO DEFINE THE FUNCTIONS OF MEMBERS OF THE NATIONAL SECURITY AGENCIES; THE DEFENCE INTELLIGENCE AGENCY; NATIONAL INTELLIGENCE AGENCY AND THE STATE SECURITY SERVICE AND THEIR FUNCTIONS AND PROCEDURES IN RESPECT OF INTELLIGENCE RELATING TO THE SECURITY OF THE NATION; AND TO PROVIDE FOR THE APPOINTMENT OF THE PRINCIPAL OFFICERS, THE COORDINATOR OF THE AGENCIES AND TO DEFINE THEIR FUNCTIONS; AND FOR RELATED MATTERS

*Sponsored by Hon. Rimamnde Shawulu Kwewum*

[ ] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria-

### CHAPTER I

1. There is hereby for the effective conduct of the National security established the National Security Agencies which shall consist of:

(a) The Defence Intelligence Agency (DIA); (b). The National Intelligence Agency (NIA); and (c). The State Security Service (SSS):

1. The President shall for the purpose of the Agencies:

(1) Appoint Director Generals subject to confirmation by the National Assembly

(2) Establish the following directorates and departments or divisions for the Agencies:

(a) Congressional Affairs;

(b) Employment Opportunities;

(c) Integrity and Compliance;

(d) Ombudsman (Tribunal or Board of inquiry);

Establishment, Composition, organizations, roles and responsibilities of the National Security Agencies

Establishment  
of the Defence  
Intelligence  
Agency

- 1 (e) Public Affairs;
- 2 (f) Facilities and Logistic;
- 3 (g) Finance;
- 4 (h) Records management and data keeping;
- 5 (i) Intelligence;
- 6 (j) Training;
- 7 (k) Operations;
- 8 (3) Prescribe the functions of the structures contemplated in (2)
- 9 above;
- 10 (4) In general, but subject to the provisions of this Act, determine and
- 11 prescribe all matters that are necessary or expedient for the creation and
- 12 establishment of the Agencies out of the organizational component;
- 13 **2.-(1)** There is hereby established an Agency Known as the Defence
- 14 Intelligence Agency which shall be constituted in accordance with and shall
- 15 have such functions as are conferred on it by this Act.
- 16 (2) The Agency:
- 17 (a) Shall be a body corporate with perpetual succession and a
- 18 common seal;
- 19 (b) May sue and be sued in its corporate name and may, for the
- 20 purpose of its functions, acquire, hold or dispose of property (whether
- 21 moveable or immovable);
- 22 (c) The Headquarters of the Agency shall be in the federal Capital
- 23 Territory or any other place that has been designed by the (constitution of the
- 24 Federal Republic of Nigeria) an Act of the National Assembly.
- 25 (3) The Agency shall be responsible to:
- 26 (a) The detection and prevention of crime of a military nature against
- 27 the security of the Federal Republic of Nigeria;
- 28 (b) The protection and preservation of all military classified matters
- 29 concerning the security of the Federal Republic of Nigeria, both within and
- 30 outside Nigeria;

1 (c) The protection of both civil and military rights; and the  
2 enforcement of discipline among its member

3 (d) Such other responsibilities affecting defence intelligence of a  
4 military nature, both within and outside Nigeria, as the President or National  
5 Security Advisory Council or the chief of Defence Staff as the case may be  
6 may deem necessary.

7 (4) The Agency shall consist of the following members:

8 (a) The Director General who shall be:

9 (i) The chief Executive and Accounting officer of the Agency;

10 (ii) A serving military officer of not below the rank of Brigadier  
11 General or equivalent;

12 (b) Directors to man the following departments of the Agency;

13 (i) Congressional Affairs;

14 (ii) Employment Opportunities;

15 (iii) Integrity and Compliance;

16 (iv) Ombudsman (Tribunal or Board of inquiry);

17 (v) Public Affairs;

18 (vi) Facilities and Logistic;

19 (vii) Finance;

20 (viii) Records management and data keeping;

21 (ix) Intelligence;

22 (x) Training;

23 (xi) Operations;

24 (5) The Director General of the Agency shall be appointed by  
25 President subject to confirmation by the National Assembly.

26 (6) The tenure of the office of the Director General:

27 (a) shall hold office for a period of four years and may be re-  
28 appointed for a further term of four years and no more;

29 (b) The Director General of the Agency may at any time be  
30 removed by the President for inability to discharge the function of his office

1 (whether arising from infirmity of mind or body or any other cause) or for  
2 misconduct or if the President is satisfied that it is not in the interest of the  
3 Agency or national security or the interest of the public that he should continue  
4 in office;

5 (c) The Director General of the Agency may resign his position by  
6 giving a notice in writing to the President and shall on the date of the receipt of  
7 the notice by the President, ceased to be the Director General of the Agency;

8 (d) Where a vacancy occurs of the office of the Director General of the  
9 Agency, it shall be filled by the appointment of a successor by the President to  
10 hold office for the remainder of the term of office of the predecessor, so  
11 however that the successor shall represent the same interest as his predecessor;

12 (e) At any time when a vacancy occurs before appointment of a  
13 Director General is perfected, the most senior Director may Act as the Director  
14 General;

15 (f) No person outside the organization shall be appointed Acting  
16 Director General;

17 (g) In the event of sudden death, resignation or incapacitation of the  
18 Director General or at any time the office becomes vacant, before the  
19 substantive Director General is nominated the President shall appoint the  
20 Senior Director as the Acting Director General;

21 (h) The tenure of any Director General shall not only be extended  
22 before six calendar months after approval by the Senate.

23 (7) The Director General of the Agencies as far as is reasonably  
24 practicable, take steps to ensure that:

25 (a) National security intelligence, intelligence collection methods,  
26 sources of information and identity of members of the Agencies as the case may  
27 be, are protected from unauthorized disclosure;

28 (b) No action is carried out that could give rise to any reasonable  
29 suspicion that the Agencies as the case may be, are concern in furthering,  
30 protecting or undermining the interests of any section of the population or any

1 political party or organization;

2 (c) The function of the Agencies as the case may be are limited to  
3 what is necessary for the purpose of the discharge of their functions in terms  
4 of the National Security Agencies Act 2016; and

5 (d) Take steps to ensure the expeditious integration and  
6 rationalization of the organizational components in to the agency.

7 (8) The Agency may make standing orders regulating its  
8 proceedings or any of its directorate.

9 3.-(1) There is hereby established an Agency Known as the  
10 National Intelligence Agency which shall be constituted in accordance with  
11 and shall have such functions as are conferred on it by this Act.

Establishment of  
the National  
Intelligence  
Agency

12 (2) The Agency:

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

15 (b) May sue and be sued in its corporate name and may, for the  
16 purpose of its functions, acquire, hold or dispose of property (whether  
17 moveable or immovable);

18 (c) The Headquarters of the Agency shall be in the federal Capital  
19 Territory or any other place that has been designed by the constitution of the  
20 Federal Republic of Nigeria.

21 (3) The Agency shall be responsible to:

22 (a) the general maintenance of the security of Nigeria outside  
23 Nigeria, concerning matters that are not related to military issues;

24 (b) the protection of the life and properties of all Nigerian and that  
25 of the Nigerian embassy out side Nigeria; and

26 (c) such other responsibilities affecting national intelligence  
27 outside Nigeria as the National Security Advisory Council or the President,  
28 as the case may be, may deem necessary.

29 (4) The Agency shall consist of the following members:

30 (a) The Director General who shall be;

- 1 (b) The chief Executive and Accounting officer of the Agency;
- 2 (c) A serving member of the Agency or military officer of not
- 3 below the rank Director or Brigadier General or equivalent;
- 4 (5) Directors to man the following departments of the Agency:
- 5 (i) Congressional Affairs;
- 6 (ii) Employment Opportunities;
- 7 (iii) Integrity and Compliance;
- 8 (iv) Ombudsman (Tribunal or Board of inquiry);
- 9 (v) Public Affairs;
- 10 (vi) Facilities and Logistic;
- 11 (vii) Finance;
- 12 (viii) Records management and data keeping;
- 13 (ix) Intelligence;
- 14 (x) Training;
- 15 (xi) Operations;
- 16 (6) The Director General of the Agency shall be appointed by
- 17 President subject to confirmation by the National Assembly
- 18 (7) The tenure of the office of the Director General:
- 19 (a) shall hold office for a period of four years and may be re-appointed
- 20 for a further term of four years and no more;
- 21 (b) The Director General of the Agency may at any time be removed
- 22 by the President for inability to discharge the function of his office (whether
- 23 arising from infirmity of mind or body or any other cause) or for misconduct or
- 24 if the President is satisfied that it is not in the interest of the Agency or national
- 25 security or the interest of the public that he should continue in office;
- 26 (c) The Director General of the Agency may resign his position by
- 27 giving a notice in writing to the President and shall on the date of the receipt of
- 28 the notice by the President, ceased to be the Director General of the Agency;
- 29 (d) Where a vacancy occurs of the office of the Director General of the
- 30 Agency, it shall be filled by the appointment of a successor by the President to

1 hold office for the remainder of the term of office of his predecessor, so  
2 however that the successor shall represent the same interest as his  
3 predecessor;

4 (e) At any time when a vacancy occurs before appointment of a  
5 Director General is perfected, the most senior Director may Act as the  
6 Director General;

7 (f) No person outside the organization shall be appointed Acting  
8 Director General;

9 (g) In the event of sudden death, resignation or incapacitation of  
10 the Director General or at any time the office becomes vacant, before the  
11 substantive Director General is nominated the President shall appoint the  
12 Senior Director as the Acting Director General;

13 (h) The tenure of any Director General shall not only be extended  
14 before six calendar months after approval by the Senate.

15 (8) The Director General of the Agencies as far as is reasonably  
16 practicable, take steps to ensure that:

17 (a) National security intelligence, intelligence collection methods,  
18 sources of information and identity of members of the Agencies as the case  
19 may be, are protected from unauthorized disclosure;

20 (b) No action is carried out that could give rise to any reasonable  
21 suspicion that the Agencies as the case may be, are concerned in furthering,  
22 protecting or undermining the interests of any section of the population or  
23 any political party or organization;

24 (c) The function of the Agencies as the case may be are limited to  
25 what is necessary for the purpose of the discharge of their functions in terms  
26 of the National Security Agencies Act 2016; and

27 (d) Take steps to ensure the expeditious integration and  
28 rationalization of the organizational components in to the agency.

29 (9) The Agency may make standing orders regulating its  
30 proceedings or any of its directorate.



Establishment  
of the State  
Security Service

1                   4.-(1) There is hereby established an Agency Known as the State  
2                   Security Services which shall be constituted in accordance with and shall have  
3                   such functions as are conferred on it by this Act.

4                   (2) The Service:

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

7                   (b) May sue and be sued in its corporate name and may, for the  
8                   purpose of its functions, acquire, hold or dispose of property (whether  
9                   moveable or immovable);

10                  (c) The Headquarters of the Service shall be in the federal Capital  
11                  Territory or any other place that has been designed by the constitution of the  
12                  Federal Republic of Nigeria.

13                  (3) The Service shall be responsible for:

14                  (a) The protection of national security and, in particular, its protection  
15                  against threats from espionage, terrorism and sabotage, from the activities of  
16                  agents of foreign powers and from actions intended to overthrow or undermine  
17                  parliamentary democracy by political, industrial or violent means;

18                  (b) Safeguard the economic well-being of the Federal Republic of  
19                  Nigeria against threats posed by action or intention of persons outside Nigeria;

20                  (c) the detection and prevention within Nigeria of any crime against  
21                  the internal security of the Federal Republic of Nigeria;

22                  (d) the protection and preservation of all non-military classified  
23                  matters concerning the internal security of Nigeria;

24                  (e) The protection of Nigeria against cyber based attacks and high  
25                  technology crimes;

26                  (f) The protection of civil and criminal rights off all citizen of the  
27                  Federal Republic of Nigeria including members of the service;

28                  (g) The combating of transnational/natural criminal organizations  
29                  and enterprises;

30                  (h) such other responsibilities affecting internal security within

1 Nigeria as National Assembly or the Advisory Council or the President, as  
2 the case may be, may deem necessary.

3 (4) The Service shall consist of the following members:

4 (a) The Director General who shall be;

5 (b) The Chief Executive and Accounting officer of the Service;

6 (c) A serving member of the Service or any person with intelligent  
7 background and deem fit by the President to occupy such a position; but  
8 shall not be a retired or removed or dismissed officer of the Service:

9 (i) The Director General shall be responsible for the efficiency of  
10 the service and shall be his duty to ensure;

11 (ii) That there are arrangements for securing that no information is  
12 obtained by the service except so far as necessary for the proper discharge of  
13 its functions or disclosed by it except so far as necessary for that purpose or  
14 for the purpose of preventing or detecting serious crime; and

15 (iii) That the service does not take any action to further the interest  
16 of any political party.

17 (iv) The arrangement mentioned in d(i) above shall be such as to  
18 ensure that information in the possession of the service is not disclosed for  
19 use in determining whether a person should be employed, or continue to be  
20 employed, by any person, or in any office or capacity, except in accordance  
21 with the provisions in that behalf approved by the President.

22 (d) Directors to man the following departments of the Agency:

23 (i) Congressional Affairs;

24 (ii) Employment Opportunities;

25 (iii) Integrity and Compliance;

26 (iv) Ombudsman (Tribunal or Board of inquiry);

27 (v) Public Affairs;

28 (vi) Facilities and Logistic;

29 (vii) Finance;

30 (viii) Records management and data keeping;

1 (ix) Intelligence;

2 (x) Training;

3 (xi) Operations;

4 (e) The Director General of the Service shall be appointed by  
5 President subject to confirmation by the National Assembly;

6 (f) The Director General shall be appointed from the ranks of  
7 Directors and deputy Directors of the organization, provided that such a person  
8 has been involved in the operations and intelligence gathering activities of the  
9 organistaion;

10 (5) The tenure of the office of the Director General:

11 (a) shall hold office for a period of four years and may be re-appointed  
12 for a further term of four years and no more;

13 (b) The Director General of the Service may at any time be removed  
14 by the President for inability to discharge the function of his office (whether  
15 arising from infirmity of mind or body or any other cause) or for misconduct or  
16 if the President is satisfied that it is not in the interest of the Service or national  
17 security or the interest of the public that he should continue in office;

18 (c) The Director General of the Service may resign his position by  
19 giving a notice in writing to the President and shall on the date of the receipt of  
20 the notice by the President, ceased to be the Director General of the Service;

21 (d) At any time when a vacancy occurs before appointment of a  
22 Director General is perfected, the most senior Director may Act as the Director  
23 General;

24 (e) No person from outside the organsiation shall be appointed as  
25 Acting Director General;

26 (f) In the event of sudden death, resignation or incapacitation of the  
27 Director General or at any time the office becomes vacant, before the  
28 substantive Director General is nominated the President shall appoint the  
29 Senior Director as the Acting Director General;

30 (g) The tenure of any Acting Director General shall only be extended

- 1 beyond six calendar months after approval by the National Assembly
- 2 (6) The Director General of the Agencies as far as is reasonably
- 3 practicable, take steps to ensure that:
- 4 (a) National security intelligence, intelligence collection methods,
- 5 sources of information and identity of members of the Agencies as the case
- 6 may be, are protected from unauthorized disclosure;
- 7 (b) No action is carried out that could give rise to any reasonable
- 8 suspicion that the Agencies as the case may be, are concern in furthering,
- 9 protecting or undermining the interests of any section of the population or
- 10 any political party or organization;
- 11 (c) The function of the Agencies as the case may be are limited to
- 12 what is necessary for the purpose of the discharge of their functions in terms
- 13 of the National Security Agencies Act 2016; and
- 14 (d) Take steps to ensure the expeditious integration and
- 15 rationalization of the organizational components in to the agency.
- 16 (7)(i) The Service may make standing orders regulating its
- 17 proceedings or any of its directorate;
- 18 (ii) The standing orders and Operational guidelines shall be
- 19 submitted to the national Assembly for approval
- 20 (8) Procedure for arrest:
- 21 (a) The Director General, Directors and all persons designated as
- 22 field Operations and Intelligence staff may carry firearms and may make
- 23 arrest without warrant for any offence against the Federal Republic of
- 24 Nigeria committed in their presence, or for any felony cognizable under the
- 25 laws of Nigeria if they have reasonable grounds to believe that the person(s)
- 26 to be arrested has committed such felony;
- 27 (b) In making an arrest, the officer or personnel of the Service
- 28 making the arrest shall actually touch or confine the body of the person to be
- 29 arrested, unless there is a submission to the custody by word or action;

1 (c) Arrest of persons on reasonable suspicion shall be conducted as  
2 follows:

3 (i) Except when the person arrested is in the actual course of the  
4 commission of a crime or is pursued immediately after the commission of a  
5 crime or escaped from lawful custody, the officer or personnel making the  
6 arrest shall inform the person arrested of the reason for the arrest;

7 (ii) The officer or personnel making the arrest or officer or personnel  
8 in charge of the office of the service where the arrest is being effected shall  
9 inform the person arrested of his rights to:

10 (i) Remain silent or avoid answering any question until after  
11 consultation with a legal practitioner of his choice or any person of his choice;

12 (ii) Consult a legal practitioner of his choice before making or writing  
13 any statement or answering any question put to him after arrest; and

14 (iii) Free legal representation by the Legal Aid Council.

15 (d) Noting in this section or in this Act shall be construed as permitting  
16 an officer or personnel of the service to arrest a person by reason only of  
17 consanguinity or affinity or association with the person alleged to have  
18 committed an offence;

19 (e) The arresting officer must within 12 hours provide a written report  
20 to the immediate superiors, providing details on why he reasonably suspects  
21 the possible commission of the alleged offence;

22 (f) An investigation would be to ascertain the veracity or otherwise of  
23 the allegations;

24 (g) Where there a prima facie is established, the suspect shall be  
25 charged to court within 24hours where there is a court of competent  
26 jurisdiction;

27 (h) Where the alleged offence is not matter of threat to National  
28 Security or related there to the functions of the service as provide by the Act, the  
29 suspect(s) shall be handed over to the Police for further investigation and  
30 prosecution;

1 (i) Where a prima facie case was not establish the suspect(s) shall  
2 be release unconditional within 12 hours;

3 (j) Where any of the fundamental human rights of the suspect(s)  
4 was infringed upon at the arrest on reasonable suspicion, the service shall:

5 (i) Replace all damaged properties;

6 (ii) Provide medical attention and pay any cost incurred;

7 (iii) Apologise to the alleged suspect(s) provided such apologies  
8 are made public, if such arrest were made publicly or announced in public

9 (8) Prosecution of offences: - subject to the provisions of the  
10 constitution of the Federal Republic of Nigeria, relating to the powers of the  
11 prosecution of the Attorney General of the federation, prosecution of all  
12 offences in any court shall be undertaken by:

13 (a) A law officer in the office of the Attorney General of the  
14 federation;

15 (b) A legal practitioner authorized by the Attorney General of the  
16 Federation;

17 (c) legal practitioner authorized by any other enactment.

18 **5.-(1)** the Principal Officers of the Agencies shall with the  
19 collaboration of the National Security Adviser make the following  
20 regulations for the effective management of the Agencies:

Regulations for  
the National  
Security Agencies

21 (a) The employment, training, promotion, posting, transfer, leave  
22 of absence, resignation, discharge, dismissal, suspension or reduction in  
23 rank or grade of members and the personnel management of those members  
24 of the Agencies;

25 (b) The standard of physical and mental fitness and medical  
26 examination of members, and medical, dental and hospital treatment of such  
27 members and their families;

28 (c) The numerical establishment of the Agencies, the conditions of  
29 service of the members thereof, the salaries, salary scales, wages and  
30 allowances of members and the systems relating to the administration and

1 determination thereof and various divisions, branches, grades, ranks, and  
2 designations in the Agencies;

3 (d) The establishment and maintenance of training institutions or  
4 centres for members, and the instruction, training, discipline and control of  
5 such members, at such institutions or centres; the definition of offences against  
6 duty and discipline and generally, the control and discipline of the Agencies;

7 (e) The charging of members with misconduct;

8 (f) The general management maintenance of the various Agencies;

9 (g) The control over administration of funds appropriated for the  
10 Agencies in order to bring about the systematic and orderly management  
11 thereof and to promote efficiency and economy in the utilization thereof;

12 (h) The conditions for and procedures regarding the permission of  
13 access to any premises under the control of the Agencies and matters relating  
14 thereof;

15 (i) Any matter which in terms of this Act shall or may be prescribed.

16 CHAPTER II

Coordinator on  
National Security

17 2.-(1) For the purpose of coordinating the intelligence activities of the  
18 National security Agencies set up under section 3 of this Act, there shall be  
19 appointed by the President and confirm by the National house of Assembly a  
20 coordinator on National Security to be known as National Security Adviser.

21 (2) The coordinator on National Security shall be a principal staff  
22 officer in the office of the President.

23 (3) The National Security Adviser shall be charged with the following  
24 functions:

25 (1) Advising the President on matters concerning the intelligence  
26 activities of the Agencies;

27 (2) Making recommendations in relation to the activities of the  
28 Agencies to the President, as contingencies may warrant;

29 (3) Correlating and evaluating intelligence reports relating to the  
30 national security and providing the appropriate dissemination of such

1 intelligence within Government, using existing facilities as the President  
2 may direct;

3 (4) May make regulations regarding the following:

4 (a) The protection of information and intelligence;

5 (b) The carrying out of the security screening investigation by  
6 members of the National Security Agencies;

7 (c) Coordination of intelligence as an activity;

8 (d) Production and dissemination of intelligence for consideration  
9 by the President and National Security Advisory Council as established by  
10 section 5(1) of this Act;

11 (e) Coordinating all the Agencies as established under section 3 of  
12 this Act;

13 (f) Any regulation which may affect the function of the any  
14 Agencies under this Act shall be made in consultation with the Director  
15 General or Principal Officers of such Agency;

16 (g) A security screening investigation contemplated in subsection  
17 (4)(b) may entitle the relevant members of the National Security Agencies  
18 concerned to subject the person undergoing a security screening  
19 investigation to a polygraph examination as prescribed, in order to  
20 determine the reliability of the information provided by him or her;

21 (h) A regulation made under this Act may not be publish in the  
22 Gazette, but where such a regulation only affects the members of the  
23 National Security Agencies or their functioning, the affected parties must be  
24 notified in a manner as may be determined by the National Security Adviser;

25 (i) A regulation made under this section may provide that any  
26 person who contravenes a provision thereof or fails to comply therewith  
27 shall be guilty of an offence and liable on conviction to a fine or to  
28 imprisonment for a period not exceeding five years.

29 (5) Doing any other matter necessary for the effective  
30 administration of this Act or such other things in connection with the



Establishment  
of the National  
Security Advisory  
Councils

1 foregoing provisions of this section as the President may from time to  
2 determine

3           **3.-(1)** The President shall in the interest of National security, as he  
4 may determine establish National Security Advisory Councils, on such  
5 conditions and remuneration (if any) prescribed by him, to advise him on the  
6 exercise of his powers under this Act and matters relating thereto and to also  
7 advise the Director Generals of the Agencies concerned on the exercise of their  
8 powers under this.

9           (2) The National Security Advisory Council shall be constituted by  
10 the following:

11           (a) The President of the Federal Republic of Nigeria, who shall be the  
12 Chairman and he may delegate such position to the Vice President or Minister  
13 of Defence;

14           (b) The Vice President;

15           (c) The President of the Senate;

16           (d) The Speaker of the House of Representatives;

17           (e) Chief of Defence Staff;

18           (f) The Chief of Army Staff;

19           (g) The Chief of Air Staff;

20           (h) The Chief of Naval Staff;

21           (i) The Inspector General of Police;

22           (j) Minister of Defence;

23           (k) The Director General of State Security Service;

24           (l) The Director General of National Intelligence Agency;

25           (m) The Director General of Defence Intelligence Agency;

26           (n) The National Security Adviser;

27           (o) All former Presidents and head of states;

28           (p) All former Senate Presidents;

29           (q) All former Chief Justices of the Federation;

30           (r) All former Speaker of House of Representatives

1 (3) The National Security Advisory Council shall advise the  
2 President:

3 (a) on all matters of national security including the sovereignty,  
4 integrity, defence of state and crisis management;

5 (b) with the responsibility for matters relating:

6 (i) To the public security; and;

7 (ii) Generally to the structure, staff and other matters concerning  
8 the Agencies set up under this Act.

9 **4.-(1)** The President may by an instrument under his hand make  
10 provisions with respect to the following matters:

Instruments  
relating to the  
advisory Councils  
of the Agencies

11 (a) The composition, membership and appointment to the National  
12 Security Advisory Councils established by section 5(1) of this Act;

13 (b) The manner in which the powers of each Agency is to be  
14 exercised and the conferment on specified officers of the Agencies, or the  
15 power of a superior officer; and

16 (c) Such other matters concerning or incidental to any of the  
17 matters mentioned in this Act as the President may deem fit.

18 **5.-(1)** Nothing in this Act contained shall be construed as  
19 indemnifying any members against prosecution by any court of law in  
20 respect of any offence.

Discipline

21 (2) The Director General concerned may, in the manner prescribed,  
22 charge any member of his Agencies with misconduct and request him or her  
23 so charged to submit, within such period and in such manner as may be  
24 prescribed, a written admission or denial of the charge and any written  
25 explanation he or she may wish to offer in connection with the alleged  
26 misconduct.

27 (3) After the expiration of the said period the Director General  
28 concerned may appoint a Board of Enquiry to investigate the charge in  
29 question.

30 (4) A board of inquiry may subpoena any person as a witness and

1 administer an oath to a person so subpoenaed or, in lieu thereof, accept an  
2 affirmation from him or her.

3 (5) At the investigation of any charge in terms of this section, the law  
4 relating to evidence and witnesses as applicable in connection with the  
5 criminal proceedings under the Criminal code, penal code and the evidence  
6 Act, shall subject to the provision of this Act, apply

7 (6) Where a member is charged with misconduct which constitutes  
8 an offence in respect of which he or she has been convicted by a court of law, a  
9 certified copy of the record of the trial in question shall, on its mere production  
10 by any person, be admissible in evidence before the board of inquiry  
11 investigating the charge, and a certified copy of the charge and conviction in  
12 question shall, on its mere production by any person to such board, be prima  
13 facie proof of the commission of such offence by the member concerned

14 (7) After considering the evidence adduced at the enquiry and  
15 affording the member charged, the board shall find the member charged guilty  
16 or not guilty of the misconduct with which he or she has been charged and  
17 inform him or her of its finding; provided that if the member charged admits  
18 that he or she is guilty of the misconduct in question, he or she may be found  
19 guilty without any evidence having been adduced.

20 (8) A member found guilty of misconduct may, within such period and  
21 in such manner as may be prescribed, appeal to the National security Adviser  
22 against the finding of the board of enquiry and make representation in writing  
23 to the national security Adviser in regard to the imposition of punishment.

24 (9) The board of enquiry shall and the Director General concern may  
25 make recommendations to the National security Adviser regarding the  
26 punishment which may be imposed upon a member found guilty.

27 (10) The National Security Adviser may, after considering the record  
28 of the proceedings before the board of enquiry and the recommendations of the  
29 board, and recommendations of the Director General concerned and the  
30 grounds of appeal of, any representations made by, the member charged, direct

1       that the conviction and sentence be set aside, or confirm the conviction on  
2       any charge and:

3               (a) Direct that no further action be taken in the matter;

4               (b) Direct that the member concerned be cautioned or  
5       reprimanded;

6               (c) Impose upon the member concerned a fine not exceeding the  
7       amount determined from time to time by the National Security Adviser by  
8       regulation, and which may be recovered by way of deductions from his or  
9       her salary or allowances;

10              (d) Direct that his or her salary, rank, or grade or both his or her  
11       salary and rank or grade be reduced to such extent as may be recommended;

12              (e) Direct that the member be called upon to resign from the  
13       Agency from a date specified by the national Security Adviser or discharge  
14       the member from the Agency from the date specified by the National  
15       Security Adviser.

16              **6. -(1) Unless otherwise provided in this Act:**

General

17              (a) Every member of the Agencies shall place the whole of their  
18       time at the disposal of the Agencies;

19              (b) No member of the Agencies shall perform or engage  
20       themselves to perform any remunerative work outside their employment:

21              (c) No member of the Agencies may claim as of right additional  
22       remuneration in respect of any official duty or work which they are required  
23       by competent authority to perform.

24              (2) Any person who has in his possession or under his control any  
25       code, password, sketch, plan, model, note, or other document, article or  
26       information, which relates to or is used in a protected place or anything in  
27       such a place, or which has been made or obtained in contravention of this  
28       Act, or which has been entrusted in confidence to him by any person holding  
29       a public office, or which he has obtained or to which he has access owing to  
30       his position as a person who holds or has held such office or as a person who

1 is or was a party to a contract with the Government or a specified authority or a  
2 contract the performance of which in the whole or in part is carried out in or in  
3 relation to a protected place, or as a person who holds or has held such an office  
4 or is or was a party to such contract, and who:

5 (a) Uses the same in any manner or for any purpose prejudicial to the  
6 safety or interest of Nigeria;  
7 Communicates the same to any person other than a person to whom he is  
8 authorized to communicate it or to whom it is in the interest of Nigeria his duty  
9 to communicate it;

10 (b) Fails to take proper care of, or so conducts himself as to endanger  
11 the safety of, the same; or

12 (c) Retains the sketch, plan, model, note, document, or article in his  
13 possession or under his control when he has no right or when it is contrary to his  
14 duty so to do, or fails to comply with any lawful directions with regard to the  
15 return or disposal thereof,

16 Shall be guilty of an offence and liable on conviction to imprisonment for a  
17 term not exceeding ten years.

18 (3) Any person who has in his possession or under his control any  
19 sketch, plan, model, note, or other document, article, or information relating to  
20 munitions of war and who communicates it directly or indirectly to any person  
21 in any manner for any purpose prejudicial to the safety or interests of Nigeria  
22 shall be guilty of an offence and liable on conviction to imprisonment for a term  
23 not exceeding ten years;

24 (4) Any person who receives any code, password, sketch, plan,  
25 model, note or other document, article or information, knowing or having  
26 reasonable grounds to believe at the time when he receives it that the same is  
27 communicated to him in contravention of the provisions of this Act, shall,  
28 unless he proves that the communication thereof to him was against his wish,  
29 be guilty of an offence and liable on conviction to imprisonment for a term not  
30 exceeding ten years.

1 (5) Any person who communicates to any person other than a  
2 person to whom he is authorized by an authorized officer to communicate it  
3 or to whom it is in the interest of Nigeria his duty to communicate it, any  
4 information relating to the defence or security of Nigeria shall be guilty of an  
5 offence and liable on conviction to imprisonment for a term not exceeding  
6 ten years.

7 (6) For the purpose of section 5 "information relating to the  
8 defence or security of Nigeria" includes information relating to the  
9 movement or location of defence forces or members of the Agencies, the  
10 steps taken to protect any vital installations or protected places, and the  
11 acquisition or disposal of munitions of war.

12 7.-(1) The National Security Agencies Act 1986 is hereby repealed. Repeal

13 (2) If any other law is inconsistent with the provision of the Act, the  
14 Provisions of this Act shall prevail and other law shall, to the extent of  
15 inconsistency, be void.

16 8. In this Bill, unless the context otherwise indicates- Definitions

17 "Agency" means the National Security Agencies (the Defence Intelligence  
18 Agency, the National Intelligence Agency and State Security Service) as  
19 established by section 3 of this Act;

20 "Cabinet" means the Cabinet of the Federal Republic of Nigeria as referred  
21 to by the Constitution;

22 "Constitution" means the Constitution of the Federal Republic of Nigeria,  
23 1999 as amendment;

24 "Classified matters" has the same meaning assigned thereto in section 9 of  
25 the Official Secrets Act or any information or thing declared to be classified  
26 by an authorized officer;

27 "Co-ordinator of the agencies" means the National Security Adviser or any  
28 person as may be appointed by the President or Designated by him;

29 "Counter-intelligence" means measures and activities conducted, instituted  
30 or taken to impede and to neutralize the effectiveness of foreign or hostile

1 intelligence operations, to protect intelligence and any classified information,  
2 to conduct security screening investigations and to counter subversion,  
3 treason, sabotage and terrorism aimed at or against personnel, strategic  
4 installations or resources of the Nigeria;

5 "Covert collection" means the acquisition of information which cannot be  
6 obtained by overt means and for which complete and continuous secrecy is a  
7 requirement;

8 "Crime intelligence" means intelligence used in the prevention of crime or to  
9 conduct criminal investigations and to prepare evidence for the purpose of law  
10 enforcement and the prosecution of offenders;

11 "Departmental intelligence" means intelligence about any threat or potential  
12 threat to the national security and stability of Nigeria which falls within the  
13 functions of a Department of State, and includes intelligence needed by such  
14 department in order to neutralize such threat;

15 "Director General" means the person appointed as the Director General of the  
16 Agencies under section 3 of this Act;

17 "Domestic intelligence" means intelligence on any internal activity, factor or  
18 development which is detrimental to the national stability of Nigeria, as well as  
19 threats or potential threats to the constitutional order of the Nigeria and the  
20 safety and the well-being of its people;

21 "Domestic military intelligence" means intelligence required for the planning  
22 and conduct of military operations within Nigeria to ensure security and  
23 stability for its people;

24 "Evaluate" means the process of determining and assessing whether or not  
25 information is possibly correct, probably correct or factually correct;

26 "foreign intelligence" means intelligence on any external threat or potential  
27 threat to the national interests of Nigeria and its people and intelligence  
28 regarding opportunities relevant to the protection and promotion of such  
29 national interests irrespective of whether or not it can be used in the  
30 formulation of the foreign policy of Nigeria;

1 "foreign military intelligence" means intelligence regarding the war  
2 potential and military establishment of foreign countries (including their  
3 capabilities, intentions, strategies and tactics) which can be used by Nigeria  
4 in the planning of its military forces in time of peace and for the conduct of  
5 military operations in time of war;

6 "Minister" means the President or the member of his Cabinet designated by  
7 the President to assume the responsibility for intelligence services as  
8 contemplated in the Constitution; or responsible for National Security;

9 "National intelligence estimate" means the product of the process of  
10 considering and weighing the possibilities, probabilities and facts disclosed  
11 by national security intelligence with regard to any situation, and of drawing  
12 conclusions from such possibilities, probabilities and facts;

13 "National Security Agencies" means-

14 (a) Defence Intelligence Agency (DIA) as defined by section 2(a)  
15 of this Act;

16 (b) National Intelligence Agency (NIA) as defined by section 2(b)  
17 of this Act;

18 (c) State Security Service (SSS) as defined by Section 2© of this  
19 Act.

20 "National security intelligence" means intelligence which relates to or may  
21 be relevant to the assessment of any threat or potential threat to the security  
22 of Nigeria in any field;

23 "National strategic intelligence" means comprehensive, integrated and  
24 estimative intelligence on all the current and long-term aspects of national  
25 security which are of special concern to strategic decision-making and the  
26 formulation and implementation of policy and strategy at national level;

27 "Principal Officers" means the Director General of the Agencies or such  
28 senior officials as created by this Act, or in the implementation of the Act;

29 "Subversion" means any activity intended to destroy or undermine the  
30 constitutionally established system of government in Nigeria;



	1	"This Act" includes the regulations.
Citation	2	9. This Bill may be cited as the National Security Agencies Bill,
	3	2019, and shall come into effect on the date fixed by the President by
	4	proclamation in the gazette.

## EXPLANATORY MEMORANDUM

This Bill seeks to repeal the National Security Agencies Act CAP N74 of 1986 and to Enact the National Security Agencies Act 2019 and to define the functions of members of the National Security Agencies; the Defence Intelligence Agency; National Intelligence Agency and the State Security Service and their functions and procedures in respect of intelligence relating to the security of the Nation; and to provide for the appointment of the Principal Officers, the coordinator of the Agencies and to define their functions.

# A BILL

## FOR

AN ACT TO REPEAL THE EXPLOSIVE ACT NO. 34 1967 CAP. E 18 LAWS OF THE FEDERATION OF NIGERIA 2004 AND RE-ENACT EXPLOSIVE ACT, 2019 TO MAKE COMPREHENSIVE PROVISIONS FOR THE USE AND CONTROL OF EXPLOSIVE IN NIGERIA AND FOR RELATED MATTERS

*Sponsored by Hon. Rimamnde Shawulu Kwewum*

[ ] Commencement

Be ENACTED by the National Assembly of the Federal Republic of Nigeria:

### PART 1 - APPLICATION OF THE ACT

1.-(1) No person may possess explosive or carry out any activity relating to explosives unless he or she holds a license, permit or authorization issued in terms of this Act;

(2) Subject to section 24, this Act does not apply to:

(a) importation, exportation, storage, use, manufacture or transportation of any explosives by the Armed Forces or the Nigeria Police Force or any of its members while performing official duties and acting in accordance with lawful instructions;

(b) importation, exportation, storage, use, manufacture, or transportation of any explosives by Armed Force or Police Force of any country or any multinational or international defence or policing agency, which the Inspector General of Police, after consultation with the minister of Foreign Affairs, by notice in the Gazette exempts from the provisions of this Act, or to any member of such force, service or agency while on official duty;

(c) loading or reloading of ammunition as contemplated in section of the firearms Control Act;

(3)(a) The Inspector General of Police may exempt a person from

1 any or all of the provisions of this Act, or from a notice or instruction issued  
2 under this Act, if such provision or provisions relate to an occupational health  
3 or occupational safety matter

4 (b) Any such exemption may be:

5 (i) general or particular;

6 (ii) For any period;

7 (iii) Subject to any conditions aimed at achieving the object of this  
8 Act;

9 (iv) Amended or withdraw at any time;

10 (4) In the event of any inconsistency between this Act and any other  
11 law in force at the enactment of this Act, other than the Constitution, this Act  
12 prevails;

13 PART 2 - APPOINTMENT AND FUNCTIONS OF INSPECTORS AND

14 DISPOSAL OF EXPLOSIVES

15 2. The Inspector General of Police upon clearance by the State  
16 Security Services and confirmation by the National Assembly may appoint a  
17 member of the Armed Forces and Police Force with explosive training as the  
18 Chief inspector of Explosives:

19 (1) The Chief Inspector may, in consultation with the Inspector  
20 General of Police appoints any member of the Armed forces or the Police force  
21 as an inspector for a specific area.

22 (2) The Chief Inspector may delegate any power conferred upon him  
23 or her or assign any duty imposed upon him or her in terms of this Act to an  
24 Inspector.

25 3.-(1) An inspector may at any time when any activity in respect of  
26 explosive takes place at an explosives manufacturing site, an explosives  
27 magazine or a place contemplated in section 13(4) enter such site, magazine or  
28 place in order to:

29 (a) Inspect security arrangements at the site, magazine or place;

30 (b) Investigate compliance with the Act;

1 (c) Require the person in control of the site, magazine or place to  
2 produce any record, book or other document relating to safety and security  
3 at the site, magazine or place for inspection or for the purpose of obtaining  
4 copies thereof or extracts therefrom;

5 (d) Examine any explosive or substance, material or related article  
6 found on or in the site, magazine or places; or

7 (e) Obtained a sample of any explosive or substance in or on the  
8 site, magazine or place for the purposes of analysis and testing.

9 (2) The Inspector must show proof of his or her identity and  
10 authority when requested to do so by the person in control of the site,  
11 magazine or place in question;

12 (3) If, upon any inspection, an inspector discovers that any method  
13 of work, packing or storage that is being used is in contravention of this Act  
14 or is likely to endanger the safety and security of any person, the inspector  
15 may demand the immediate discontinuation of the method or may take such  
16 steps as may be necessary to ensure the safety and security of any person or  
17 property.

18 4.-(1) An inspector may, on the authority of a warrant issued in  
19 terms of subsection:

20 (a) In order to obtain evidence, enter any premises where he or she  
21 has reason to believe that any provision of this Act has been or is being  
22 contravened;

23 (b) direct the person in control of or any person employed at the  
24 premises:

25 (i) to deliver any book, record or other document that pertains to the  
26 investigation and is in the possession or under the control of that person;

27 (ii) to furnish such information as he or she has with regard to the  
28 matter; or

29 (iii) to render such assistance as the inspector requires in order to  
30 enable him or her to perform his or her functions under this Act;

1 (a) Inspect any book, record or other document and make copies  
2 thereof or excerpts there from;

3 (b) Examine any explosive, material, substance or article found on the  
4 premises;

5 (c) Take samples of any explosive, material, substance or article for  
6 the purpose of testing, examination, analysis and classification;

7 (d) Seize any explosive, material, substance, book, article, record or  
8 other document which might be relevant to a prosecution under this Act and  
9 keep it in his or her custody, but the person from whom any book, record or  
10 document has been taken may, at his or her own expense and under supervision  
11 of the inspector, make copies thereof or excerpts there from.

12 (2) A warrant referred to in subsection (1) must be issued by a  
13 magistrate or a Judge of a High Court who has jurisdiction in the area where the  
14 premises in question are situated and may only be issued if it appears from  
15 information on oath or solemn declaration that there are reasonable grounds to  
16 believe that a provision of this Act has been or is being contravened and must  
17 specify which of the acts mentioned in subsection (1) may be performed by the  
18 inspector.

19 (3) An inspector executing a warrant issued in terms of this section  
20 must immediately before commencing the execution-

21 (a) identify himself or herself to the person in control of the premises,  
22 if such person is present, and hand to such person a copy of the warrant or, if  
23 such person is not present, affix a copy to a prominent place on the premises;  
24 and

25 (b) on the request supply such person with particulars of his or her  
26 authority to execute the warrant.

27 (4)(a) An inspector may not enter upon or search any premises until he  
28 or she has audibly demanded admission to the premises and has notified the  
29 purpose of his or her entry, unless he or she is, on reasonable grounds, of the  
30 opinion that such demand and notification will defeat the purpose of the search;

1 (b) An inspector, on the authority of a warrant issued in terms of  
2 subsection (2), may use such force as may reasonably be necessary to  
3 overcome resistance to his or her entry or search;

4 (c) Any entry and search in terms of this section may only be  
5 executed by day, unless the execution thereof by night is justifiable and  
6 necessary.

7 (5) A warrant contemplated in this section remains in force until:

8 (a) it has been executed;

9 (b) it is cancelled by the person who issued it, or if such person is  
10 not available, by any person with similar authority

11 (c) One month from the date of its issue; or

12 (d) the purpose for which the warrant was issued no longer exists,  
13 whichever occurs first.

14 (6) An inspector may without a warrant enter upon any premises  
15 and search for, seize and remove anything referred to in subsection (1) if:

16 (a) the person who is competent to do so consents to such entry and  
17 search, seizure and removal; or

18 (b) there are reasonable grounds to believe that:

19 (i) a warrant would be issued to the inspector if he or she applied for  
20 such warrant; and

21 (ii) The delay in obtaining such warrant would defeat the purpose  
22 of the search.

23 (7) If, during the execution of a warrant or during a search in terms  
24 of this section, a person claims that an article or document found upon or in  
25 the premises in question contains privilege information and refuses the  
26 inspection of such article or document, the inspector may request the clerk  
27 or registrar of the high court having jurisdiction to attach and remove that  
28 article or document for safe custody until a court of competent jurisdiction  
29 has made a ruling on the question as to whether or not the information in  
30 question is privileged.

1 (8).(a) subject to paragraph (b), (c), (d) and (e), any explosives seized  
2 in terms of this Act;

3 (b) if the explosives cannot be moved due to the large volume thereof,  
4 the inspector must ensure that the explosives are guarded until they are  
5 disposed of in terms of this Act or The Administration of criminal Justice Act;

6 (c) No person may interfere with explosives contemplated in  
7 paragraph, (b), unless authorized by the inspector;

8 (d) the explosives:

9 (i) must be destroyed in accordance with section 8 if the explosives:

10 (aa) Are declared unserviceable or unstable by the inspector; or

11 (bb) Are dangerous and pose a threat to the safety and security of any  
12 person; or

13 (ii) May be destroyed in accordance with section 8 if the criminal  
14 proceedings in respect of the explosives are not finalized within three months  
15 from the seizure of the explosives.

16 (e) Before any explosives are destroyed in terms of paragraph (d), a  
17 person contemplated in section 212(4) of the Criminal Procedure Act or the  
18 provision of the Administration of Criminal Justice Act, may investigate the  
19 explosives in question and prepare an affidavit contemplated in that section

20 **5.** If any explosives seized in terms of section 5 are forfeited to the  
21 federal Government in terms of the Criminal Procedure Act or Administration  
22 of Criminal Justice Act, the Chief inspector may instruct that the explosives  
23 must be:

24 (a) kept for research and development purposes;

25 (b) sold to cover expenses incurred in the storing of the explosives  
26 pending the finalization of the Criminal Proceedings; or

27 (c) Destroyed in accordance with section 6

28 **6.-(1)** Explosives may only be destroyed in accordance with such safe  
29 procedures as may be prescribed.

30 (2). Subject to the section 5, any inspector may order the destruction

1 of any explosives forfeited to the state and the owner of the explosives is  
2 responsible for any reasonable expenses incurred in connection with the  
3 destruction of the explosives.

4 (3) Any person who uses, keeps, transports or stores explosives in  
5 contravention of this Act is liable for any damage if the explosives are  
6 destroyed in terms of this section and if the damage is the result of the  
7 manner in which the person used, kept, transported or store the explosives.

8 7.-(1) Any police official may without a warrant take the  
9 fingerprints, palm prints, footprints and bodily samples of a person or group  
10 of persons or may cause any such prints or samples to be taken, if there are  
11 reasonable grounds to:

12 (a) suspect that the person or that one or more of the persons in that  
13 group has committed an offence punishable with imprisonment for a period  
14 of five years or longer in terms of this Act; and

15 (b) believe that the prints or samples or the result of an examination  
16 thereof, will be value in the investigation by excluding or including one or  
17 more of the persons as possible perpetrators of the offence.

18 (2) The person who has control over prints or samples taken in  
19 terms of this section:

20 (a) may examine them for the purpose of the investigation of the  
21 relevant offence or cause them to be examined; or

22 (b) must immediately destroy them when it is clear that they will  
23 not be of value as evidence.

24 (3) Bodily samples to be taken from the body of a person may only  
25 be taken by a registered medical practitioner or a registered nurse.

26 (4). A police official may do such tests, or cause such tests to be  
27 done, as may be necessary to determine whether a person suspected of  
28 having handled or detonated an explosive has indeed handled or detonated  
29 an explosive.



## PART 3

MANUFACTURE, DEALING, IMPORTATION, EXPORTATION AND PACKAGING  
OF EXPLOSIVES

8.-(1). No person may keep, store or be in possession of any explosives on any premises other than an explosives manufacturing site or an explosives magazine, unless the explosives are kept, stored or possessed in accordance with:

- (a) the conditions of a permit issued by an inspector; and
- (b) any applicable regulation.

(2) No person may transport any explosives unless the explosives are transported in accordance with:

- (a) the conditions of a permit issued by an inspector; and
- (b) any applicable regulation occupied by such person.

(3)(a) Any person who keeps, stores, possesses or transport explosives must inform the chief Inspector or the inspector appointed for the area in question of any loss of explosives within 24 hours of the loss being discovered;

(b) The information required in terms of paragraph (a) and the manner in which such information must be given, must be prescribed;

(c) The Chief Inspector must establish a database reflecting the information contemplated in paragraph (b), and such information may be used by any person who requires such information for any legal purpose.

(4)(a) No person may enter any explosives manufacturing site, explosives magazine or any vehicle in which explosives are being conveyed without permission of the person in control of the site, magazine or vehicle;

(b) Any person found, in contravention of paragraph (a) may forthwith be removed from the site, magazine or vehicle by any person employed at the site or magazine or the person in charge of the vehicle, as the case may be.

9.-(1). In order to maintain public order or protect life and property,

1 the Minister may, by notice in the Gazette, prohibit the transportation of any  
2 explosive from any place to any other place in or outside the Nation, for such  
3 a period as may reasonable be necessary, except under such conditions as  
4 may be set out in the notice.

5 (2) The minister may similarly prohibit the storage, removal,  
6 possession or use of explosives within any particular area by any person or  
7 by specified categories of persons, and may limit or vary the conditions of  
8 any licences or permits held or issued under this Act.

9 **10.-(1)** Any person who wishes to build, erect or run an explosives  
10 manufacturing site on any premises must, in addition to the requirements of  
11 any other law, obtain a certificate from the Chief Inspector to the effect that  
12 the premises are suitable from a security point of view.

13 (2) (a) Any person who wants to run a magazine for the storage of  
14 explosives must apply, in writing, for a licence to the Chief Inspector, who  
15 must determine:

16 (i) whether the premises on which the magazine is situated or is to  
17 be erected, are suitable from a security point of view; and

18 (ii) whether the applicant is a suitable person or the person  
19 designated to be in control of the magazine is a suitable person.

20 (b) The Chief Inspector may issue the licence upon such conditions  
21 as he or she may deem fit, but must refuse to issue such a licence if the  
22 premises are suitable or the applicant or the designated person is not a  
23 suitable person to hold the licence in question.

24 (3) An applicant whose application is refused in terms of  
25 subsection (2) (b), may appeal against the decision in the prescribed manner.

26 (4) Any licence issued in terms of subsection (2)(b) or the  
27 conditions thereof may, upon application , be amended by the Chief  
28 Inspector if the safety and security of any person will not thereby be  
29 compromised.

30 (5) (a) The Chief Inspector may revoke any licence issued in terms

1 of subsection (2) (b) if he or she is satisfied that the holder thereof or the  
2 designated person is no longer a suitable person;

3 (b) The holder of a licence revoked in terms of paragraph (a) may  
4 lodge an appeal against the decision in the prescribed manner.

5 (c) Until an appeal has been decided, the licence must be deemed to  
6 have been suspended.

7 (6) Any licence issued under this section expires after such period as  
8 may be prescribed and becomes invalid if the magazine in question is used for  
9 any purpose not provided for in the licence.

10 **11.-(1).** No person may sell, deal in or act as a broker in respect of any  
11 authorized explosives unless he or she is in possession of a licence granted in  
12 terms of this Act.

13 (2) Possession of a licence contemplated in subsection (1) does not  
14 entitle the licensee to exemption from holding any licence or permit which may  
15 be required in terms of any other law.

16 **12.-(1)** Subject to subsection (4), no person may manufacture, either  
17 wholly or in part, any authorized explosives in or on any premises other than an  
18 explosives manufacturing site.

19 (2)(a) No person may manufacture any unauthorized explosives  
20 unless they are manufactured for the purposes of research or development and  
21 in such quantities and under such condition as the Chief Inspector permits in  
22 writing;

23 (b) No unauthorized explosives manufactured in terms of paragraph  
24 (a) may be sold.

25 (3) Unless it is done on a licensed explosives or remove any  
26 identification mark from any explosives manufacturing site, no person may:

27 (a) divided any explosives into their components, otherwise break  
28 down any explosives or remove any identification mark from any explosives;

29 (b) make any unserviceable explosives fit for use; or

30 (c) Remake or rework any explosives.

1           (4) The Chief Inspector may grant written permission, subject to  
2       applicable regulations and any conditions imposes by him or her in writing,  
3       to any person applying therefore in writing, to manufacture explosives:

4           (a) on any premises where explosives are manufactured for testing;

5           (b) on any premises where such explosives as may be prescribed  
6       are for immediate use;

7           (c) At any tertiary educational institution for the purpose of  
8       training or instruction; or

9           (d) In any laboratory or testing facility registered with the Chief  
10      Inspector.

11          14.-(1) No person may use any explosives unless he or she is:

12          (a) in possession of a permit authorizing such use, issued by an  
13      inspector in the prescribed manner; or

14          (b) under the immediate and constant supervision of a person who  
15      is in possession of such a permit.

16          (2) (a) The minister may by regulation by notice in the Gazette  
17      exempt any person or any group of person from obtaining a permit  
18      contemplated in subsection (1) if the exemption relates to the use of  
19      fireworks in celebration of a specified religious, cultural or traditional event;

20          (b) The Minister may limit the fireworks which may be used to any  
21      specified class and must specify the period for which the exemption is valid.

22          (3) No permit may be issued under this section unless the applicant  
23      is a suitable person.

24          **14.** Any person who gives out or pretends that an imitation of an  
25      explosive is in fact explosive is guilty of an offence.

26          **15.** No person may import explosives into or export authorized  
27      explosives from the nation or cause any explosives to be imported into or  
28      authorized explosives to be exported from the Nation unless;

29          (a) he or she is in possession of a permit issued by or under the  
30      authority of the Chief Inspector; and

1 (b) in the case of exportation, he or she is in possession of such an end-  
2 user certificate as may be prescribed.

3 **16.**-(1)(a) Any explosives must be clearly identified in the prescribed  
4 manner with legible and visible identification marks and must be packed in  
5 such packaging material as may be prescribed;

6 (b) The Chief Inspector, in writing, may permit different packaging  
7 material if there are compelling reasons justifying the giving of such  
8 permission.

9 (2) Any person manufacturing, transporting or importing any  
10 explosives must submit examples of the packaging material contemplated in  
11 subsection (1) to the Chief Inspector in the prescribed manner, and the Chief  
12 Inspector must create and maintain, a database reflecting such information  
13 concerning the samples as may be prescribed.

14 **17.** No person may export, transfer, sell or supply any unauthorized  
15 explosives.

16 **PART 4 - RECORD KEEPING**

17 **18.**-(1) Any person manufacturing explosives or importing  
18 explosives into the Nation must submit specimens of such explosives to the  
19 forensic science laboratory of the Nigeria Police Force in the prescribed  
20 manner from a date determined by the Inspector General of Police in the  
21 Gazette.

22 (2) The head of the Forensic Science Laboratory, or a person  
23 designated by him or her, must create and maintain a database containing  
24 information concerning any explosives contemplated in subsection (1).

25 **19.** Any person who holds a licence, a permit, a certificate or an  
26 authorization in terms of this Act must keep a register in which such  
27 information as may be prescribed must be recorded.

28 **PART 5 - ENDANGERING LIFE OR PROPERTY**

29 **20.**-(1) For the purposes of this section, "explosion" includes a fire  
30 caused by explosives.

1 (2) Any person who intentionally delivers, places, discharges  
2 or detonates explosives with intent to cause death or serious bodily  
3 injury to any other person or to damage or destroy any place, facility or  
4 system is guilty of an offence.

5 (3) Any person who intentionally or negligently causes an  
6 explosion which endangers life or property is guilty of an offence.

7 (4) Any person who in any manner:

8 (a) threatens that he or she or any other person intends to cause  
9 an explosion or to place explosives in such a manner or at such a place  
10 that life or property is or might be endangered is guilty of an offence; or

11 (b) Communicates false information, knowing it to be false,  
12 regarding any explosion or alleged explosion or explosives is guilty of  
13 an offence.

14 PART 6 - PRESUMPTIONS

15 21.-(1). For the purposes of this section:

16 (a) "explosives" include any container, apparatus,  
17 instrument, incendiary device or any part thereof or articles which:

18 (i) Contains any inflammable substance and which can be  
19 used, or can be adapted so that it can be used, to cause an explosion; or

20 (ii) Was made or designed to cause an explosion; and

21 (b) "residential premises" does not include a hotel, a room in a  
22 hostel and an apartment in an apartment building.

23 (2) Whenever a person is charged in terms of this Act with an  
24 offence of which the possession of explosives is an element and the  
25 state can show that, despite taking reasonable steps, it was not able  
26 with reasonable certainty to link the possession of the explosives to  
27 any other person, the following circumstances will, in the absence of  
28 evidence to the contrary which raises reasonable doubt, be sufficient  
29 evidence of possession by that person of the explosives where it is  
30 proved that the explosives were found:

- 1 (a) on residential premises and the person was, at the time:  
2 (i) in control of such premises; and  
3 (ii) Over the age of 18 years and ordinarily resident of the premises;  
4 (b) buried in or hidden on land used for residential purposes and the  
5 person was, at the time:  
6 (i) employed to work on the land in or on which the explosives were  
7 found; and  
8 (ii) Over the age of 18 years old.  
9 (c) On the premises other than residential premises and the person  
10 was at the time:  
11 (i) in control of such premises;  
12 (ii) Ordinary employed on the premises;  
13 (iii) Present in the immediate vicinity of the place on the premises  
14 where the explosives were found and the circumstances indicate that the  
15 explosives should have been visible to that person; or  
16 (iv) In control of a locker, cupboard or other container within which  
17 the explosives were found.  
18 (d) in or on a vehicle and the person was, at the time:  
19 (i) the driver of the vehicle;  
20 (ii) The person in charge of the vehicle;  
21 (iii) In control of all the goods on the vehicle;  
22 (iv) The consignor of goods in or among which the explosives were  
23 found;  
24 (v) the only person who had access to the explosives; or  
25 (vi) The employer of the driver of the vehicle and present on the  
26 vehicle.  
27 (e) on any aircraft other than an aircraft which was used to convey  
28 passengers for gain, and the person was at the time:  
29 (i) present on the aircraft and in charge of the aircraft;  
30 (ii) The employer of the person contemplated in subsection (i) and

- 1 present on the aircraft; or
- 2 (iii) The consignor of the goods in or among which the explosives
- 3 were found;
- 4 (f) in the hold of an aircraft and the person was, at the time, the
- 5 person in charge of the goods in the hold;
- 6 (g) in a place on an aircraft or a vessel:
- 7 (i) to which no-one besides the person has access;
- 8 (ii) Where the circumstances indicate that the explosives should
- 9 have been visible to no-one besides the person; or
- 10 (h) on any vessel other than a vessel which was used to convey
- 11 passengers for gain, and the person was, at the time:
- 12 (i) in charge of that vessel or that part of the vessel in which the
- 13 explosives were found; or
- 14 (ii) ordinarily employed in the immediate, vicinity of the place on
- 15 the vessel where the explosives were found; or
- 16 (ii) In the cargo of a vessel and the person was, at the time:
- 17 (aa) In control of the cargo of the vessel; or
- 18 (bb) The consignor of any goods in or among which the explosives
- 19 were found.
- 20 (3) In any criminal proceedings against a person where it is alleged
- 21 that such person has injured or killed another person or has damaged
- 22 property belonging to another person, the following circumstances will, in
- 23 the absence of evidence to the contrary which raises a reasonable doubt, be
- 24 sufficient evidence that such a person participated in the injury, killing or
- 25 damage, where it is proved that:
- 26 (a) the person was driving or was a passenger in a vehicle other
- 27 than a vehicle designed or licensed to convey more than 20 person;
- 28 (b) an explosive was detonated from the vehicle while the person
- 29 was driving or was a passenger in the vehicle; and
- 30 (c) As a result of such detonation, a person was injured or killed or



1 property was damaged.

2           **22.** Whenever a person is charged with an offence in terms of this Act  
3 of failing to report the loss of explosives and it is proved that such a person was  
4 at, the time, licensed or unauthorized possessor of the explosives alleged to  
5 have been lost, proof that the person has failed to produce such explosives  
6 within seven days of the request of an inspector to do so, will in the absence of  
7 evidence to the contrary which raises reasonable doubt, be sufficient evidence  
8 that the explosives have been lost.

9           **23.** Whenever a person is charged in terms of the Act with an offence  
10 of failing to take reasonable steps to ensure that no explosives are brought onto  
11 premises under his or her ownership or control in contravention of this Act,  
12 proof that such explosives were brought onto the premise under his or her  
13 ownership or control in contravention of this Act, will in the absence of  
14 evidence to the contrary which raises reasonable doubt, be sufficient evidence  
15 that he or she failed to take such reasonable steps.

16           PART 7 - OFFENCES, PENALTIES, JURISDICTION AND APPEAL

17           **24.**-(1) It is an offence to contravene or fail to comply with any:

18           (a) provision of this Act;

19           (b) condition of a licence, permit or authorization issued or granted by  
20 or under this Act; or

21           (c) Provision, direction or requirement of a notice issued under this  
22 Act.

23           (2) It is an offence to:

24           (a) falsely represent oneself as an inspector;

25           (b) willfully obstruct or hinder any inspector in the exercise of the  
26 power conferred upon him or her or in the performance of the duties assigned to  
27 him or her in terms of this Act;

28           (c) Disobey any lawful order of an inspector, whether verbal or in  
29 writing; or

30           (d) willfully give false information to an inspector.

- 1 (3) It is an offence for any person to:
- 2 (a) create, distribute, produce or import be in possession of a
- 3 publication, whether in electronic or any other form, which contains
- 4 methods for the synthesizing of, explosives; or
- 5 (b) obtain information with regard to the method for the
- 6 synthesizing of explosives, unless the publication or information relates to
- 7 the performance of any activity permitted by licence, a permit, an
- 8 authorization or a permission issued or given to him or her in terms of this
- 9 Act.
- 10 (4) It is an offence for the owner or person in control of premises
- 11 not to take reasonable steps to ensure that no explosives are brought onto the
- 12 premises.
- 13 **25.**-(1) Any person convicted of a contravention of or failure to
- 14 comply with:
- 15 (a) section 21(2), is liable to imprisonment for a period not
- 16 exceeding 25 years;
- 17 (b) Section 10(1) or (20), 3(1), 13(1),(2) or (3), 14(1) or 16, is
- 18 liable, in the case of:
- 19 (i) First offender, to imprisonment for a period not exceeding
- 20 15 years;
- 21 (ii) Second offender, to imprisonment for a period not exceeding
- 22 20 years; and
- 23 (iii) Third or subsequent offender, to imprisonment for a period not
- 24 exceeding 25 years;
- 25 (c) Section 21(3) or (4), where the:
- 26 (i) act or omission is willful and death does not result therefrom, is
- 27 liable to a fine or to imprisonment for a period not exceeding 15 years, or to
- 28 both fine and such imprisonment;
- 29 (ii) Explosion is caused by a negligent act or omission and death
- 30 result, is liable to a fine or imprisonment for a period not exceeding 10 years

1 or to both a fine and such imprisonment;

2 (iii) Explosion is caused by a negligent act or omission and property  
3 or life is endangered, is liable to a fine or to imprisonment for a period not  
4 exceeding five years, or to both a fine and such imprisonment;

5 (d) section 9(1), (2), (3), (4), or (5), 15 or 25(4) is liable to  
6 imprisonment for a period not exceeding 15 years; and

7 (e) section 18 or 25(3) is liable to imprisonment for a period not  
8 exceeding 10 years; and

9 (f) section 7(1), 11(1) or (2), 19(1), 20, 25(1) or (2), 26(1), or 25(2)(a),  
10 (b), (c), or (d) is liable to a fine or to imprisonment for a period not exceeding  
11 five years, or both a fine and such imprisonment.

12 (2) A court sentencing a person in terms of subsection (1) may  
13 declare:

14 (a) any explosives in respect of which the offence was committed to  
15 be forfeited to the state and may make any order with regard to the safekeeping  
16 and destruction of the explosives, including an order for payment of the cost of  
17 safekeeping and destruction, as the court may deem fit; and

18 (b) any vehicle or instrument used for the purpose of or in connection  
19 with the commission of the offence to be forfeited to the state declaration of  
20 persons as unfit to possess explosives;

21 (3) (1) Unless the court determines otherwise, a person becomes unfit  
22 to possess explosives if convicted of:

23 (a) the unlawful possession of explosives;

24 (b) any crime or offence involving the unlawful handling explosives,  
25 whether, whether explosives were used or handled by that person or by another  
26 participant in that crime or offence;

27 (c) An offence involving the failure to store explosives in accordance  
28 with the requirements of this Act;

29 (d) an offence involving the negligent handling or loss of explosives  
30 while the explosives were in his or her possession;

- 1 (e) an offence involving, the handling of explosives while under  
2 the influence of any substance which has an intoxicating or narcotic effect;
- 3 (f) any other crime or offence in the commission of which  
4 explosives were used, whether the explosives were used or handled by that  
5 person or by another participant in the crime or offence;
- 6 (g) any offence involving violence, sexual abuse or dishonesty,  
7 for which the accused is sentenced to imprisonment without the option of a  
8 fine;
- 9 (h) any other offence under or in terms of this Act in respect of  
10 which the accused is sentenced to imprisonment without the option of a  
11 fine;
- 12 (i) any offence involving the abuse of alcohol or drugs;
- 13 (j) any offence involving dealing in drugs;
- 14 (k) any offence in terms of the Firearms Control Act, in respect of  
15 which the accused is sentence to imprisonment without the option of a  
16 fine;
- 17 (l) any offence involving sabotage, terrorism, public violence,  
18 arson, intimidation, rape, kidnapping or child tealing; or
- 19 (m) any conspiracy, incitement, or attempt to commit an offence  
20 referred to above.
- 21 (2) (a) A court which convict a person of an offence referred to in  
22 schedule 2 and which is not an offence contemplated in subsection (1),  
23 must enquire and determine whether that person is unfit to possess  
24 explosives;
- 25 (b) if a court, acting in terms of paragraph (a), determined that a  
26 person is unfit to possess explosives, it must make a declaration to that  
27 effect.
- 28 (3) If a person becomes unfit to possess explosives or is declared  
29 unfit to possess explosives in terms of subsection (1) or (2) as the case may  
30 be, the relevant court must notify the chief Inspector in writing of the

1 person's unfitness and the notification must be accompanied by an order for the  
2 search and seizure of:

3 (a) all certificates, licenses and permits issued to the person in terms  
4 of this Act; and

5 (b) all explosives in the person possession.

6 **26.** A High Court may impose any penalty in terms of this Act, despite  
7 anything to the contrary contained in any other enactment or Law.

8 **27.-(1)** Where any person is not satisfied with the decision or  
9 instruction given by an inspector, he or she may within 14days, lodge a written  
10 statement to the Chief Inspector or his or her delegate, who must take action as  
11 soon as possible.

12 (2) A person contemplated in subsection (1) must submit a written  
13 statement to the Chief Inspector or his or her delegate setting out the grounds  
14 upon which the appeal is based.

15 (3) Where any person is not satisfied with the decision or instruction  
16 given by the Chief Inspector or his or her delegate, he or she may, within  
17 30days lodge a written appeal with an appeal board established by the  
18 Inspector General of Police in the prescribed manner.

19 (4) Until any appeal has been decided in terms of this section, the  
20 decision or instruction, as the case may be, must be deemed to have been  
21 validly made or given.

22 **PART 9 - REGULATIONS:**

23 **28.-(1)** The Inspector General of Police may make regulations  
24 regarding:

25 (a) anything which may or must be prescribed in terms of this Act;

26 (b) the use, disposal and destruction of explosives;

27 (c) The construction of explosives magazines;

28 (d) the conditions under which the manufacture of explosives other  
29 than in a licensed explosives manufacturing site may be carried out;

30 (e) the storage of explosives;

1 (f) the classification, composition, testing and analysis of  
2 explosives;

3 (g) then grant, cancellation and suspension of any permit or licence  
4 mentioned in this Act and the period for which any such permit or licence  
5 may be issued;

6 (h) the packaging, transport, importation, exportation and  
7 transshipment of explosives, and the landing and handling of explosives in  
8 port, harbours, airports and other places of entry or exit;

9 (i) the prohibition of the transportation of explosives or the use for  
10 the transportation thereof of any means of transport except under authority  
11 of a permit issued by an inspector, the grant, cancellation and suspension of  
12 any such permit and the period for which any such permit may be issued;

13 (j) the issuing of a licence and an end-user certificate to a dealer or  
14 broker in explosives, the conditions of any such licence, the restrictions  
15 which may be placed upon the sale or disposal of explosives to particular  
16 person and the quantity of any explosives which may be purchased by any  
17 person or company under a permit issued by an inspector;

18 (k) the inquiry into the circumstances of explosions including fires  
19 caused or suspected to have caused explosives, endangering or causing  
20 death or injury to person or damage to property, and the giving notice of all  
21 such explosions;

22 (l) the prevention of trespassing in or upon an explosives  
23 manufacturing site or an explosives magazine or other place where  
24 explosives are kept;

25 (m) determine fees or tariffs payable for any permit, licence or  
26 authorization in terms of this Act;

27 (n) the statistics which manufacturers and dealers may be called  
28 upon to supply;

29 (o) the restricting of the sale and use of fireworks, excluding  
30 organized fireworks displays, to certain periods or days;

1 (p) the establishment and functions of an appeal board;  
2 (q) any matter pertaining to record keeping;  
3 (r) The disposal of forfeited explosives; and  
4 (s) any other matter which must be regulated for the protection of life  
5 and property against explosions or for the achievement of the objects of this  
6 Act.

7 (2) Regulations made under subsection (1) may provide for penalties  
8 for a contravention thereof or failure to comply therewith, which penalties may  
9 not exceed a fine or imprisonment for a period of five years, and they may also  
10 provide that any explosives in respect of which the contravention or non-  
11 compliance has taken place must be forfeited and destroyed.

12 (3) Such regulations may also prescribed daily penalties for a  
13 continuing contravention or non-compliance or increased penalties for a  
14 second or subsequent contravention or non-compliance, subject to the maxima  
15 mentioned in subsection (2)

16 PART 10 - REPEAL

17 29. The Explosives Act No. 34 of 1967 CAP E18 Laws of the  
18 Federation of Nigeria 2004 is hereby repealed.

Definitions

19 30.-(1) In this Act, unless the context otherwise requires-  
20 "Authorized explosive" means any explosive listed in the regulations as an  
21 authorize3d explosive;  
22 "Broker" means any person who acts for others in negotiating or arranging  
23 contracts in respect of purchases, sales or transfer of explosives in return for a  
24 fee, commission or other consideration;  
25 "Chief inspector" means the chief inspector of Explosives appointed by the  
26 Inspector General of Police in terms of section 4(1);  
27 "Convention" means the United Nation Convention on the making of Plastic  
28 Explosives for the Purpose of detection (Montreal Convention), 1991, as set  
29 out in schedule 3;  
30 "Detection Agents" means any detection agent included in the technical annex

- 1 to the convention;
- 2 "Detonate" means the initiation of an explosive by means of detonator,
- 3 shockwave or other means of initiation;
- 4 "Explosion" means a chemical reaction involving a rapid production of gases
- 5 resulting in the propagation of a shockwave;
- 6 "Explosive" means:-
- 7 (a) A substance, or mixture of substances, in a solid or liquid state,
- 8 which is capable of producing an explosion;
- 9 (b) A pyrotechnic substance in a solid or liquid state, or a mixture of
- 10 substances, designed to produce an effect by heat, light, sound, gas or
- 11 smoke, or a combination of these, as the result of non-detonative self-
- 12 sustaining exothermic chemical reaction, including pyrotechnic substances
- 13 which do not evolve gases;
- 14 (c) Any article or device containing one or more substances
- 15 (d) contemplated in paragraph (a);
- 16 (e) Any plastic explosive; or
- 17 (f) Any other substance or article which the ministry may from time
- 18 to time by notice in the Gazette declare to be an explosives;
- 19 "Explosion magazine" means any building or part thereof, or any structure,
- 20 licensed under this Act for the storage of explosives;
- 21 "Explosion manufacturing site" means any site licensed under this Act for
- 22 the manufacture of explosives;
- 23 "Fireworks" means any pyrotechnic substance contemplated in paragraph
- 24 (b) of the definition of "explosives" which-
- 25 (a) Is manufacture for the purposes of amusement or
- 26 entertainment; and
- 27 (b) Is divided into such classes as may be prescribed;
- 28 "Imitation" in respect of an explosive, means anything that has the
- 29 appearance of an explosive, but which is not capable of operating as such
- 30 and cannot by superficial examination be identified as an imitation;



- 1 "Inspector" means any inspector of explosives appointed under section 4(2);
- 2 "Inspector General of Police" as appointed by the Constitution of the Federal  
3 Republic of Nigeria;
- 4 "Manufacturer" means the making or processing of any explosive, and  
5 includes the division of any explosive into another kind and the alteration,  
6 testing or reworking of any explosive;
- 7 "Making" in relation to a plastic explosive, means the introduction of a  
8 detection agent into plastic explosive in accordance with the Technical Annex  
9 to the Convention;
- 10 "Minister" means Minister of Defence;
- 11 "Plastic explosive" means any explosive in flexible, malleable, plastic or sheet  
12 form which is-
- 13 (a) Formulated with one or more high explosives which in their pure  
14 form have a vapour pressure of less than 104 at a temperature of 25NC;
- 15 (b) Formulated with any binder material; and
- 16 (c) As a mixture, flexible or malleable, at normal room temperature:
- 17 "Premises" means any land, place, road, harbour, open water, river, building,  
18 structure, tent, ship, boat, aircraft, railway truck, cart, van or other vehicle or  
19 vessel;
- 20 "Regulation" means any regulation made or regarded as having been made  
21 under this Act;
- 22 "Suitable Person" means a person-
- 23 (a) Who is 18 years and above;
- 24 (b) Is a Nigerian citizen, holder of a permanent Nigerian residence  
25 permit;
- 26 (c) Is of stable mental condition and is not inclined to violence;
- 27 (d) Is not dependent on any substance which has an intoxicating or  
28 narcotic effect.
- 29 "this Act" includes regulations;

1 "Unauthorized explosive" means any explosive other than an authorized  
2 explosive;

3 "Unmarked plastic explosive" means a plastic explosive that:

4 (e) Does not contain a detection agent; or

5 (f) At the time of manufacture, does not contain the required  
6 minimum concentration level of a detection agent set out in part 2 of the  
7 Technical Almex to the Convention.

8 **31.** This Bill May be cited as the Explosives Act (Repeal and Re- Short Title  
9 enactment) Bill, 2019.

10 SCHEDULE 2

11 CRIME AND OFFENCES GIVING RISE TO UNFITNESS

12 ENQUIRY BY COURT

13 *Section 29*

14 High treason

15 Sedition

16 Malicious damage to property

17 Entering any premises with the intent to commit an offence under the  
18 common law or a statutory provision.

19 Culpable homicide

20 Extortion

21 Any crime or offence:

22 (a) in terms of this Act or the previous Act, in respect of which an  
23 accused was not sentenced to imprisonment without the option of fine;

24 (b). involving violence, sexual abuse or dishonesty, in respect of  
25 which an accused was sentenced to imprisonment without option of fine;

26 (c) In terms of Firearms Control Act, in respect of which an  
27 accused was not.

## EXPLANATORY MEMORANDUM

This Bill seeks to repeal the Explosive Act No. 34 1967 Cap. E 18 Laws of the Federation of Nigeria 2004 and re-enact Explosive Act, 2019 to make comprehensive provisions for the use and control of Explosive in Nigeria.

# A BILL

## FOR

AN ACT TO REGULATE THE EXECUTION OF FEDERAL GOVERNMENT PROJECTS BY STATE GOVERNMENTS, PROVIDE FOR PROCEDURES TO UNDERTAKE SUCH PROJECTS, FINANCING, SUPERVISION/MONITORING, REFUND/RE-IMBURSEMENT OF MONEY SPENT THERETO AND FOR RELATED MATTERS

### *Sponsors:*

Hon. Rimamnde Shawulu Kwewum

Hon. Bulus Solomon Maren

[ ] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria:

### 1 PART 1

2 1.-(1) Any tier of government that is interested in undertaking the  
3 execution of a Federal Project shall comply with the following  
4 requirements:

Procedure for the  
Execution of a  
Federal Project  
and the  
specification of  
the format request

5 (i) Forward a letter signed by the Governor of the state specifying  
6 the following:

7 (a) Title of the project, including its location;

8 (b) Scope;

9 (c) Estimated cost of project;

10 (d) Reasons/justification for undertaking the project at that time.

11 (ii) The letter to the President shall be accompanied by the  
12 following:

13 (a) Resolution of the State house of assembly for the state or any  
14 tier of government to execute the project on behalf of the federal  
15 government;

16 (b) The signed appropriation budget of the State containing the said

1 project to be executed.

2 (iii) The president shall then forward the request to the appropriate  
3 Ministry or agency responsible for the execution of the said project;

4 (iv) The Ministry or Agency shall forward the request to the Bureau  
5 for Public Procurement CBPP) to verify the costing and if satisfied, issue a  
6 Certificate of no objection to the ministry of finance;

7 (v) The Ministry of Finance and the Debt Management Office (DMO)  
8 shall verify see whether the project is contained in the medium term  
9 expenditure frame work of the Federal government for the period and the costs  
10 as submitted meet the standard requirements of the Federal Government:

11 (a) Where it verifies that the project has met all requirements for  
12 immediate funding by the Federal it shall recommend to the President to  
13 request the approval of the National Assembly;

14 (b) Where it has been determined that the project has not met the  
15 requirements for immediate implementation it shall communicate same to the  
16 State Government.

17 (vi) The recommendation of the Federal Ministry of Finance and  
18 DMO will be sent back to the President, who shall send the said request and all  
19 approvals to the national Assembly for deliberation and approval specifying  
20 the period the money will be pay back to the State or tier of government that  
21 executes the said federal project;

22 (vii) Refunds of up to 80% shall paid to the state Government;

23 (viii) No refund shall be entertained for projects undertaken without prior  
24 approval of the National Assembly.

Regulation/  
Monitoring/  
Supervision of  
Federal Projects  
executed by bodies  
other than the  
Federal Government

25 **2.-(i)** The Monitoring and Supervision of Federal Projects adopted by  
26 a state for execution shall be jointly carried out by relevant State and Federal  
27 agencies or bodies in compliance with the Bureau of Public Enterprises Act,  
28 Public Procurement Act, Fiscal Responsibility Act, Finance (Control and  
29 Management) Act, Appropriation Act or Law and any other laws, regulations,  
30 that may be made pursuant to this Act;

1 (ii) The National Assembly and the state Houses of Assembly shall  
 2 have powers of oversight functions over such federal projects and shall  
 3 summon any relevant state/federal agency, parastatal or official to appear  
 4 before it and defend its actions/policies towards ensuring that such projects  
 5 are efficiently and effectively executed.

6 **3.-(1)** The Re-imbursement of money spent by States for the  
 7 Execution of Federal Projects shall be processed by the federal ministry of  
 8 finance after the approval of the request of the President by the National  
 9 Assembly and the re-payment plan shall be spread over a period of not more  
 10 than three (3) budgetary years.

Refund/  
 Re-imbursement  
 of money spent to  
 State Government  
 or other non-federal  
 bodies by Federal  
 Government

11 (2) Upon such approval by the State/Federal Governments of the  
 12 repayment plan in compliance with the relevant agencies listed in section 3  
 13 (i) above the State and Federal governments shall direct their respective  
 14 Ministries of Finance and Budget Offices to capture the re-payment plan in  
 15 their annual Budgets.

16 **4.-(1)** The Federal High Court shall have jurisdiction in  
 17 determining any dispute that may arise on the provisions of this act.

Resolution of  
 Disputes

18 **5.** In this Bill, unless the context otherwise indicates:

Definition

19 “Federal Project” means and includes any project earmarked for execution  
 20 in any part of the Federation by the Federal Government of Nigeria or  
 21 agency, parastatal or department, etc, pursuant to the exercise of its Power  
 22 under the Exclusive Legislative list as contained under the Second  
 23 Schedule, Part 1 of the Constitution of the Federal Republic of Nigeria 1999  
 24 as amended;

25 “State Government” means state of the federation as defined in part 1 of the  
 26 First Schedule of the 1999 constitution as amended;

27 “Any tier of Government” means State Governments or Local Government  
 28 Councils

29 “Governor” means Governor of a state of the Federal Republic of Nigeria;

30 “State Ministry” means and includes any Ministry of a State, agency or

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	1	parastatal of the state;
	2	“Federal Ministry” means and includes agencies, or parastatals of the federal
	3	Government of Nigeria.
Short Title	4	<b>6.</b> This Bill may be cited as Execution of Federal Projects Bill, 2019.

## EXPLANATORY MEMORANDUM

This Bill seeks to regulate the execution of Federal Government Projects by State Governments, provide for procedures to undertake such projects, financing, supervision/monitoring, refund/re-imbursement of money spent thereto.

FEDERAL POLYTECHNIC CREEKTOWN ODUKPANI

(ESTABLISHMENT, ETC ) BILL,2019

ARRANGEMENT OF SECTIONS

*Establishment of the Federal Polytechnic Creek town Odukpani*

1. Establishment of Federal Polytechnic Creek town Odukpani
2. Functions of the Polytechnic
3. Establishment and constitution of each Council, etc.
4. Visitation
5. Registrar of the Polytechnic
6. Tenure of office of the Registrar
7. General Functions of the Council

*Staff*

8. The Rector of the Polytechnic
9. Deputy Rector
10. Other principal officers of each polytechnic
11. Resignation of appointment of principal officers
12. Selection Board for other principal officers
13. Other employees of the polytechnic.
14. Application of the Pensions Act

*Establishment of the Academic Board*

15. The Academic Board

*Tenure of Office*

16. Removal from office of members of the Council and the Rector
17. Removal and discipline of academic, administrative and technical staff

*Discipline*

18. Discipline of students
19. Discipline of junior staff

*Financial Provision*

20. Audit of account



21. Funds cash council
22. Donation for particular purposes
23. Payment into
24. Annual report

*Miscellaneous and Supplemental*

25. Power to make bye-laws
  26. Exclusion of discrimination on account of race, religion. etc.
  27. Quorum and Procedure of bodies established under this Act
  28. Interpretation
  29. Short title
- Schedule
- Supplementary Provisions relating to the Council

# A BILL

## FOR

AN ACT TO ESTABLISH THE FEDERAL POLYTECHNIC CREEKTOWN ODUK PANI TO PROVIDE FULL-TIME COURSES IN TECHNOLOGY, APPLIED SCIENCE MANAGEMENT AND OTHER FIELDS OF STUDIES AND TO MAKE PROVISIONS FOR THE GENERAL ADMINISTRATION OF SUCH POLYTECHNICS AND FOR RELATED MATTERS

*Sponsored by Hon. Eta-Mbora*

[     ] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

- 1            **1.** There is hereby established the Federal Polytechnic Creektown     Establishment of  
2   Odukpani specified in the First Schedule to this Act (in this Act severally     Federal Polytechnic  
3   referred to as "the Polytechnic") which shall have such powers and exercise     Creektown Odukpani  
4   such functions as are specified in this Act.
- 5            **2.-(1)** The functions of the polytechnic shall be:     Functions  
6            (a) to provide full-time or part-time courses of instruction and  
7   training:  
8            (i) in technology, applied science, commerce and management;  
9   and  
10            (ii) in such other fields of applied learning relevant to the needs of  
11   the development of Nigeria in the area of industrial and agricultural  
12   production and distribution and for research in the development and  
13   adaptation of techniques as the Council may from time to time determine;  
14            (b) to arrange conferences, seminars and study groups relative to  
15   the fields of learning specified in paragraph (a) of this subsection (1);  
16            (c) to perform such other functions as in the opinion of the Council  
17   may serve to promote the objectives of the polytechnic.  
18            (2) Nothing in this section shall preclude the government of a State

Establishment  
and Constitution  
of each Council,  
etc.

1 or any of its agencies from setting up a polytechnic similar to any polytechnic  
2 established under this Act

3 3.-(1) There shall be established for the polytechnic a Council  
4 (hereafter in this Act referred to as the Council") which shall be a body  
5 corporate with perpetual succession and a common seal and may sue and be  
6 sued in its corporate name.

7 (2) The Council shall consist of a Chairman and the following other  
8 members that is:

9 (a) one person to represent the universities:

10 (b) one person to represent the Manufacturers' Association of Nigeria:

11 (c) one person to represent professional bodies whose disciplines are  
12 taught at the polytechnic;

13 (d) one person selected from a Federal or State, public utility statutory  
14 corporation;

15 (e) one person of standing in the community where the polytechnic  
16 is situated;

17 (f) the Rector of the polytechnic;

18 (g) one representative of the Minister charged with responsibility for  
19 matters relating to polytechnics

20 (h) one representative of the Permanent Secretary of the Ministry  
21 charged with responsibility for matters relating to industries:

22 (i) one representative of the academic board of the polytechnic:

23 (j) one representative of the State Commissioner of Education; and

24 (k) five other persons, at least one of whom shall be a woman, to be  
25 selected each on his personal merit based on his contribution to either the  
26 development of industry, technology or commerce or special interest in  
27 technical education.

28 (3) The Chairman and members of the Council other than ex-officio  
29 members shall be appointed by the President.

30 (4) The provisions set out in the Second Schedule to this Act shall

1        apply in relation to the constitution of the Council and the other matters  
2        therein specified.

3                **4.-(1)** The Minister of Education shall be the Visitor to the        Visitation  
4        Polytechnic.

5                (2) The Visitor shall, not less than once in every five years, conduct  
6        a visitation of the college or appoint a Visitation Panel, consisting of not less  
7        than five experts. To conduct the visitation:

8                (a) for the purpose of evaluating the academic and administrative  
9        performance of the polytechnic;

10                (b) for such other purpose or in respect of any other affairs of the  
11        polytechnic as the Visitor may deem fit.

12                **5.-(1)** There shall be a Registrar to tile polytechnic who shall be        Registrar of the  
13        responsible to the Rector for the day- to-day administration of the        Polytechnic  
14        polytechnic and shall perform such other duties as the Councilor, as tile case  
15        may be, the Rector may from time to time require him to do.

16                (2) The Registrar shall be the secretary to the Council, the  
17        Academic Board and any committee of the Council and shall attend all the  
18        meetings of those bodies unless excused for good reason by the chairman of  
19        the Council.

20                (3) In the absence of the Registrar, the Chairman of the Council  
21        may, after consultation with the Rector, appoint a suitable person to act as  
22        secretary for any particular meeting of the Council.

23                (4) The secretary 10 the Councilor a person appointed 10 act under  
24        subsection (3) of this section, shall not vote on any question before the  
25        Councilor count towards a quorum unless he is so entitled as a member of  
26        the Council.

27                **6.-(1)** A Registrar:

28                (a) shall hold office to a period of five years beginning from the  
29        effective date of his appointment and on such terms and conditions as may  
30        be specified in the letter of his appointment; and

Tenure of office  
of the Registrar

1 (b) may be re-appointed for one further period of five years and no  
2 more.

3 (2) Where on the commencement of this section, a Registrar has held  
4 office:

5 (a) for five years or less, he shall be deemed to be serving his first term  
6 of office-and may be re-appointed for a further term of five years;

7 (b) for more than five years but less than ten years, he shall complete  
8 the maximum period of ten years and thereafter relinquish his post and be  
9 assigned other duties in the polytechnic:

10 (c) for ten years or more, the Council may allow him to serve as  
11 Registrar for a further period of one year only and thereafter he shall relinquish  
12 his post and be assigned other duties in the polytechnic.

General functions  
of the Council

13 7.-(1) Subject to provision of this Act, the Council shall be the  
14 governing body of the polytechnic concerned and shall have the general  
15 management of the affairs of the polytechnic, and in particular, the control of  
16 the property and finances of the polytechnic; and shall also have power to do  
17 anything which in its opinion is calculated to facilitate the carrying out of the  
18 activities of the polytechnic and promote its best interests.

19 (2) The Council may acquire and hold such movable or immovable  
20 property as may be necessary or expedient for carrying into effect the  
21 provisions of this Act, and for the same purpose may sell, lease, and mortgage  
22 or otherwise alienate or dispose of any property so acquired.

23 (3) The Council may enter into such contracts as may be necessary or  
24 expedient for carrying into effect the provisions of this Act.

25 (4) The Minister may give to the Council directions of a general  
26 character or relating generally to particular matters (but with any individual  
27 person or case) with regard to the exercise by the Council of its functions and it  
28 shall be the duty of the Council to comply with the directions.

29 *Staff*

The Rector

30 8.-(1) There shall be a Rector of the polytechnic ("the Rector") who

1 shall be appointed by the President in accordance with the provisions of this  
2 section.

3 (2) Where a vacancy occurs in the post of Rector, the Council shall:

4 (a) advertise the vacancy in a reputable journal or widely read  
5 newspaper in Nigeria, specifying:

6 (i) the qualities of the person who may apply for the post; and

7 (ii) the terms and conditions of service applicable to the post, and  
8 thereafter, draw up a short list of suitable candidates for consideration;

9 (b) constitute a Search Team consisting of:

10 (i) a member of the Council, not being a member of the Academic  
11 Board, as Chairman;

12 (ii) two members of the Academic Board not below the rank of  
13 Chief Lecturer;

14 (iii) two members of the Academic Community of the college not  
15 below the rank of Chief Lecturer, to be selected by Council, to identify and  
16 draw up a short list of persons who are not likely to apply on their own  
17 volition because they feel that it is not proper to do so.

18 (3) A Joint Council and Academic Board Selection Board  
19 consisting of:

20 (a) the Chairman of the Council;

21 (b) two members of the Council not being members of the  
22 Academic Board:

23 (c) two members of the Academic Board not below the rank of  
24 chief lecturer, who were not members of the Search Team, shall consider the  
25 candidates on the short list drawn up under subsection (2) of this section  
26 through an examination of their curriculum vitae and interaction with them  
27 and recommend, through the Council, to the President, three candidates for  
28 his consideration.

29 (4) The President shall appoint, as Rector, one of the candidates  
30 recommended to him under the provisions of subsection (3) of this section.

1 (5) Subject to this Act and the general control of the Council, the  
2 Rector shall be the Chief Executive of the polytechnic and shall be charged  
3 with responsibility for matters relating to the day-to-day management  
4 operations of the polytechnic.

5 (6) The Rector:

6 (a) shall hold office for a period of four years beginning with the  
7 effective date of his appointment and on such terms and conditions as may be  
8 specified in his letter of appointment;

9 (b) may be re-appointed for a further period of four years and no more.

Deputy Rector

10 9.-(1) There shall be for the polytechnic a Deputy Rector.

11 (2) The Council shall appoint the Deputy Rector from among the  
12 chief lecturers in the polytechnic in one of the following ways:

13 (a) from a list of three candidates, in order of preference, submitted by  
14 the Rector; or

15 (b) on the recommendation of a Selection Board constituted under  
16 this section for that purpose; or

17 (c) on the nomination of the Rector.

18 (3) The Selection Board referred to in subsection (2) of this section  
19 shall:

20 (a) consist of:

21 (i) the Chairman of the Council;

22 (ii) the Rector;

23 (iii) two members of the Council not being members of the Academic  
24 Board:

25 (iv) two members of the Academic Board; and

26 (b) make such inquiries as it deems fit before making the  
27 commendation required under that subsection.

28 (4) The Deputy Rector:

29 (a) shall assist the Rector in the performance of his functions;

30 (b) act in the place of the Rector when the post of Rector is vacant or if

1 the Rector is for any reason absent or unable to perform his functions as  
2 Rector; and

3 (c) perform such other functions as the Rector may, from time to  
4 time, assign to him.

5 (5) The Deputy Rector:

6 (a) shall hold office for a period of two years beginning from the  
7 effective date of his appointment and on such terms and conditions as may  
8 be specified in his letter of appointment; and

9 (b) may be re-appointed for one further period of two years and no  
10 more

11 10.-(1) There shall be for the polytechnic the following other  
12 principal officers in addition to the Registrar, that is: Other principal  
officers of the  
polytechnic

13 (a) the Bursar; and

14 (b) the polytechnic Librarian, who shall be appointed by the  
15 Council on the recommendation of the Selection Board constituted under  
16 section 9 (b) of this Act.

17 (2) The Bursar shall be the Chief Financial Officer of the  
18 polytechnic and be responsible to the Rector for the day to day  
19 administration and control of the financial affairs of the polytechnic.

20 (3) The polytechnic Librarian shall be responsible to the Rector for  
21 the administration of the polytechnic library and the co-ordination of the  
22 library services in the teaching units of the polytechnic.

23 (4) The Bursar or Librarian:

24 (a) shall hold office for a period of five years in the first instance  
25 and on such terms and conditions as may be specified in his letter of  
26 appointment:

27 (b) may be re-appointed for a further period of five years and no  
28 more.

29 (5) Where on the commencement of this section, a Bursar or  
30 Librarian has held office:



	1	(a) for five years or less, he shall be deemed to be serving his first term
	2	of office and may be reappointed for a further term of five years;
	3	(b) for more than five years but less than ten years, he shall complete
	4	the maximum period of ten years and thereafter relinquish his post and be
	5	assigned other duties in the polytechnic;
	6	(c) for ten years or more, the Council may allow him to serve as
	7	Registrar for a further period of one year only and thereafter he shall relinquish
	8	his post and be assigned other duties in the polytechnic.
Resignation of appointment of principal officers	9	<b>11.</b> A principal officer may resign his appointment:
	10	(a) in the case of the Rector, by notice to the Visitor:
	11	(b) in any other case, by notice to the Council.
Selection Board for other principal officers	12	<b>12.-(1)</b> There shall be, for each college, a Selection Board which shall
	13	consist of:
	14	(a) the chairman of the Council;
	15	(b) the Rector;
	16	(c) four members of the Council not being members of the Academic
	17	Board;
	18	(d) two members of the Academic Board.
	19	(2) The functions and procedure and other matters relating to the
	20	Selection Board constituted under subsection (1) of this section shall be as the
	21	Council may, from time to time, determine.
Other employees of the polytechnic	22	<b>13.-(1)</b> The Council may appoint such other persons to be employees
	23	of the polytechnic as the Council may determine to assist the Rector and the
	24	principal officers of the polytechnic in the performance of their functions under
	25	this Act.
	26	(2) The power to appoint all other employees of the polytechnic shall
	27	be exercised:
	28	(a) in the case of senior employees, by the Council on the
	29	recommendation of the Appointment and Promotions Committee set up under
	30	the provisions of paragraph 3 (2) (a) of the Second Schedule to this Act:

1 (b) in the case of junior employees, by the Rector on the  
2 recommendation of the junior Staff Appointments and Promotions  
3 Committee constituted under paragraph 3 (2) (b) of the Second schedule to  
4 this Act.

5 (3) subject to the provisions of this Act, the remuneration, tenure of  
6 office and conditions of service of the employees of the Council shall be  
7 determined by the Council in consultation with the Federal Civil Service  
8 Commission.

9 **14.**-(1) The Federal Civil Service Commission may by order  
10 published in the Federal Gazette declare the office of the Rector or any other  
11 person employed by the Council to be a pensionable office for the purposes  
12 of the Pensions Act.

Application of  
the Pensions Act

13 (2) Nothing in the provisions of subsection (1) of this section shall  
14 prevent the appointment of any person to any office 011 terms which  
15 preclude the grant of a pension or gratuity in respect of service in that office.

16 *Establishment of the Academic Board*

17 **15.**-(1) There shall be established for each polytechnic a board to  
18 be known as the Academic Board which shall consist of the following  
19 members:

The Academic  
Board

- 20 (a) the Rector of the polytechnic, as the Chairman;  
21 (b) the Deputy-Rector of the polytechnic;  
22 (c) all Heads of Departments;  
23 (d) the polytechnic Librarian; and  
24 (e) not more than two members of the academic staff, other than  
25 heads of departments, who may be appointed by the Academic Board.

26 The Academic Board shall be responsible for:

- 27 (a) the direction and management of academic matters of the  
28 polytechnic including the regulation of admission of students, the award of  
29 certificates and diplomas, scholarships, prizes and other academic  
30 distinctions;

1 (b) the making to the Council of such periodic reports on such  
2 academic matter as the Academic Board may think fit or as the Council may  
3 from time to time direct; and

4 (c) the discharge of any other functions which the Council may  
5 delegate to it.

6 *Tenure of Office*

Removal from  
office of members  
of the Council  
and the Rector t

7 **16.-(1)** If it appears to the Council that a member of the Council (other  
8 than an ex-officio member) or the Rector should be removed from office on the  
9 ground of misconduct or inability to perform the functions of his office, the  
10 Council shall make a recommendation to that effect to the President, and if the  
11 President, after making such inquiries as he considers necessary, approves the  
12 recommendation, the President: shall, in writing, declare the office of such  
13 member vacant.

14 (2) The President may remove any member of the Council if he is  
15 satisfied that it is not in the public interest or in the interest of the polytechnic  
16 that such member should continue as a member of the Council.

Removal and  
discipline of  
academic,  
administrative  
and technical  
staff

17 **17.-(1)** If it appears to the Council that there me reasons for believing  
18 that an) person employed as a member of the academic, administrative or  
19 technical staff of the polytechnic other than the Rector should be removed from  
20 office on the ground of misconduct or inability to Perform the functions of his  
21 office the Council shall:

22 (a) give notice of those reasons to the person in question;

23 (b) afford him an opportunity of making representations in person in  
24 the matter to the Council; and

25 (c) if he or any three members of the Council so request within the  
26 period of one month beginning with the date of the notice, make arrangements:

27 (i) if he is an academic staff, for a joint committee of the Council and  
28 the Academic Board to investigate the matter and to report on it to the Council;

29 (ii) for a committee of the Council to investigate the matter, where it  
30 relates to any other member of the staff of the polytechnic and to report on it to

1 the Council; and

2 (iii) for the person in question to be afforded an opportunity of  
3 appearing before and being heard by the investigating committee with  
4 respect to the matter, and if the Council, after considering the report of the  
5 investigating committee, is satisfied that the person in question should be  
6 removed as aforesaid, the Council may so remove him by an instrument in  
7 writing signed on the directions of the Council.

8 (2) The Rector may, in a case of misconduct by a member of the  
9 staff which in the opinion of the Rector is prejudicial to the interests of the  
10 polytechnic, suspend such member and any such suspension shall forthwith  
11 be reported to the Council.

12 (3) For good cause, any member of staff may be suspended from  
13 office or his appointment may be terminated by the Council, and for the  
14 purpose of this subsection, "good cause" means:

15 (a) any physical or mental incapacity which the Council, after  
16 obtaining medical advice, considers to be such as to render the person  
17 concerned unfit for the discharge of the functions of his office;

18 (b) any physical or mental incapacity which the Council, after  
19 obtaining medical advice, considers to be such as to render the person  
20 concerned unfit to continue to hold his office;

21 (c) conduct of a scandalous or other disgraceful nature which the  
22 Council considers to be such as to render the person concerned unfit to  
23 continue to hold his office;

24 (d) conduct which the Council considers to be such as to constitute  
25 failure or inability of the person concerned to discharge the functions of his  
26 office or to comply with the terms and conditions of his service.

27 (4) Any person suspended pursuant to subsection (2) or (3) of this  
28 section, shall be placed on half pay and the Council shall before the  
29 expiration of the period of three months after the date of such suspension  
30 consider the case against that person and come to a decision as to:

1 (a) whether to continue such person's, suspension and if so on what  
2 terms (including the proportion of this emoluments to be paid to him);

3 (b) whether to reinstate such person, in which case the Council shall  
4 restore his full emoluments to him with effect from the date of suspension;

5 (c) whether to terminate the appointment of the person in question, in  
6 which case such a person, will not be entitled to the proportion of his  
7 emoluments withheld during the period of suspension; or

8 (d) whether to take such lesser disciplinary action against such person  
9 (including the restoration of such proportion of his emolument that might have  
10 been 'withheld) as the Council may determine and in any case where the  
11 Council, pursuant to this section decides to continue a person's suspension or  
12 decides to take further disciplinary action against a person, the Council shall  
13 before the expiration of a period of three months from such decision come to a  
14 final determination in respect of the case concerning any such person.

15 (5) It shall be the duty of the person by whom an instrument of  
16 removal is signed in pursuance of subsection (1) of this section to use his best  
17 endeavours to cause a copy of the instrument to be served as soon as reasonably  
18 practicable on the person to whom it relates.

19 (6) Nothing in the foregoing provisions of this section shall prevent  
20 the Council from making such regulations for the discipline of other categories  
21 of staff and workers of the polytechnic as it may think fit

22 *Discipline*

Discipline of  
students

23 **18.-(1)** Subject to the provisions of this section, where ~1 appears to  
24 the Rector that any student of the polytechnic has been guilty of misconduct,  
25 the Rector may, without prejudice to any other disciplinary powers conferred  
26 on him by this Act or regulations made hereunder direct:

27 (a) that the student shall not during such period as may be specified in  
28 the direction, participate in such activities of the polytechnic, or make use of  
29 such facilities of the polytechnic, as he may specify; or

30 (b) that the activities of the student shall, during such period as may be

1 specified in the directions, be restricted in such manner as may be so  
2 specified; or

3 (c) that the student be suspended for such period as may be  
4 specified in the directions; or

5 (d) that the student be expelled from the polytechnic.

6 (2) Where there is temporarily no Rector or where the Rector  
7 refuses to apply any disciplinary measures, the Council, either directly or  
8 through some other staff, may apply such disciplinary actions as are  
9 specified in subsection (1) of this section to any student of the polytechnic  
10 who is guilty of misconduct.

11 (3) Where a direction is given under subsection (1) (c) or (d) of this  
12 section in respect of any student, the student may, within a period of 21 days  
13 from the date of the letter communicating the decision to him, appeal from  
14 the direction to the Council; and where such an appeal is brought, the  
15 Council shall, after causing such inquiry to be made in the matter as the  
16 Council considers just, either confirm or set aside the direction or modify it  
17 in such manner as the Council may think fit.

18 (4) The fact that an appeal from a direction is brought in pursuance  
19 of subsection (3) of this section shall not affect the operation of direction  
20 while the appeal is pending.

21 (5) The Rector may delegate his power under this section to a  
22 disciplinary committee consisting of such members of the polytechnic as he  
23 may nominate.

24 (6) Nothing in this section shall be construed as preventing the  
25 restriction or termination of student's activities at the polytechnic otherwise  
26 than on the ground of misconduct

27 (7) It is hereby declared that a direction under subsection (1) (8) of  
28 this section may be combined with a direction under subsection (1) (b) of  
29 this section.

Discipline of  
junior staff

1 (8) In all cases under this section the decision of the Council shall be  
2 final.

3 **19.-(1)** If a junior staff is accused of misconduct or inefficiency, the  
4 Rector may suspend him for not more than three months and forthwith shall  
5 direct the Junior Staff Appointments and Promotions Committee:

6 (a) to consider the case; and

7 (b) to make recommendations as to the appropriate action to be taken  
8 by the Rector.

9 (2) In all cases under this section, the officer shall be informed of the  
10 charge against him and shall be given reasonable opportunity to defend himself

11 (3) The Rector may, after considering the recommendation made  
12 pursuant to subsection (i) (b) of this section, dismiss, terminate, retire or down-  
13 grade the officer concerned.

14 (4) Any person aggrieved by the Rector's decision under subsection  
15 (3) of this section. may within a period of 21 days from the date of the letter  
16 communicating the decision to him, address a petition to the Council to  
17 reconsider his case and the Council's decision thereon shall be final.

18 (5) In any case of gross misconduct on the part of a junior staff, the  
19 Rector shall forthwith suspend him and thereafter refer the matter to the Junior  
20 Staff Appointments and Promotions Committee to be dealt with according to  
21 the foregoing provision of this section.

#### 22 *Financial Provisions*

Audits of accounts

23 **20.-(1)** Each Council shall keep proper accounts and proper records in  
24 relation thereto and shall cause to be prepared, not later than 1 October in each  
25 financial year, an estimate of its revenue and expenditure for the ensuing  
26 financial year and when prepared, the estimate shall be submitted to the  
27 National Board for Technical Education for approval.

28 (2) At the end of each financial year but not later than 30 June the  
29 Council shall cause to be prepared a statement of its income and expenditure  
30 during the previous financial year.

1 (3) The statement of accounts referred to in subsection (2) of this  
 2 section shall, when certified by the Rector, be audited by a firm of auditors  
 3 appointed from the list and in accordance with the guidelines supplied by the  
 4 Auditor-General of the Federation and shall be published in the annual  
 5 report of the polytechnic.

6 **21.** The funds of the Council shall include:

Funds of the  
Council

7 (a) fees charged by and payable to the Council in respect of  
 8 students;

9 (b) any other amounts due to or recoverable by the Council;

10 (c) revenue from time to time accruing to the Council from the  
 11 Federal Government by way of subvention, grant-in-aid, endowment or  
 12 otherwise howsoever;

13 (d) donations and legacies accruing to the Council from any source  
 14 for the special purpose of the Council.

15 **22.-(1)** Donations of money to be applied to any particular purpose  
 16 shall be placed to the credit of a special reserve account approved by the  
 17 Council until such time as they may be expended in fulfilment of such  
 18 purpose.

Donations for  
participation  
purposes

19 (2) No Council shall be obliged to accept a donation for a particular  
 20 purpose unless it approves of the terms and condition' attached to such  
 21 donation.

22 **23.** All sums of money received on account of the Council shall be  
 23 paid into such bank for the credit of the Council as may be approved by the  
 24 Council.

Payment into  
bank

25 **24,** The Council shall on or before:] December in each year  
 26 prepare and submit to the President through the Minister, a report of the  
 27 activities during the preceding financial year and shall-include-in-the-  
 28 report, the audited, accounts of the polytechnic in respect of that financial  
 29 year and the auditors' comments on the account.

Annual report



1 *Miscellaneous and Supplemental*Power to make  
bye-laws

2                   **25.**-(1) The Council may make bye-laws relating to any matter within  
3 its competence under this Act other than matters for which provision is to be  
4 made by standing orders pursuant to paragraph 7 of the Schedule to this Act.

5                   (2) All such bye-laws shall be in writing and shall come into force  
6 when sealed with the seal of the Council unless some other date for their  
7 commencement is prescribed therein.

8                   (3) Nothing in subsection (2) of this section, shall make it obligatory  
9 for the Council to publish any of the said bye-laws in the Federal Gazette but  
10 the Council shall bring such bye-laws to the notice of all affected thereby.

Exclusion of  
discrimination  
on account of  
race, religion, etc.

11                   **26.** No person shall be required to satisfy requirements as to any of the  
12 following matters, that is to say race (including ethnic grouping), sex, place of  
13 birth or of the family origin or religious or political persuasion or as a condition  
14 of becoming or continuing to be a student at the polytechnic or as a holder of  
15 any certificate of the polytechnic, or of any appointment or employment at the  
16 polytechnic, or a member of anybody established by virtue of this Act; and no  
17 person shall be subjected to any disadvantage or accorded any advantage in  
18 relation to the polytechnic by reference to any of those matters:

19                   Provided that, nothing in this section shall be construed as preventing  
20 the polytechnic from imposing any disability or restriction on any of the  
21 aforementioned persons where such a person wilfully refuses or fails on  
22 grounds of religious belief to undertake any duty generally and uniformly  
23 imposed on all such persons or any group of them which duty, having regard to  
24 its nature and the special circumstances pertaining thereto is, in the opinion of  
25 the polytechnic, reasonably justifiable in the national interest.

Quorum and  
procedure of  
bodies established  
under this Act

26                   **27.** Subject to the provisions of paragraph 6 (2) of the Schedule to this  
27 Act and any standing orders or bye-law made under this Act, the quorum and  
28 procedure of any body of persons established by this Act shall be such as may  
29 be determined by that body.

- 1                   **28.** In this Act, unless the context otherwise requires: Interpretation  
2           "The Academic Board" means the board establish under section 10 of this  
3           Act;  
4           "The Appointments and Promotions Committee" means a body by that  
5           name established under paragraph 3 (2) (a) of the Schedule to this Act;  
6           "Polytechnic" means the respective polytechnics set up under section 1 of  
7           this Act;  
8           "The Junior Staff Appointments and Promotion Committee" means a body  
9           by that name set up under paragraph 3 (2) (b) of the Schedule to this Act;  
10          "The Minister" means the Minister charged with responsibility for matters  
11          relating to technical education;  
12          "The Registrar" means the Registrar of each polytechnic appointed under  
13          section this Act.  
14                   **29.** This Bill may be cited as the Federal Polytechnic Creek town Short title  
15          Odukpani (Establishment, etc ) Bill, 2019.

#### EXPLANATORY MEMORANDUM

This Bill seeks to establish the Federal Polytechnic Creek town Odukpani to provide full- time courses in technology, applied science management and other fields of studies and to make provisions for the general administration of such polytechnics.