

**NATIONAL ENVIRONMENT STANDARDS AND REGULATIONS
ENFORCEMENT AGENCY (ESTABLISHMENT) (AMENDMENT) ACT, 2018**

EXPLANATORY MEMORANDUM

This Act amends the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act No. 25, 2007 to review the conditions of appointment of some Council members, increase penalties and permit the search of premises without warrant.

**NATIONAL ENVIRONMENT STANDARDS AND REGULATIONS
ENFORCEMENT AGENCY (ESTABLISHMENT) (AMENDMENT) ACT, 2018**

Arrangement of Sections

Section:

1. Amendment of Act No. 25, 2007.
2. Amendment of section 3.
3. Amendment of section 7.
4. Amendment of section 8.
5. Amendment of section 9.
6. Amendment of section 13.
7. Amendment of section 20.
8. Amendment of section 21.
9. Amendment of section 22.
10. Amendment of section 23.
11. Amendment of section 24.
12. Amendment of section 26.
13. Amendment of section 30.
14. Insertion of new section 31A.
15. Insertion of new section 32A.
16. Insertion of new section 33A.
17. Amendment of section 37.
18. Citation.

**NATIONAL ENVIRONMENT STANDARDS AND REGULATIONS
ENFORCEMENT AGENCY (ESTABLISHMENT) (AMENDMENT) ACT, 2018**

A Bill

For

An Act to amend the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act No. 25, 2007 to review the conditions of appointment of some Council members, increase penalties and permit the search of premises without warrant; and for related matters.

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Commencement

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

1. The National Environmental Standards and Regulations Enforcement Agency (Establishment) Act No. 25, 2007 (in this Act referred to as the "Principal Act") is amended as set out in this Act. Amendment of Act No. 25, 2007.
2. Section 3 (1) of the Principal Act is amended in: Amendment of section 3.
 - (a) paragraph (b), by inserting after the word, "representative, in line 2, the words, "who is not below the rank of a Director";
 - (b) paragraph (c), by substituting for subparagraph (vii), a new subparagraph "(vii)":

“(vii) a representative of the Federal Ministry of Health”; and
 - (c) paragraph (e), by inserting after the word, "interest", in line 1, the words, "with relevant qualification and 10 years post qualification experience in environmental related field".
3. Section 7 of the Principal Act is amended, in: Amendment of section 7.
 - (a) paragraph (c), line 3, by deleting the words, "oil and gas";
 - (b) paragraph (i), by inserting after the word, "by", in line 1, the words, "the Government"; and
 - (c) paragraph (k), by substituting for the word, "conduct", in line 1, the words, "review and certify".

Section 8 (q) of the Principal Act is amended by inserting after the word, "services", in line 1, the words, "including administrative fees". Amendment of section 8.

Section 9 of the Principal Act is amended by inserting, after the word, "functions", in the marginal note, the words, "and powers". Amendment of section 9.

6. Section 13 of the Principal Act is amended by inserting after subsection (2), a new subsection "(3)": Amendment of section 13.

"(3) All money received by or on behalf of the Agency shall be receipted and paid into the Federation Account within 24 hours of receipt or the next working day."

7. Section 20 of the Principal Act is amended: Amendment of section 20.

(a) in subsection (3), by substituting:

- (i) for the word, "exceeding", in line 3, the words, "less than", and
- (ii) for the words, "exceeding one year", in line 3, the words, "less than six months"; and

(b) by substituting for subsection (4), a new subsection "(4)":

"(4) Where a body corporate contravenes subsection (1), it commits an offence and is liable on conviction to a fine not less than ₦2,000,000 and an additional fine of ₦50,000 for every day the offence subsists."

8. Section 21 of the Principal Act is amended, in: Amendment of section 21.

(a) subsection (2), by substituting for the words, "in collaboration with other relevant agencies, embark on programmes", in lines 1 and 2, the words, " make regulations"; and

(b) subsection (3) , by substituting for the word, "exceeding", in line 2, the words, "less than".

9. Section 22 of the Principal Act is amended, in: Amendment of section 22.

(a) subsection (3), by substituting for the word, "exceeding", in line 2, the words, "less than"; and

(b) subsection (4), by substituting for the word, "exceeding", in line 2, the words, "less than".

10. Section 23 of the Principal Act is amended, in: Amendment of section 23.

(a) subsection (1), by substituting for the word, "collaboration", in line 1, the word, "consultation"

(b) subsection (3), by substituting for the word, "exceeding", in line 3, the words, "less than"; and

(c) subsection (4), by substituting for the word, "exceeding", in line

2, the words "less than".

11. Section 24 of the Principal Act is amended, in:

Amendment of section 24.

- (a) subsection (4), by substituting for the word, "exceeding", in line 3, the words, "less than"; and
- (b) subsection (5), by substituting for the word, "exceeding", in line 2, the words, "less than".

12. Section 26 of the Principal Act is amended, in:

Amendment of section 26.

- (a) subsection (3), by substituting for the word, "exceeding", in line 3, the words, "less than"; and
- (b) subsection (4), by substituting for the word, "exceeding", in line 2, the words, "less than".

13. Section 30 of the Principal Act is amended, by:

Amendment of section 30.

(a) inserting after subsection (4), a new subsection "(4A)":

"(4A) Where, in a case of verifiable urgency where the environmental pollution is an immediate or imminent threat to life and property, or to prevent the commission of an offence provided under this Act, and an application to the court for an order or to a Judge in Chambers to obtain a search warrant would cause delay that may be prejudicial to the maintenance of public safety or order, an authorised officer of the Agency or a relevant agency may, without prejudice to the provisions of subsection (1) or any other law, with the assistance of other officers as may be necessary and while search warrant or court order is being sought for:

(a) enter and search any premises, place or conveyance if he has reason to suspect that, within those premises, place or conveyance:

(i) an offence under this Act is being committed or likely to be committed,

(ii) there is evidence of the commission of an offence under this Act, or

(iii) there is an urgent need to prevent the commission of an offence under this Act;

(b) search any person or conveyance found on any

premises or place which such officer is empowered to enter and search under paragraph (a);

(c) stop, board and search any conveyance where the authorised officers of the Agency or relevant Agency has reasons to suspect that there is evidence of the commission or likelihood of the commission of an offence under this Act;

(d) seize, remove and detain anything which is, or contains or appears to him to be or to contain or likely to contain, evidence of the commission of an offence under this Act;

(e) suspend activities, seal and close down premises including land, vehicle, tent, vessel, floating craft or any inland water and other structure; or

(f) arrest, search and detain any person whom the officer reasonably suspects to have committed or likely to commit an offence under this Act.”; and

(b) renumbering the section appropriately.

14. Insert after section 31 of the Principal Act, a new section “31A”:

Insertion of new section 31A.

“Limitation of actions against the Agency”

31A. The provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against any officer or employee of the Agency.”

Cap. P41, LFN, 2004.

15. Insert after section 32 of the Principal Act, a new section “32A”:

Insertion of new section 32A.

“Restriction on action against the property of the Agency”

32A. No execution or attachment of process shall be issued against the Agency in any action or suit without the prior consent of the Attorney-General of the Federation.”

16. Insert after section 33 of the Principal Act, a new section “33A”:

Insertion of new section 33A.

“Indemnity of officers”

33A. A member of the Council, the Director-General and officers of the Agency are indemnified against any proceeding, whether civil or criminal, in which judgment is given in his favour, or in which he is acquitted, if any such proceeding is brought against him in his capacity as member of the Council, the Director-General, officer or employee of the Agency.”

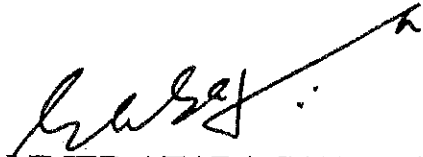
17. Section 37 of the Principal Act is amended by inserting, in alphabetical order, the new definition of:

Amendment of section 37.

"environmental enforcement infrastructure" means the stock of facilities and equipment needed for the functioning of efficient environmental compliance monitoring and enforcement regime. It is also concerned with the institutional strengthening and capacity building of the Agency, including resources such as manpower, buildings, laboratories, monitoring networks, etc."

18. This Act may be cited as the National Environmental Standards and Regulations Enforcement Agency (Establishment) (Amendment) Act, 2018. Citation.

I, CERTIFY, IN ACCORDANCE WITH SECTION 2 (1) OF THE ACTS AUTHENTICATION ACT CAP. A2, LAWS OF THE FEDERATION OF NIGERIA 2004, THAT THIS IS A TRUE COPY OF THIS BILL PASSED BY BOTH HOUSES OF THE NATIONAL ASSEMBLY.



MOHAMMED ATABA SANI-OMOLORI
CLERK TO THE NATIONAL ASSEMBLY

^{5th} DAY OF OCTOBER, 2018

Schedule to the National Environment Standards and Regulations Enforcement Agency (Establishment) (Amendment) Bill, 2018

SHORT TITLE OF THE BILL	LONG TITLE OF THE BILL	SUMMARY OF THE CONTENTS OF THE BILL	DATE PASSED BY THE SENATE	DATE PASSED BY THE HOUSE OF REPRESENTATIVES
National Environment Standards and Regulations Enforcement Agency (Establishment) (Amendment) Bill, 2018.	An Act to amend the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act No. 25, 2007 to review the conditions of appointment of some Council members, increase penalties and permit the search of premises without warrant; and for related matters.	This Bill amends the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act No. 25, 2007 to review the conditions of appointment of some Council members, increase penalties and permit the search of premises without warrant.	10 th July, 2018	14 th February, 2018

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.

Mohammed Ataba Sanjimon
MOHAMMED ATABA SANI-OMOLORI
Clerk to the National Assembly
5th Day of October, 2018

Muhammadu Buhari
MUHAMMADU BUHARI, GCFR
President of the Federal Republic of Nigeria
06 Day of October, 2018
NOV.

I ASSENT