

# A BILL

## FOR

AN ACT TO REPEAL THE EMERGENCY POWERS ACT, 1961 AND TO ENACT THE EMERGENCY POWERS ACT 2019; TO PROVIDE FOR THE DECLARATION OF A STATE OF EMERGENCY AND FOR RELATED MATTERS

*Sponsored by Hon. Mohammed Tahir Monguno*

[ ] Commencement

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

### PART I - OBJECTIVES

1           1. The objective of this Bill is to make provision for the declaration Objectives  
2 of a State of Emergency in Nigeria or any part thereof subject to the  
3 provisions of the Constitution of the Federal Republic of Nigeria, 1999 (as  
4 amended) and to provide for the:

- 5           (a) general administration of an emergency area;
- 6           (b) search, arrest without warrant and detention of persons in the  
7 emergency area;
- 8           (c) prohibition of public processions, demonstrations and meetings  
9 in the emergency area;
- 10          (d) imposition of curfew in the emergency area;
- 11          (e) declaration of protected places and control of persons in the  
12 protected places; and
- 13          (f) control of arms and explosives in the emergency area.

14           2. The provisions of this Bill shall apply in any emergency area Application  
15 and or throughout the Federal Republic of Nigeria.

### PART II - DECLARATION OF A STATE OF EMERGENCY

17           3.-(1) The President in accordance with the advice of the Federal Declaration of  
18 Executive Council may, by proclamation published in the Official Gazette, a state of  
19 declare a state of emergency in Nigeria or in any part of Nigeria. emergency

1 (2) The Governor of a State, supported by two-third majority of the  
2 House of Assembly may request the President to make a proclamation of state  
3 of emergency in a state or any part thereof, where the need for such declaration  
4 is reasonably justifiable.

5 (3) The President shall, in the declaration of state of emergency, state  
6 the reason for the proclamation.

National Assembly  
to be informed

7 4.-(1) Notwithstanding any other provision of this Bill, where a  
8 proclamation is published under subsection (1) of section 3 of this Bill, the  
9 President shall place immediately before the two Chambers of National  
10 Assembly the facts and circumstances leading to the declaration of the state of  
11 emergency.

12 (2) The National Assembly shall, within seventy-two hours after  
13 being so notified, decide whether the proclamation should remain in force or  
14 should be revoked; and the President shall act in accordance with the decision  
15 of the National Assembly.

16 (3) Notwithstanding any other provision of this Bill, where a request  
17 for the proclamation under subsection (2) of section 3 of this Bill is desired by a  
18 Governor of a State, the President shall be given a reasonable time within  
19 which to issue the proclamation.

Duration of a  
state of emergency

20 5.-(1) A declaration of a state of emergency shall cease to have effect  
21 at the expiration of a period of six months beginning with the date of  
22 publication of the proclamation, unless, before the expiration of that period, it  
23 is approved by members through a resolution passed by simple majority of  
24 both chambers of the National Assembly.

25 (2) Subject to subsection (2) of section 4 of this Bill, where a  
26 declaration of a state of emergency is approved by a simple majority resolution  
27 of both chambers of the National Assembly, the state of emergency shall  
28 continue to be in force until the expiration of a period of six months beginning  
29 with the date upon which it was approved or until such earlier date as may be  
30 specified in the resolution.

1                   6.-(1) The National Assembly may, by resolution passed by simple  
2 majority of its members, extend the approval of proclamation for periods of  
3 not more than three months at a time. Extension or  
Revocation of a  
state or emergency

4                   (2) The National Assembly may, by a resolution passed by a simple  
5 majority of its members, at any time, revoke a declaration of a state of  
6 emergency it earlier approved.

7                   7. The President may issue a Proclamation of a state of emergency Circumstances  
under which a  
state of emergency  
may be declared  
8 where:

9                   (a) the Federation is at war;

10                  (b) the Federation is in imminent danger of invasion or  
11 involvement in a state of war or insurgency;

12                  (c) there is actual breakdown of public order and public safety in  
13 the Federation or any part thereof to such extent as to require extraordinary  
14 measures to restore peace and security;

15                  (d) there is a clear and present danger of an actual breakdown of  
16 public order and public safety in the Federation or any part thereof requiring  
17 extraordinary measures to avert such danger;

18                  (e) there is an occurrence or imminent danger, or the occurrence of  
19 any disaster or natural calamity, affecting the community or a section of the  
20 community in the Federation;

21                  (f) there is any other public danger which clearly constitutes a  
22 threat to the existence of the Federation; or

23                  (g) the President receives a request to do so in accordance with the  
24 provisions of subsection (2) of section 3 of this Bill.

25                   8.-(1) On the declaration of a state of emergency under section 3 of Consequential  
powers  
26 this Bill, the President may take such measures as he considers necessary  
27 and justifiable for the purpose of dealing with the situation that exists during  
28 the period that the state of emergency is in force.

29                   (2) Without prejudice to subsection (1) of this section, the  
30 President during the period of state of emergency, may in the case of an

- 1 emergency affecting the whole of Nigeria-
- 2 (a) prevent assistance to an enemy in case of war; and
- 3 (b) or in any part of Nigeria, take any of the following steps, which
- 4 includes the:
- 5 (i) detention of persons or the restriction of their movement;
- 6 (ii) deportation and expulsion from Nigeria of persons whose
- 7 presence in Nigeria constitute threat;
- 8 (iii) acquisition of any property or taking possession of or controlling
- 9 on behalf of the state of any property;
- 10 (iv) searching without warrant of any premises;
- 11 (v) payment of compensation to any person affected by any action
- 12 taken under the emergency that is not in conformity with the provisions of this
- 13 Bill or any other law;
- 14 (vi) arrest, trial and punishment of any person for breach of any
- 15 instruments, orders or declaration related to the proclamation of state of
- 16 emergency;
- 17 (vii) suspension of operation of any law; and
- 18 (viii) removal of any person from the emergency area where the
- 19 emergency relates only to a part of the country.
- 20 (3) The powers conferred on the President under this Bill may be
- 21 exercised by the issuance of executive instruments, orders or declarations
- 22 published in the Official Gazette.

Termination of  
state of emergency

23 9. At the end of an emergency period declared under section 3 of this

24 Bill, a person in restriction or detention or in custody as a result of the

25 declaration of the emergency, shall be released either conditionally or

26 unconditionally.

Report to National  
Assembly of  
restricted or  
detained persons

27 10.-(1) The person authorised by the President shall make monthly

28 report to the National Assembly of the number of persons restricted or detained

29 by virtue of this Bill or any other enactment conferring emergency powers and

30 the number of cases in which the authority that ordered the restriction or

1 detention has acted in accordance with the decisions of the tribunal  
2 appointed under this Bill.

3 (2) Notwithstanding subsection (1) of this section, the person  
4 referred to in subsection (1) shall publish on monthly basis in the Gazette,  
5 the number of-

6 (a) persons restricted or detained stating their names and  
7 addresses;

8 (b) cases reviewed by the court or tribunal appointed under the  
9 provisions of this Bill; and

10 (c) cases in which the authority which ordered their restriction or  
11 detention has acted in accordance with the decisions of the court or tribunal  
12 appointed under this Bill.

### 13 PART III - ADMINISTRATION OF THE EMERGENCY AREA

14 11.-(1) The State Governor or the Local Government Chairman in  
15 an emergency area shall continue with the general functions of  
16 administering the emergency area under the control of the President or any  
17 person designated or authorized to act on his behalf.

Administration  
of the Emergency  
Area

18 (2) The President may give directions to a State Governor or Local  
19 Government Chairman directly or through his designate or a duly  
20 authorized person with respect to the administration of the emergency area  
21 and it shall be the duty of the State Governor or Local Government  
22 Chairman to comply with the direction.

23 (3) The President may with the approval of the National Assembly  
24 suspend a State Governor or the Local Government Chairman in an  
25 emergency area during an emergency period.

26 12.-(1) The President may make such Orders as appear to him to be  
27 necessary or expedient for the purpose of maintaining and securing peace,  
28 public order, public safety and good Government in the emergency area.

Power of the  
President to make  
Order for an  
emergency area

29 (2) Any Order made under subsection (1) of this section may, if it  
30 appears to the President to be necessary or expedient for the purpose

1 mentioned in the subsection-

2 (a) make provision for the detention of any person either within the  
3 emergency area or elsewhere and removal and exclusion of any person from  
4 the emergency area;

5 (b) authorized the taking of possession or control of any property or  
6 undertaking in the emergency area;

7 (c) authorize the entry and search of any premises;

8 (d) provide for the application of any law (with or without  
9 modification), in relation to that area;

10 (e) provide for the utilization of the funds of any Local Government in  
11 the emergency area;

12 (f) provide for the payment of compensation and remuneration to  
13 persons affected by the Order;

14 (g) provide for the apprehension, trials and punishment of persons  
15 offending against the Order; or

16 (h) provide for the maintenance of such supplies and services as the  
17 President considers essential to the lives of persons in the emergency area.

18 (3) Nothing in subsection (2) of this section shall authorize the  
19 making of provisions for the trials of a person by military courts.

20 (4) An Order made under this section may provide that the Order shall  
21 have effect for all purposes as if it were a law made by the House of Assembly  
22 of the State of the emergency area concerned.

23 (5) The President shall, as soon as reasonably practicable after an  
24 Order has been made under this Bill, transmit a copy of the Order to each House  
25 of the National Assembly for approval and if the National Assembly disallows  
26 the Order, it shall cease to have effect without prejudice to anything done  
27 thereunder.

28 **13.** Subject to the provisions of subsection (3) of section 215 of the  
29 Constitution of the Federal Republic of Nigeria 1999, as amended and of any  
30 directions given in pursuance of that subsection, a person designated or

1 authorized by the President may give to the Commissioner of Police in the  
 2 emergency area such directions with respect to the maintenance and security  
 3 of public safety and order as the person considers expedient and it shall be  
 4 the duty of the Commissioner of Police to comply with the directions.

5 **14.** The President or his designate or authorised person shall,  
 6 without prejudice to the generality of the powers conferred on him by these  
 7 Regulations-

Suspension and  
 control of  
 functions of certain  
 authorities in the  
 emergency area

8 (a) allow any person holding offices as in the Local Government of  
 9 the emergency area, or public service of the State within the meaning of the  
 10 Constitution of the Federal Republic of Nigeria 1999, as amended in the  
 11 emergency area; or any customary court or Local Government Authority in  
 12 the emergency area, to exercise their functions in accordance with any  
 13 directions given to them; and

14 (b) may suspend from office any such person, who in his opinion,  
 15 fails to comply with direction given under this regulation and may appoint  
 16 some other person to act in the place of the suspended person during the  
 17 period of the emergency.

18 **15.** Any instrument purported to be signed by the President, his  
 19 designate or a person authorized by him shall until the contrary is proved, be  
 20 deemed to be signed by the President, his designate or the authorized person.

Authentication  
 of instruments

21 **PART IV - DETENTION OF PERSONS**

22 **16.-(1)** Where the Appropriate Authority is satisfied that a person  
 23 in the emergency area is or has been involved in the preparation or  
 24 instigation of acts prejudicial to public safety and that by reason thereof, it is  
 25 necessary to exercise control over him, he may make a Detention Order  
 26 directing that the person be detained in any place in the emergency area or in  
 27 any Maximum Prison in Nigeria as may be specified in the Detention Order.

Detention Orders

28 (2) Any Detention Order under subsection (1) of this section may  
 29 be made orally or in writing provided that if made orally, it shall as soon as  
 30 practicable be confirmed in writing and in either case, the Detention Order

1 issued shall be complied with immediately.

2 (3) Any person detained pursuant to a Detention Order made under  
3 subsection (1) of this section shall be deemed to be in lawful custody.

Authority for  
detention

4 17. An order of the Appropriate Authority made under the provisions  
5 of section 16 of this Bill shall be fully executed by the person or persons to  
6 whom the order is given, to arrest the person(s) against whom it is made and to  
7 detain him or her during such time as the Detention Order is in force.

Powers of search  
without warrant

8 18.- (1) Any superior police officer or any personnel of the armed  
9 forces not below the rank of an Army Captain or its equivalent may, at any time,  
10 enter without warrant and search any building (including a dwelling house),  
11 ship, aircraft, vehicle or place where he has reasonable cause to believe that  
12 there is or likely to be-

13 (a) any person against whom an order has been made under section 16  
14 of this Bill; or

15 (b) any seditious or subversive document, pamphlet or literature; or

16 (c) anything which may provide evidence of the preparation,  
17 instigation or commission of any act referred to in subsection (1) of section 16  
18 of this Bill; and

19 (d) any firearm or ammunition owned, possessed or kept contrary to  
20 the law.

21 (2) Where any person or thing referred to in sub-regulation (1) of this  
22 regulation is found in any building, ship, aircraft, vehicle or place, any superior  
23 police officer or any personnel of the armed forces may arrest the person or  
24 seize the thing as the case may be.

25 (3) The police or members of the armed forces conducting any search  
26 pursuant to the provision of subsection (1) of this section may require the  
27 assistance of any person as deemed necessary for the purpose and such person  
28 shall render such assistance to the best of his or her ability.

29 (4) Where any person is conducting a search in pursuance of powers  
30 conferred upon him by subsection (1) of this section, the provisions of the



1 Administration of Criminal Justice Act, 2015 shall apply as though he were  
2 conducting such search in the execution of a search warrant.

3 (5) Any property, item or thing seized under the provisions of  
4 section (1) of this section may be detained and disposed of in accordance  
5 with the Administration of Criminal Justice Act, 2015, as though it had been  
6 seized in the execution of a search warrant.

7 **19.** At any time after a Detention Order is made against any person  
8 under the provisions of section 16 of this Act, the Appropriate Authority may  
9 direct-

Variation and  
suspension of  
Detention Order

10 (a) that the person so detained be removed to any other place of  
11 detention within the emergency area, or with the consent of the President, to  
12 another place in Nigeria;

13 (b) that the operation of the Detention Order be suspended, subject  
14 to such conditions:

15 (i) prohibiting or restricting the possession or use by the person of  
16 any specified articles;

17 (ii) imposing on the person such restrictions as may be specified in  
18 the direction in respect of his employment or business, concerning the place  
19 of his residence or his association or communication with other persons;

20 (iii) restricting his movement between such hours as may be so  
21 specified, except under the authority of a written permit granted by any  
22 relevant authority or person;

23 (iv) requiring him to notify his movements, in such manner and at  
24 such times, and to such authority or person as may be so specified of his  
25 movement; or

26 (v) prohibiting him from travelling except in accordance with  
27 permission given to him by such authority or person as may be specified.

28 **20.** The Appropriate Authority may revoke any direction issued  
29 pursuant to this Part of this Bill, if he is satisfied that the person against  
30 whom the Order was made has failed to observe any condition imposed or

Revocation

1 that the operation of the Order can no longer remain suspended without it being  
2 detrimental to public safety.

Control of  
Detention Orders  
by President

3 21. Where the Appropriate Authority is a designated or authorized  
4 person acting on behalf of the President, he shall immediately after a Detention  
5 Order has been issued under these regulations, transmit a copy of the Detention  
6 Order to the President for approval and where the President disallows the  
7 Detention Order, it shall cease to have effect without prejudice to anything  
8 done thereunder.

9 PART V - RESTRICTION ORDERS

Restriction  
Orders

10 22.-(1) For the purpose of maintaining public order in the emergency  
11 area, the Appropriate Authority may make an order (in this Act referred to as "a  
12 Restriction Order");

13 (a) providing that a person shall be and remain or not be or not remain,  
14 in a particular place or area as may be specified in the Restriction Order; and

15 (b) requiring a person to notify the Appropriate Authority or such  
16 other authority or person of his movement in such manner and at such times and  
17 as may be specified in the Restriction Order or any permit made pursuant to the  
18 Restriction Order.

19 (2) A permit may be issued by the Appropriate Authority on such  
20 terms and conditions as the Appropriate Authority deems expedient.

21 (3) A Restriction Order shall come into force immediately upon its  
22 service on the restricted person.

23 (4) Where at the time of the service of a Restriction Order, the  
24 Restricted Person is within the place or area specified in the Restriction Order,  
25 the Restricted Person may be removed from that place or area by a police  
26 officer or any person authorised in writing by the Appropriate Authority.

27 (5) Without prejudice to any proceedings which may be taken against  
28 a Restricted Person under these Regulations, a Restricted Person who is in  
29 contravention of the provisions of a Restriction Order, or any term or condition  
30 of a permit issued pursuant to Restriction Order, may be removed from the

1 place or area by any police officer or any person authorised in writing by the  
2 Appropriate Authority.

3 (6) A person while being removed under this Part shall be deemed  
4 to be in lawful custody.

5 23. Where the Appropriate Authority is a designated or authorized  
6 person acting on behalf of the President, he shall immediately after a  
7 Restriction Order has been made under this Act, transmit a copy of the  
8 Restriction Order to the President for approval and where the President  
9 disallows the Restriction Order, such Restriction Order shall cease to have  
10 effect without prejudice to anything done there under.

Control  
Restriction Orders  
by the President

11 PART VI - REPORTING OF PERSONS

12 24. The Appropriate Authority may, if he deems it expedient for  
13 securing public safety and maintenance or restoration of public order, issue a  
14 direction in writing requiring any person in the emergency area to whom the  
15 direction is addressed, to report to such place in the emergency area within  
16 such time as may be specified in the direction and to comply with direction  
17 relating to his movements as may be given by the Appropriate Authority.

Power to require  
persons to report

18 25.-(1) A direction issued pursuant to the provision of section 24 of  
19 this Act shall remain in force for a period of 21 days from the date of receipt  
20 by the person to whom it is addressed.

Duration of a  
direction

21 (2) On the expiration of the period specified in subsection (1) of  
22 this section, the Appropriate Authority may issue a further direction.

23 26. Where the Appropriate Authority is a designated or authorized  
24 person acting on behalf of the President, he shall immediately after a  
25 direction has been issued under these regulations, transmit a copy of the  
26 direction to the President for approval and where the President disallows the  
27 direction, it shall cease to have effect without prejudice to anything done  
28 there under.

Control of  
directions by  
the President

29 27.-(1) For the purpose of Bill, a direction shall be deemed to have  
30 been received if it is delivered to:

Notice of  
Direction

1 (a) the person to whom it is addressed or made known to him; or

2 (b) the usual place of abode or business of such a person.

3 (2) It shall be a defence for a person who is found to be in  
4 contravention of the provision of subsection (1) (b) of this section to prove that  
5 he was absent from his usual place of abode or business as the case may be  
6 when the direction was delivered and that on his return, he took immediate  
7 steps to comply with the direction.

8 PART VII - PROCESSION AND MEETINGS

Prohibition of  
public  
processions,  
demonstrations  
and meetings

9 **28.** The Appropriate Authority, may by order prohibit the holding of  
10 any public procession, demonstration or public meeting in any emergency area  
11 for such period as may be specified in the order if he is satisfied that the holding  
12 of the public procession, demonstration or public meeting would be likely to  
13 cause serious public disorder.

Use of force

14 **29.** Any police officer or a member of the Armed Forces of the  
15 Federal Republic of Nigeria may take such steps and use such force as may  
16 reasonably be necessary to secure compliance with any order made under these  
17 Regulations.

18 PART VIII - CURFEW

Power to impose  
curfew

19 **30.** The Appropriate Authority may, by order, impose a curfew upon  
20 the inhabitants of the emergency area or any part thereof.

Publication,  
commencement  
and proof of  
curfew order

21 **31.-(1)** Every curfew order shall be made known to the inhabitants of  
22 the area to which it relates in such manner as the Appropriate Authority thinks  
23 fit, and shall come into operation on the date it is issued.

24 (2) Without prejudice to any other mode of proof, a certificate signed  
25 by the Appropriate Authority or at his direction stating the terms of any curfew  
26 order and the date on which it came into operation in accordance with the  
27 provisions subsection (1) of this section shall be conclusive evidence of those  
28 matters.

29 (3) As soon as a curfew order is made, the Appropriate Authority shall  
30 cause it to be published by notice in the Government Gazette.

1                   32. Where a curfew has been imposed in any area, no person other  
2 than a police officer, a member of the armed forces of the Federation, a  
3 person registered as a medical practitioner or any other person authorized in  
4 writing under this Bill shall be outdoors within the area between such hours  
5 as may be specified in the curfew order (in this Bill referred to as 'the hours  
6 of curfew').

Effect of curfew  
order

7                   33.-(1) Any superior police officer may issue to any person  
8 applying therefrom a written permit authorizing the holder thereof to be  
9 outdoors within a curfew area during such times and for such purposes and  
10 subject to such conditions or limitations as may be specified in such permit.

Permits

11                   (2) It shall be a condition of every such permit that the person to  
12 whom it has been granted shall carry it on his person at all times when he is  
13 outdoors in a curfew area during the hours of curfew.

14                   (3) Every such permit shall, on demand, be produced for the  
15 inspection of a police officer or a member of the armed forces of the  
16 Federation.

17                   PART IX - PROTECTED PLACES

18                   34. The Appropriate Authority may by order, where it appears to  
19 him to be necessary or expedient:

Declaration of  
protected places

20                   (a) for the maintenance of supplies and services essential to the life  
21 of the community; or

22                   (b) for securing the public safety; or

23                   (c) that special precautions should be taken to prevent the entry of  
24 unauthorized persons, declare those premises to be a protected place for the  
25 purpose of this Act and so long as the order is in force, no person shall,  
26 subject to any exemptions for which provision may be made by the order,  
27 enter or attempt to enter or be in those premises without the permission of  
28 such authority or person as may be specified in the order.

29                   35. Every person to whom permission to enter a protected place is  
30 granted pursuant to section 34 of this Bill shall, while in that place, comply

Control of  
persons in  
protected places

1 with such directions for regulating his conduct as may be given by the  
2 Appropriate Authority or by the authority or person granting the permission,  
3 and any authorized officer or any person authorized in that behalf by the  
4 occupier of the premises, may search any person entering or seeking to enter or  
5 being in any protected place, and may detain any such person for the purpose of  
6 searching him.

Removal of  
unauthorized  
persons

7           36. Where a person is in a protected place in contravention of this Part  
8 of this Bill or while in any such place, fails to comply with any direction given  
9 under this Part of this Bill, then without prejudice to any proceedings which  
10 may be taken against him, he may be removed from there by any authorized  
11 officer or any person authorized in that behalf by the occupier of the premises.

Additional  
Protective  
Measures

12           37.-(1) The Appropriate Authority may authorize such steps to be  
13 taken as he may deem necessary for the protection of any protected place, and  
14 such steps may extend to the taking of defensive measures which involve or  
15 may involve danger to the life of any person entering or attempting to enter any  
16 protected place.

17           (2) Where any measures involving such danger as aforesaid are  
18 adopted, the senior police officer or a member of the Armed Forces of the  
19 Federal Republic of Nigeria responsible for the locality in which the protected  
20 place is situated, shall cause such precautions to be taken, including the  
21 prominent display of warning notices, as he deems necessary to prevent  
22 inadvertent or accidental entry into the protected place and, where such  
23 precautions have been duly taken, no person shall be entitled to compensation  
24 or damages in respect of injury received or death caused as a result of any  
25 unauthorized entry into the protected place.

#### 26           PART X - POSSESSION OF EXPLOSIVES

Possession of  
Explosives etc.

27           38. Exercise of Powers by the Appropriate Authority is subject to  
28 directions, if any, given by the Appropriate Authority, a superior police officer  
29 or any member of the armed forces not below the rank of an Army Captain or its  
30 equivalent may exercise in the emergency area, all or any of the powers

1 conferred upon the Appropriate Authority by section 39 of this Bill.

2 39.-(1) The Appropriate Authority may by order made in respect of Possession of  
3 the whole or any part of the emergency area prohibit, either absolutely or Explosives etc.  
4 conditionally, the possession by any person of any explosive, ammunition,  
5 arms or component parts thereof, and any such order may be made with  
6 respect to all explosives, ammunition, arms or component parts thereof.

7 (2) The Appropriate Authority may by order made in respect of the  
8 whole or any part of the emergency area provide for the custody of  
9 explosives, ammunition, arms and component parts thereof, as he shall  
10 deem fit.

11 (3) Any person who, in any such area as may be specified in an  
12 order made pursuant to subsection (2) of this section, has in his possession,  
13 custody or control any explosive, ammunition, arms or component part  
14 thereof, shall comply with such directions in respect thereof as may be given  
15 by a police officer or a member of the Armed Forces of the Federal Republic  
16 of Nigeria in the district in which the articles are situated; and the directions  
17 may require the removal of the articles to such place as may be specified  
18 therein.

19 (4) Where any directions given by any police officer or a member  
20 of the Armed Forces of the Federal Republic of Nigeria under subsection (3)  
21 of this section are not complied with, then (without prejudice to any  
22 proceedings which may be taken in respect of the offence) the said officer  
23 may cause the articles to which the directions relate to be dealt with in such  
24 manner as may be necessary for securing compliance with the directions.

25 PART XI - MISCELLANEOUS

26 40.-(1) Not more than fourteen (14) days after the commencement  
27 of the restriction or detention of any person under section 16 of this Bill, a  
28 notification shall be published in the Official Gazette, stating the number of  
29 person(s) that have been arrested, restricted or detained on the grounds of  
30 violating the proclamation of state of emergency.

Gazetting and  
publication of  
detained persons

1 (2) The person(s) detained shall be allowed to consult with a lawyer  
2 of his choice who shall also be permitted to make representations to either the  
3 court or tribunal appointed for the review of his case, and at the hearing of his  
4 case, he shall be permitted to appear in person or by a lawyer of his choice.

Review by either  
a court or tribunal

5 41.-(1) Not more than ten (10) days after the commencement of the  
6 restriction or detention, and after that, during the restriction or detention, at  
7 intervals of not more than three months, the case shall be reviewed by either a  
8 court or tribunal composed of not less than three Justices of the Superior Court  
9 appointed by the Chief Justice of Nigeria; except that the same court or tribunal  
10 shall not review more than once the case of a person restricted or detained.

11 (2) On a review by a court or tribunal of the case of a restricted or  
12 detained person, the tribunal may order the release of the person and the  
13 payment to him of adequate compensation or uphold the grounds of his  
14 restriction or detention, and the authority by which the restriction or detention  
15 was ordered shall act accordingly.

Hearing of  
proceedings in  
Camera

16 42.-(1) A court sitting in any part of Nigeria where a proclamation  
17 under section 3 of this Bill is in force, if it is satisfied that it is in the interest of  
18 the public safety or the defence of the State, may-

19 (a) direct that throughout or during any part of its proceedings, such  
20 persons or classes of persons as the court may determine shall be excluded; and

21 (b) prohibit or restrict the disclosure of information relating to its  
22 proceedings.

23 (2) A person who contravenes the directions of the court under  
24 subsection (1) of this section, commits an offence and is liable on conviction to  
25 imprisonment for a term of not less than 30 days.

26 (3) Nothing in this Act shall authorise the making of any provision for  
27 the trial of a non-military person by a military court.

Offences and  
penalties

28 43.-(1) A person who-

29 (a) contravenes the provisions of a Restriction Order; or

30 (b) fails to comply with any term or condition of a permit pursuant to



1 a Restriction Order,

2 commits an offence and liable on summary conviction to imprisonment for a  
3 term not exceeding two years or to a fine of N500,000.00 or to both.

4 (2) A person who receives a direction in pursuance of Part VI of  
5 this Bill and fails to comply with the requirements of the direction, commits  
6 an offence and shall be liable on summary conviction to imprisonment, for a  
7 term not exceeding 6 months or to a fine of N200,000.00 or to both.

8 (3) A person who fails to comply with any order made under Part  
9 VII of this Bill commits an offence and shall be liable on summary  
10 conviction to imprisonment for a term not exceeding two years or to a fine of  
11 not less than N500,000.00 or to both.

12 (4) A person found outdoors in any area where a curfew has been  
13 imposed contrary to the provisions of Part VII of this Bill may be arrested  
14 without warrant by a police officer or a member of the armed forces of the  
15 Federation, and shall be liable on summary conviction to a fine not  
16 exceeding N200,000 or to imprisonment for a term not exceeding six  
17 months or to both.

18 (5) A person to whom a permit has been granted under Part VIII of  
19 this Act who fails to produce it when lawfully required to do so shall be liable  
20 on summary conviction to a fine not exceeding N100,000 or to  
21 imprisonment for a term not exceeding three months.

22 (6) A person who enters or attempts to enter a protected place in  
23 contravention of any of the provisions of Part IX of this Bill or a person  
24 while in a protected place fails to comply with any direction given under  
25 Bill, commits an offence and shall be liable-

26 (a) on summary conviction, to imprisonment for a term not  
27 exceeding 2 years; or

28 (b) on conviction on indictment, to imprisonment for a term not  
29 exceeding 5 years.

30 (7) A person who fails to comply with the provisions of any order

1 or direction made or given under Part X of this Bill commits an offence and  
2 shall be liable on summary conviction, to imprisonment for a term not  
3 exceeding 5 years.

Repeal and  
savings provisions

4 **44.**-(1) The State of Emergency Act, 1961 is repealed.

5 (2) Without limiting the provisions of the Interpretation Act, the  
6 repeal of the Act referred to in subsection (1) of this section, shall not affect any  
7 proclamation made or anything whatsoever done under the repealed  
8 enactment.

9 (3) Every order, requirement, certificate, notice, direction, decision,  
10 authorisation, consent, application, request or thing made, issued, given or  
11 done under the enactment repealed by this Bill, shall continue in force and shall  
12 have effect as if made, issued, given or done under the corresponding provision  
13 of this Bill.

Interpretation

14 **45.** In this Act, unless the context otherwise requires:

15 "Appropriate Authority" means the President of the Federal Republic of  
16 Nigeria or any person designated or authorised to act on his behalf;

17 "ammunition" includes all materials for loading firearms, percussion caps and  
18 gunpowder of every kind;

19 "arms" means offensive weapons and includes firearms of all descriptions;

20 "Detention Order" means an order made in accordance with the provision of  
21 Part IV of this Bill;

22 "duly authorized person" means any person designated or authorised to act on  
23 behalf of the President of the Federal Republic of Nigeria with respect to the  
24 administration of any emergency area;

25 "emergency area" means the Areas listed in the Schedule to Proclamation  
26 issued pursuant to this Bill;

27 "explosives" includes gunpowder of every kind, rockets, nitroglycerine,  
28 dynamite, gun-cotton, blasting powder, detonators, fulminate of mercury or  
29 other metals, and every other explosive substance being any compound of or  
30 having any ingredients in common with any of the above;

1 "firearms" includes any cannon, gun, rifle, machine-gun, cap-gun, flint-lock  
2 gun, revolver, pistol or other firearm (In detached pieces; and

3 "offensive weapons" includes air guns, air pistols, bows and arrows, spears,  
4 cutlasses, machetes, daggers, cudgels or any piece of wood, metal or stone  
5 capable of being used as an offensive weapon;

6 "outdoors" means out-of-doors and includes open air, place of worship,  
7 schools or other public places;

8 "protected place" means any premises in respect of which an order has been  
9 made by the Appropriate Authority pursuant to this Bill;

10 "public meeting" means a meeting in a public place;

11 "public procession" means a procession in a public place and includes a  
12 demonstration;

13 "public place" includes any-

14 (a) public way;

15 (b) building, place or conveyance, to which for the time being the  
16 public is entitled or permitted to have access, with or without any condition;

17 (c) building or place which is for the time being used for any public  
18 or religious meeting, assembly or as an open court.

19 "Restricted Person" means a person subject to a Restriction Order as  
20 provided under this Bill;

21 "Restriction Order" means an order made in accordance with the provision  
22 of section 22 of this Bill;

23 "specified" means specified in the Restriction Order or a permit, issued  
24 pursuant to a Restriction Order.

25 **46.** This Bill may be cited as the Emergency Powers (Repeal and Citation  
26 Enactment) Bill, 2019.

## EXPLANATORY MEMORANDUM

*(This Memorandum does not form part of this Bill but is intended to explain its purport)*

This Bill seeks to repeal the Emergency Powers Act, 1961 and enact Emergency Powers Act, 2018 to provide for the procedure for the declaration of a State of Emergency in Nigeria or any part thereof subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999, as amended and in particular provides for the general administration of an emergency area, search, arrest without warrant and detention of persons in the emergency area, prohibition of public processions, demonstrations and meetings in the emergency area, imposition of curfew in the emergency area, declaration of protected places and control of persons in the protected places; and control of arms and explosives in the emergency area.