

# 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:

- 1                                   PART 1 - APPLICATION OF THE ACT
- 2                   1.-(1) No person may possess explosive or carry out any activity
- 3 relating to explosives unless he or she holds a license, permit or
- 4 authorization issued in terms of this Act;
- 5                   (2) Subject to section 24, this Act does not apply to:
- 6                   (a) importation, exportation, storage, use, manufacture or
- 7 transportation of any explosives by the Armed Forces or the Nigeria Police
- 8 Force or any of its members while performing official duties and acting in
- 9 accordance with lawful instructions;
- 10                  (b) importation, exportation, storage, use, manufacture, or
- 11 transportation of any explosives by Armed Force or Police Force of any
- 12 country or any multinational or international defence or policing agency,
- 13 which the Inspector General of Police, after consultation with the minister of
- 14 Foreign Affairs, by notice in the Gazette exempts from the provisions of this
- 15 Act, or to any member of such force, service or agency while on official
- 16 duty;
- 17                  (c) loading or reloading of ammunition as contemplated in section
- 18 of the firearms Control Act;
- 19                  (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.

- 1 PART 3
- 2 MANUFACTURE, DEALING, IMPORTATION, EXPORTATION AND PACKAGING
- 3 OF EXPLOSIVES
- 4 8.-(1). No person may keep, store or be in possession of any
- 5 explosives on any premises other than an explosives manufacturing site or an
- 6 explosives magazine, unless the explosives are kept, stored or possessed in
- 7 accordance with:
- 8 (a) the conditions of a permit issued by an inspector; and
- 9 (b) any applicable regulation.
- 10 (2) No person may transport any explosives unless the explosives are
- 11 transported in accordance with:
- 12 (a) the conditions of a permit issued by an inspector; and
- 13 (b) any applicable regulation occupied by such person.
- 14 (3)(a) Any person who keeps, stores, possesses or transport
- 15 explosives must inform the chief Inspector or the inspector appointed for the
- 16 area in question of any loss of explosives within 24hours of the loss being
- 17 discovered;
- 18 (b) The information required in terms of paragraph (a) and the manner
- 19 in which such information must be given, must be prescribed;
- 20 (c) The Chief Inspector must establish a database reflecting the
- 21 information contemplated in paragraph (b), and such information may be used
- 22 by any person who requires such information for any legal purpose.
- 23 (4)(a) No person may enter any explosives manufacturing site,
- 24 explosives magazine or any vehicle in which explosives are being conveyed
- 25 without permission of the person in control of the site, magazine or vehicle;
- 26 (b) Any person found, in contravention of paragraph (a) may
- 27 forthwith be removed from the site, magazine or vehicle by any person
- 28 employed at the site or magazine or the person in charge of the vehicle, as the
- 29 case may be.
- 30 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 imposed 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 or 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 (2), 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  $10^4$  at a temperature of  $25^{\circ}\text{C}$ ;
- 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 Annex 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.