

NATIONAL ENVIRONMENTAL STANDARDS AND REGULATIONS  
ENFORCEMENT AGENCY (ESTABLISHMENT) (AMENDMENT) BILL, 2017

ARRANGEMENT OF SECTIONS

*Section:*

1. Amendment of the National Environmental Standards and Regulations Enforcement Agency (Establishment) Act, 2007
2. Amendment of section 3 of the Principal Act
3. Amendment of section 7 of the Principal Act
4. Amendment of section 8 of the Principal Act
5. Amendment of section 9 of the Principal Act
6. Amendment of section 20 of the Principal Act
7. Amendment of section 21 of the Principal Act
8. Amendment of section 22 of the Principal Act
9. Amendment of section 23 of the Principal Act
10. Amendment of section 24 of the Principal Act
11. Amendment of section 26 of the Principal Act
12. Amendment of section 30 of the Principal Act
13. A new section 33
14. A new section 34
15. A new section 35
16. Addition to the Interpretation section
17. Short title



# A BILL

## FOR

AN ACT TO AMEND THE NATIONAL ENVIRONMENTAL STANDARDS AND REGULATIONS ENFORCEMENT AGENCY (ESTABLISHMENT) ACT NO. 25 OF 2007

*Sponsored by Hon. Sadiq Ibrahim*

[ ] Commencement

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

- 1           1. The National Environmental Standards and Regulations  
2 Enforcement Agency (Establishment) Act, No, 92 of 2007 (in this Act  
3 referred to as the "Principal Act") is amended as set out in this Act.
- 4           2. Section 3 of the Principal Act is amended in:
- 5           (a) subsection (1) (b) by inserting the clause "who shall not be  
6 below the rank of a Director" after the word "representative";
- 7           (b) subsection (1) (c) by:
- 8           (i) deleting subparagraph vii and inserting a new subparagraph  
9 "(vii)" to read "(vii) a representative of the Federal Ministry of Health"; and
- 10           (c) subsection (1) (e) by inserting the clause "with relevant  
11 qualification and 10 years post qualification experience in environmental  
12 related field" after the word "Environment",
- 13           3. Section 7 of the Principal Act is amended in:
- 14           (a) subsection 7(c) by the deleting the phrase "oil and gas"; and  
15           (b) subsection 7(i):inline 1 by inserting the phrase "the  
16 Government," after the word "by",
- 17           4. Section 8 of the Principal Act is amended in paragraph (q) by  
18 substituting the existing paragraph (q) with a new paragraph (q) as follows:
- 19           “(q) charge fees for tests, investigations and other services  
20 including administrative fees, performed by the Agency”.
- Amendment of the National Environmental Standards and Regulations Enforcement Agency (Est.) Act, 2007
- Amendment of Section 3 of the Principal Act
- Amendment of Section 7 of the Principal Act
- Amendment of Section 8 of the Principal Act

Amendment of  
Section 9 of the  
Principal Act

1                   5. Section 9 of the Principal Act is amended in the head note by  
2 substituting the existing head note with a new head note to read as follows:  
3 "Functions and Powers of the Council"

Amendment of  
Section 13 of the  
Principal Act

4                   6. Section 13 of the Principal Act is amended in:  
5 (a) subsection 2 by inserting a new subparagraph (c) to read "10  
6 percent of the Ecological Fund accruable to the Federal Government to support  
7 the environmental compliance and enforcement infrastructure of the Agency".  
8 (b) renumbering the old subparagraphs "(c) (d) (e) and (f)" as  
9 subparagraphs "(d) (e) (f) and (h)" respectively.

Amendment of  
Section 20 of the  
Principal Act

10                  7. Section 20 of the Principal Act is amended in:  
11 (a) subsection (3) by inserting a new subparagraph 3 to read  
12 immediately after conviction he phrase "be liable to a fine not less than  
13 N200,000 or to imprisonment for a term not less than six months or both such  
14 fine and imprisonment and an additional fine of N20,000 for every day the  
15 offence subsists" and  
16 (b) subsection (4) by inserting a new subparagraph 4 to read "Where a  
17 body corporate violates the regulations made pursuant to subsection 1 of this  
18 section, it shall be liable on conviction to not less than N2000,000,000 and an  
19 additional fine of N50,000 for every day the offence subsists."

Amendment of  
Section 21 of the  
Principal Act

20                  8. Section 21 of the Principal Act is amended in:  
21 (a) subparagraph 2 by deleting the phrase "in collaboration with other  
22 relevant agencies, embark on programmes" and substituting with "make  
23 regulations"  
24 (b) Section 21 of the Principal Act is amended in subsection (3) in line  
25 two, by substituting for the phrase "not exceeding" immediately after the  
26 words, "a fine" with the phrase "not less than".

Amendment of  
Section 22 of the  
Principal Act

27                  9. Section 22 of the Principal Act is amended in:  
28 (a) subsection (3) by substituting the phrase "not exceeding"  
29 immediately after the words a fine" with the phrase "not less than"; and  
30 (b) subsection (4) by substituting the phrase "not exceeding"

1 immediately after the words a fine" with the phrase "not less than",

2 10. Section 23 of the Principal Act is amended in:

Amendment of  
Section 23 of the  
Principal Act

3 (a) subsection 1 by substituting "in collaboration" immediately  
4 after the words "The Agency shall" with the phrase "in consultation";

5 (b) subsection (3) by substituting the phrase "not exceeding"  
6 immediately after the words "a fine" with the phrase "not less than"; and

7 (c) subsection (4) by substituting the phrase "not exceeding"  
8 immediately after the words "a fine" with the phrase "not less than",

9 11. Section 24 of the principal Act is amended in:

Amendment of  
Section 24 of the  
Principal Act

10 (c) subsection (4) by substituting the phrase "not exceeding"  
11 immediately after the words a fine" with the phrase "not less than"; and

12 (d) subsection (5) by substituting the phrase "not exceeding"  
13 immediately after the words a fine" with the phrase "not less than",

14 12. Section 26 of the principal Act is amended in:

Amendment of  
Section 26 of the  
Principal Act

15 (e) subsection (3) by substituting the phrase "not exceeding"  
16 immediately after the words a fine" with the phrase "not less than"; and

17 (f) subsection (4) by substituting the phrase "not exceeding"  
18 immediately after the words a fine" with the phrase "not less than",

19 13. Section 30 of the Principal Act is amended by substituting the  
20 existing section with a new section 30 as follows:

Amendment of  
Section 30 of the  
Principal Act

21 "30. Power to enter premises;

22 (1) An officer of the Agency may, in the course of his duty, at any  
23 reasonable time and on production of his certificate of designation if so  
24 required:

25 (a) enter and search with a warrant issued by a court, any premises  
26 including land, vehicle, tent, vessel, floating craft except Maritime Tankers,  
27 Barges or Floating Production, Storage, Offload (FPSO) and oil and gas  
28 facilities or any inland water and other structure, at all times, for the purpose  
29 of conducting, inspection, searching and taking samples for analysis which  
30 he reasonably believes, carries out activities or stores goods which

1       contravene environmental standards or legislation;

2               (b) examine any article found pursuant to paragraph (a) of this  
3       subsection, which appears to him to be an article to which this Act or the  
4       regulations made under apply or anything which he reasonably believes is  
5       capable of being used to the detriment of the environment;

6               (c) take a sample or specimen of any article to which this Act or the  
7       regulations apply or which he has power to examine under paragraph (b) of this  
8       subsection;

9               (d) open and examine, pursuant to paragraph (a) of this subsection,  
10       any container or package which he reasonably believes may contain anything  
11       to which this Act or its regulations apply or which may help in his  
12       investigations;

13              (e) examine any book, document or other record found pursuant to  
14       paragraph (a) of this subsection, which he reasonably believes may contain any  
15       information relevant to the enforcement of this Act or the regulations and make  
16       copies thereof or extracts there from;

17              (f) seize and detain for such time as may be necessary for the purpose  
18       of this Act, any articles by means of or in relation to which he reasonably  
19       believes any provision of this Act or the regulations has been contravened; and

20              (g) obtain an order of a court to suspend activities, seal and close  
21       down premises including land, vehicle, tent, vessel, floating craft or any inland  
22       water and other structure whatsoever.

23              (2) A written receipt shall be given for any article or thing seized  
24       under subsection (1) of this section and the reasons for such seizure shall be  
25       stated on such receipt.

26              (3) An article seized under this Act shall be kept or stored in such a  
27       place as the officer of the Agency may direct and shall be returned to the owner  
28       or the person from whom it was seized if the article upon analysis or  
29       examination is found to conform with the requirements of this Act or  
30       regulations made under it.

1           (4) An article other than in the oil and gas sector, seized by an  
2 officer of the Agency in pursuance of this Act or the regulations made under  
3 it, may be submitted to an analyst for analysis or examination and the analyst  
4 upon making such analysis or examination shall, issue a certificate or report  
5 in the prescribed form, setting forth the result of such analysis or  
6 examination and the officer of the Agency shall, on demand, deliver a copy  
7 of such certificate or report to the owner of the article if the article is to be the  
8 subject of a proceeding under this Act or regulations thereunder.

9           (5) Where in a case of verifiable urgency where the environmental  
10 pollution is an immediate or imminent threat to life and property, or to  
11 prevent the commission of an offence provided under this Act, and an  
12 application to the court for an Order or to a Judge in Chambers to obtain a  
13 Search warrant would cause delay that may be prejudicial to the  
14 maintenance of public safety or order, an authorised Officer of the Agency  
15 or a relevant Agency may without prejudice to the provisions of subsection  
16 (1) of this section or any other law; with the assistance of other officers as  
17 may be necessary and while search warrant or Court Order is being sought  
18 for:

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

21           (i) an offence under this Act is being committed or likely to be  
22 committed;

23           (ii) there is evidence of the commission of an offence under this  
24 Act; or

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

27           (b) search any person or conveyance found on any premises or  
28 place which such officer is empowered to enter and search under paragraph  
29 (a) of this subsection;

30           (c) stop, board and search any conveyance where the authorised

1 officers of the Agency or relevant Agency has reasons to suspect that there is  
2 evidence of the commission or likelihood of the commission of an offence  
3 under this Act;

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

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

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

12 (6) In this section, the expression "article" to which this Act or  
13 regulations made under it apply are:

14 (a) liquid, soil, vegetation;

15 (b) biological and chemical samples;

16 (c) particulate filters, air quality gauges; and

17 (d) such other articles or samples as may be determined by the  
18 Agency.

Amendment of  
Section 32 of  
the Principal Act

19 **14.** Section 32 of the Principal act is amended in:

20 (a) the head note by substituting the existing head note with a new one  
21 to read "Limitation of actions against the Agency";

22 (b) inserting a new subparagraph 1 to read "the provisions of the  
23 Public officers Protection Act shall apply in relation to any suit instituted  
24 against any officer or employee of the Agency";

25 (c) renumbering the old subparagraphs "(1) (2) (3) and (4) as  
26 subparagraphs "(2) (3) (4) and (5) respectively.

Amendment  
of Section 33

27 **15.**-(a) inserting a new Section 33 with the head note to read  
28 "Restriction on execution against the property of the Agency"; and

29 (b) "No execution or attachment of process shall be issued against the



1 Agency in any action or suit without the prior consent of the Attorney-  
2 General of the Federation".

3 16. -(a) Inserting a new section 34 with the head note "Indemnity of  
4 officers" and Amendment of  
Section 34

5 (b) "A member of the Council, the Director-General and Officers  
6 of the Agency shall be indemnified against any proceeding, whether civil or  
7 criminal, in which judgement is given in his favour, or in which he is  
8 acquitted, if any such proceeding is brought against him in his capacity as  
9 member of the Council, the Director-General, Officer or Employee of the  
10 Agency".

11 17. Renumbering the existing sections 32, 33, 34, 35, 36, 37 and 38  
12 of the Principal Act as sections 35, 36, 37, 38, 39, 40 and 41.

13 18. "Environmental Enforcement Infrastructure" means the stock Interpretation  
section is now  
Section 41  
14 of facilities and equipment needed for the functioning of efficient  
15 environmental compliance monitoring and enforcement regime. It is also  
16 concerned with the institutional strengthening and capacity building of the  
17 Agency, including resources such as manpower, buildings, laboratories,  
18 monitoring networks etc.

19 19. This Bill may be cited as the National Environmental Standards Short Title  
20 and Regulations Enforcement Agency (Establishment) (Amendment) Bill,  
21 2017.

#### EXPLANATORY MEMORANDUM

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

This Bill seeks to amend the National Environmental Standards and  
Regulations Enforcement Agency (Establishment) Act, 2007

