

# A BILL

## FOR

AN ACT TO AMEND THE NATIONAL OIL SPILL DETECTION AND RESPONSE AGENCY (ESTABLISHMENT, ETC) ACT, 2006 AND FOR RELATED MATTERS

*Sponsored by Hon. Chidoka Obinna*

[ ] Commencement

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

1           **1.** The National Oil Spill Detection and Response Agency  
 2 (Establishment, Etc.) Act 2006 (in this Act referred to as “the principal Act”) Amendment of  
2006 No. 15  
 3 is hereby amended as set out in this Act.

4           **2.**-(1) The long title of the National Oil Spill Detection and  
 5 Response Agency (Establishment, etc) Act 2006 is hereby re-designated as Redesignation of  
national Oil Spill  
Detection and  
Response Agency  
 6 the “National Oil Pollution Management Agency (Establishment, Etc) Act  
 7 2006”.

8           (2) Accordingly, any reference in the Act to "National Oil Spill  
 9 Detection and Response Agency" shall be construed as the “National Oil  
 10 Pollution Management Agency”.

11           (3) The re-designation of the enactment specified in sub-section (1)  
 12 of this section shall not affect anything done or purported to be done under  
 13 the designated enactment.

14           **3.** Section 1 of the principal Act is amended in subsection (1) by Amendment of  
Section 1  
 15 subsisting for the existing subsection (1) a new subsection as follows:

16           “(1) There is established an Agency to be known as the National  
 17 Oil Spill Detection and Response Agency (in this Act referred to as “the  
 18 Agency”) with responsibility for preparedness, detection and response to all  
 19 oil spillages, oily wastes and gas flare in Nigeria as set am in section 5 of this  
 20 Act”.

Amendment of Section 2      1                    **4.** Section 2 of the: principal Act is amended in subsection (2)(b) by  
2                    substituting for the existing paragraph (b) a new paragraph as follows:  
3                    “(b) one representative each of the following Federal Ministries not  
4                    below the rank of Director:  
5                    (i) Environment;  
6                    (ii) Petroleum Resources;  
7                    (iii) Defence;  
8                    (iv) Transportation;  
9                    (v) National Emergency Management Agency; and  
10                   (vi) Oil Producers' Trade Section of Lagos Chambers of Commerce  
11                   (OPTS).”

Amendment of Section 5      12                   **5.** Section 5 of the principal Act is amended by:  
13                   (a) substituting for the existing preamble, a new preamble as follows:  
14                   “*Objectives of the Agency;*  
15                   5. The objectives of the Agency shall be to monitor and regulate Tiers  
16                   1 and 2 oil spills as well as coordinate, implement and review the National Oil  
17                   Spill Contingency Plan for Nigeria (in this Act referred to as "the Plan") as  
18                   follows:”  
19                   (b) substituting for the existing paragraph (a), a new paragraph as  
20                   follows:  
21                   “(a) establish a viable national operational organization that ensures a  
22                   safe, timely, effective and appropriate response to all oil and gas pollution as  
23                   well as other hazardous and noxious substances in the petroleum sector.”

Amendment of Section 6      24                   **6.** Section 6 of the principal Act is amended by substituting for the  
25                   existing one a new section as follows:  
26                   “*Functions of the Agency;*  
27                   6.-(1) The Agency shall:  
28                   (a) be responsible for surveillance and enforce compliance with all  
29                   existing environmental legislation in the petroleum sector including those  
30                   relating to prevention, detection and general management of oil spills, oily

1 wastes and gas flare;

2 (b) enforce compliance with the provisions of international  
3 agreements, protocols, conventions and treaties relating to oil and gas and  
4 oil spill response management and such other related agreements as may-  
5 from time to time come into force;

6 (c) receive reports of oil spillages, leakages from gas pipelines,  
7 storage facilities and co-ordinate oil spill and gas leakages response  
8 activities throughout Nigeria;

9 (d) ensure the remediation of oil impacted sites irrespective of the  
10 cause of the spillage;

11 (e) co-ordinate the implementation of the Plan as may be  
12 formulated, from time to time, by the Federal Government;

13 (f) co-ordinate the implementation of the Plan for the removal of  
14 hazardous and noxious substances as may be issued by the Federal  
15 Government;

16 (g) ensure that all oil industry operators in Nigeria subscribe to and  
17 be bonafide members of Clean Nigeria Associates (CNA) or any other  
18 similar association by whatever name called; and.

19 (h) perform such other functions as may be required to achieve the  
20 aims and objectives of the Agency under this Act or any plan as may be  
21 formulated by the Federal Government pursuant to this Act.

22 (2) (a) An oil spiller is by this Act to report an oil spill to the Agency Penalties  
23 in writing, by fax or electronic mail not later than 24 hours after the  
24 occurrence of an oil spill in default of which the failure to report shall attract  
25 penalty in the sum of N2,000,000 for each day of failure to report the  
26 occurrence;

27 (b) A gas pipeline or storage facility owner is by this Act to report a  
28 gas leakage to the Agency in writing, by fax or electronic mail not later than  
29 24 hours after the occurrence of the gas leakage in default of which the  
30 failure to report shall attract penalty in the sum or N2,000,000 for each day

1 of failure to report the occurrence.

2 (3) The failure to clean up the impacted site, to all practical extent  
3 including the submission of action plan for remediation within two weeks of  
4 the occurrence of the spill in accordance with the polluter pays principle shall  
5 constitute an offence and on conviction the oil spiller shall be liable to a fine not  
6 less than N5,000:000 or to imprisonment for a term not exceeding 2 years or to  
7 both such fine and imprisonment.

8 (4) The notice required under subsection (2) of this section shall be  
9 deemed to have been made, if delivered at the nearest zonal or field office of the  
10 Agency closer to the impacted site or the National Control and Response  
11 Centre within the time stipulated in subsection (2) of this section.”

12 7.-(1) There shall be inserted immediately after Section 7 of the  
13 principal Act, the following new sections:

14 *“Abandonment/Decommissioning of drill sites and oil facilities;*

15 8.(1) The Agency shall monitor the process of decommissioning or  
16 abandonment of drill sites and oil facilities as well as oil and gas industry  
17 operational areas in accordance with the procedure and guidelines issued by  
18 the Agency.

19 (2) The decommissioned/abandoned drill sites shall be cleaned-up,  
20 remediated and restored to its natural or near natural states by the oil facility  
21 owner.

22 (3) The Agency shall be notified in writing to commence the  
23 decommissioning and abandonment of any oil facilities or installations within  
24 its area of operation.

25 (4) Failure to request or notify the Agency on the commencement of  
26 such activities will attract penalties prescribed in the Agency's regulation,  
27 guidelines or standards.

28 *“Pipelines and other oil facilities integrity monitoring and testing;*

29 9,(1) The Agency shall assess the integrity of oil facilities which  
30 include but not limited to pipelines, well heads, manifolds, storage facilities,

1 barges and vessels to ensure that oil facility owners conform to design  
2 specifications as well as the provision in the Agency's regulations,  
3 guidelines and standards for the oil and gas sector.

4 (2) The Agency shall provide a programme for the assessment and  
5 monitoring of the oil and gas facilities to enhance its performance for  
6 distribution, storage and transportation of the upstream, midstream and  
7 downstream products”.

8 (2) The existing sections 8 and 9 of the principal Act shall be  
9 renumbered as section 10 and 11 respectively.

10 **8.** Section 11 of the principal Act is amended by:

11 (a) inserting immediately after paragraph (b), a new paragraphs  
12 (c), (d) and (e) as follows:

13 “(c) 2.5 per cent of the ecological fund annually for the  
14 management of oil spill disasters and remediation of oil impacted sites  
15 arising from third party interference;

16 (d) 0.5 per cent operations funds of oil companies for the  
17 enforcement of environmental legislation in the petroleum sector.”;

18 (e) 10 cents from the sale of each barrel of oil to be set aside for  
19 environmental management;”

20 (b) renumbering the existing paragraphs (c), (d), (e) (f) and (g) as  
21 paragraphs (f), (g), (h) and (i) respectively.

22 **9.** Section 19 of the principal Act is amended by:

23 (a) inserting the following new paragraph (b) immediately after  
24 subsection (1)(a), that is:

25 “(b) inspect oil and gas facilities with a view to ensuring full  
26 compliance with existing environmental legislation on oil and gas  
27 pollution”;

28 (b) renumbering the existing subsections (1)(b), (c), (d), (e), (f), (g),  
29 (h), (i) and (j) as subsections (1) (c), (d), (e), (f), (g), (h), (i), (j) and (k)  
30 respectively;

Amendment of  
Section 19

1 (c) by deleting the existing subsection (3)(d).

Amendment of Section 26 2 **10.** Section 26 of the principal Act is amended by:

3 (a) renumbering the existing section as subsection (1);

4 (b) adding the following new subsections (2): (3) and (4) immediately

5 after subsection (1) to read:

6 “(2) The Agency may in pursuance of the provision of subsection (1)

7 of this section make regulations setting specifications and standard relating to

8 the:

9 (a) use of dispersant;

10 (b) engagement or invitation of any oil spill responder by oil

11 companies;

12 (c) establishment of a benchmark for oil spill contingency planning;

13 (d) development of framework to guide operators in Oil Spill

14 Contingency Planning; and

15 (e) most appropriate means of preventing and combating various oil

16 spills and its attendant oil and gas pollution.

17 (3) Any person who contravenes the regulations made pursuant to

18 subsection (2) of this section commits an offence and shall on conviction, be

19 liable to a fine not less than N500,000 or to imprisonment for a term not less

20 than two years or to both such fine and imprisonment and additional fine of

21 N50,000 for every day the offence subsists.

22 (4) Where an offence under subsection (2) of the section is committed

23 by a body corporate, it shall on conviction be liable to a fine not less than

24 N2,000,000 and additional fine of N500,000 for every day the offence

25 subsists.”.

Insertion of new Sections 27, 28, 29, 30 and 31 26 **11.**-(1) There shall be inserted immediately after section 26 of the

27 principal Act, the following new sections:

Power to enter premises 28 27.-(1) An officer of the Agency may, in the course of his duty, at any

29 reasonable time and on production of his certificate of designation if so

30 required:

1           (a) enter and search with a warrant issued by a court, any premises  
2 including land, vehicle, tent, vessel, floating craft including Maritime  
3 Tankers, Barges of Floating Production, Storage, Offload (FPSO) and oil  
4 and gas facilities or any inland waters and other structure, at all times, for the  
5 purposes of conducting inspection, searching and taking samples for  
6 analysis which he reasonably believes. carries out activities or stores goods  
7 which contravene environmental standards or legislation relating to oil and  
8 oily wastes management;

9           (b) examine any article found pursuant to paragraph (a) of this  
10 subsection, which appears to him to be an article to "which this Act or the  
11 regulations made under apply or anything which he reasonably believes is  
12 capable of being used to the detriment of the environment in the petroleum  
13 sector;

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

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

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

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

29           (g) obtain an order of a court to suspend activities, seal and close  
30 down premises including land, vehicle, tent well head, vessel, floating craft

1 and oil gas facilities or any inland waters and other structure whatsoever.

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

5 (3) An article seized under this Act shall be kept or stored in such a  
6 place as the officer of the Agency may direct and shall be returned to the owner  
7 or the person from where it was seized if the article upon analysis or  
8 examination is found to conform with the requirements of this Act or  
9 regulations made under it.

10 (4) An article seized by an officer of the Agency in pursuance of this  
11 Act or the regulations made under it, may be submitted to an analyst for  
12 analysis or examination and the analyst upon making such analysis or  
13 examination shall, issue a certificate or report in the prescribed form, setting  
14 forth the result of such analysis or examination and the officer of the Agency  
15 shall, on demand, deliver a copy of such certificate or report to the owner of the  
16 article if the article is to be subject of a proceeding under this Act or regulations  
17 thereunder.

18 (5) In this section, the expression "article" to which this Act or  
19 regulations made under it apply are:

20 (a) liquid, soil, vegetation;

21 (b) biological and chemical samples; and

22 (c) such other articles or samples as may be determined by the  
23 Agency.

Offences and  
penalties

24 28.-(1) A person who obstructs an officer of the Agency in the  
25 performance of his duties under sections 5, 6 and 7 of this Act commits an  
26 offence and is liable on conviction to a fine not less than N300,000 for an  
27 individual or to imprisonment for a term not less than 2 years or to both fine and  
28 imprisonment, and an additional fine of N50,000 for each day the offence  
29 subsists and in the case of a body corporate, it shall be liable on conviction for a



1 fine of N5,000,000 and an additional fine of N500,000 for each day the  
2 offence subsists.

3 (2) Any person who contravenes the provision of any regulations  
4 made under this Act is guilty of an offence and is liable on conviction to the  
5 penalties specified in the regulations.

6 29.-(1) A suit shall not be commenced against the Agency before  
7 the expiration of a period of one month, after written notice of intention to  
8 commence the suit shall have been served on the Agency by the intending  
9 plaintiff or his agent. Conduct of proceedings

10 (2) Subject to the provisions of section 174 of the Constitution of  
11 the Federal Republic of Nigeria 1999, (which relates to the power of the  
12 Attorney-General of the Federation to institute, continue or discontinue  
13 criminal proceedings against any person in a court of law), any officer of the  
14 Agency may, with the consent of the Attorney -General of the Federation,  
15 conduct criminal proceedings in respect of offences under this Act or  
16 regulations made under this Act.

17 (3) In a judicial proceeding for an offence under this Act or any  
18 regulation made under it, the provisions of the Criminal Procedure Act or  
19 depending on the venue, the Criminal Procedure Code shall, with such  
20 modification as the circumstance may require, apply in respect of such  
21 matter to the same extent as they apply to the trial of offences generally.

22 30.-(1) Any written law in force immediately before the coming  
23 into force of this Act relating to oil, oily wastes pollution management and  
24 gas leakages in the petroleum sector shall have effect subject to  
25 modifications as may be necessary to bring into conformity with the  
26 provisions of this Act and where the provision of any such law is  
27 inconsistent with any provision of this Act, the provision of this Act shall  
28 prevail, and that other law shall be void to the extent of its inconsistency, Existing laws

29 (2) Any written law in force immediately before the coming into  
30 force of this Act conferring oil: oily wastes pollution management and gas

1 leakages functions on any other establishment or agency in the petroleum  
2 sector is hereby repealed to the extent of its duplication.

Requisition, etc. 3 31.-(1) In the exercise of its functions under this Act, the Agency may  
4 demand by requisition from any person or organization, any available  
5 equipment, facilities or personnel which may assist in a speedy and effective  
6 cleaning and rescue operation during an oil spill disaster.

7 (2) Any person or organization that:  
8 (a) willfully obstructs or impedes the Agency or any person acting  
9 under the authority of the Agency in the exercise of any powers or duties under  
10 this Act; or  
11 (b) without reasonable excuse fails to:  
12 (i) render assistance or release any available equipment, facility or  
13 personnel required for cleaning and rescue operation or other oil spill disaster  
14 curtailment activities, or  
15 (ii) comply with a directive of the Agency, is guilty of an offence and  
16 liable on conviction to a fine not less than N500,000 or imprisonment for a term  
17 of 2 years or to both such fine and imprisonment.

18 (3) The Agency shall ensure that the Polluter provides reasonable  
19 compensation for loss or damage arising from the use of any equipment,  
20 facility or personnel required under this section of this Act.”

21 (2) The existing sections 27 and 28 of the principal Act shall be  
22 renumbered as sections 34 and 35 respectively.

Amendment of  
the First Schedule 23 **12.** The First Schedule to the principal Act is amended by substituting  
24 for the word "six" the word "three" in the third line of paragraph 3 therein.

Amendment of  
Section 27 25 **13.** There shall be substituted for the existing section 27 of the  
26 principal Act, the following new section, that is:

Interpretation 27 **32.** In this Act, unless the context otherwise requires:  
28 "Agency" means the National Oil Spill Detection and Response Agency  
29 established under section 1 of this Act;  
30 "Centre" means the National Control and Response Centre established under

1 section 18 of this Act;

2 "Chairman" means the Chairman of the Governing Board of the Agency;

3 "Constitution" Constitution of the Federal means Republic of Nigeria;

4 "Court" means Federal or State High Court;

5 "gas" or "natural gas" means wet gas, dry gas, lean gas, all other gaseous

6 hydrocarbons, and all substances contained therein, which are produced

7 along with crude oil or gas; excluding those condensed or extracted liquid

8 hydrocarbons that are liquid at normal temperatures and pressure conditions

9 such as stabilized or field condensate, including the residue gas remaining

10 after the condensation or extraction of the liquid hydrocarbon from gas;

11 "Governing Board" means the National Oil Spill Detection and Response

12 Governing Board of the Agency established under section 2 of this Act;

13 "member" means a member of the Governing Board of the Agency and

14 includes the Chairman;

15 "Minister" means the Minister charged with responsibilities for matters

16 relating to environment;

17 "Ministry" shall be construed accordingly;

18 "officer" means any employee of the Agency;

19 "oil" means mineral oil (or any related hydrocarbon) or natural gas as it

20 exists in its natural state in strata, and does not include coal or bituminous

21 shale or other stratified deposits from which oil can be extracted by

22 destructive distillation but including premium motor spirit, automotive gas

23 oil, low/high pour, fuel oil, aviation fuel, kerosene, liquefied petroleum

24 gases and any lubrication oil or grease or other lubricant oil in its natural

25 state before it has been refined or treated;

26 "oil spill responder" includes Clean Nigeria Associates (Oil Companies

27 Cooperative), Oil Spill Response Limited (OSRL) or any other oil spill

28 response contractors; and

29 "release" means any spilling, leaking, pump Leaking, pouring, emitting,

30 emptying: discharging, injecting, escaping, leaching, dumping, discarding

1 or disposing into the environment;  
2 "remediation" means the process of remedying or restoring an area or situation  
3 to its natural (or as close to natural as possible) state;  
4 "Tier" means operational type spills, less than or equal to 7 tones (50 bbls), that  
5 may occur at or near a company's own facilities, as a consequence of its own  
6 activities." and  
7 "Tier 2" means a larger spill, greater that 7 tones (50 bbls) but less than 700  
8 tones (5000 bbls), in the vicinity of a company's facilities where resources from  
9 another company, industry and possible government response agencies in the  
10 area can be called in on a mutual aid basis;  
11 "Tier3" means a larger spill, greater than 700 tones (500bbb) where substantial  
12 further resources will be required and support from a Nation (Tier 3) or  
13 international cooperative stockpile, like the Oil spill Response Ltd (OSRL,  
14 may be necessary. It is likely that such operation would be subject to  
15 Government controls or even direction.

Short Title

16 **14.** This Act may be cited as the National Oil Spill Detection and  
17 Response Agency (Establishment, Etc.) (Amendment) Bill, 2017.

EXPLANATORY MEMORANDUM

(This note does not form part of the above Act but is intended to explain its purport) This Act amends the National Oil Spill Detection and Response Agency Establishment, Etc.) Act 2006 to provide, among other things, statutory power for the Agency to charge adequate fines, introduce criminal offences and penalties in order to ensure strict compliance with all existing environmental legislation in the petroleum sector.