

A BILL

FOR

AN ACT TO REPEAL THE EXPLOSIVE ACT N034 1967 CAP E-18 LAWS OF THE FEDERATION OF NIGERIA AND TO RE-ENACT EXPLOSIVE BILL, 2011 TO MAKE PROVISION TO REGULATE THE MANUFACTURE, POSSESSION, USE, SALE, TRANSPORTATION, EXPORT AND IMPORT OF EXPLOSIVES

Sponsored by Senator Danjuma Laah

[] Commencement

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

1 1. This ACT may be called the EXPLOSIVE ACT 2016 and shall Citation
2 extend to the whole of Nigeria.

3 2. This ACT shall come into force immediately after the signing of
4 the Bill into Law.

5 3. The Explosive ACT No 34. 1967 cap E - 18 Laws of Federation
6 of Nigeria is hereby repealed by this Act.

7 4. In this Act, unless the context otherwise requires; Interpretation
8 "Air Craft" means any machine which can derive support in the atmosphere
9 from the reaction of aid other than the reaction of the air against the earth
10 surface, and includes balloons whether fixed or free, airships, kites gliders
11 and any flying machine;

12 "Authorised Explosive" means any explosive listed in the regulation as an
13 authorize explosive;

14 "Broker" means any person who Acts for others in negotiating or arranging
15 contracts in respect of purchases, sales or the transfer of explosives in return
16 for a fee, commission or other consideration;

17 "Carriage" includes any carriage, wagon cart truck, vehicle or other means
18 of conveying goods or passengers by lands, sea or air in whatever manner;

1 "Chief Inspector" means the Chief Inspector of Explosives appointed by the
2 Minister;

3 "Detonate" means the Initiation of an Explosives by means of a detonator
4 shock wave or other means of Initiation;

5 "Explosion" means a Chemical reaction involving a rapid production of gasses
6 resulting in the propagation of shock waves;

7 "Explosive" means gun powder, nitroglycerine, nitroglycol, gun cotton, di-
8 nitro-toluene, tri-nitro-toluene picric acid, dinitro-phenol, tri-nitro-
9 resorcinol, (styphnic acid) cyclotrimethylene trinitramine, pentae, rythritol –
10 tetranitrate, totryl, nitro gannidine lead azide, lead styphnate, fulminate of
11 Mercury or any other metal diazo-dinitrophenol, coloured fires or any other
12 substance whether a single chemical substance, whether a single chemical
13 compound or a mixture of substances, whether solid or liquid or gaseous used
14 or manufactured with a view to produce a practical effect by explosion or
15 pyrotechnic effect and includes fog signals, fireworks, fuses, rockets,
16 percussion -caps detonators cartridges, ammunition of all description and
17 every adaptation of preparation of an explosive or any other substance or
18 article which the Minister may from time to time by notice in the Gazette de-
19 cline to be explosive;

20 "Explosive Magazine" means any building or part thereof, or any structure
21 licensed under this Act for the storage of explosives;

22 "Explosive Manufacturing Site" means any site licensed under this Act for the
23 manufacture of explosives;

24 "Export" means taking out of Nigeria to a place outside Nigeria by land, air or
25 sea;

26 "Import" means to bring into Nigeria from a place outside Nigeria by land, sea
27 or air;

28 "Firework" means any Pyrotechnic substance contemplated within the
29 meaning of explosive which:

30 (a) Is manufactured for the purpose of amusement and entertainment

- 1 (b) Is divided into such classes as may be prescribed.
- 2 "Imitation" in respect of explosive means anything that has the appearance
3 of an explosive not which is not capable of operating as such and cannot by
4 superficial examination be identified as an imitation;
- 5 "Inspector" means any Inspector of explosive appointed under this Act;
- 6 "Manufacture" in relation to Explosive includes the process of:
- 7 (a) Dividing the explosives into its component parts or otherwise
8 breaking up or unmaking the explosive or making fit for use any damage
9 explosive;
- 10 (b) Re-making, altering or repairing the explosive.
- 11 "Minister" means the Minister of Police Affairs.
- 12 "Plastic explosive" means any explosive in flexible, malleable, elastic or
13 sheet form which is:
- 14 (a) Formulated with one or more high explosive which in their pure
15 form have vapour pressure of less than 104 PA at a temperature of 25°c;
- 16 (b) Formulated with any binder material; and
- 17 (c) as a mixture, flexible or malleable, at normal room temperature.
- 18 "Premises" means any land, place, road, harbour, open water, rivers, building
19 structure, tent, ship, boat, aircraft, truck, cart, van or other vehicle or vessel.
- 20 "Prescribed" means prescribed by rules made under the act.

21 PART I

22 APPLICATION OF THE ACT

- 23 5.-(1) No person may possess explosives (including plastic
24 explosives) or carry out any activity relating to explosives unless he/she/it
25 holds a licence, permit or authorization issued in terms of this Act.
- 26 (2) Subject to section 34, this Act does not apply to the:
- 27 (a) Importation, exportation, storage, use manufacture or
28 transportation of any explosives by the Nigeria Armed forces or the Nigeria
29 Police force or to any of its members while performing official duties and
30 acting in accordance with a lawful instruction;

1 (b) Importation, exportation, storage, use manufacture or
2 transportation of any explosives by armed force or police force of any country
3 or any multinational or international defence force or policing agency, which
4 the Minister, after consultation with the Minister of Foreign Affairs, by notice
5 in the Gazette exempts from the provisions of this Act, or to any member of
6 such force, service or agency while on official duty;

7 (c) Loading or reloading of ammunition.

8 (3)(a) The minister may exempt a person from any or all of the
9 provisions of this Act, or from a notice or instruction issued under this Act, if
10 such provision or provisions relate to an occupational health or occupational
11 safety;

12 (b) Any such exemption may be:

13 (i) General or particular;

14 (ii) For any period;

15 (iii) Amended or withdrawn at any time.

16 (4) In the event of any inconsistency between this Act and any other
17 enactment or law in force at the commencement of this Act, other than the
18 Constitution, this Act prevails.

19 6.-(1) Notwithstanding anything in the provision of this ACT,

20 (a) No person:

21 (i) Who has not completed the age of 18 years;

22 (ii) Who has been sentence or convicted of any offence involving
23 violence or moral turpitude for a term of not less than six months or at any time
24 during the period of 5 years after the expiration of the sentence;

25 (iii) Who has been ordered to execute a bond for keeping the peace for
26 good behaviour under the penal/criminal codes and at any time during the term
27 of the bond;

28 (iv) Whose licence has been cancelled under this Act or for
29 contravention of the provisions of the Act or Regulation rules made there
30 under, shall:

- 1 (i) Manufacture, sell transport, import or export explosive;
2 (ii) Possess any such explosives whether authorized or otherwise;
3 (iii) No person shall sell, deliver or dispatch any explosive to a
4 person whom he knows or has reason to believe at the time of such sale,
5 delivery or dispatch:

6 (a) To be prohibited under clause(a) to manufacture, sell, transport
7 import, export or possesses such explosives, or

8 (b) To be of unsound mind.

9 7.-(1) The Minister may appoint member of the Nigeria Police as
10 the Chief Inspector of Explosives.

Disposal of
Explosives

11 (2) The Chief Inspector may, in consultation with the Inspector
12 General of Police appoint any member of the Nigeria Police force as an
13 inspector for a specified area.

14 (3) The Chief Inspector may delegate any power conferred upon
15 him or her or assign any duty imposed upon him or her in terms of this Act to
16 an inspector.

17 8.-(1) An Inspector may at any time when any activity in respect of
18 explosives takes place at an explosives manufacturing site, an explosives
19 magazine or a place contemplated in section 14(4) enter such site, magazine
20 or place in order to:

Inspections

21 (a) Inspect security arrangements at the site, magazine or place;

22 (b) Investigate compliance with this Act;

23 (c) Require the person in control of the site, magazine or place to
24 produce any record, book or other document relating to safety and security
25 at the site, magazine or place for inspection or for the purposes of obtaining
26 copies thereof or extracts therefrom;

27 (d) Examine any explosive or other substance, material or related
28 article found on or in the site, magazine or place; or

29 (e) Obtain a sample of any explosive or substance in or on the site,
30 magazine or place for the purposes of analysis and testing.

1 (2) The Inspector must show proof of his or her identity and authority
2 when requested to do so by the person in control of the site, magazine or place
3 in question.

4 (3) If, upon any inspection, an inspector discovers that any method of
5 work, packing or storage that is being used is in contravention of this Act or is
6 likely to endanger the safety and security of any person, the inspector may
7 demand the immediate discontinuation of the method or may take such steps as
8 may be necessary to ensure the safety and security of any person or property.

9 9.-(1) An inspector may, on the authority of a warrant issued in terms
10 of this subsection:

11 (a) In order to obtain evidence, enter any premises where he or she has
12 reason to believe that any provision of this Act has been or is being
13 contravened;

14 (b) Direct the person in control of or any person employed at the
15 premises:

16 (i) To deliver any book, record or other document that pertains to the
17 investigation and is in the possession or under the control of that person;

18 (ii) To render such assistance as the inspector requires in order to
19 enable him or her to perform his or her functions under this Act.

20 (c) Inspect any book, record or other documents and make copies
21 thereof or excerpts there from;

22 (d) Examine any explosive or other material, substance or article
23 found on the premises;

24 (e) Take samples of any explosive, material, substance or article for
25 the purposes of testing, examination, analysis and classification;

26 (f) Seize any explosive, material, substance, book, article, record or
27 other document which might be relevant to a prosecution under this Act and
28 keep it in his or her custody, but the person from whom any book, record or
29 document has been taken may, at his or her own expense and under supervision
 of the inspector, make copies thereof or excerpts there from.

1 (2) A warrant referred to in subsection (1) must be issued by a
2 magistrate or a judge of the High Court who has jurisdiction in the area
3 where the premises in question are situated and may only be issued if it
4 appears from information on oath or solemn declaration that there are
5 reasonable grounds to believe that a provision of this Act has been or is being
6 contravened and must specify which of the acts mentioned in subsection (1)
7 may be performed by the inspector.

8 (3) An inspector executing a warrant issued in terms of this section
9 must immediately before commencing the execution:

10 (a) Identify himself or herself to the person in control of the
11 premises, if such person a copy of the warrant or, if such person is not
12 present, affix a copy to a conspicuous place on the premises; and

13 (b) On request supply such person with particulars of his or her
14 authority to execute the warrant.

15 (4) (a) An inspector may not enter upon or search any premises
16 until he or she has audibly demanded admission to the premises and has
17 notified the purpose of his or her entry, unless he or she is, on reasonable
18 grounds, of the opinion that such demand and notification will defeat the
19 purposes of the search.

20 (b) An inspector, on the authority of a warrant issued in terms of
21 subsection (2)/ may use such force as may reasonably be necessary to
22 overcome resistance to his or her entry or search;

23 (c) Any entry and search in terms of this section may only be
24 executed by day, unless the execution thereof by night is justifiable and
25 necessary.

26 (5) A warrant contemplated in this section remains in force until:

27 (a) It has been executed;

28 (b) It is cancelled by the person who issued it, or if such person is
29 not available by any person with similar authority;

30 (c) One month from the date of its issue; or

1 (d) The purpose for which the warrant was issued no longer exists,
2 whichever occurs first.

3 (6) An inspector may without a warrant enter upon any premises and
4 search for and seize and remove anything referred to in subsection (1) if:

5 (a) The person who is competent to do so consents to such entry,
6 search, seizure and removal; or

7 (b) There are reasonable grounds to believe that:

8 (i) A warrant would be issued to the inspector if he or she applied for
9 such warrant; and

10 (ii) The delay in obtaining such warrant would defeat the purposes of
11 the search.

12 (7) If, during the execution of a warrant or during a search in terms of
13 this section, a person claims that an article or document found upon or in the
14 premises in question, contains privileged information and refuses the
15 inspection of such article or document, the inspector may request the clerk of
16 the court or Registrar of the High Court having jurisdiction to attach and
17 remove that article or document for safe custody until a court of competent
18 jurisdiction has made a ruling on the question as to whether or not the
19 information in question is privileged.

20 (8) (a) Subject to paragraphs (b), (b)(c), (d) and (e), any explosives
21 seized in terms of this Act;

22 (b) If the explosives cannot be moved due to the large volume thereof,
23 the inspector must ensure that the explosives are guarded until they are
24 disposed of in terms of this Act;

25 (c) No person may interfere with explosives contemplated in
26 paragraph (b), unless authorized by the inspector;

27 (d) The explosives:

28 (i) Must be destroyed in accordance with section 8 if the explosives:

29 (a) Are declared unserviceable or unstable by inspector; or

1 (b) Are dangerous and pose a threat to the safety and security of any
2 person; or

3 (ii) May be destroyed in accordance with section 12 of the Criminal
4 Proceedings in respect of the explosive not finalized within three months
5 from the seizure of the explosives.

6 (c) Before any explosives are destroyed in terms of paragraph;

7 (d) a person may investigate the explosives in question and
8 prepare an affidavit.

9 10. If any explosives seized in terms of section 6 are forfeited to the Forfeiture
10 State in terms of section of the Criminal Procedure Act, the Chief Inspector
11 may instruct that the explosives must be:

12 (a) Kept for research and developmental purposes;

13 (b) Sold to cover expense incurred in the storing of the explosives
14 pending the finalization of the criminal proceedings; or

15 (c) Destroyed in accordance with section 12.

16 11.-(1) Explosives may only be destroyed in accordance with such Destruction of
17 safe procedures as may be prescribed. Explosives

18 (2) Subject to section 11, any inspector may order the destruction
19 of any explosives forfeited to the State and the owner of the explosives is
20 responsible for any reasonable expenses incurred in connection with the
21 destruction of the explosives.

22 (3) Any person who uses, keeps, transports or stores explosives in
23 contravention of this act is liable for any damage if the explosives are
24 destroyed in terms of this section and if the damage is the result of the
25 manner in which the person used, kept, transported or stored the explosive.

26 12.-(1) Any police officer may without a warrant take the Prints and
27 fingerprints, palm prints, footprints and bodily samples of a person or group samples for
28 of persons or may cause any such prints or samples to be taken, if there are investigation
29 reasonable grounds to: purposes

30 (a) Suspect that the person or that one or more of the persons in that

1 group has committed an offence punishable with imprisonment for a period of
2 five years or longer in terms of this Act; and

3 (b) Believe that the prints or samples or the results of an examination
4 thereof, will be of value in the investigation by excluding or including one or
5 more of the persons as possible perpetrators of the offence.

6 (2) The person who has control over prints or samples taken in terms
7 of this section:

8 (a) May examine them for the purposes of the investigation of the
9 relevant offence or cause them to be so examined; and

10 (b) Must immediately destroy them when it is clear that they will not
11 be of value as evidence.

12 (3) Bodily samples to be taken from the body of a person may only be
13 taken by a registered medical practitioner or a registered nurse.

14 (4) A police officer may do such tests, or cause such tests to be done, as
15 may be necessary to determine whether a person suspected of having handled
16 or detonated an explosive has indeed handle or detonated an explosive.

17 PART 3

18 MANUFACTURE, DEALING, IMPORTATION, EXPORTATION AND

19 PACKAGING OF EXPLOSIVES

Keeping, storage,
possession or
transportation
of Explosives

20 13.-(1) No person may keep, store or be in possession of any
21 explosives on any premises other than an explosives manufacturing site or an
22 explosives magazine, unless the explosives are kept, stored or possessed in
23 accordance with:

24 (a) The conditions of a permit issued by an inspector; and

25 (b) Any applicable regulation.

26 (2) No person may transport any explosives unless the explosives are
27 transported in accordance with:

28 (a) The conditions of a permit issued by an inspector; and

29 (b) Any applicable regulation occupied such person.

30 (3) (a) Any person who keeps, stores, possesses or transports

1 explosives must inform the Chief Inspector or the inspector appointed for
2 the area in question of any loss of explosives within 24 hours of the loss
3 being discovered;

4 (b) The information required in terms of paragraph (a) and the
5 manner in which such information must be given, must be prescribed;

6 (c) The Chief Inspector must establish a database reflecting the
7 information contemplated in paragraph (b), and such information may be
8 used by any person who requires such information for any legal purpose.

9 (4)(a) No person may enter any explosives manufacturing site,
10 explosives magazine or any vehicle in which explosives are being conveyed
11 without permission of the person in control of the site, magazine or vehicle;

12 (b) Any person found, in contravention of paragraph (a) may
13 forthwith be removed from the site, magazine or vehicle by any person
14 employed at the site or magazine or the person in charge of the vehicle, as the
15 case may be.

16 14.-(1) In order to maintain public order or to protect life and
17 property, the Minister may, by notice in the Gazette, prohibit the
18 transportation of any explosives from any place to any other place in or
19 outside Nigeria for such a period as may reasonably be necessary; except
20 under such conditions as may be set out in the notice.

Prohibition of
transportation of
Explosives under
certain conditions

21 (2) The Minister may similarly prohibit the storage, removal,
22 possession or use of explosives within any particular area any person or by
23 specified categories of persons, and may limited or vary the conditions of
24 any licences or permits held or issued under this Act.

25 15.-(1) Any person who wished to build, erect or run an explosives
26 manufacturing site on any premises must, in addition to the requirements of
27 any other law, obtain a certificate from the Chief Inspector to the effect that
28 the premises are suitable from a security point of view.

Certificate in
respect of
Explosives
manufacturing
site and licence
for Explosives
Magazine

29 (2)(a) Any person who wants to run a magazine for the storage of
30 explosives must apply, in writing, for a licence to the Chief Inspector, who

1 must determine:

2 (i) Whether the premises on which the magazine is situated or is to be
3 erected, are suitable from a security point of view; and

4 (ii) Whether the applicant is a suitable person to be in control of the
5 magazine.

6 (b) The chief Inspector may issued the licence upon such conditions
7 as he or she may deem fit, but must refuse to issue such a licence if the premises
8 are unsuitable or the applicant or the designated person is not a suitable person
9 to hold the licence in question.

10 (3) An applicant whose application is refused in terms of (2) (b), may
11 appeal against the decision in the prescribed manner.

12 (4) Any licence issued in terms of subsection (2) (b) or the conditions
13 thereof may, upon application, be amended by the Chief Inspector if the safety
14 and security of any person will not thereby be compromised.

15 (5) (a) The Chief Inspector any revoke any licence issued in terms of
16 this subsection (2) (b) If the Chief Inspector is satisfied that the holder thereof
17 or the designated person is no longer a suitable person;

18 (b) The holder of a licence revoked in terms c of paragraph (a) may
19 lodge an appeal against the decision in the prescribed manner;

20 (c) Until an appeal has been decided, the licence must be deemed to
21 have been suspended. Licensing authority is of opinion that it will not be in the
22 public interest to furnish such statement.

Licensing authority
competent to
impose conditions
in addition to
prescribed
conditions

23 16. A licence granted under section 17, may contain in addition to
24 prescribed conditions such other conditions as may be considered necessary by
25 the licensing authority in any particular case.

Variation
suspension and
revocation of
licence

26 17.-(1) The licensing authority may vary the conditions subject to
27 which a licence has been granted except such of them as have been prescribed
28 and may for that purpose require the holder of licence by notice in writing to
29 deliver up the licence to it within such time as may be specified in the notice

30 (2) The licensing authority may, on the application of the holder of a

1 licence also vary the conditions of the licence except such of them as have
2 been prescribed.

3 (3) The licensing authority may, by order in writing, suspend a
4 licence for such period as it thinks fit or revoke a licence:

5 (a) If the licensing authority is satisfied that the holder of the
6 licence is prohibited by that Act or by other Law for the time being in force to
7 manufacture, possess, sell, transport, import or export any explosive, or is of
8 unsound mind or is for any reason unfit for licence under this Act;

9 (b) If the licence was obtained by the suppression of material
10 information or on the basis of wrong information provided by the holder of
11 the licence or any other person on his behalf at the time of applying for the
12 licence;

13 (c) If any of the conditions of the licence has been contravened; or

14 (d) If the holder of the licence has failed to comply with a notice
15 under sub-section 1 requiring him to deliver up the licence.

16 (4) The licensing authority may also revoke a licence on the
17 application of the holder thereof.

18 (5) Where the licensing authority makes an order varying the
19 condition of a licence under sub-section (1) or on order suspending or
20 revoking a licence under sub-section 3, it shall record in writing the reason
21 therefore and furnish to the holder of the licence on demand a brief statement
22 of the same unless in any case, the licensing authority is of the opinion that it
23 will not be in the public interest to furnish such statement.

24 (6) A Court convicting the holder of a licence of any offence under
25 this Act or the rules made there under may also suspend or revoke a licence.

26 (7) The Government may, by order in the official Gazette
27 suspending or revoke, or direct any licensing authority to suspend or revoke
28 all or any licence granted under this Act.

29 (8) On the suspension or revocation of a licence under this section,
30 the holder thereof shall without delay surrender the licence to the authority

1 by whom it has been suspended or revoked or to such other authority as may be
2 specified in this behalf in the order of suspension or revocation.

Appeals

3 18.-(1) Any person aggrieved by an order of the licensing authority
4 refusing to grant a licence or varying the conditions of a licence or by an order
5 of the licensing authority suspending or revoking a licence may prefer an
6 appeal against that order to such authority (appellate authority) and within such
7 period as may be prescribed.

8 (2) Every appeal under this section shall be made by a petition in
9 writing and shall be accompanied by a brief statement of the reasons for the
10 order appealed.

11 (3) In disposing of an appeal, the appellate authority shall follow such
12 procedure as may be prescribed.

13 (4) Every order of the appellate authority in confirming, modifying or
14 reversing the order appealed against shall be final.

Licence to deal
in explosives

15 19.-(1) no person may sell, deal in or act as a broker in respect of any
16 authorized explosives unless he or she is in possession of a licence granted in
17 terms of this Act.

18 (2) Possession of a licence contemplated in subsection (1) does not
19 entitle the licensee to exemption from holding any licence or permit which may
20 be required in terms of any other enactment or law.

Manufacturing
of explosives

21 20.-(1) Subject to subsection (4), no person may manufacture, either
22 wholly or in part, any authorized explosives in or any premises other than
23 explosives manufacturing site.

24 (2) (a) No person may manufacture any unauthorized explosives
25 unless they are manufactured for the purposes of research or development and
26 in such quantities and under such conditions as the Chief Inspector permits in
27 writing;

28 (b) No authorised manufactured explosives in terms of paragraph (a)
29 may be sold.

30 (3) Unless it is done on a licensed explosives manufacturing site, no

1 person may:

2 (a) Divide any explosives into their components, otherwise break
3 down any explosive or remove any identification mark from any explosives;

4 (b) Make any unserviceable explosives fit for use; or

5 (c) Remake or rework any explosives.

6 (4) The Chief Inspector may grant written permission, subject to
7 applicable regulations and any conditions imposed by him or her in writing,
8 to any person applying therefore in writing, to manufacture explosives:

9 (a) On any premises where explosives are manufactured for
10 testing;

11 (b) On any premises where such explosives as may be prescribed
12 are prepared for immediate use;

13 (c) At any tertiary educational institution for the purposes of
14 training or instruction; or

15 (d) In any laboratory or testing facility registered with the Chief
16 Inspector.

17 21.-(1) No person may use any explosives unless he or she is:

18 (a) In possession of a permit authorizing such use, issued by an
19 inspector in the prescribed manner; or

20 (b) Under the Immediate and constant supervision Of a person who
21 is in possession of such a permit.

22 (2) (a) The Minister may by regulation or by notice in the Gazette
23 exempt any person or any group of persons from obtaining a permit
24 contemplated in subsection (1) if the exemption relates to the use of
25 fireworks in celebration of a specified religious, cultural or traditional event;

26 (b) The Minister may limit the firework which may be used to any
27 specified class and must specify the period for which the exemptions is
28 valid.

29 (3) No permit may be issued under this section unless the applicant
30 is a suitable person.

Prohibition on
use of Explosives
without permit

Possession of
imitation of
Explosives

1 22. Any person who gives out or pretends that an imitation of an
2 explosive is in fact an explosive is guilty of an offence.

Importation and
exportation of
Explosives

3 23. No person may import explosives into or export authorized
4 explosives from the country or cause any explosives to be imported into or
5 authorized explosives to be exported from the country, unless:

6 (a) He or she is in possession of a permit issued by or under the
7 authority of the Chief Inspector; and

8 (b) In the case of exportation, he or she is in possession of such an end-
9 user certificate as may be prescribed.

Packaging of
Explosives

10 24.-(1) (a) Any explosives must be clearly identified in the prescribed
11 manner with legible and visible identification marks and must be packed in
12 such packing material as may be prescribed;

13 (b) The Chief Inspector, in writing, may permit different packaging
14 material if there are compelling reasons justifying the giving of such
15 permission.

16 (2) Any person manufacturing, transporting, importing or exporting
17 any explosive must submit examples of the packaging material contemplated
18 in subsection (1) to the Chief Inspector in the prescribed manner, and the Chief
19 Inspector must create and maintain a database reflecting such information
20 concerning the samples as may be prescribed;

21 (b) Under the immediate and constant supervision of a person who is
22 in possession of such a permit;

23 (3) (a) The Minister may by regulation or by notice in the Gazette
24 exempt any person or any group of persons from obtaining a permit
25 contemplated in subsection (1) if the exemption relates to the use of fireworks
26 in celebration of a specified religious, cultural or traditional event;

27 (b) The Minister may limit the firework which may be used to any
28 specified class and must specify the period for which the exemptions is valid.

29 (4) No permit may be issued under this section unless the applicant is
30 a suitable person.

1 25. No person may export, import, transfer, sell or supply any
2 unauthorized explosives.

Prohibition in
respect of
unauthorized
Explosives

3 PART 4 - RECORD KEEPING DATABASE

4 26.-(1) Any person manufacturing explosives or importing
5 explosives into Nigeria must submit specimens of such explosives to the
6 Inspector in the prescribed manner from a data determined by the Minister in
7 the Gazette.

8 (2) The Inspector or a person designated by him or her, must create
9 and maintain a database containing information concerning any explosives
10 contemplated in subsection (1).

11 27. Any person who holds a licence, a permit, certificate or an
12 authorization in terms of this Act must keep a register in which such
13 information as may be prescribed must recorded.

Record keeping

14 PART 5 - ENDANGERING LIFE OR PROPERTY ENDANGERING LIFE

15 OR PROPERTY

16 28.-(1) For the purposes of this section, "explosion" includes a fire
17 cause by explosives.

18 (2) Any person who intentionally delivers, places, discharges or
19 detonates explosives with intent to cause death or serious bodily injury to
20 any other person or to damage or destroy any place, facility or system is
21 guilty of an offence.

22 (3) Any person who intentionally or negligently cause an explosion
23 which endangers life or property is guilty of an offence.

24 (4) Any person who in any manner:

25 (a) Threatens in such a manner or at such a place the life or property
26 is or might be endangered is guilty of an offence; or

27 (b) Communicates false information, knowing it to be false,
28 regarding any explosion or alleged explosion or explosives is guilty of an
29 offence.

PART 6 - PRESUMPTIONS

Presumption of
possession of
Explosives under
certain
circumstances

29.-(1) For the purposes of this section:

(a) "Explosives" includes any container, apparatus, instrument, incendiary device or any part thereof or article which:

(i) Contains any inflammable substance and which can be used, or can be adapted so that it can be used, to cause an explosion; or

(ii) Was made or designed to cause an explosion; and

(b) "Residential premises" does not include a hotel, a hostel or an apartment building, but includes a room or a suite in a hotel, a room in a hostel and an apartment in an apartment building.

(2) Wherever a person is charged in terms of this Act with an offence of which the possession of explosives is an element and the State can show that, despite taking reasonable steps, it was not able with reasonable certainty to link the possession of the explosives to any other persons, the following circumstances will, in the absence of evidence to the contrary which raises reasonable doubt, be sufficient evidence of possession by that persons of the explosives where it is proved that explosives were found:

(a) On residential premises; and

(i) In control of such premises; and

(ii) Over the age of 18 years and above and ordinarily resident on the premises;

(b) Buried in or hidden on land used for residential purposes and the person was, at the time:

(i) employed to work on the land in or on which the explosives were found; and

(ii) over the age of 18 years and above;

(c) On premises other than residential premises and the person was, at the time:

(i) in control of such premises;

(ii) ordinarily employed on the premises; or

1 (iii) present in the immediate vicinity of the place on the premises
2 where the explosives were found and the circumstances indicate that the
3 explosives should have been visible to that person; or

4 (iv) in control of a locker, cupboard or other container within which
5 the explosives were found.

6 (d) In or on a vehicle and the person was, at the time:

7 (i) the driver of the vehicle;

8 (ii) the person in charge of the vehicle;

9 (iii) in control of all the goods on the vehicle;

10 (iv) the consignor of good in or among which the explosives were
11 found; or (v) the only person who had access to the explosives; or

12 (iv) the employer of the driver of the vehicle and present on the
13 vehicle.

14 (e) On any aircraft other than an aircraft which was used to convey
15 passengers for gain, and the person was at the time:

16 (i) present on the aircraft and in charge of the aircraft;

17 (ii) the employer of the person contemplate in subparagraph (1)
18 and present on the aircraft; or

19 (iii) the consignor of goods in or among which the explosives were
20 found;

21 (f) In the hold of an aircraft and the person was, at the time person
22 In charge of the goods in the hold;

23 (g) In a place on an aircraft or a vessel:

24 (i) to which no - one besides the person has access;

25 (ii) where the circumstances indicate that the explosives should
26 have been visible to no-one besides the person; or

27 (h) On any vessel other than a vessel which was used to covey
28 passengers for gain, and the person was, at the time:

29 (i) in charge of that vessel or that part of the vessel in which the
30 explosives were found; or

1 (ii) ordinarily employed in the immediate vicinity of the place on the
2 vessel where the explosives were found; or (ii) in the cargo of a vessel and the
3 person was, at the time:

4 (a) In control of the cargo of the vessel; or

5 (b) The consignor of any goods in or among which the explosives
6 were found.

7 (3) In any criminal proceedings against a person where it is alleged
8 that such person has injured or killed another person or has damaged property
9 belonging to another person, the following circumstances will, in the absence
10 of evidence to the contrary which raises a reasonable doubt, be sufficient
11 evidence that such a person participated in the injury, killing or damage, where
12 it is proved that:

13 (a) The person was driving or was a passenger in a vehicle other than a
14 vehicle designed or licensed to convey more than 20 passengers;

15 (b) An explosive was detonated from the vehicle while the person was
16 driving or was a passenger in the vehicle; and

17 (c) As a result of such detonation, a person was injured or killed, or
18 property was damaged.

Presumption
relating to failure
to report

19 **30.** Whenever a person is charged with an offence in terms of this Act
20 for failing to report the loss of explosives and it is proved that such a person
21 was, at the time, the licensed or authorized possessor of the explosives alleged
22 to have been lost, proof that the person has failed to produce such explosives
23 within seven days of the request of an inspector to do so, will, in the absence of
24 evidence to the contrary which raises reasonable doubt, be sufficient evidence
25 that the explosives have been lost.

Presumption
relating to failure
to take reasonable
steps

26 **31.** Whenever a person is charged in term of this Act an offence for
27 failing to take reasonable steps to ensure that no explosives are brought onto
28 premises under his or her ownership or control in contravention of this Act,
29 proof that such explosives were brought onto premises under his or her
30 ownership or control in contravention of this Act, will, in the absence of

1 evidence to the contrary which raises reasonable doubt, be sufficient
2 evidence that he or she failed to take such reasonable steps.

3 PART 7 - OFFENCES, PENALTIES, JURISDICTION AND

4 APPEAL OFFENCES

5 32.-(1) It is an offence to contravene or fail to comply with any:

6 (a) Provisions of this Act;

7 (b) Condition of a licence, permit or authorisation issued or granted
8 by under this Act; or

9 (c) Provision, direction or requirement of a notice issued under this
10 Act.

11 (2) It is an offence to:

12 (a) Falsely represent oneself as an inspector;

13 (b) Willfully obstruct or hinder any inspector in the exercise of the
14 powers conferred upon him or her or in the performance of the duties
15 assigned to him or her in terms of this Act;

16 (c) Disobey any lawful order of an inspector, whether verbal or in
17 writing; or

18 (d) Willfully give false information to an inspector.

19 (3) It is an offence for any person to:

20 (a) Create, distribute, produce, import or export any material or
21 publication or being any material in possession of a publication, whether in
22 electronic or any other form, which contains methods for the synthesizing of
23 explosives; or

24 (b) Obtain information with regard to the method for the
25 synthesizing of explosives, unless the publication or information relates to
26 the performance of any activity permitted by a licence, a permit, an
27 authorization or a permission issued or given to him or her in termite of this
28 Act.

29 (4) It is an offence for the owner or person in control of premises

1 not to take reasonable steps to ensure that no explosives are brought onto the
2 premises.

Penalties

3 33.-(1) Any person convicted of a contravention of or a failure to
4 comply with:

5 (a) Section 30(2), is liable to imprisonment for a period not exceeding
6 25 years;

7 (b) Section 21(1) or (2), 3(1), 22(1), (2) or (3), 23(1) or 25, is liable,
8 in the case of a:

9 (i) First offender, to imprisonment for a period not exceeding 15
10 years;

11 (ii) Second offender, to imprisonment for a period not exceeding 20
12 years, and

13 (iii) Third or subsequent offender, to imprisonment for a period not
14 exceeding 25 years.

15 (c) Section 22(3) or (4), where the:

16 (i) Act or omission is willful and death does not result therefrom, is
17 liable to a fine or to imprisonment for a period not exceeding 15 years, or to
18 both a fine and such imprisonment;

19 (ii) Explosion is caused by a negligent act or omission and death
20 results, is liable to a fine or to imprisonment for a period not exceeding 10
21 years, or to both a fine and such imprisonment;

22 (iii) Explosion is caused by a negligent act or omission and property
23 or life is endangered, is liable to a fine or to imprisonment for a period not
24 exceeding 5 years, or to both a fine and such imprisonment;

25 (d) Section 18(1), (2), (3), (4) or (5), 24 or 34 (4) is liable to
26 imprisonment for a period not exceeding 15 years;

27 (e) Section 22 or 31(3) is liable to imprisonment for a period not
28 exceeding years; and

29 (f) Section 16(1) or (2), 26(1) or (2), 2(1), 21, or 34(2)(a), (b), (c) or
30 (d) is liable to a fine or to imprisonment for a period not exceeding five years, or

1 to both a fine and such imprisonment.

2 (2) A court sentencing a person in terms of subsection (1) may
3 declare:

4 (a) any explosives in respect of which the offence was committed
5 to be forfeited to the Federal Government and may make any order with
6 regard to the safekeeping and destruction of the explosives, including an
7 order for payment of the cost of safekeeping and destruction, as the court
8 may deem fit; and

9 (b) any vehicle or carriage used for the purposes of in connection
10 with the commission of the offence to be forfeited to the Federal
11 Government and such of persons stand unfit to possess explosives.

12 34.-(1) Unless the court determines otherwise, a person becomes
13 unfit to possess explosives if convicted for:

Declaration of
person as unfit to
possess Explosives

14 (a) the unlawful possession of explosives;

15 (b) any crime or offence involving the unlawful use or handing of
16 explosives, whether explosives were used or handled by that person or by
17 another participant in that crime or offence;

18 (c) an offence involving the failure to store explosives in
19 accordance with the requirements of this Act;

20 (d) an offence involving the narcotic effect;

21 (f) any other crime or offence in the commission of which
22 explosives were used, whether the explosives were used or handled by that
23 person or by another participant in the crime or offence;

24 (g) any offence involving violence, sexual abuse or dishonesty, for
25 which the accused is sentenced to imprisonment without the option of a fine;

26 (h) any other offence under or in terms of this Act in respect of
27 which the accused is sentenced to imprisonment without the option of a fine.

28 (i) any offence involving the abuse of alcohol or drugs;

29 (j) any offence involving dealing in drugs;

30 (k) any offence in terms of the Firearms Act, in respect of which the

1 accused is sentenced to imprisonment without the option of a fine;

2 (n) any offence involving sabotage, terrorism, public violence, arson,
3 intimidation, rape, kidnaping or child stealing; or

4 (o) any conspiracy, incitement or attempt to commit an offence
5 referred to above.

6 (2) (a) A court which convicts a person of an offence referred to in
7 schedule 2 and which is not an offence contemplated in subsection (1), must
8 enquire and determine whether that person is unfit to possess explosives:

9 (b) If a court, action in terms of paragraph (a) determines that a person
10 is unfit to possess explosives, it must make a declaration to that effect.

11 (3) If a person becomes unfit to possess explosives or declared unfit to
12 possess explosives in terms of subsection (1) or (2), as case may be, the relevant
13 court must notify the Chief Inspector in writing of the person's unfitness and
14 the notification must be accompanied by an order for the search and seizure of:

15 (a) all certificates, licences and permits issued to the person in terms
16 of this Act; and

17 (b) all explosives in the person's possession.

Jurisdiction

18 35. A High Court may impose any penalty in terms of this Act, despite
19 anything to the contrary contained in any other enactment or law.

Appeals

20 36.-(1) Where any person is not satisfied with a decision or instruction
21 given by an inspector, he or she may, within 14 days, lodge a written appeal with
22 the Chief Inspector or his or her delegate, who must take action as soon
23 possible.

24 (2) A person contemplated in subsection (1) must submit a written
25 statement to the Chief Inspector or his or her delegate setting out the ground
26 upon which the appeal is based.

27 (3) Where any person is not satisfied with a decision or instruction
28 given by the Chief Inspector or his or her delegate, he or she may, within 30
29 days, lodge a written appeal with an appeal board established by the Minister in
30 the prescribed manner.

(4) Until any appeal has been decided in terms of this section, the decision or instruction, as the case may be, must be deemed to have been validly made or given.

PART 8 - REGULATIONS

37.-(1) The Minister may make regulations regarding:

- (a) anything which may or must be prescribed in terms of this Act;
- (b) the use, disposal and destruction of explosives;
- (c) the construction of explosives magazines;
- (d) the conditions under which the manufacture of explosive other than in a licensed explosives manufacturing site may be carried out;
- (e) the storage of explosives;
- (f) the classification, composition, testing and analysis of explosives;
- (g) the grant, cancellation and suspension of any permit or licence mentioned in this Act and the period for which any such permit or licence may be issued;
- (h) the packaging, transport, importation, exportation and transshipment of explosives, and the landing and handing of explosives in ports, harbours, airports and other places of entry or exit;
- (i) the prohibition of the transportation of explosives or the use from the transportation thereof or any means of transport except under authority of a permit issued by an inspector, the grant, cancellation and suspension of any such permit and the period for which any such permit may be issued;
- (j) the issuing of a licence and an end-user certificate to a dealer or broker in explosives, the conditions of any such licence, the restrictions which may be placed upon the sale or disposal of explosives to particular persons and the quantity of any explosives which may be purchased by any person or company under a permit issued by an inspector; or
- (k) the inquiry into the circumstances of explosives including fires caused or suspected to have been caused by explosives, endangering or

1 causing death or injury to persons or damage to property, and the giving of
2 notice of all such explosive;

3 (m) determining fees or tariffs payable for any permit, licence or
4 authorization in terms of this Act;

5 (n) the statistics which manufacturers and dealers may be called upon
6 to supply;

7 (o) the restricting of the sale and use of fireworks, excluding
8 organized fireworks disposal or forfeited to record keeping;

9 (p) the establishment and functions of an appeal board;

10 (q) any disposal of forfeited explosives; and

11 (s) any other matter which must be regulated for the protection of the
12 and property against explosives or for the achievement of the objects of this
13 Act.

14 (2) Regulations made under subsection (1) may provide for penalties
15 for a contravention thereof or failure to comply there with which penaches may
16 not exceed a fine or imprisonment for a period of five years, and they may also
17 provide that any explosives in respect of which the contravention or non-
18 compliance has taken place must be forfeited and destroyed.

19 (3) Such regulation may also prescribe daily penalties for a
20 continuing contravention or non-compliance or increased penalties for a
21 second or subsequent contraventions or non-compliance, subject to the
22 maximum mentioned in subsection (2).

23 SCHEDULE

24 (Section 39)

25 CRIMES AND OFFENCE GIVING RISE TO UNFITNESS ENQUIRY BY

26 High treason

27 Sedition

28 Malicious damage to property

29 Entering any premises with the intent to commit an offence under the common
30 law or a statutory provision.

1 Extortion.

2 Any crime or offence:

3 (3) in terms of this Act or the previous Act, in respect of which an
4 accused was not sentenced to imprisonment without the option of a fine;

5 (b) involving violence, sexual abuse or dishonesty, in respect of
6 which an accused was not sentenced to imprisonment without the option of a
7 fine;

8 (c) in terms of the Firearms Act, in respect of which an accused was
9 not sentenced to imprisonment without the option of a fine.

10 Any conspiracy, incitement or attempt to commit any offence referred to in
11 this Schedule.

EXPLANATORY MEMORANDUM

This Bill seeks to repeal the explosives act No 34 1967 CAPE 18 Laws of
(he Federation of Nigeria 2004 and re-enact explosives bill, 2011 to make
comprehensive provisions to Regulate the Manufacture, possession use,
sale, transportation, export and import of explosives.

