

A BILL

FOR

AN ACT TO REPEAL THE DEFENCE INDUSTRY CORPORATION OF NIGERIA ACT CAP D4 LAWS OF THE FEDERATION OF NIGERIA, 2004, AND ENACT THE DEFENCE INDUSTRY CORPORATION OF NIGERIA BILL, 2019

Sponsored by Hon. Oluwole Oke

[] Commencement

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

1 1.-(1) There is established a body to be known as the Defence
2 Industry Corporation of Nigeria (in this Bill referred to as "DICON or the
3 Corporation"). Establishment of
the Corporation

4 (2) The Corporation:

5 (a) shall be a body corporate with perpetual succession and a
6 common seal;

7 (b) may sue or be sued in its corporate name; and

8 (c) may acquire, hold or dispose any property, movable or immovable for the
9 purpose of carrying out any of its functions under this Bill.

10 2. The Corporation shall have powers and duties as are conferred Powers and duties
of the Corporation
11 on it by this Bill or any other enactment of the National Assembly.

12 Objectives of the Corporation.

13 3.-(1) The object of the Corporation shall be to meet and satisfy: Objectives of
the Corporation

14 (a) in an efficient and cost effective manner the material needs of
15 the Armed Forces of Nigeria and other security agencies;

16 (b) the technological, research and development and applied
17 scientific needs of the Armed Forces of Nigeria and other security agencies;

18 (c) develop, utilize, market and export normal and advanced
19 military technologies;

20 (d) satisfy the civil non-defence technological needs of Nigeria

1 where possible.

2 (2) The Corporation must adhere to accepted corporate governance
3 principles, best business practices and generally accepted accounting practices
4 within a framework of established norms and standards that reflect fairness,
5 equity, transparency, economy, efficiency, accountability and lawfulness.

Functions of the
Corporation

6 4. The Corporation shall be responsible to carry out the following:

7 (i) operate, maintain and control factories for the manufacture,
8 storage and disposal of ordnance and ancillary stores and materiel;

9 (ii) to provide for alteration in any such manufacture, storage and
10 disposal at any time;

11 (iii) to acquire such Defence items on behalf of any other body
12 permitted to acquire such defence material;

13 (iv) conduct research and development for the Nigerian defence
14 sector and apply the findings of the research in promoting and protecting the
15 national interest of Nigeria;

16 (v) initiate and manage technological projects required in actualizing
17 other objectives or responsibilities of the Corporation;

18 (vi) dispose defence material in consultation with the person who
19 originally manufactured the material;

20 (vii) support and maintain any defence industrial capabilities,
21 resources and technologies designated by the Ministry as strategic and
22 essential for the national defence needs of Nigeria; and

23 (viii) develop, manufacture, produce, sell and export Defence items
24 and advanced military hardware.

25 (ix) collaborate with other entities involved in manufacture,
26 technology, research, applied research, mass production among others.

27 (x) operate as a platform for both the industrialization and
28 technological advancement of Nigeria.

29 5. The Corporation may, with the approval of the Minister:

30 (i) carry out or exploit commercial activities which may arise in the

1 course of carrying out the Corporation's statutory mandate;

2 (ii) procure commercial material on behalf of any agency of the
3 Federal or a State Government;

4 (iii) form partnership or joint venture with a private company;

5 (iv) perform any other function which the Corporation may be
6 directed to perform pursuant to any Regulation made by the Minister under
7 this Bill.

8 6. There is established for the Corporation a Board, which shall be
9 responsible for:

The Board and
Employees of the
Corporation

10 (a) attainment of the objects of the Corporation;

11 (b) the policy direction of the Corporation;

12 (c) such other functions conferred upon it by any other provision of
13 this Bill.

14 7.-(1) The Board shall consist of the following members to be
15 appointed by the President, Commander in Chief of the Armed Forces, on
16 the recommendation of the Minister, with the approval of the National
17 Assembly:

18 (a) the Director General of the Corporation;

19 (b) The Secretary of the Corporation;

20 (c) six members with relevant qualifications and experience from
21 each of the geo-political zones;

22 (d) one representative of the Federal Ministry of Defence;

23 (e) one representative of the Federal Ministry of Science and
24 Technology;

25 (f) one representative of the Federal Ministry of Industry;

26 (g) one representatives each from the Nigerian Army, Nigerian Air-
27 force, Nigerian Navy, Nigerian Police and the Department of State Security

28 (h) 2 representatives of civil society.

29 (2) A member of the Board appointed pursuant to this section:

30 (a) shall hold office for a term of four years;

1 (b) on such terms and conditions as may be specified in the letter of
2 appointment; and

3 (c) shall be eligible for re-appointment for another term of four years
4 and no more.

Appointment
and Powers of
Director-General

5 8.-(1) The Director General appointed by the President shall be a
6 serving or retired military officer of the equivalent of the rank of Brigadier or
7 above.

8 (2) The Director-General shall be the chief executive of the
9 Corporation, and as and when directed, he shall give to the Corporation
10 information as to the activities of the Corporation as the President, Minister or
11 the National Assembly may reasonably require.

12 (3) The Director-General shall co-ordinate, harmonise and supervise
13 the general planning of defence and allied industries which are set up to
14 produce specifically or mainly for the armed forces in addition to encouraging
15 other industries within the economy to produce for the general consumer as
16 well as for the armed forces.

17 (4) The Corporation may delegate to the Director-General all or any
18 of the powers mentioned in this section and subject thereto the Director-
19 General may authorise programmes and plans for giving effect to any policy
20 approved by the Minister or to any direction or recommendation of the
21 Corporation as to any ordnance factory in Nigeria or as to staff training therein.

22 (5) The fact that any such powers have been delegated to the Director-
23 General shall not preclude the Corporation itself from exercising them in any
24 special case.

25 (6) The powers mentioned in this section are:

26 (a) the executive control over other servants of the Corporation;

27 (b) the supervision of accounts and records;

28 (c) the preparation for approval of sectional programmes and plans
29 necessary to carry into effect approved policy or any directions of the
30 Corporation.

1 (7) The salaries, fees, wages or other remuneration or allowances
2 including pension and other allowances payable to the Director General and
3 to the Secretary of the Board shall be as stipulated from time to time by the
4 Board subject to the approval of the President.

5 (8) The Director General shall cease to hold office in the
6 Corporation if he:

7 (a) becomes of unsound mind or, owing to ill health, is incapable of
8 carrying out his duties;

9 (b) is convicted of any criminal offence by a court of competent
10 jurisdiction except for traffic offences or contempt proceedings arising in
11 connection with the execution or intended execution of any power or duty
12 conferred under this Act or any other law;

13 (c) is guilty of a serious misconduct in relation to his duties under
14 this Act;

15 (d) becomes bankrupt;

16 (e) is removed by the President:

17 Provided that the removal of the Director General shall be supported by two-
18 thirds majority of the National Assembly praying that he be so removed.

19 9.-(1) Subject to the provisions of this section, the Corporation
20 may appoint such persons as members of its staff as it considers necessary
21 and may approve conditions of service, including provisions for the
22 payment of pensions in line with the Pension Reform Act 2014

Employees of the
Corporation

23 (2) The Secretary of the Corporation shall be appointed subject to
24 the approval of the Minister, and shall keep the records and conduct
25 correspondence and perform such other duties as the Corporation may from
26 time to time direct;

27 (3) An employee of the Corporation or a member of the Board
28 shall:

29 (a) disclose to the Board any direct or indirect interest that such
30 employee or Board member, or his or her spouse, partner or family member

1 may have in any matter relating to the acquisition or procurement activities of
2 the Corporation; and

3 (b) withdraw from participation in the activity in question unless the
4 Board decides that the interest is trivial or irrelevant.

5 (4) Any employee or member of the Board of the Corporation who
6 fails to make disclosure in accordance with section 10(3) of this Bill shall be
7 guilty of an offence and on conviction be liable on conviction to a fine or to
8 imprisonment for a period not exceeding 10 years or to both fine and
9 imprisonment.

Operation of
Ordnance factories
and other Ancillary
Factories

10 10. The Corporation shall be entitled to carry out the following:

11 (1) The Corporation shall operate any ordnance or ancillary factory
12 under its control on a sound commercial basis and so as to fill the normal
13 defence requirements of the armed forces; and shall plan its activities so far as
14 may be necessary to meet other needs, from time to time.

15 (2) If there is any surplus capacity in the operation of an ordnance or
16 ancillary factory, the Director General shall so advise the Minister through the
17 Corporation and the Minister, with the approval of the President, may direct
18 that any such surplus capacity may be adapted where necessary and be used
19 towards meeting the civilian needs of Nigeria.

20 (3) Where the Corporation undertakes the inspection and testing of
21 ordnance and material for use by the armed forces, it shall recommend
22 adoption or rejection, as the case may be, to the Minister, and the Minister shall
23 give the directions necessary in the circumstances.

24 (4) The Corporation may, on behalf of any of the governments of
25 Nigeria, test and inspect any substance, material, machine or other thing
26 whatsoever intended for or capable of being used by the armed forces, whether
27 or not it is thereafter so used, or is rejected.

28 (5) For all or any of the purposes of this section, the Corporation may,
29 in its discretion, institute a system of technical standards of classes of
30 materials, structures and machines.

1 (6) The Corporation shall be entitled to establish or acquire any
2 factory or manufacturing industry which shall be used as an ordnance
3 factory or ancillary factory including vehicle factory, small arms factory,
4 rifle factory, opto electronic factory, ordnance equipment factory, ordnance
5 clothing factory, heavy vehicle factory, ammunition factory, ammunition
6 factory, cordite factory, field gun factory, gun carriage factory, grey iron
7 factory, gun and shell factory, heavy alloy penetrator factory, heavy vehicle
8 factory, machine tool prototype factory, metal and steel factory, aviation
9 factory and any other factories the Corporation considers necessary.

10 (7) The location of any factory of the Corporation shall take into
11 account the Federal Character principles, suitability of the site and the
12 strategic defence needs of Nigeria.

13 **11.-(1)** The Funds of the Corporation shall consist of:

14 (a) such sums as may be required for the completion of any
15 building erected as an ordnance factory and taken over on the appointed day

16 (b) moneys from time to time voted by the National Assembly;

17 (c) moneys received from the process of any sale or hire.

18 (d) revenue, including interest derived from its investments;

19 (e) money obtained from such other source as may be consistent
20 with the objectives and functions of the Corporation.

21 (2) The Corporation shall establish a reserve for such purposes as it
22 may deem fit if they are consistent with its objectives and functions, and may
23 invest that portion of the money which it does not immediately require into a
24 reserve fund in any manner which will benefit the Corporation.

25 (3) The Corporation and its wholly-owned subsidiaries and
26 affiliates shall be exempt from the provisions of any and all taxes, fees,
27 imposts or similar fiscal laws or regulation of the Federal, State, Local
28 Governments of the Federal Republic of Nigeria, including without
29 limitation, the Companies Income Tax Act Cap. C21 LFN 2004, the Capital
30 Gains Tax Act Cap. C1 LFN 2004, the Stamp Duties Act Cap. S8 LFN 2004,

Funds of the
Corporation and
Exemption from
Tax

1 the Value Added Tax Act Cap. V1 LFN 2004 or other impost, taxes o interest
2 and dividends or any similar law or regulation.

Accounts and
Records to be
kept

3 12.-(1) The Corporation shall keep proper accounts and other records
4 and shall not later than the thirtieth day of September in each year prepare
5 estimates of receipts and expenditure of the Corporation for the next ensuing
6 financial year and shall submit the estimates for the approval of the Minister.

7 (2) If the estimated expenditure approved for a financial year is
8 exceeded without the prior approval in writing of the Minister, members of the
9 Corporation shall be liable to a surcharge on salary or allowances as the case
10 may be, at the investigation of the Auditor-General for the Federation.

11 (3) Separate accounts shall be kept in relation to moneys received and
12 expended by the Corporation in connection with the manufacture, production,
13 sale and letting on hire of any equipment authorised for release under this Bill.

14 (4) The accounts of the Corporation shall be audited annually by
15 auditors to be appointed annually by the Corporation from among the list of
16 auditors and in accordance with guidelines prepared by the Auditor-General
17 for the Federation.

Safeguarding of
Information,
Records, Property
and Premises

18 13.-(1) The Corporation must take such measures as are necessary for
19 the safeguarding and protecting of:

20 (a) information, records and property belonging to or under the
21 control of the Corporation; or

22 (b) any premises where the activities of the Corporation is being
23 performed.

24 (2) If the Corporation takes any measures contemplated in subsection
25 (1), it must cause such notices to be published or such warnings to be erected as
26 may in each particular case be necessary to warn the public of any danger or
27 harm which may be caused by such measures.

28 (3) The Corporation is empowered to include a duty of confidentiality
29 in its contracts, agreements and conditions of service to bind its employees,
30 members of its Board and third parties.

1 14. The Corporation may subject to the approval of the Minister
2 form a wholly or partly owned subsidiary through which it can undertake
3 commercial activities.

Subsidiaries,
Acquisition,
Partnership and
Joint Ventures

4 15. Subject to the approval of the Minister, the Corporation shall be
5 empowered to form a joint venture or special purpose company to undertake
6 research or for commercial purpose or to promote a technological
7 process/project.

8 16. The Corporation shall subject to approval from the Minister, be
9 entitled to enter into partnerships and joint ventures with private entities in
10 order to meet any of the objectives and functions of the Corporation.

11 17. Subject to the consent of the President and notwithstanding the
12 provision of any law, the Corporation shall be entitled to compulsorily
13 acquire moribund industries, properties, machineries or facilities to be
14 adapted or converted in promoting and actualizing its objectives and
15 functions.

16 18. Where the Corporation exercises its powers under section 18,
17 the Board shall pay adequate compensation to the holders of the interest in
18 that property.

19 19. The Corporation shall subject to the approval of the Minister,
20 collaborate with commercial entities and research institutions in promoting
21 and actualizing its statutory objectives and functions and shall be entitled to
22 provide seed capital, funding or counter-part funding for such
23 collaborations.

24 20. Where the Corporation is involved in a project wholly or
25 through a joint venture or partnership entity, it shall be entitled to obtain
26 funding from the Bank of Industry or any other domestic financial
27 institution.

28 21.-(1) Nothing in the Firearms Act shall be construed to preclude
29 the importation by the Corporation of any firearm as therein defined or
30 ammunition, or the manufacture, assembly, repair, or disposal of any such

Restricted
application of
Firearms Act

1 firearm or ammunition in an ordnance factory.

2 (2) Nothing in the Firearms Act shall be construed to preclude the
3 manufacture, assembly, repair, or disposal of any such firearm or ammunition
4 in an ordnance factory by a company licenced under this Bill.

5 (3) Every ordnance factory under the control of the Corporation or a
6 company licenced under this Bill shall, for the purposes of the Firearms Act, be
7 deemed to have been recognised as a public armory without further authority
8 than this Bill; but firearms and ammunition therein may be held by the
9 Corporation for such period as it thinks fit, anything in the Firearms Act to the
10 contrary notwithstanding.

Regulation and
Licensing of
Manufacturers
of Defence
Articles

11 **22.** Notwithstanding the provisions of the Firearms Act, the
12 Corporation shall be responsible for issuing licences to manufacturers,
13 distributors, sellers and persons involved in leasing of defence articles in
14 Nigeria.

15 **23.** The licencing and regulation of the manufacture, distribution, sale
16 and lease of defence articles shall be based on a Regulation issued by the
17 Corporation and approved by the Minister.

18 **24.** Defence items shall be items included in a list issued by the
19 Minister and the provisions of the Firearms Act shall not apply to the items.

20 **25.** The Regulations made under section 24 shall stipulate the
21 licencing fees and other fees and levies to be charged by the Corporation.

22 **26.** Items produced by private manufacturers under this Act shall be
23 offered first to the Corporation for purchase and where it issues a Notice of
24 Non-Purchase, the manufacturer shall be entitled to sell the items domestically
25 or export the Defence items based on the provisions of any applicable
26 Regulation.

Sale of Defence
items Manufactured
by the Corporation

27 **27.** The Armed Forces, Police and other security agencies authorized
28 to possess and use weapons or other items categorized as Defence Items must
29 purchase weapons or Defence Items from the Corporation or where the

1 Corporation declines, from other manufacturers or distributors licenced
2 under this Bill.

3 28. The Armed Forces, Police and other security agencies
4 authorized to possess and use weapons or other items categorized as
5 Defence Items shall be entitled to purchase weapons or Defence items from
6 manufacturers or distributors other than those specified in section 28 in any
7 of the following circumstances:

8 (a) where the Corporation or the licenced manufacturer is unable to
9 meet the demand needs of the purchaser; and

10 (b) the Corporation issues a letter of no objection.

11 29. The Corporation or other licenced manufacturers shall not
12 export any item contained in the list of Defence Items, except after obtaining
13 an export permit issued by the Minister.

14 30. The Corporation shall where necessary, apply for and obtain
15 intellectual property protection for all of its works, inventions and property.

Intellectual
Property

16 31. The Defence Industries Corporation of Nigeria Act 1964 is
17 hereby repealed.

Repeal of Law
and Saving
Provisions

18 32. In this Bill, unless the context otherwise requires:

Interpretation

19 "Armed forces" means the Army, Navy and Air force of Nigeria;

20 "Building" includes fixtures, and any plant, machinery and office furniture
21 supplied or to be supplied under any contract, and whether or not affixed or
22 intended to be affixed to the land;

23 "Defence item" means any item included in a list issued by the Minister.

24 "The Corporation" means the Defence Industries Corporation of Nigeria
25 established under this Bill;

26 "Materiel" includes any armament, ammunition and equipment;

27 "The Minister" means the Federal minister charged with responsibility for
28 Defence;

29 "Ordnance Factory" subject to the Defence Industries Corporation of
30 Nigeria (Exclusion of Armed Forces Armament Depot) Bill means any

1 public establishment for the manufacture, storage and disposal of ordnance and
2 ancillary stores and materiel intended for or capable of being used by the armed
3 forces, and includes the manufacture of any other thing that may be approved
4 under this Bill.

Short Title

5 33. This Bill may be cited as the Defence Industries Corporation of
6 Nigeria Bill, 2019.

EXPLANATORY MEMORANDUM

This Bill Seeks to repeal the Defence Industry Corporation of Nigeria act Cap D4 Laws of the Federation of Nigeria, 2004, and enact the Defence Industry Corporation of Nigeria Bill, 2019.