

EXPLOSIVES BILL, 2021
ARRANGEMENT OF SECTIONS

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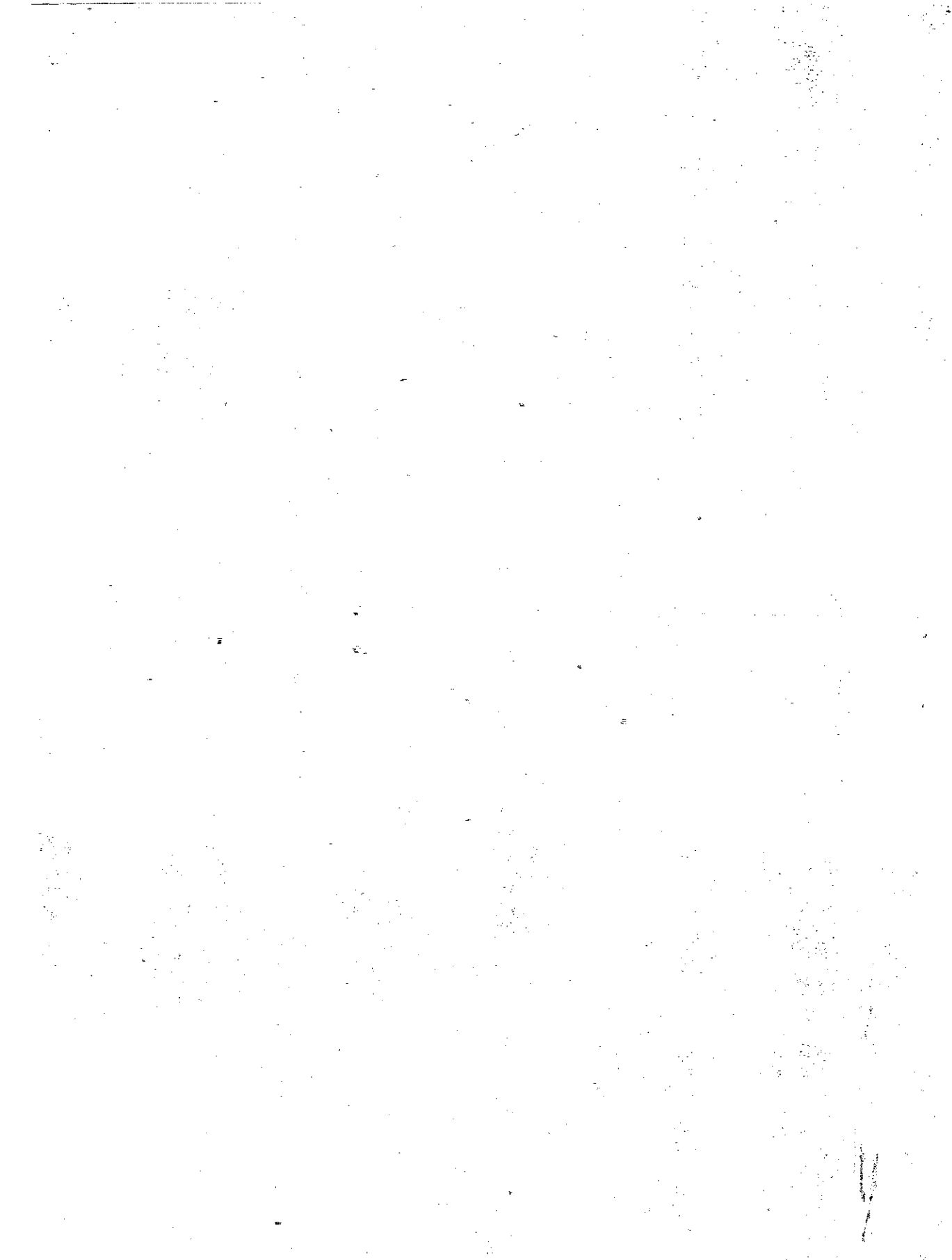
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A BILL EXECUTIVE

FOR

AN ACT TO REPEAL THE EXPLOSIVES ACT 1964 AND ENACT THE EXPLOSIVES ACT, TO REGULATE THE MANUFACTURE, STORAGE, POSSESSION, USE, DISTRIBUTION, PURCHASE, SALE, TRANSPORTATION, IMPORTATION AND EXPORTATION OF EXPLOSIVES AND FOR RELATED MATTERS

[] Commencement

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

PART I - LICENCING

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1. From the commencement of this Act, any person, carrying on the business of manufacturing, selling, transportation, importation or exportation of explosives for which Licence, Permit or Certificate has already been granted shall continue to carry on such business-

Existing Licence, Permit and Certificate holders to carry on business of manufacturing, selling etc of explosives for a certain period

(a) for a period of 6 months; and

(b) where before the expiration of the period specified in paragraph

(a) of this section, such person makes an application for the grant of a Licence, Permit or Certificate under this Act, until the final disposal of his application.

2.-(1) The Minister may, by an order published in the official gazette, prohibit the manufacture, storage, possession, use, distribution, purchase, sale, transportation, importation or exportation of any explosives except as authorized in the order.

Prohibition of manufacture, storage, possession etc of explosives

(2) An order issued under subsection (1) of this section, shall be enforced by the Nigeria Custom Service and the Nigeria Police Explosives Ordinance Disposal Unit at the point of entry.

(3) Notwithstanding the provision of subsection (1) of this section, no person who-

1 (a) is less than 18 years of age;
2 (b) has been convicted of an offence involving dishonesty or violence
3 for a term of not less than six months, at any time during a period of five years
4 after the expiration of the sentence; or

5 (c) is under a bond for keeping the peace or for good behavior under
6 the Criminal Code, shall manufacture, store, be in possession, use, distribute,
7 purchase, sell, transport, import or export any explosives.

8 (4) No person shall sell, deliver or dispatch any explosives to a person
9 whom he knows or has reason to believe at the time of such sale, delivery or
10 dispatch, to be-

11 (a) prohibited from the manufacturing, storage, possession, use,
12 distribution, purchase, sale, transportation, importation, exportation of such
13 explosives under subsection (1) of this section; or

14 (b) of unsound mind.

Application for
a Licence, Permit
or Certificate

15 3.-(1) An application for a Licence, Permit or Certificate shall be
16 made to the Minister.

17 (2) An applicant shall pay such application and processing fees as
18 may be prescribed by Regulations made pursuant to this Act.

19 (3) The Minister shall inform an applicant in writing of his decision to
20 grant or refuse to grant a Licence, Permit or Certificate within 3 months of
21 receipt of an application.

22 (4) A Licence, Permit or Certificate shall be issued upon payment of
23 the prescribed fee.

24 (5) A Licence, Permit or Certificate shall be valid for a period of 1 year
25 from the date of its issuance.

26 (6) An applicant who is not satisfied with the decision of the Minister
27 may challenge such decision in the Court.

28 (7) An Appeal against the decision of the Minister to the Court shall be
29 filed within 90 days from the date the letter conveying the decisions of the
30 Minister is received by the applicant.

1 4.-(1) Subject to the provisions of this Act, no person shall ^{*} Grant of a Licence,
2 undertake any business in respect of explosives unless he has been granted Permit or Certificate
3 anyone or more of the following Licences, Permits or Certificates-

4 (a) Magazine Licence;

5 (b) Manufacturing Licence;

6 (c) Mobile Pump Truck (Bulk Explosives) Licence;

7 (d) Permit to Export Explosives

8 (e) Permit to Import Explosives;

9 (f) Permit to Buy Explosives;

10 (g) Permit to Transfer Explosives;

11 (h) Permit to Mix and Use Ammonium Nitrate and Fuel Oil

12 (ANFO);

13 (i) Special Permit to Blast Outside Quarry;

14 (j) Approved Responsible Person Certificate; or

15 (k) Blasting Certificate.

16 (2) A Licence, Permit or Certificate issued under this Act shall be
17 subject to such conditions as may be specified in the Licence, Permit or
18 Certificate or prescribed by Regulations made under this Act.

19 5.-(1) An applicant for a Licence, Permit or Certificate under this ^{Screening of}
20 Act shall upon the request of the Minister be screened by the appropriate applicant
21 Security Agency to carry out such screening.

22 (2) The appropriate Security Agency shall screen the applicant and
23 furnish the Minister with a report in respect of the following-

24 (a) whether the applicant for the grant or renewal of a Licence,
25 Permit or Certificate has been found guilty or convicted of an offence in any
26 part of Nigeria or elsewhere;

27 (b) whether the applicant is the subject of a firearms prohibition
28 order within the meaning of the firearms Act Cap F.28 LFN, 2004;

29 (c) whether the applicant is of good character or repute;

1 (d) whether the applicant has a history of violence or threat to
2 violence;

3 (e) whether the applicant has good reason for requiring the Licence,
4 Permit or Certificate;

5 (f) whether the applicant can be trusted to handle explosives in the
6 manner authorized by the Licence, Permit or Certificate without any danger to
7 public peace, safety and security; and

8 (g) such other matters as the Minister may request or the Security
9 Agency may consider necessary to bring to the notice of the Minister.

Renewal of a
Licence, Permit
or Certificate

10 6.-(1) An application for the renewal of a Licence, Permit or
11 Certificate shall be made to the Minister at least 1 month before the expiration
12 of the Licence, Permit or Certificate.

13 (2) The application shall be accompanied by evidence of payment of
14 the prescribed Licence, Permit or Certificate renewal fee and all other
15 requirements prescribed under the Regulations made under this Act.

Variation,
Suspension or
Revocation of
Licence, Permit
or Certificate

16 7.-(1) The Minister may suspend or revoke a Licence, Permit or
17 Certificate where-

18 (a) the Licence, Permit or Certificate holder has contravened any of
19 the provisions of this Act, Regulations made under this Act or any other law;

20 (b) the Licence, Permit or Certificate was obtained by the suppression
21 of material evidence which if brought to the notice of the Minister, would have
22 persuaded him from granting the Licence, Permit or Certificate;

23 (c) any fee or levy due to be paid by the Licence, Permit or Certificate
24 holder has not been paid;

25 (d) the Licence, Permit or Certificate holder has violated any safety
26 requirements; or

27 (e) in the opinion of the Minister, it is in the interest of public safety or
28 security for the Licence, Permit or Certificate to be varied, suspended or
29 revoked.

30 (2) A Licence, Permit or Certificate holder whose Licence, Permit or

1 Certificate is varied, suspended or revoked shall be informed of such
2 variation, suspension or revocation.

3 PART II - STORAGE AND USE OF EXPLOSIVES

4 8.-(1) A surface magazine shall be surrounded by a fence approved
5 by the Minister accessible through a gate which shall be kept securely
6 locked when not in use.

Storage and use
of explosives in
surface, underground
mining operations,
construction works
etc.

7 (2) A surface magazine shall be erected in accordance with the
8 approved plan and specifications and other such conditions as the Minister
9 may determine.

10 (3) An explosives magazine shall be in the care of an approved
11 person acquainted with the nature of explosives, whose name shall be
12 entered into the explosives index register.

13 (4) The person referred to in subsection (3) of this section shall be
14 responsible for-

15 (a) the proper receipt, storing, and distribution of the explosives;
16 and

17 (b) Keeping full particulars of all receipts and deliveries in the
18 explosives index register which shall be kept in the magazine.

19 (5) Underground mining operation shall, where necessary be fitted
20 with a well regulated magazine for the storage, transportation and use of
21 explosives.

22 (6) An underground explosives magazine shall be in the custody of
23 an approved responsible person acquainted with the nature of explosives,
24 whose names shall be entered in the explosives index register.

25 (7) The person referred to in subsection (6) of this section shall be
26 responsible for-

27 (a) the proper receipt, storage and distribution of the explosives;
28 and

29 (b) keeping full particulars of all receipts and deliveries in the
30 explosives index register, which shall be kept in the magazine.

1 (8) Any construction work that requires the use of explosives shall be
2 fitted with a well regulated storage box in the custody of an approved person.

3 (9) Explosives shall be in care of an approved person certified to have
4 basic knowledge as to the use of explosives, whose name shall be entered into
5 the explosives index register.

6 (10) The person referred to in sub-section (9) of this section shall be
7 responsible for-

8 (a) the proper receipt, storage, and distribution of the explosives; and

9 (b) keeping full particulars of all receipts and deliveries in the
10 explosives index register which shall be kept in a magazine.

11 (11) Contract blasting shall be conducted by a registered company
12 which shall-

13 (a) have in its employment a mining engineer registered by Council of
14 Nigerian Mining Engineers and Geoscientists; and

15 (b) fulfill such requirements as to enable it purchase, store, transfer
16 explosives, conduct blasting operations in Mines, Quarries and such other civil
17 engineering locations in accordance with this Act and Regulations made under
18 this Act.

19 9.-(1) The Minister shall make Regulations consistent with this Act
20 authorizing any officer either by name or by virtue of his office to-

21 (a) enter, inspect and examine any place, aircraft, carriage or vessel in
22 which an explosives is being manufactured, stored, used, sold, transported,
23 imported or exported under a Licence, Permit or Certificate granted under this
24 Act;

25 (b) enter into any place where he has reason to believe that an
26 explosives is being manufactured, stored, used, sold, transported, imported or
27 exported in contravention of this Act or Regulations made under this Act;

28 (c) take samples, seize, detain or remove any explosives or its
29 components found in the premises; and

30 (d) arrest anyone found in such place or premises and if necessary

1 destroy such explosives or its components.

2 (2) The Provisions of Part 13 of the Criminal Procedure Act, Cap.
3 C41, Laws of the Federation of Nigeria, 2004 relating to search warrants
4 under that Act shall, so far as the same are applicable, apply to searches by
5 persons authorized by Regulations made under this section.

6 (3) Where an accident occurs in any place where explosives are
7 manufactured, stored, sold, used or in any aircraft, carriage or vessel
8 conveying an explosives resulting in the loss of human life, serious injury to
9 person or property, the occupier of the place or the master of the aircraft or
10 vessel shall within such a time and in such manner as may be prescribed by
11 Regulation made, under this Act give notice thereof to the-

12 (a) Minister;

13 (b) Inspector of Explosives in charge of the place where the
14 accident occurred;

15 (c) officer in charge of the nearest Police Station.

16 (4) The Minister may make Regulations to-

17 (a) regulate the procedure at inquires under this section;

18 (b) ensure that parties under investigation are given fair hearing;

19 (c) prescribe the manner in which and the time within which the
20 notice under subsection (3) of this section shall be given.

21 (5) Where an accident occurs in connection with any building,
22 place, aircraft, carriage or vessel under the control of a Licence, Permit or
23 Certificate holder, the appointed Inspector of Explosives in conjunction
24 with the Nigeria Police Explosives Ordinance Disposal Unit and the
25 Department of State Services shall investigate the cause of such accident.

26 (6) The appropriate investigating officers appointed under sub-
27 section 1 of this section shall submit a report of its investigation to the
28 Minister stating the causes of the accident and its circumstances.

29 (7) Theft of explosives and explosives precursors should be
30 reported by the approved person to the Mines Inspectorate Department and

the nearest Police Station for investigation and possible prosecution.

Manufacturing,
possession or
use of explosives
by the Armed
Forces

10.-(1) Nothing in this Act shall apply to the manufacturing,
possession, use, transportation and importation of any explosives by-

(a) Armed Forces of the Federal Republic of Nigeria;

(b) Defence Factories; and

(c) any person employed by the Federal Government in execution of
this Act.

(2) The Minister may by an order in the official gazette, exempt
absolutely or subject to such condition, any explosives or any person or class of
persons from all or any of the provisions of this Act or Regulations made under
this Act.

PART III - OFFENCES AND PENALTIES

Unlawful
importation or
exportation of
Explosives

11. Any person, who unlawfully imports any explosives into Nigeria
or exports explosives from Nigeria commits an offence and is liable on
conviction to life imprisonment without option of fine.

Unlawful
manufacturing
of explosives

12. Any person, who unlawfully manufactures any explosives,
commits an offence and is liable on conviction to life imprisonment without
option of fine.

Unlawful usage
or storage of
explosives

13. Any person, who unlawfully uses or stores any explosives,
commits an offence and is liable on conviction to a fine of not less than 40
million naira or imprisonment for a term of not less than 20 years or both.

Unlawful
transportation
of explosives

14. Any person, who unlawfully transports any explosives, commits
an offence and is liable on conviction to a fine of not less than 20 million naira
or imprisonment for a term of not less than 10 years or both.

Unlawful sales,
marketing or
purchase of
explosives

15. Any person, who unlawfully sells or markets any explosives
commits an offence and is liable on conviction to a fine of not less than 40
million naira or imprisonment for a term of not less than 20 years or both.

Unlawful
possession of
explosives

16. Any person, who is in unlawful possession of any explosives,
commits an offence and is liable on conviction to a fine of not less than 20
million naira or imprisonment for a term of not less than 10 years or both.

1 17. Any person who steals any explosives from a store, magazine, Theft of
2 cargo, vessel, or aircraft while in stock or during transit or blasting commits explosives
3 an offence and shall be liable on conviction to life imprisonment without
4 option of fine-

5 18. Any person (s) who negligently allows any explosives to be Act of negligence
6 stolen from any store, magazine, cargo, vessel, or aircraft commits an and or conspiracy
7 offence and is liable on conviction to a fine of not less than 20 million naira to steal
8 or imprisonment for a term of not less than 10 years or both.

9 19.-(1) Where an offence under this Act is committed by a body Offence by a
10 corporate, any person who, at the time the offence was committed, was in body corporate
11 charge of or responsible for the conduct of the business of the body corporate
12 shall be charged with the same offence as the body corporate and liable on
13 conviction to-

14 (a) a penalty of not less than 40 million naira; or

15 (b) Imprisonment for a term of not less than 20 years, or both.

16 (2) Where an offence under this section is proved to have been
17 committed with the connivance of or is attributable to any neglect on the part
18 of any officer of the corporate body, such officer shall be deemed to have
19 committed the offence and is liable on conviction to a fine of not less than 40
20 million naira or imprisonment for a term of not less than 20 years or both.

21 (3) It shall be a defence for a person charged under this section
22 where such person proves that the offence for which he was charged was
23 committed without his knowledge or that he exercised all due diligence to
24 prevent the commission of the offence.

25 20.-(1) Any person, who fails to give notice or report an accident Other offences
26 under section 9(3) of this Act, commits an offence and is liable on conviction
27 to a fine of not less than 10 million naira or imprisonment for a term of not
28 less than 5 years.

29 (2) Where, for an offence committed under section 11 of this Act,
30 the importation or exportation is done-

1 (a) through the sea, the owner and master of the vessel; or

2 (b) by air, the owner and master of the aircraft,

3 shall be liable on conviction to a fine of not less than 80 million naira.

4 (3) The court may for the purpose of compelling the payment of the
5 fine referred to in subsection (2) of this section by an owner or master of an
6 aircraft or vessel, direct that the aircraft or vessel be levied by Distress or Sale.

7 (4) Any person who contravenes the provisions of any Regulations
8 made under this Act, commits an offence and is liable on conviction to such
9 penalties as may be prescribed under the Regulations.

10 (5) Where a person is convicted of an offence under this Act or
11 Regulations made under this Act, the court may direct that the explosives,
12 ingredients or substances used in the commission of the offence and receptacle
13 containing such explosives, ingredients or substances be forfeited to the
14 Federal Government.

15 (6) Where a Licence, Permit or Certificate holder contravenes any of
16 the provisions of this Act, Regulations made under this Act or any other law, the
17 court may, in addition to any penalty stipulated for the offence, make such an
18 order for the variation, suspension or revocation of the Licence, Permit or
19 Certificate holder's Licence, Permit or Certificate.

Trial of offenders
under other laws

20 21. Nothing in this Act shall prevent any person from being
21 prosecuted under any other law for an act or omission which constitutes an
22 offence under this Act from being liable under that other law to any other or
23 higher punishment or penalty than that provided under this Act, provided no
24 person shall be punished twice for the same offence.

25 PART IV - MISCELLANEOUS

Regulations

26 22.-(1) The Minister may, make Regulations generally to give full
27 effect to the provisions of this Act.

28 (2) Regulations made under sub-section (1) of this section may
29 provide for the-

30 (a) fees to be charged for a Licence, Permit or Certificate;

1 (b) manner in which applications for a Licence, Permit or
2 Certificate shall be made and the matters to be specified in such
3 applications;

4 (c) conditions upon which a Licence, Permit or Certificate shall be
5 granted;

6 (d) form in which applications shall be made;

7 (e) circumstances under which fees may be refunded;

8 (f) total quantity of explosives that a Licence, Permit or Certificate
9 holder can purchase in a given period of time;

10 (g) fees to be charged in connections with the manufacturing,
11 transportation, importation or exportation of explosives;

12 (h) procurement of End User Certificate (EUC) from the Office of
13 the National Security Adviser (NSA) to clear imported explosives;

14 (i) security requirement of explosives during transportation and
15 around the storage facilities to be provided by the Nigerian Police Force-
16 Explosives Ordinance Disposal Unit;

17 (j) exemptions absolutely of any persons or class of persons from
18 the operations of the Regulations;

19 (k) procedure for vetting by the Department of State Services;

20 (l) use of permissible explosives for coal mining; and

21 (m) accountability and establishment of a framework for the
22 control of Ammonium Nitrate.

23 23.-(1) The Explosives Act Cap E18 LFN 2004 is repealed.

Repeal of
Cap E18 LFN
2004

24 (2) Any person who, before the commencement of this Act, was a
25 holder of a Licence, Permit or Certificate under the repealed Act shall
26 continue to hold such Licence, Permit or Certificate in accordance with the
27 provisions of section 1 of this Act.

28 24. In this Act, unless the context otherwise requires-

Interpretation

29 "Aircraft" means any machine which can derive support in the atmosphere
30 from the reaction of the air, other than the balloons, whether fixed or free,

- 1 airships, kits, gliders and flying machines;
- 2 "Appropriate Security Agencies" means the Nigeria Police Explosive
3 Ordinance Disposal Command and the Department of State Security Services;
- 4 "Carriage" includes any carriage, wagon, cart, truck, vehicle or other means of
5 conveying goods or passenger by land, in whatever manner the same may be
6 propelled;
- 7 "Court" means Federal High Court;
- 8 "Explosives" includes, Nitroglycerine, Nitro glycol, Nitrocellulose, Di-nitro-
9 toluene (DNT), Tri-nitro-toluene (TNT), Tri-nitro-phenol (TNP), Di-nitro-
10 phenol, Tri-nitro- reframe, Penta-erthritol-tetra nitrate (PETN), Cyclo-
11 trimethylene-trinitramine (RDX), Lead azide, Lead Styhynate, Gelignite,
12 Seismic shaped charges, safety fuse, Detonating cord, Ammonium nitrate,
13 Hydrocarbon, Non-detonating expansive mortar, Fulminate of mercury or any
14 other Metal diazo-di-nitrophenol, Coloured fires or any other substance
15 whether a single chemical compound or a mixture of substances, whether solid
16 or liquid or gaseous used or manufactured with a view to produce a practical
17 effect by explosion or pyrotechnic effect; and includes fuses, detonators of all
18 description and every adaptation of preparation of an explosives as defined in
19 this clause;
- 20 "Explosives Magazine" means any building licensed under this Act for the
21 storage of explosives;
- 22 "Export" means taking out to a place outside Nigeria by land, sea or air;
- 23 "Import" means to bring in from a place outside Nigeria by land, sea or air;
- 24 "Manufacture" in relation to an explosives includes the process of-
- 25 (a) dividing the explosives into its component parts or otherwise
26 breaking up or unmaking the explosives, or making fit for use any damaged
27 explosives, and
- 28 (b) re-making, altering or repairing the explosives;
- 29 "Master"-
- 30 (a) in relation to any vessel or aircraft means any person, other than a

1 pilot, harbor master, assistant harbor master or berthing master, having
2 for the time being in charge or control of such vessel or aircraft, as the
3 case may be; and

4 (b) in relation to any boat belonging to a ship, means the master
5 of that ship;

6 "Marked" in relation to a plastic explosives and accessories means the
7 introduction of a detection agent into the plastic explosives in accordance
8 with the International Technical Convention;

9 "Minister" means Minister responsible for Mines and Steel
10 Development;

11 "Premises" includes a place, aircraft, carriage or vessel;

12 "Prescribed" means as by Regulations made under this Act;

13 "Vessel" includes any ship, boat, sailing vessel, or other description of
14 vessel used in navigation whether propelled by cats or otherwise and
15 anything made for the conveyance, mainly by water, of human beings or
16 of goods and a caisson; and

17 "EUC" means End User Certificate to clear imported explosives.

18 23. This Bill may be cited as the Explosives Bill, 2021.

Short title

EXPLANATORY MEMORANDUM

This Bill seeks to repeal the Explosives Act 1964 and enact the Explosives Act, to regulate the manufacture, storage, possession, use, distribution, purchase, sale, transportation, importation and exportation of explosives.

