

**CONFERENCE REPORT ON A BILL FOR AN ACT TO REGULATE THE MANUFACTURE,
IMPORTATION, DISTRIBUTION AND QUALITY CONTROL OF FERTILIZER IN NIGERIA; AND
FOR OTHER RELATED MATTERS 2019**

CLAUSE	SENATE VERSION	CLAUSE	HOUSE VERSION	REMARKS
Object of the Bill.	1. - The object of the Bill shall be to safeguard the interest of - (a) the farmer against nutrient deficiencies, adulteration, misleading claims and short weight; and (b) fertilizer enterprises and contribute to the creation of an enabling environment for private sector investment in the fertilizer industry.			<i>Senate version adopted</i>
PART I				
PERMIT OF CERTIFICATE OF REGISTRATION				
Application for permit or certificate of registration	2.- (1) A person shall not carry on business as a manufacturer, blender or importer of fertilizer in Nigeria without obtaining a permit or certificate of registration from the Prescribed Authority. (2) A person shall not carry on business as a distributor of fertilizer in Nigeria without obtaining from the Prescribed Authority a certificate of registration. (3) An application for a permit or certificate of registration under subsection (1) or (2) of this section shall be made on such form and in such manner as may be specified by the Prescribed Authority. (4) An application for permit or certificate of registration shall be accompanied by a non-refundable fee as may be prescribed in regulations made pursuant to this Bill.	Application for permit or certificate of registration.	1.- (1) A person shall not carry on business as a manufacturer or importer of fertilizer in Nigeria without obtaining a permit from the prescribed Authority. (2) A person shall not carry on business as distributor of fertilizer in Nigeria without obtaining from the prescribe Authority a certificate of registration. (3) An application for a permit or a certificate of registration under subsection (1) or (2) of this section shall be made on such form and in such manner as may be specified by a non-refundable fee as may be prescribed in regulations made pursuant to this Bill.	<i>Senate version adopted</i> <i>Senate version adopted</i> <i>Senate version adopted</i> <i>Senate version adopted</i>

Issuance of permit or certificate of registration Cap, C20, LFN, 2004	3.-(1) (b) the applicant is incorporated under the Companies and Allied Matters Act, the Prescribed Authority shall issue permits and certificates of registration to the applicant within 30 days of the receipt of an application.	Issuance of permit or certificate of registration.	2.-(1) (b) the applicant is incorporated under the Companies and Allied Matters Act, Cap C4 Laws of the Federation of Nigeria, 2004; the prescribed Authority shall issued a permit or a certificate of registration to the applicant within thirty days of the receipt of a an application.	<i>Senate version adopted</i> <i>Senate Version adopted</i>
Keeping of records by Prescribed Authority	4. The Prescribed Authority shall keep accurate records containing all the issued permits and certificates of registration.	Keeping of records by prescribed authority.	3. The prescribed Authority shall keep accurate records containing all the issued permits or certificates of registration.	<i>Senate version adopted</i>
Validity of permit or certificate of registration.	5.(1) The Prescribed Authority may suspend or cancel a permit or certificate of registration where – (b) the circumstances under which it was issued no longer exists; (c) any of the conditions or undertakings under which it was issued has been contravened; or	Validity of permit or certificate of registration.	4.(1) The prescribed Authority may suspend or cancel a permit or a certificate of registration where: (b) the circumstances under which it was issued no longer exist ; (c) any of the conditions or undertaking under which it was issued has been contravened; or;	<i>Senate version adopted</i> <i>Senate version adopted</i> <i>Senate version adopted</i>
Fees.	6. The holder of a permit or certificate of registration shall pay- (a) a renewal of permit or certificate of registration fee every three years; (b) inspection fee for fertilizer manufactured, blended , imported or distributed every year as may be specified by regulations; and	Fees	5. The holder of a permit , or a certificate registration shall pay: (a) a renewal of permit, or a certificate of registration fee very three years. (b) inspection fee for fertilizer manufacture , imported or distributed every year as may be specified by regulations; and	<i>Senate version adopted</i> <i>Senate version adopted</i> <i>Senate version adopted</i>

	(c) an appeal fee pursuant to section 7 of this Bill, if the need arises and other fees as may be specified by regulations made under this Bill .		(c) an appeal fee pursuant to section 6 of this Bill, if the need arises and other fees as may be specified by regulations.	<i>Senate version adopted</i>
Cancellation of permit or certificate of registration.	7.-(1) Where a permit or certificate of registration is cancelled, an appeal may be lodged with the Minister within 30 days of the cancellation. (2) An appeal made under subsection (1) of this section shall be in writing and be accompanied by such information as may be necessary to support the appeal.	Cancellation of permit or certificate of registration.	6.-(1) Where a permit or a certificate of registration is cancelled, an appeal may be lodged with the Minister within thirty days of the cancellation.	<i>Senate version adopted</i> <i>Senate version adopted</i>
	PART II PROHIBITED ACTIVITIES			
Operating with an expired permit or certificate of registration.	8. A person shall not operate or carry on business as a manufacturer, blender, importer or distributor of fertilizer in Nigeria with an expired permit or certificate of registration .	Operating with and expired permits or certificate of registration.	7. A person shall not operate or carry on business as a manufacture, importer, or distributor of fertilizer in Nigeria with an expired permit may be made to the Federal High Court .	<i>Senate version adopted</i>
Destructive ingredients or harmful properties.	9. A person shall not sell any fertilizer or fertilizer supplement that contains destructive ingredients or properties harmful to plant growth when used according to the accompanying instructions or in accordance with the instructions contained on the label of the package in which the fertilizer or the fertilizer supplement is contained.	Destructive ingredients or harmful properties.	8. A persons shall not sell any fertilizer or fertilizer supplement that contains destructive ingredients or properties harmful to plant growth when used according to the accompanying instructions or in accordance with the instructions contained on the label of the package in which the fertiliser or the fertilizer supplement is contained.	<i>Senate version adopted</i>
Conversion or diversion of fertilizer.	10. A person engaged in the sale, distribution, transportation of fertilizer or who keeps custody of fertilizer shall not, without lawful authority, divert or convert the fertilizer to his own use or the use of another person.	Conversion or diversion of fertilizer.	9. A person engaged in the sale, distribution, transportation of fertilizer or who keeps custody of fertilizer shall not, without lawful authority, divert or convert the fertilizer to his own use or the sue of another person.	<i>Senate version adopted</i>
Obstruction of authorised officers.	11. A person shall not obstruct, hinder or prevent a duly authorized officer of the Prescribed Authority from carrying out the duties and responsibilities assigned to such	Obstruction of authorized officers.	10. It is unlawful for a person to obstruct, hinder or prevent a duly authorized officer of the Prescribed Authority from carrying out the duties and responsibilities assigned to such	<i>Senate version adopted</i>

	officer under this Bill or regulations made pursuant to this Bill.		Officer under this Bill or regulations made pursuant to this Bill.	
	PART III INSPECTION AND ENFORCEMENT POWERS			
Power of entry. First Schedule	13. (1) (a) enter and inspect any premises, building, vehicle, plant or equipment that is used in the manufacture, blending , importation, distribution, sale, storage or transportation of fertilizer; and (b) take official samples from the fertilizer found during an inspection for laboratory analysis for the purpose of ascertaining the quality of the fertilizer as specified in the First Schedule . (3) An Authorised Officer is vested with the power to - (a) inspect, during regular business hours, any premises where fertilizers are manufactured, stored or sold; (b) inspect any person or a vehicle or receptacle used to move fertilizers from one location to another; (c) draw official samples of fertilizers for analysis; and seize and detain any fertilizer in violation of this Bill as well as any equipment, package, document, or means of transportation associated with such fertilizer.	Power of entry.	12. (1) (a) enter and inspect any premises, building, vehicle, plant or equipment that is used in the manufacture, importation, distribution, sale, storage or transportation of fertilizer; and (b) take samples from the fertilizer found during an inspection for laboratory analysis for the purpose of ascertaining the quality of the fertilizer as specified in the Schedule.	<i>Senate version adopted</i> <i>Senate version adopted</i> <i>Senate version adopted</i>
Display of permits or certificates of registration.	14. A manufacturer, blender , importer or distributor of fertilizer shall conspicuously display his original permit or certificate of registration at his company or point of sale.	Display of permits or certificates of registration.	13. A manufacture , importer or distributor of fertilizer shall conspicuously display his original permit or certificate of registration at his company or point of sale.	<i>Senate version adopted</i>

Allowable variation in fertilizer weight.	16. (1) The acceptable deviation of measured fertilizer bag weight from the value claimed on the label shall not be more than 500mg per 50kg bag or 1% across all bag weights.	Allowable variation in fertilizer weight.	15.(1) The acceptable deviation of measured fertilizer bag weight from the value claimed on the label shall not be more than 300mg per 50kg bag or 0.6% across all bag weights.	<i>Senate version adopted</i>
Labels. Second Schedule.	17. The minimum requirement for all fertilizer labels is as specified in the Second Schedule to this Bill.	Label.	16. The minimum requirement for all fertilizer labels is specified in Schedule to this Bill.	<i>Senate version adopted</i>
PART IV OFFENCES AND PENALTIES				
Offences relating to manufacture, importation and distribution of fertilizer First Schedule.	18. (a) manufactures, blends , imports or distributes fertilizer that is deficient in plant nutrient as specified in the First Schedule to this Bill; (b) manufactures, blends , imports or distributes unbranded or misbranded fertilizer; (d) offers for sale, fertilizer that is underweight; (g) flouts a stop sale order; commits an offence under this Bill.	Offences relating to manufacture, importation and distribution of fertilizer, etc.	17. (a) manufactures, imports or distributes fertilizer that is deficient in plant nutrient as specified in the Schedule to this Bill. (b) manufactures, imports or distributes unbranded or misbranded fertilizer; (d) offers for sale, fertilizer is underweight, (g) flouts stop sale order; or commits an offence under this Bill and liable as specified under section 18 of this Bill.	<i>Senate version adopted</i> <i>Senate version adopted</i> <i>Senate version adopted</i> <i>Senate version adopted</i>
Penalty for offences under section 18.	19. A person who commits any of the offences listed in section 18 of this Bill or regulations made under this Bill is on conviction, liable to a term of imprisonment of not less than 5 years without option of fine.	Penalty for offences relating to manufacture, importation and	18.(1) A person who commits any of the offences listed in section 17 of this Bill of regulations made pursuant to this Bill shall on conviction be liable to a term of imprisonment of not less than 7 years without option of fine.	<i>Senate version adopted</i>

	(b) the Fertilizer (Control) Act, 1991, Cap F25, Laws of the Federation of Nigeria, 2004.		(b) the Fertilizer (Control) Act, 1991, Cap. F25, LFN, 2004.	
Savings and Transition.	27. (1) Without prejudice to section 6 of the Interpretation Act, the repeal of the Acts specified in section 26 of this Bill, shall not affect anything done under those Acts.	Savings and Transition.	25.(1) Without prejudice to section 6 of the Interpretation Act, the repeal of the enactments specified in section 24 of this Bill, shall not affect anything done under or pursuant to those enactment.	<i>Senate version adopted</i>
Interpretation.	28. In this Bill- "adulterated fertilizer" means fertilizer - (a) containing any deleterious substance in sufficient amount as to affect or alter the true and original quality of the fertilizer when applied in accordance with directions for use on the label or if adequate warning statements or directions for use which may be necessary to protect plant life, animals, humans, aquatic life, soil, or water are not shown upon the label; or (b) the composition of which falls below or differs from that which it is purported to possess by its label; "applicant" includes a body corporate or legal person; "application" means the request for an approval by an applicant to produce, import, blend or sell fertilizer in Nigeria; "authorized officer" means an officer of the Farm Inputs Supply Services Department of the Federal Ministry of Agriculture duly appointed or designated and notified under the present Bill to draw official samples of fertilizers to get their quality tested in a laboratory identified for this	Interpretation.	26. In this Bill: "the Act" means the National Fertilizer Quality (Control) Act, 2012; "adulterate fertilizer" means fertilizer: (a) containing any deleterious substance in sufficient amount as to affect or alter the true and original quality of the fertilizer when applied in accordance with directions for use on the label or if adequate warning statements or directions for use which may be necessary to protect plant life, animals, humans, aquatic life, soil, or water are not shown upon the label; (b) the composition of which falls below or differs from that which it is purported to possess by its label; or (c) containing unwanted crop material; "applicant" includes a body corporate or legal person; "application" means the request for an approval by an applicant to produce, import, blend or sell	<i>Senate version adopted</i>

purpose, to inspect the fertilizer records being maintained by manufacturers, importers and distributors, and to launch prosecution against the violators of any of the provisions of the Bill. "brand" means design, trade mark, or other specific designation of the Manufacturer, blender or importer under which fertilizer is distributed; "director" means the Director in charge of the Farm Inputs Supply Services Department in the Federal Ministry of Agriculture; "director of a manufacturer, blender, importer or distributor" means a principal officer of a company engaged in manufacturing, importing, blending or distribution of fertilizer; "distribute" means to consign, offer for sale, sell, barter, or otherwise supply fertilizer; "employee" means any person being paid to work for a fertilizer manufacturer, importer, blender, distributor or dealer; "fertilizer" means any organic or inorganic substance or mixture of substances containing one or more recognized plant nutrient that is used to improve plant nutrient content and is designed for use in promoting plant growth; "Court" includes Federal High Court, State High Court and Magistrate Court where applicable. "holder of a permit or a certificate of registration" means a person who has obtained a permit or a certificate of registration pursuant to the provisions of this Bill and as prescribed by regulations made under this Bill; "label" includes -	fertilizer in Nigeria; "authorized officer" means an officer of NAFDAC duly authorized to carry out inspection of fertilizer; "brand" means design, trade mark, or other specific designation of the Manufacturer or importer under which fertilizer is distributed; "Director" means the Director in charge of the fertilizer Department in the Federal Ministry of Agriculture; "director" means the Director of Chemical Evaluation and Research directorate of NAFDAC; "employee" means any person being paid to work for a fertilizer manufacturer, importer, blender, distributor or dealer; "fertilizer" means any organic or in organic substance or mixture of substances containing one or more recognized plant nutrient that is used to improve plant nutrient content and its designed for use in promoting plant growth; "holder of a permit or a certificate of registration" means a person who has obtained as permit or a certificate of registration pursuant to the provisions of this Bill and as prescribed by regulations made under this Bill; "inspector" means a person appointed or	
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(a) all written, printed, marked symbols or graphic matter displayed upon the immediate container used in promoting the sale of fertilizers; (b) statements accompanying a fertilizer, supplement or package used in prompting the sale of fertilizer; or (c) advertisements, brochures, posters, television, radio, or internet announcements used in promoting the sale of fertilizer; "lawful authority" means by the authority of any law, rule or regulation or power exercisable by a person pursuant to any public power to command or act in the name of the public; "manufacture" means produce or blend fertilizer; "Minister" means the Minister responsible for Agriculture; "Ministry" means the Ministry responsible for Agriculture. "misbranding" includes – (a) the use of the name or trademark of another manufacturer in a way that is likely to deceive the public; (b) false declaration of the nutrient content of a fertilizer. "nutrient deficient" means a fertilizer is deemed "nutrient deficient" if the analysis of any nutrient is below the guarantee indicated on the bag by an amount exceeding the investigational allowance listed in schedule 1 of this Bill, or if the overall index value of the fertilizer is below 98%; "official sample" means a sample of fertilizer taken for analysis and designated official by the prescribed authority;	designed as an inspector by the prescribed authority pursuant to any regulations made under this Bill; "label" includes: (a) all written, printed, marked symbols or graphic matter displayed upon the immediate container used in promoting the sale of fertilizer; (b) statement accompanying a fertilizer, supplement or package used in promoting the sale of fertilizer; or (c) advertisements, brochures, posters, television, radio, or internet announcement used in promoting the sale of fertilizer; "lawful authority" means by the authority of any law, rule or regulation or power exercisable by a person pursuant to any public power to command or act in the name of the public; "Manufacture" means produce or blend fertilizer; "Minister" means the Minister responsible for Agriculture; "misbranding" includes: (a) the use of the name or trademark of another manufacturer in a way that is likely to deceive the public; (b) false declaration of the nutrient content of a	
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	"person" means a corporate body, individual, partnership, association, firm, or corporation; "Prescribed Authority" means the Department responsible for fertilizer in the Federal Ministry of Agriculture; "sell" includes to trade, offer for sale, expose for sale, or have in possession for sale any quantity of fertilizer; "short weight" means deviation in weight of fertilizer content below the claimed weight on the label; "supplement" means any substance or mixture of substances other than fertilizer, that is manufactured, imported or sold for use in the improvement of the physical condition of soil or to aid plant growth or crop yield; "unbranded" means the absence of the name, logo, trademark or other means of identification of a fertilizer and its importer, blender or manufacturer; "underweight" means fertilizer content with short weight which exceeds the 0.6% of the weight claimed on the label; and "violation" means a breach of any provision of this Bill or regulations made under this Bill.		fertilizer; "nutrient deficiency" means a situation or an instance where the amount of plant nutrient obtained or found by analysis of an official sample of a fertilizer is: (a) below the guaranteed value by an amount exceeding the limit listed in the Schedule to this Bill; or (b) less than 98% of the guaranteed value; "official sample" means a sample of fertilizer taken for analysis and designated official by the prescribed authority; "person" means a corporate body, individual, partnership, association, firm, or corporation; "Prescribe Authority" means the directorate responsible for fertilizer in NAFDAC; "sell" includes to trade, offer for sale, expose for sale, or have in position for sale any quantity of fertilizer; "short weight" means deviation in weight of fertilizer content below the claimed weight on the label "supplement" means any substance or mixture of substances other than fertilizer, that is manufactured, imported or sold for use in the improvement of the physical condition of soil or aid plant growth or crop yield	
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			"Unbranded" means fertilizer content with short weight which exceeds the 0.6% of the weight claimed on the label; "violation" means a breach of any provision of this Bill or regulations made under this Bill.	
Citation	29. This Bill may be cited as the National Fertilizer Quality (Control) Bill, 2019.	Short title.	27. This Bill may be cited as the National Fertilizer Quality (Control) Bill, 2016.	<i>Senate version adopted</i>
	Schedules		SCHEDULE	<i>Senate version adopted</i>
	First Schedule Sections 13 (1) (b)		(Sections 11 and 15)	<i>Senate version adopted</i>
	(2) Where the chemical forms of Nitrogen are claimed or required, the form shall be guaranteed in the format shown in paragraph (c) of subsection (1) and the percentages of the individual forms shall add up to the total nitrogen percentage as follows- available phosphate (P₂O₅) _____ % soluble potassium (K₂O) _____ % (other nutrients, elemental basis) _____ %		(4) Where the chemical forms of Nitrogen are claimed or required, the forms shall be guaranteed in the format shown in paragraph (b) of subsection (1) and the percentages of the individual forms shall add up to the total nitrogen percentage as follows: available phosphate (P₂O₅) _____ % soluble potassium (K₂O) _____ % (other nutrients, element basis) _____ %	<i>Senate version adopted</i>
	EXPLANATORY MEMORANDUM This Bill repeals the National Fertilizer Board Act Cap N39 LFN 2004, the Fertilizer (Control) Act Cap F25 LFN 2004, and re-enacts the National Fertilizer Quality Control Bill, 2018, to provide an improved regulatory framework for the manufacture, importation, sale and distribution of fertilizer in Nigeria.			<i>Senate version adopted</i>