



**THE SENATE**  
**FEDERAL REPUBLIC OF NIGERIA**  
*NATIONAL ASSEMBLY*

**COMMITTEE ON JUDICIARY, HUMAN RIGHTS AND LEGAL MATTERS**

REPORT

ON

A BILL  
FOR

**AN ACT TO REPEAL THE EMERGENCY POWERS ACT, 1961 AND TO ENACT THE EMERGENCY  
POWERS ACT 2016; TO PROVIDE FOR THE DECLARATION OF A STATE OF EMERGENCY AND  
FOR RELATED MATTERS (SB.182)**

NOVEMBER, 2017

**THE EMERGENCY POWERS BILL, 2017**

**Arrangement of Clauses**

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**REPORT OF THE SENATE COMMITTEE ON JUDICIARY, HUMAN RIGHTS AND LEGAL MATTERS ON A BILL FOR AN ACT TO REPEAL THE EMERGENCY POWERS ACT, 1961 AND TO PROVIDE FOR THE DECLARATION OF A STATE OF EMERGENCY AND FOR RELATED MATTERS**

| LONG TITLE  | LONG TITLE   |  |
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| <p>A BILL FOR AN ACT TO REPEAL THE EMERGENCY POWERS ACT, 1961 AND TO PROVIDE FOR THE DECLARATION OF A STATE OF EMERGENCY AND FOR RELATED MATTERS.</p>   | <p>A BILL FOR AN ACT TO REPEAL THE EMERGENCY POWERS ACT, 1961 AND TO <b>ENACT THE EMERGENCY POWERS ACT 2017</b>; TO PROVIDE FOR THE DECLARATION OF A STATE OF EMERGENCY AND FOR RELATED MATTERS.</p> |  |
| <p align="center"><b>Objectives</b></p> <p>1. The objective of this Bill is to make provision for the declaration of a State of Emergency in Nigeria or any part thereof subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) and to provide for the:</p> <ul style="list-style-type: none"> <li>(a) general administration of an emergency area;</li> <li>(b) search, arrest without warrant and detention of persons in the emergency area;</li> <li>(c) prohibition of public processions, demonstrations and meetings in the emergency area;</li> <li>(d) imposition of curfew in the emergency area;</li> <li>(e) declaration of protected places and control of persons in the protected places; and</li> <li>(f) control of arms and explosives in the emergency area.</li> </ul> | <p align="center"><b>Objectives</b></p> <p>1. Retained as in the Bill</p>  |  |
| <p align="center"><b>Application</b></p> <p>2. The provisions of this Bill shall apply in any emergency area and or throughout the Federal Republic of Nigeria.</p>   | <p align="center"><b>Application</b></p> <p>2. Retained as in the Bill</p>   |  |
| <p><b>PART II - DECLARATION OF A STATE OF EMERGENCY</b></p> <p align="center"><b>Declaration of a state of emergency</b></p> <p>3. -(1) The President may in accordance with the advice of</p>  | <p><b>PART II - DECLARATION OF A STATE OF EMERGENCY</b></p> <p align="center"><b>Declaration of a state of emergency</b></p> <p>3. (1) The President may in accordance with the advice of the</p>    |  |

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| <p>the Federal Executive Council, by proclamation published in the Official Gazette, declare that a state of emergency exists in Nigeria or in any part of Nigeria.</p> <p>(2) The Governor of a State, supported by two-third majority of the House of Assembly may, requests the President to make a proclamation of state of emergency in a state or any part thereof, where the need for such declaration is reasonably justifiable.</p> <p>(3) The President shall, in the declaration of state of emergency, state the reason for the proclamation.</p>   | <p>Federal Executive Council <b>may</b>, by proclamation published in the Official Gazette, declare that a state of emergency exists in Nigeria or in any part of Nigeria.</p> <p>(2) The Governor of a State, supported by two-third majority of the House of Assembly <b>may request</b> the President to make a proclamation of state of emergency in a state or any part thereof, where the need for such declaration is reasonably justifiable.</p> <p>(3) Retained as in the Bill</p> |  |
| <p style="text-align: center;"><b>National Assembly to be informed</b></p> <p>4. (1) Notwithstanding any other provision of this Bill, where a proclamation is published under subsection (1) of section 3 of this Bill, the President shall place immediately before the two Chambers of National Assembly the facts and circumstances leading to the declaration of the state of emergency.</p> <p>(2) The National Assembly shall, within seventy-two hours after being so notified, decide whether the proclamation should remain in force or should be revoked; and the President shall act in accordance with the decision of the National Assembly.</p> <p>(3) Notwithstanding any other provision of this Bill, where a request for the proclamation under subsection (2) of section 3 of this Bill is desired by a Governor of a state, the President shall be given a reasonable time within which to issue the proclamation.</p> | <p style="text-align: center;"><b>National Assembly to be informed</b></p> <p>4. Retained as in the Bill</p>  |  |
| <p style="text-align: center;"><b>Duration of a state of emergency</b></p> <p>5. (1) A declaration of a state of emergency shall cease to have effect at the expiration of a period of six months</p>   | <p style="text-align: center;"><b>Duration of a state of emergency</b></p> <p>5. Retained as in the Bill</p>  |  |

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| <p>beginning with the date of publication of the proclamation, unless, before the expiration of that period, it is approved by members through a resolution passed by simple majority of both chambers of the National Assembly.</p> <p>(2) Subject to subsection (2) of section 4 of this Bill, where a declaration of a state of emergency is approved by a simple majority resolution of both chambers of the National Assembly, the state of emergency shall continue to be in force until the expiration of a period of six months beginning with the date upon which it was approved or until such earlier date as may be specified in the resolution.</p> |  |  |
| <p><b>Extension or Revocation of a state of emergency</b></p> <p>6. -(1) The National Assembly may, by resolution passed by simple majority of its members, extend the approval of proclamation for periods of not more than three months at a time.</p> <p>(2) The National Assembly may, by a resolution passed by a simple majority of its members, at any time, revoke a declaration of a state of emergency it earlier approved.</p>  | <p><b>Extension or Revocation of a state of emergency</b></p> <p>6. Retained as in the Bill</p>                |  |
| <p><b>Circumstances under which a state of emergency may be declared</b></p> <p>7. The President may issue a Proclamation of a state of emergency where:</p> <p>(a) the Federation is at war;</p> <p>(b) the Federation is in imminent danger of invasion or involvement in a state of war or insurgency;</p> <p>(c) there is actual breakdown of public order and public safety in the Federation or any part thereof to such extent as to require extraordinary measures to restore peace and security;</p> <p>(d) there is a clear and present danger of an actual</p>  | <p><b>Circumstances under which a state of emergency may be declared</b></p> <p>7. Retained as in the Bill</p> |  |

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| <p>breakdown of public order and public safety in the Federation or any part thereof requiring extraordinary measures to avert such danger;</p> <p>(e) there is an occurrence or imminent danger, or the occurrence of any disaster or natural calamity, affecting the community or a section of the community in the Federation;</p> <p>(f) there is any other public danger which clearly constitutes a threat to the existence of the Federation; or</p> <p>(g) the President receives a request to do so in accordance with the provisions of subsection (2) of section 3 of this Bill.</p>  |   |  |
| <p style="text-align: center;"><b>Consequential powers</b></p> <p><b>8.</b> -(1) On the declaration of a state of emergency under section 3 of this Bill, the President may take such measures as he considers necessary and justifiable for the purpose of dealing with the situation that exists during the period that the state of emergency is in force.</p> <p>(2) Without prejudice to subsection (1) of this section, the President during the period of state of emergency, may in the case of an emergency affecting the whole of Nigeria-</p> <p>(a) prevent assistance to an enemy in case of war; and</p> <p>(b) or any part of Nigeria, take any of the following steps, which includes the:</p> <p>(i) detention of persons or the restriction of their movement;</p> <p>(ii) deportation and expulsion from Nigeria of persons whose presence in Nigeria constitute threat;</p> <p>(iii) acquisition of any property or taking possession of or controlling on behalf of the</p> | <p style="text-align: center;"><b>Consequential powers</b></p> <p><b>8.</b> (1) Retained as in the Bill</p> <p>(1) Retained as in the Bill</p> <p>(a) prevent assistance to an enemy in case of war; and</p> <p>(b) or <b>in</b> any part of Nigeria, take any of the following steps, which includes the:</p> <p>Retained as in the Bill</p> |  |

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| <p>(iv) state of any property;<br/>         (v) searching without warrant of any premises;<br/>         (v) payment of compensation to any person affected by any action taken under the emergency that is not in conformity with the provisions of this Bill or any other law;<br/>         (vi) arrest, trial and punishment of any person for breach of any instruments, orders or declaration related to the proclamation of state of emergency;<br/>         (vii) suspension of operation of any law; and<br/>         (viii) removal of any person from the emergency area where the emergency relates only to a part of the country.</p> <p>(3) The powers conferred on the President under this Bill may be exercised by the issuance of executive instruments, orders or declarations published in the Official Gazette.</p> | <p>(3) Retained as in the Bill</p>   |   |
| <p><b>Termination of state of emergency</b></p> <p>9. At the end of an emergency period declared under section 3 of this Act, a person in restriction or detention or in custody as a result of the declaration of the emergency, shall be unconditionally released immediately.</p>   | <p><b>Termination of state of emergency</b></p> <p>9. At the end of an emergency period declared under section 3 of this <b>Bill</b>, a person in restriction or detention or in custody as a result of the declaration of the emergency, shall be <b>released either conditionally or unconditionally.</b> <del>released immediately.</del></p> | <p>This clause was amended because unconditional and prompt release of all detainees at the end of a state of emergency can affect national security.</p> |
| <p><b>Report to National Assembly of restricted or detained persons.</b></p> <p>10. -(1) The person authorised by the President shall make monthly report to the National Assembly of the number of persons restricted or detained by virtue of this Bill or any other enactment conferring emergency powers and the number of cases in which the authority that ordered the restriction or detention has acted in accordance with the</p>   | <p><b>Report to National Assembly of restricted or detained persons.</b></p> <p>10. -(1) Retained as in the Bill</p>   |   |



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| <p>decisions of the tribunal appointed under this Bill.</p> <p>(2) Notwithstanding subsection (1) of this section, the person referred to in subsection (1) shall publish on monthly basis in the Gazette and in the media, the number of-</p> <p>(a) persons restricted or detained stating their names and addresses;</p> <p>(b) cases reviewed by the court or tribunal appointed under the provisions of this Bill; and</p> <p>(c) cases in which the authority which ordered their restriction or detention has acted in accordance with the decisions of the court or tribunal appointed under this Bill.</p>  | <p>(2) Notwithstanding subsection (1) of this section, the person referred to in subsection (1) shall publish on monthly basis in the Gazette, and <del>in the media</del>, the number of-</p> <p>Retained</p> <p>Retained</p> <p>Retained</p> |  |
| <p><b>PART III-ADMINISTRATION OF THE EMERGENCY AREA</b></p> <p><b>Administration of the Emergency Area</b></p> <p><b>11.</b> -(1) The State Governor or the Local Government Chairman in an emergency area shall continue with the general functions of administering the emergency area under the control of the President or any person designated or authorized to act on his behalf.</p> <p>(2) The President may give directions to a State Governor or Local Government Chairman directly or through his designate or a duly authorized person with respect to the administration of the emergency area and it shall be the duty of the State Governor or Local Government Chairman to comply with the direction.</p> <p>(3) The President may with the approval of the National Assembly suspend a State Governor or the Local Government Chairman in an emergency area during an</p> | <p><b>PART III-ADMINISTRATION OF THE EMERGENCY AREA</b></p> <p><b>Administration of the Emergency Area</b></p> <p><b>11.</b> Retained as in the Bill</p>   |  |

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| <p>emergency period.</p>   |  |  |
| <p style="text-align: center;"><b>Power of the President to make Order for an emergency area</b></p> <p><b>12.</b> -(1) The President may make such Orders as appear to him to be necessary or expedient for the purpose of maintaining and securing peace, public order, public safety and good Government in the emergency area.</p> <p>(2) Any Order made under subsection (1) of this section may, in particular, if it appears to the President to be necessary or expedient for the purpose mentioned in the subsection-</p> <ul style="list-style-type: none"> <li>(a) make provision for the detention of any person either within the emergency area or elsewhere and removal and exclusion of any person from the emergency area;</li> <li>(b) authorized the taking of possession or control of any property or undertaking in the emergency area;</li> <li>(c) authorize the entry and search of any premises;</li> <li>(d) provide for the application of any law (with or without modification), in relation to that area;</li> <li>(e) provide for the utilization of the funds of any Local Government in the emergency area;</li> <li>(f) provide for the payment of compensation and remuneration to persons affected by the Order;</li> <li>(g) provide for the apprehension, trials and punishment of persons offending against the Order; or</li> <li>(h) provide for the maintenance of such supplies and services as the President considers essential to the lives of persons in the emergency area.</li> </ul> <p>(3) Nothing in subsection (2) of this section shall authorize the making of provisions for the trials of a person by military courts.</p> | <p style="text-align: center;"><b>Power of the President to make Order for an emergency area</b></p> <p><b>12.</b> (1) Retained as in the Bill</p> <p>(2) Any Order made under subsection (1) of this section, may, <del>in particular,</del> if it appears to the President to be necessary or expedient for the purpose mentioned in the subsection -</p> <p>Retained</p> <p>(3) Retained as in the Bill</p> |  |

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| <p>(4) An Order made under this section may provide that the Order shall have effect for all purposes as if it were a law made by the House of Assembly of the State of the emergency area concerned.</p> <p>(5) The President shall, as soon as reasonably practicable after an Order has been made under this Bill, transmit a copy of the Order to each House of the National Assembly for approval and if the National Assembly disallows the Order, it shall cease to have effect without prejudice to anything done thereunder.</p>  | <p>(4) Retained as in the Bill</p> <p>(5) Retained as in the Bill</p>   |  |
| <p><b>Control of the Police in the Emergency Area</b></p> <p>13. Subject to the provisions of subsection (3) of section 215 of the Constitution of the Federal Republic of Nigeria 1999 and of any directions given in pursuance of that subsection, a person designated or authorized by the President may give to the Commissioner of Police in the emergency area such directions with respect to the maintenance and security of public safety and order as the person considers expedient and it shall be the duty of the Commissioner of Police to comply with the directions.</p> | <p><b>Control of the Police in the Emergency Area</b></p> <p>13. Subject to the provisions of subsection (3) of section 215 of the Constitution of the Federal Republic of Nigeria 1999, <i>as amended</i> and of any directions given in pursuance of that subsection, a person designated or authorized by the President may give to the Commissioner of Police in the emergency area such directions with respect to the maintenance and security of public safety and order as the person considers expedient and it shall be the duty of the Commissioner of Police to comply with the directions.</p>                               |  |
| <p><b>Suspension and control of functions of certain authorities in the emergency area</b></p> <p>14. It shall be the duty of any person holding offices:</p> <p>(a) as Chairman or Councilor in the Local Government of the emergency area;</p> <p>(b) in the public service of the State within the meaning of the Constitution of the Federal Republic of Nigeria 1999 in the emergency area; or</p> <p>(c) connected with any customary court or Local Government Authority in the emergency area, to exercise their functions in accordance with any</p>                            | <p><b>Suspension and control of functions of certain authorities in the emergency area</b></p> <p>14. <b>The President or his designate or authorised person shall, without prejudice to the generality of the powers conferred on him by these Regulations –</b></p> <p>(a) <b>allow</b> any person holding offices <del>as Chairman or Councilor</del> in the Local Government of the emergency area, or public service of the State within the meaning of the Constitution of the Federal Republic of Nigeria 1999, <b>as amended</b> in the emergency area; or any customary court or Local Government Authority in the emergency</p> | <p>This clause was redrafted for elegance.</p> |

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| <p>directions given to them by the President, his designate or an authorized person and without prejudice to the generality of the powers conferred on the President by these Regulations, he may suspend from office any such person, who in his opinion, fails to comply with direction given under this regulation and may appoint some other person to act in the place of the suspended person during the period of emergency.</p>   | <p>area, to exercise their functions in accordance with any directions given to them; and<br/> <b>(b)</b> may suspend from office any such person, who in his opinion, fails to comply with direction given under this regulation and may appoint some other person to act in the place of the suspended person during the period of <b>the</b> emergency.</p> |  |
| <p style="text-align: center;"><b>Authentication of instruments</b></p> <p><b>15.</b> Any instrument purported to be signed by the President, his designate or a person authorized by him shall until the contrary is proved, be deemed to be signed by the President, his designate or the authorized person.</p>  | <p style="text-align: center;"><b>Authentication of instruments</b></p> <p><b>15.</b> Retained as in the Bill</p>  |  |
| <p style="text-align: center;"><b>PART IV - DETENTION OF PERSONS</b></p> <p style="text-align: center;"><b>Detention Orders</b></p> <p><b>16.</b> (1) Where the Appropriate Authority is satisfied that a person in the emergency area is or has been involved in the preparation or instigation of acts prejudicial to public safety and that by reason thereof, it is necessary to exercise control over him, he may make a Detention Order directing that the person be detained in any place in the emergency area or in any Maximum Prison in Nigeria as may be specified in the Detention Order.</p> <p>(2) Any Detention Order under subsection (1) of this section may be made orally or in writing provided that if made orally, it shall as soon as practicable be confirmed in writing and in either case, the Detention Order issued shall be complied with immediately.</p> <p>(3) Any person detained pursuant to a Detention Order made under subsection (1) of this section shall be deemed</p> | <p style="text-align: center;"><b>PART IV - DETENTION OF PERSONS</b></p> <p style="text-align: center;"><b>Detention Orders</b></p> <p><b>16.</b> Retained as in the Bill</p>  |  |

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| to be in lawful custody.   |   |   |
| <p style="text-align: center;"><b>Authority for detention</b></p> <p><b>17.</b> An order of the Appropriate Authority made under the provisions of section 16 of this Act shall be full authority to the person or persons to whom the order is given to arrest the person against whom it is made and to detain him during such time as the Detention Order is in force.</p>  | <p style="text-align: center;"><b>Authority for detention</b></p> <p><b>17.</b> An order of the Appropriate Authority made under the provisions of section 16 of this <b>Bill</b> shall be <del>full authority</del> <b>fully executed by</b> the person or persons to whom the order is given, to arrest the person(s) against whom it is made and to detain him <b>or her</b> during such time as the Detention Order is in force.</p>  |   |
| <p style="text-align: center;"><b>Powers of search without warrant.</b></p> <p><b>18.</b> -(1) Any superior police officer or any member of the armed forces not below the rank of a Captain or its equivalent may, at any time, enter without warrant and search any building (including a dwelling house), ship, aircraft, vehicle or place where he has reasonable cause to believe that there is or likely to be-</p> <ul style="list-style-type: none"> <li>(a) any person against whom an order has been made under section 16 of this Bill; or</li> <li>(b) any seditious or subversive document, pamphlet or literature; or</li> <li>(c) anything which may provide evidence of the preparation, instigation or commission of any act referred to in subsection (1) of section 16 of this Bill; and</li> <li>(d) any firearm or ammunition owned, possessed or kept contrary to the law.</li> </ul> <p>(2) Where any person or thing referred to in sub-regulation (1) of this regulation is found in any building, ship, aircraft, vehicle or place, any superior police officer or any personnel of the armed forces may arrest the person or seize the thing as the case may be.</p> <p>(3) The police or personnel of the armed forces</p> | <p style="text-align: center;"><b>Powers of search without warrant.</b></p> <p><b>18.</b> (1) Any superior police officer or any member <b>personnel</b> of the armed forces not below the rank of <b>an Army</b> Captain or its equivalent may, at any time, enter without warrant and search any building (including a dwelling house), ship, aircraft, vehicle or place where he has reasonable cause to believe that there is or likely to be-</p> <p>Retained</p> <p>(2) Retained as in the Bill</p> <p>(3) The police or members of the armed forces conducting</p> | <p>Amended for the purpose of clarity because the rank of "Captain" stands for different ranks in armed forces.</p> |

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| <p>conducting any search pursuant to the provision of subsection (1) of this section may require the assistance of any person as deemed necessary for the purpose.</p> <p>(4) Where any person is conducting a search in pursuance of powers conferred upon him by subsection (1) of this section, the provisions of sections 7 and 112 of the Criminal Procedure Code shall apply as though he were conducting such search in the execution of a search warrant.</p> <p>(5) Any property, item or thing seized under the provisions of section (1) of this section may be detained and disposed of in accordance with the provisions of sections 107 and 113 of the Criminal Procedure Code, as though it had been seized in the execution of a search warrant.</p>  | <p>any search pursuant to the provision of subsection (1) of this section may require the assistance of any person as deemed necessary for the purpose <b>and such person shall render such assistance to the best of his or her ability.</b></p> <p>(4) Where any person is conducting a search in pursuance of powers conferred upon him by subsection (1) of this section, the provisions of <del>sections 7 and 112 of the Criminal Procedure Code</del> <b>the Administration of Criminal Justice Act, 2015</b> shall apply as though he were conducting such search in the execution of a search warrant.</p> <p>(5) Any property, item or thing seized under the provisions of section (1) of this section may be detained and disposed of in accordance with the <b>Administration of Criminal Justice Act, 2015</b>, as though it had been seized in the execution of a search warrant.</p> | <p>The Administration of Criminal Justice Act 2015 suffices, since the Criminal Procedure Code Act and Penal Code Act have been repealed at the Federal level.</p> |
| <p style="text-align: center;"><b>Variation and suspension of Detention Order</b></p> <p><b>19.</b> At any time after a Detention Order is made against any person under the provisions of section 16 of this Act, the Appropriate Authority may direct –</p> <p>(a) that the person so detained be removed to any other place of detention within the emergency area, or with the consent of the President, to another place in Nigeria;</p> <p>(b) that the operation of the Detention Order be suspended, subject to such conditions:</p> <p>(i) prohibiting or restricting the possession or use by the person of any specified articles;</p> <p>(ii) imposing on the person such restrictions as may be specified in the direction in respect of his employment or business, concerning the place of his residence or his association or</p> | <p style="text-align: center;"><b>Variation and suspension of Detention Order</b></p> <p><b>19.</b> Retained as in the Bill</p>  |  |

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| <p>(iii) communication with other persons; restricting his movement between such hours as may be so specified, except under the authority of a written permit granted by any relevant authority or person;</p> <p>(iv) requiring him to notify his movements, in such manner and at such times, and to such authority or person as may be so specified of his movement; or</p> <p>(v) prohibiting him from travelling except in accordance with permission given to him by such authority or person as may be specified.</p> |  |  |
| <p style="text-align: center;"><b>Revocation</b></p> <p><b>20.</b> The Appropriate Authority may revoke any direction issued pursuant to this Part of this Bill, if he is satisfied that the person against whom the Order was made has failed to observe any condition imposed or that the operation of the Order can no longer remain suspended without it being detrimental to public safety.</p>   | <p style="text-align: center;"><b>Revocation</b></p> <p><b>20.</b> Retained as in the Bill</p>   |  |
| <p style="text-align: center;"><b>Control of Detention Orders by President</b></p> <p><b>21.</b> Where the Appropriate Authority is a designated or authorized person acting on behalf of the President, he shall immediately after a Detention Order has been issued under these regulations, transmit a copy of the Detention Order to the President for approval and where the President disallows the Detention Order, it shall cease to have effect without prejudice to anything done thereunder.</p>                  | <p style="text-align: center;"><b>Control of Detention Orders by President</b></p> <p><b>21.</b> Retained as in the Bill</p>   |  |
| <p style="text-align: center;"><b>PART V - RESTRICTION ORDERS</b></p> <p style="text-align: center;"><b>Restriction Orders</b></p> <p><b>22.</b> (1) For the purpose of maintaining public order in the emergency area, the Appropriate Authority may make an order (in this Act referred to as "a Restriction Order"):</p>  | <p style="text-align: center;"><b>PART V - RESTRICTION ORDERS</b></p> <p style="text-align: center;"><b>Restriction Orders</b></p> <p><b>22.</b> Retained as in the Bill</p> |  |

- (a) providing that a person shall be and remain or not be or not remain, in a particular place or area as may be specified in the Restriction Order; and
- (b) requiring a person to notify the Appropriate Authority or such other authority or person of his movement in such manner and at such times and as may be specified in the Restriction Order or any permit made pursuant to the Restriction Order.

(2) A permit may be issued by the Appropriate Authority on such terms and conditions as the Appropriate Authority deems expedient.

(3) A Restriction Order shall come into force immediately upon its service on the restricted person.

(4) Where at the time of the service of a Restriction Order, the Restricted Person is within the place or area specified in the Restriction Order, the Restricted Person may be removed from that place or area by a police officer or any person authorised in writing by the Appropriate Authority.

(5) Without prejudice to any proceedings which may be taken against a Restricted Person under these Regulations, a Restricted Person who is in contravention of the provisions of a Restriction Order, or any term or condition of a permit issued pursuant to Restriction Order, may be removed from the place or area by any police officer or any person authorised in writing by the Appropriate Authority.

(6) A person while being removed under this Part shall be deemed to be in lawful custody.



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| <p align="center"><b>Control of Restriction Orders by the President</b></p> <p>23. Where the Appropriate Authority is a designated or authorized person acting on behalf of the President, he shall immediately after a Restriction Order has been made under this Act, transmit a copy of the Restriction Order to the President for approval and where the President disallows the Restriction Order, such Restriction Order shall cease to have effect without prejudice to anything done there under.</p>  | <p align="center"><b>Control of Restriction Orders by the President</b></p> <p>23. Retained as in the Bill</p>   |  |
| <p align="center"><b>PART VI - REPORTING OF PERSONS</b></p> <p align="center"><b>Power to require persons to report</b></p> <p>24. The Appropriate Authority may, if he deems it expedient for securing public safety and maintenance or restoration of public order, issue a direction in writing requiring any person in the emergency area to whom the direction is addressed, to report to such place in the emergency area within such time as may be specified in the direction and to comply with direction relating to his movements as may be given by the Appropriate Authority.</p> | <p align="center"><b>PART VI - REPORTING OF PERSONS</b></p> <p align="center"><b>Power to require persons to report</b></p> <p>24. Retained as in the Bill</p> |  |
| <p align="center"><b>Duration of a direction</b></p> <p>25. -(1) A direction issued pursuant to the provision of section 24 of this Act shall remain in force for a period of 21 days from the date of receipt by the person to whom it is addressed.</p> <p>(2) On the expiration of the period specified in subsection (1) of this section, the Appropriate Authority may issue a further direction.</p>   | <p align="center"><b>Duration of a direction</b></p> <p>25. Retained as in the Bill</p>  |  |
| <p align="center"><b>Control of directions by the President.</b></p> <p>26. Where the Appropriate Authority is a designated or authorized person acting on behalf of the President, he shall immediately after a direction has been issued under these</p>   | <p align="center"><b>Control of directions by the President.</b></p> <p>26. Retained as in the Bill</p>  |  |

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| <p>regulations, transmit a copy of the direction to the President for approval and where the President disallows the direction, it shall cease to have effect without prejudice to anything done there under.</p>  |  |  |
| <p style="text-align: center;"><b>Notice of Direction.</b></p> <p><b>27.</b> -(1) For the purpose of this Part of this Act, a direction shall be deemed to have been received if it is delivered to the:</p> <p style="padding-left: 40px;">(a) person to whom it is addressed or made known to him; or</p> <p style="padding-left: 40px;">(b) usual place of abode or business of such a person.</p> <p>(2) It shall be a defence for a person who is found to be in contravention of the provision of subsection (1) (b) of this section to prove that he was absent from his usual place of abode or business as the case may be when the direction was delivered and that on his return, he took immediate steps to comply with the direction.</p> | <p style="text-align: center;"><b>Notice of Direction.</b></p> <p><b>27.</b> -(1) For the purpose of this Part of this Bill, a direction shall be deemed to have been received if it is delivered to: the:</p> <p style="padding-left: 40px;">(a) <b>the</b> person to whom it is addressed or made known to him; or</p> <p style="padding-left: 40px;">(b) <b>the</b> usual place of abode or business of such a person.</p> <p>(2) Retained as in the Bill</p> |  |
| <p style="text-align: center;"><b>PART VII - PROCESSION AND MEETINGS</b></p> <p style="text-align: center;"><b>Prohibition of public processions, demonstrations and meetings</b></p> <p><b>28.</b> The Appropriate Authority, may by order prohibit the holding of any public procession, demonstration or public meeting in any emergency area for such period as may be specified in the order if he is satisfied that the holding of the public procession, demonstration or public meeting would be likely to cause serious public disorder.</p>  | <p style="text-align: center;"><b>PART VII - PROCESSION AND MEETINGS</b></p> <p style="text-align: center;"><b>Prohibition of public processions, demonstrations and meetings</b></p> <p><b>28.</b> Retained as in the Bill</p>  |  |
| <p style="text-align: center;"><b>Use of force</b></p> <p><b>29.</b> Any police officer or a member of the Armed Forces of</p>   | <p style="text-align: center;"><b>Use of force</b></p> <p><b>29.</b> Retained as in the Bill</p>   |  |

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| <p>the Federal Republic of Nigeria may take such steps and use such force as may be necessary to secure compliance with any order made under these Regulations.</p>   |  |  |
| <p style="text-align: center;"><b>PART VIII - CURFEW</b></p> <p style="text-align: center;"><b>Power to impose curfew.</b></p> <p><b>30.</b> The Appropriate Authority may, by order, impose a curfew upon the inhabitants of the emergency area or any part thereof.</p>   | <p style="text-align: center;"><b>PART VIII - CURFEW</b></p> <p style="text-align: center;"><b>Power to impose curfew.</b></p> <p><b>30.</b> Retained as in the Bill</p>   |  |
| <p style="text-align: center;"><b>Publication, commencement and proof of curfew order.</b></p> <p><b>31.</b> -(1) Every curfew order shall be made known to the inhabitants of the area to which it relates in such manner as the Appropriate Authority thinks fit, and shall come into operation on the date it is issued.</p> <p>(2) Without prejudice to any other mode of proof, a certificate signed by the Appropriate Authority or at his direction stating the terms of any curfew order and the date on which it came into operation in accordance with the provisions subsection (1) of this section shall be conclusive evidence of those matters.</p> <p>(3) As soon as a curfew order is made, the Appropriate Authority shall cause it to be published by notice in the Government Gazette.</p> | <p style="text-align: center;"><b>Publication, commencement and proof of curfew order.</b></p> <p><b>31.</b> Retained as in the Bill</p>   |  |
| <p style="text-align: center;"><b>Effect of curfew order</b></p> <p><b>32.</b> Where a curfew has been imposed in any area, no person other than a police officer, a member of the armed forces of the Federation, a person registered as a medical practitioner or any other person authorized in writing under this Part of this Act shall be outdoors within the area between such hours as may be specified in the curfew order</p>   | <p style="text-align: center;"><b>Effect of curfew order</b></p> <p><b>32.</b> Where a curfew has been imposed in any area, no person other than a police officer, a member of the armed forces of the Federation, a person registered as a medical practitioner or any other person authorized in writing under <del>this Part of this Bill</del> shall be outdoors within the area between such hours as may be specified in the curfew order (in this Bill referred to as</p> |  |

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| (in this Act referred to as 'the hours of curfew').  | 'the hours of curfew').   |  |
| <p style="text-align: center;"><b>Permits</b></p> <p><b>33.</b> (1) Any superior police officer may issue to any person applying therefore a written permit authorizing the holder thereof to be outdoors within a curfew area during such times and for such purposes and subject to such conditions or limitations as may be specified in such permit.</p> <p>(2) It shall be a condition of every such permit that the person to whom it has been granted shall carry it on his person at all times when he is outdoors in a curfew area during the hours of curfew.</p> <p>(3) Every such permit shall, on demand, be produced for the inspection of a police officer or a member of the armed forces of the Federation.</p>   | <p style="text-align: center;"><b>Permits</b></p> <p><b>33.</b> (1) Any superior police officer may issue to any person applying therefore <b>therefrom</b> a written permit authorizing the holder thereof to be outdoors within a curfew area during such times and for such purposes and subject to such conditions or limitations as may be specified in such permit.</p> <p>(2) Retained as in the Bill</p> <p>(3) Retained as in the Bill</p> |  |
| <p style="text-align: center;"><b>PART IX - PROTECTED PLACES</b></p> <p style="text-align: center;"><b>Declaration of protected places</b></p> <p><b>34.</b> The Appropriate Authority may by order, where it appears to him to be necessary or expedient:</p> <p>(a) for the maintenance of supplies and services essential to the life of the community; or</p> <p>(b) for securing the public safety; or</p> <p>(c) that special precautions should be taken to prevent the entry of unauthorized persons, declare those premises to be a protected place for the purpose of this Act and so long as the order is in force, no person shall, subject to any exemptions for which provision may be made by the order, enter or attempt to enter or be in those premises without the permission of such authority or person as may be specified in the order.</p> | <p style="text-align: center;"><b>PART IX - PROTECTED PLACES</b></p> <p style="text-align: center;"><b>Declaration of protected places</b></p> <p><b>34.</b> Retained as in the Bill</p>  |  |

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| <p style="text-align: center;"><b>Control of persons in protected places</b></p> <p><b>35.</b> Every person to whom permission to enter a protected place is granted pursuant to section 34 of this Bill shall, while in that place, comply with such directions for regulating his conduct as may be given by the Appropriate Authority or by the authority or person granting the permission, and any authorized officer or any person authorized in that behalf by the occupier of the premises, may search any person entering or seeking to enter or being in any protected place, and may detain any such person for the purpose of searching him.</p>   | <p style="text-align: center;"><b>Control of persons in protected places</b></p> <p><b>35.</b> Retained as in the Bill</p>   |  |
| <p style="text-align: center;"><b>Removal of unauthorized persons</b></p> <p><b>36.</b> Where a person is in a protected place in contravention of this Part of this Bill or while in any such place, fails to comply with any direction given under this Part of this Bill, then without prejudice to any proceedings which may be taken against him, he may be removed from there by any authorized officer or any person authorized in that behalf by the occupier of the premises.</p>   | <p style="text-align: center;"><b>Removal of unauthorized persons</b></p> <p><b>36.</b> Retained as in the Bill</p>  |  |
| <p style="text-align: center;"><b>Additional Protective Measures</b></p> <p><b>37.</b> (1) The Appropriate Authority may authorize such steps to be taken as he may deem necessary for the protection of any protected place, and such steps may extend to the taking of defensive measures which involve or may involve danger to the life of any person entering or attempting to enter any protected place.</p> <p>(2) Where any measures involving such danger as aforesaid are adopted, the senior police officer or a member of the Armed Forces of the Federal Republic of Nigeria responsible for the locality in which the protected place is situated, shall cause such precautions to be taken, including the prominent display of warning notices, as he deems</p> | <p style="text-align: center;"><b>Additional Protective Measures</b></p> <p><b>37.</b> (1) Retained as in the Bill</p> <p>(2) Where any measures involving such danger as aforesaid are adopted, the senior police officer or a member of the Armed Forces of the Federal Republic of Nigeria responsible for the locality in which the protected place is situated, shall cause such precautions to be taken, including the prominent display of warning notices, as he deems reasonable necessary to</p> |  |

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| <p>reasonable necessary to prevent inadvertent or accidental entry into the protected place and, where such precautions have been duly taken, no person shall be entitled to compensation or damages in respect of injury received or death caused as a result of any unauthorized entry into the protected place.</p>  | <p>prevent inadvertent or accidental entry into the protected place and, where such precautions have been duly taken, no person shall be entitled to compensation or damages in respect of injury received or death caused as a result of any unauthorized entry into the protected place.</p>  |  |
| <p><b>PART X - POSSESSION OF EXPLOSIVES</b></p> <p><b>38.</b> Exercise of Powers by the Appropriate Authority Subject to directions, if any, given by the Appropriate Authority, a superior police officer may exercise in the emergency area all or any of the powers conferred upon the Appropriate Authority by section 39 of this Act.</p>  | <p><b>PART X - POSSESSION OF EXPLOSIVES</b></p> <p><b>38.</b> Exercise of Powers by the Appropriate Authority <b>is</b> subject to directions, if any, given by the Appropriate Authority, a superior police officer <b>or any member of the armed forces not below the rank of an Army Captain or its equivalent</b> may exercise in the emergency area, all or any of the powers conferred upon the Appropriate Authority by section 39 of this Bill.</p> | <p>Amended for the purpose of clarity because the rank of "Captain" stands for different ranks in armed forces. Also, there is need for the armed forces to be involved in the exercise.</p> |
| <p><b>Possession of Explosives etc.</b></p> <p><b>39.</b> (1) The Appropriate Authority may by order made in respect of the whole or any part of the emergency area prohibit, either absolutely or conditionally, the possession by any person of any explosive, ammunition, arms or component parts thereof, and any such order may be made with respect to all explosives, ammunition, arms or component parts thereof.</p> <p>(2) The Appropriate Authority may by order made in respect of the whole or any part of the emergency area provide for the custody of explosives, ammunition, arms and component parts thereof, as he shall deem fit.</p> <p>(3) Any person who, in any such area as may be specified in an order made pursuant to subsection (2) of this section, has in his possession, custody or control any explosive, ammunition, arms or component part thereof, shall comply with such directions in respect thereof as may</p> | <p><b>Possession of Explosives etc.</b></p> <p><b>39.</b> Retained as in the Bill</p>   |  |

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| <p>be given by a police officer or a member of the Armed Forces of the Federal Republic of Nigeria in the district in which the articles are situated; and the directions may require the removal of the articles to such place as may be specified therein.</p> <p>(4) Where any directions given by any police officer or a member of the Armed Forces of the Federal Republic of Nigeria under subsection (3) of this section are not complied with, then (without prejudice to any proceedings which may be taken in respect of the offence) the said officer may cause the articles to which the directions relate to be dealt with in such manner as may be necessary for securing compliance with the directions.</p>   |  |  |
| <p style="text-align: center;"><b>PART XI – MISCELLANEOUS</b></p> <p style="text-align: center;"><b>Gazetting and publication of detained persons</b></p> <p><b>40.</b> (1) Not more than fourteen days after the commencement of the restriction or detention of any person under section 16 of this Act, a notification shall be published in the Official Gazette and in the media, stating the number of person that has been arrested, restricted or detained on the grounds of violating the proclamation of state of emergency.</p> <p>(2) The person detained shall be afforded every possible facility to consult with a lawyer of his choice who shall be also permitted to make representations to either the court or tribunal appointed for the review of his case, and at the hearing of his case, he shall be permitted to appear in person or by a lawyer of his choice.</p> | <p style="text-align: center;"><b>PART XI – MISCELLANEOUS</b></p> <p style="text-align: center;"><b>Gazetting and publication of detained persons</b></p> <p><b>40.</b> (1) Not more than fourteen <b>(14)</b> days after the commencement of the restriction or detention of any person under section 16 of this <b>Bill</b>, a notification shall be published in the Official Gazette <del>and in the media</del>, stating the number of <b>person(s)</b> that <b>have</b> been arrested, restricted or detained on the grounds of violating the proclamation of state of emergency.</p> <p>(2) The <b>person(s)</b> detained shall be <del>afforded every possible facility</del> <b>allowed</b> to consult with a lawyer of his choice who shall also <b>be</b> permitted to make representations to either the court or tribunal appointed for the review of his case, and at the hearing of his case, he shall be permitted to appear in person or by a lawyer of his choice.</p> |  |
| <p style="text-align: center;"><b>Review by either a court or tribunal</b></p> <p><b>41.</b> -(1) Not more than ten days after the commencement of the restriction or detention, and after that, during the</p>  | <p style="text-align: center;"><b>Review by either a court or tribunal</b></p> <p><b>41.</b> (1) Not more than ten <b>(10)</b> days after the commencement of the restriction or detention, and after <del>that</del>, during the</p>  |  |

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| <p>restriction or detention, at intervals of not more than three months, the case shall be reviewed by either a court or tribunal composed of not less than three Justices of the Superior Court appointed by the Chief Justice of Nigeria; except that the same court or tribunal shall not review more than once the case of a person restricted or detained.</p> <p>(2) On a review by a court or tribunal of the case of a restricted or detained person, the tribunal may order the release of the person and the payment to him of adequate compensation or uphold the grounds of his restriction or detention, and the authority by which the restriction or detention was ordered shall act accordingly.</p>   | <p>restriction or detention, at intervals of not more than three months, the case shall be reviewed by either a court or tribunal composed of not less than three Justices of the Superior Court appointed by the Chief Justice of Nigeria; except that the same court or tribunal shall not review more than once the case of a person restricted or detained.</p> <p>(2) Retained</p>                 |  |
| <p style="text-align: center;"><b>Hearing of proceedings in Camera</b></p> <p><b>42.</b> -(1) A court sitting in any part of Nigeria where a proclamation under section 3 of this Act is in force may, if it is satisfied that it is in the interest of the public safety or the defence of the State-</p> <p>(a) direct that throughout or during any part of its proceedings, such persons or classes of persons as the court may determine shall be excluded; and</p> <p>(b) prohibit or restrict the disclosure of information relating to its proceedings.</p> <p>(2) A person who contravenes the directions of the court under subsection (1) of this section, commits an offence and is liable on conviction to imprisonment for a term of not less than 30 days.</p> <p>(3) Nothing in this Act shall authorise the making of any provision for the trial of a non-military person by a military court.</p> | <p style="text-align: center;"><b>Hearing of proceedings in Camera</b></p> <p><b>42.</b> -(1) A court sitting in any part of Nigeria where a proclamation under section 3 of this <b>Bill</b> is in <b>force</b>, if it is satisfied that it is in the interest of the public safety or the defence of the State, <b>may-</b></p> <p>(2) Retained as in the Bill</p> <p>(3) Retained as in the Bill</p> |  |



**Offences and penalties**

**43. -(1) A person who –**

- (a) contravenes the provisions of a Restriction Order; or
- (b) fails to comply with any term or condition of a permit pursuant to a Restriction Order,

commits an offence and liable on summary conviction to imprisonment for a term not exceeding two years or to a fine of N500, 000.00 or to both.

(2) A person who receives a direction in pursuance of Part VI of this Bill and fails to comply with the requirements of the direction, commits an offence and shall be liable on summary conviction to imprisonment, for a term not exceeding 6 months or to a fine of N200,000.00 or to both.

(3) A person who fails to comply with any order made under Part VII of this Bill commits an offence and shall be liable on summary conviction to imprisonment for a term not exceeding two years or to a fine of not less than N500,000.00 or to both.

(4) A person found outdoors in any area where a curfew has been imposed contrary to the provisions of Part VII of this Bill may be arrested without warrant by a police officer or a member of the armed forces of the Federation, and shall be liable on summary conviction to a fine not exceeding N200,000 or to imprisonment for a term not exceeding six months or to both.

(5) A person to whom a permit has been granted under Part VIII of this Act who fails to produce it when lawfully required to do so shall be liable on summary conviction to a fine not exceeding N100,000 or to imprisonment for a term

**Offences and penalties**

**43. Retained as in the Bill**

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| <p>not exceeding three months.</p> <p>(6) A person who enters or attempts to enter a protected place in contravention of any of the provisions of Part IX of this Bill or a person while in a protected place fails to comply with any direction given under Bill, commits an offence and shall be liable-</p> <p>(a) on summary conviction, to imprisonment for a term not exceeding 2 years; or</p> <p>(b) on conviction on indictment, to imprisonment for a term not exceeding 5 years.</p> <p>(7) A person who fails to comply with the provisions of any order or direction made or given under Part X of this Bill commits an offence and shall be liable on summary conviction, to imprisonment for a term not exceeding 5 years.</p> |   |  |
| <p style="text-align: center;"><b>Repeal and savings provisions</b></p> <p><b>44.</b> -(1) The State of Emergency Act, 1961 is repealed.</p> <p>(2) Without limiting the provisions of the Interpretation Act, the repeal of the Act referred to in subsection (1) of this section, shall not affect any proclamation made or anything whatsoever done under the repealed enactment.</p> <p>(3) Every order, requirement, certificate, notice, direction, decision, authorisation, consent, application, request or thing made, issued, given or done under the enactment repealed by this Bill, shall continue in force and shall have effect as if made, issued, given or done under the corresponding provision of this Bill.</p>          | <p style="text-align: center;"><b>Repeal and savings provisions</b></p> <p><b>44.</b> Retained as in the Bill</p> |  |

| Interpretation   | Interpretation                            |  |
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| <p><b>45.</b> "Appropriate Authority" means the President of the Federal Republic of Nigeria or any person designated or authorised to act on his behalf;</p> <p>"ammunition" includes all materials for loading firearms, percussion caps and gunpowder of every kind;</p> <p>"arms" means offensive weapons and includes firearms of all descriptions;</p> <p>"Detention Order" means an order made in accordance with the provision of Part IV of this Bill;</p> <p>"duly authorized person" means any person designated or authorised to act on behalf of the President of the Federal Republic of Nigeria with respect to the administration of any emergency area;</p> <p>"emergency area" means the Areas listed in the Schedule to Proclamation issued pursuant to this Bill;</p> <p>"explosives" includes gunpowder of every kind, rockets, nitroglycerine, dynamite, gun-cotton, blasting powder, detonators, fulminate of mercury or other metals, and every other explosive substance being any compound of or having any ingredients in common with any of the above;</p> <p>"firearms" includes any cannon, gun, rifle, machine-gun, cap-gun, flint-lock gun, revolver, pistol or other firearm (In detached pieces; and</p> <p>"offensive weapons" includes air guns, air pistols, bows and arrows, spears, cutlasses, machetes, daggers, cudgels or any piece of wood, metal or stone capable of being used as</p> | <p><b>45.</b> Retained as in the Bill</p> |  |

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| <p>an offensive weapon;</p> <p>"outdoors" means out-of-doors and includes open air, place of worship, schools or other public places;</p> <p>"protected place" means any premises in respect of which an order has been made by the Appropriate Authority pursuant to this Bill;</p> <p>"public meeting" means a meeting in a public place;</p> <p>"public procession" means a procession in a public place and includes a demonstration;</p> <p>"public place" includes any –</p> <ul style="list-style-type: none"> <li>(a) public way;</li> <li>(b) building, place or conveyance, to which for the time being the public is entitled or permitted to have access, with or without any condition; or</li> <li>(c) building or place which is for the time being used for any public or religious meeting, assembly or as an open court.</li> </ul> <p>"Restricted Person" means a person subject to a Restriction Order as provided under this Bill;</p> <p>"Restriction Order" means an order made in accordance with the provision of section 22 of this Bill;</p> <p>"specified" means specified in the Restriction Order or a permit, issued pursuant to a Restriction Order.</p> |   |  |
| <p style="text-align: center;"><b>Short title</b></p> <p><b>46.</b> This Act may be cited as the Emergency Powers Bill, 2016.</p>  | <p style="text-align: center;"><b>Short title</b></p> <p><b>46.</b> This <b>Bill</b> may be cited as The Emergency Powers <b>(Repeal and Enactment) Bill, 2017.</b></p> |  |

**EXPLANATORY MEMORANDUM**

*(This Memorandum does not form part of this Act but is intended to explain its purport.)*

This Bill seeks to repeal the Emergency Powers Act, 1961 and to provide for the procedure for the declaration of a State of Emergency in Nigeria or any part thereof subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999, as amended and in particular provides for the general administration of an emergency area, search, arrest without warrant and detention of persons in the emergency area, prohibition of public processions, demonstrations and meetings in the emergency area, imposition of curfew in the emergency area, declaration of protected places and control of persons in the protected places; and control of arms and explosives in the emergency area.

**EXPLANATORY MEMORANDUM**

*(This Memorandum does not form part of this Bill but is intended to explain its purport.)*

This Bill seeks to repeal the Emergency Powers Act, 1961 and **enact Emergency Powers Act, 2017** to provide for the procedure for the declaration of a State of Emergency in Nigeria or any part thereof subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999, as amended and in particular provides for the general administration of an emergency area, search, arrest without warrant and detention of persons in the emergency area, prohibition of public processions, demonstrations and meetings in the emergency area, imposition of curfew in the emergency area, declaration of protected places and control of persons in the protected places; and control of arms and explosives in the emergency area.