

A BILL

FOR

AN ACT TO INCORPORATE ANNEX 12 TO THE CONVENTION ON INTERNATIONAL CIVIL AVIATION 1944, INTO NIGERIAN LAW: TO ESTABLISH THE NIGERIAN SEARCH AND RESCUE SERVICE, AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH

Sponsored by Hon. Essien Ayi

[] Commencement

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

- 1 **1.-(1) The principal objects of this Act are to:** Principal object
of Act
- 2 (a) Incorporate the Convention into Nigerian law; and
- 3 (b) Established the Nigerian Search and Rescue Service to act on
- 4 behalf of the Ministry as the authority responsible for the application of the
- 5 Convention binding on the Nigeria regarding aeronautical search and rescue
- 6 operations.
- 7 **2.-(1) The Conventions contained in the schedule is hereby enacted** Incorporation of
Convention
- 8 into law in Nigeria.
- 9 (2) (a) subject to paragraph (b), the Minister may from time to time
- 10 by notice in the Gazette amend the schedule to reflect any change made to
- 11 the Convention by the International Civil Aviation Organization, as the case
- 12 may be.
- 13 **3. -(1) The Nigeria Search and Rescue Service is hereby** Establishment and
object of Nigerian
Search and Rescue
Service
- 14 established
- 15 (2) (a) The object of NISAR is to ensure a co-ordinated and
- 16 effective aeronautical search and rescue service within the Nigerian search
- 17 and rescue regions;
- 18 (b) Any person appointed in terms of this Act or concerned with the
- 19 carrying out of the provisions thereof must perform his or her functions

Composition of
NISAR

1 pursuant to be object of NISAR.

2 4. -(1) NISAR is made up of representatives from those government
3 departments and commercial and voluntary organizations which are
4 signatories to the NISR manual, contemplated in section is, and which are able
5 to contribute services and facilitates for use by NISAR, including
6 representatives of:

7 (a) The ministry;

8 (b) The Nigerian Civil Aviation Authority;

9 (c) The Air Traffic and Navigation Services Company Limited;

10 (d) The Nigerian Armed Forces;

11 (e) The Nigerian Police Force.

12 (2) NISAR has:

13 (a) an executive committee;

14 (b) an aeronautical committee.

15 (3) The executive committee consists of:

16 (a) the persons appointed in terms of subsection (7); and

17 (b) if necessary, such other members as may be nominated by the head
18 of NISAR, and appointed by the Minister either permanently or on an ad hoc
19 basis.

20 (4) The executive committee must:

21 (a) determine and put into effect the policy of NISAR; and

22 (d) determine the size and composition of the other committee of
23 NISAR depending on the area of specialist of the different members of NISAR.

24 (5) The aeronautical committee must assess the policy of NISAR and
25 make recommendations to the executive committee whenever any change is
26 necessary.

27 (6) The executive committee is accountable to the Minister and the
28 other committees of NISAR are accountable to the executive committee.

29 (7) The Director-General must appoint suitable persons from among
30 the members of NISAR to serve as:

1 (a) The head of NISAR, who is the chairperson of the executive
2 committee responsible for search and rescue operations by NISAR;

3 (b) The head of aeronautical search and rescue operations who is
4 the chair person of the aeronautical committee;

5 (c) The head of maritime search and rescue operations, who is the
6 chairperson of the maritime committee.

7 (8) The different head contemplated in subsection (7) must ensure
8 that search and rescue operations are conducted in accordance with laid
9 down standards and recommended practices as reflected in the NISAR
10 Manual and as considered the norm in terms of international agreements.

11 5.-(1) NISAR must within its means and capabilities co-ordinate
12 its resources to search for, assist and, where appropriate, effect a rescue
13 operation for:

Functions of
NISAR

14 (i) survivors of aircraft crashes or forced landings;

15 (ii) survivors of any military aircrafts accident or incident if such
16 aircraft is not engaged in an act of war; and

17 (2) The functions set out in subsection (1)(a) exclude salvage
18 operations.

19 (3) NISAR, with the concurrence of the Minister, may call on any
20 provider of a telecommunication service as contemplated in the lease or
21 otherwise make available telecommunication facilities.

22 (4) NISAR must perform its functions in a manner which promotes
23 efficient, economic and effective use of all resources.

24 (5) In performing its functions, NISAR must endeavour to co-
25 operate with the National Emergency Management Agency established in
26 terms of any law providing for the management of disasters.

27 (6) NISAR may perform its functions outside Nigeria.

28 6. -(1) NISAR must meet at such times as the executive committee
29 may determine in other to:

Meeting of NISAR

30 (a) discuss proposals and take decisions regarding the effective

1 application of this Act;

2 (b) discuss possible proposals to the Minister regarding amendments
3 to this Act; or

4 (c) discuss any other matter which the executive committee deems
5 necessary

6 (2) The head of NISAR must preside at any meeting of NISAR.

7 (3) The executive committee must determine the rules of procedure
8 at any meeting of NISAR.

Meeting of
Committee

9 7.-(1) The first meeting of any committee of NISAR after the
10 commencement of this Act must be held at the time and place determined by the
11 Director-General and all meetings thereafter must be held at the time and
12 places that the committee determines.

13 (2) The chairperson of a committee may at any time call a special
14 meeting of the committee to be held at the time and place determined by the
15 chairperson.

16 (3) All members of a committee must be notified in writing of any
17 meeting of that committee.

18 (4) A majority of the total number of members forms a quorum at any
19 meeting of a committee and a decision agreed on by a majority of the members
20 present at a duly constituted meeting of a committee is a decision of that
21 committee.

22 (5) In the event of an equality of votes on any matter, the chairperson
23 of the relevant meeting has a casting vote in addition to a deliberative vote.

24 (6) The chairperson of a committee must designate a person to act as
25 chairperson if he or she is unable to act as chairperson.

26 (7) Each committee must meet at least twice a year.

Personnel

27 8. All administrative work in connection with the performance of the
28 functions of NISAR must be carried out by officers in the Department
29 designated for that purpose by the Director-General.

1 **9. -(1) The Minister must, by notice in the Gazette as well as in**
2 **relevant maritime and aeronautical publications, publish the search and**
3 **rescue regions within which search and rescue services will be provided.**

Search and
Rescue Regions

4 **(2) The search and rescue regions contemplated in subsection (1)**
5 **must cover the area of responsibility of Nigeria laid down by the**
6 **International Civil Aviation Organization.**

7 **10.-(1) Subject to subsection (2), the Minister must designate:**

Rescue
Co-ordination
Centres and
Sub Centres

8 **(a) organizations or institutions to act as aeronautical rescue co-**
9 **ordination centres;**

10 **(b) organizations or institutions to act as aeronautical rescue sub**
11 **centres under the auspices of rescue co-ordination centres;**

12 **(c) a maritime or aeronautical search and rescue region for which**
13 **each rescue co-ordination centre is responsible; and**

14 **(d) organizations or institutions to act as registrars and custodians**
15 **of registers of emergency beacons contemplated in section 17.**

16 **(2) Any designation contemplated in subsection (1) must be:**

17 **(a) done in accordance with an agreement reached with the**
18 **applicable organization or institution; on**

19 **(b) published by the Minister by notice in the gazette as well as in**
20 **relevant aeronautical publications.**

21 **(3) The organizations or institutions designated in terms of**
22 **subsection (1)(a) and (b) must, with the concurrence of the executive**
23 **committee of NISAR, appoint their respective chiefs.**

24 **(4) Each chief of a rescue co-ordination center or rescue sub centre**
25 **must establish and preside over an operational committee to discuss, evaluate**
26 **and effect operational procedures.**

27 **(5) Operational committees must consist of persons representing**
28 **organization controlling the resources available to that rescue co-ordination**
29 **centre or rescue sub centre.**

Functions of
Rescue
Co-ordination
Centres and
Sub Centres

1 **11.-(1) A chief of a rescue co-ordination centre or any person**
2 **authorized by him or her is responsible for co-ordinating available resources**
3 **for the purpose of searching, assisting and, where appropriate, effecting a**
4 **rescue operation in its search and rescue region.**

5 **(2) A chief of a rescue sub centre must support the chief of a rescue co-**
6 **ordination centre in carrying out assigned duties in particular area or instance.**

7 **(3) The designation of a search and rescue region contemplated in**
8 **section 11(1)(c) does not preclude a rescue co-ordination centre from:**

9 **(a) operating in another regions; or**

10 **(b) Performing the tasks of another rescue co-ordination centre**

Requisitioning
of Aircraft

11 **12 -(1) Subject to subsection (2), the Minister may for purposes of any**
12 **aeronautical search and rescue operation:**

13 **(a) requisition any civil aircraft;**

14 **(b) request the assistance of any military aircraft; or**

15 **(c) instruct any holder of a Nigeria aircraft flight crew license to assist**
16 **in the operation.**

17 **(2) In a case where the Minister contemplates requisitioning a civilian**
18 **aircraft instructing a civilian holder of a Nigerian aircraft flight crew license,**
19 **the Minister may do so only if:**

20 **(a) human life is in immediate and grave danger; and**

21 **(b) there are no other means available to conduct the operation**

22 **(3) Any person who, without lawful reason, fails to give effect to a**
23 **requisition or to comply with an instruction contemplated in subsection (1) is**
24 **guilty of an offence and liable on conviction to a fine or to imprisonment for a**
25 **period not exceeding five years.**

Recovery of
certain expenses

26 **13.-(1) If any search and rescue operation is undertaken by NISAR or**
27 **connection with any occurrence caused by the unlawful act or omission of any**
28 **person, the Minister may recover from that person the whole or an portion of**
29 **the expenses incurred by NISAR in connection with that operation.**

30 **(2) The ministry may, after having recovered the expenses**

1 contemplated in subsection (1) compensate any person who has incurred
2 any loss or damage as a result of the operation.

3 **14.-(1) NISAR must compile a manual regarding search and rescue**
4 **service and operations and matters connected therewith and keep that**
5 **manual up to date.**

NISAR manual
and responsibilities
of signatories
thereto

6 (2) The responsibilities of the signatories to the NISAR manual
7 contemplated in section 5 (1) must be set out in the manual and be executed
8 in accordance with it.

9 **15.-(1) Subject to this Act, any search and rescue action must be**
10 **undertaker in accordance with the NISAR manual.**

Search and Rescue
Measures regarding
Aircraft

11 (2) Where an aircraft has failed to reach its destination or is
12 reportee missing, NISAR must forthwith institute search and rescue action if
13 the flight plan was filed prior to departure and the flight in question was:

14 (a) between aerodromes where air traffic services are provided,
15 unless otherwise indicated on the flight plan or through aeronautical
16 publications or notices;

17 (b) conducted in airspace with which air traffic control services are
18 provided, except for flights crossing a route at right angles; or

19 (c) a flight to an aerodrome where air traffic services are not
20 provided, if search and rescue action is specifically requested by the pilot-
21 in-command.

22 (3) Search and rescue action must be instituted in respect of all
23 flights for, which flights plans were filed in when such action is specifically
24 requested by the pilot in-command.

25 (4) Search and rescue action may be instituted:

26 (a) in respect of a flight for which no flight plan has been filed,
27 when information that the aircraft is overdue or mission is received from any
28 source.

29 (5) In an event contemplated in subsection (4), authorization by the
30 head of NISAR or his or her assignee must be obtained prior to the

1 commencement of a search and rescue operation and he or she must be kept
2 informed of the progress made and the termination of the search and rescue
3 action.

Registration of
emergency
beacons

4 **16.-(1) The owner of any aircraft required- to carry emergency locator**
5 **beacons in terms of the Civil Aviation Authority Act, 2006, must register such**
6 **emergency locator beacons with the organizations or institutions designated in**
7 **terms of section 11 (1)(d).**

8 **(2) The owner of any aircraft or vessel registered or licensed in**
9 **Nigeria and which carries emergency locator beacons although not required to**
10 **do so by law, must register such emergency locator beacons with the**
11 **organizations of institutions designated in terms of section 11 (1)(d).**

Filing of Disaster
Management and
Aerodrome
Emergency Plans

12 **17.-(1) All aerodrome management must file their emergency plans**
13 **and any amendments thereto with the aeronautical rescue co-ordination center.**

Delegation and
Assignment

14 **18. The Minister may:**

15 **(a) delegate any power conferred or assign any duty imposed upon the**
16 **Minister by this Act to an officer of the Department, except the power to**
17 **publish notices or to make regulations; and**

18 **(b) at any time, withdraw a delegation or assignment effected in terms**
19 **of this section.**

Report

20 **19. -(1) NISAR must furnish the Minister with a report on its**
21 **activities:**

22 **(a) at least once a year; and.**

23 **(b) whenever required by the minister**

24 **(2) The minister must table a copy of NISAR's annual report in**
25 **Parliament within 30 days after it has been received by him or her.**

Regulations

26 **20. -(1) The Minister may, by notice in the gazette, make regulations**
27 **regarding:**

28 **(a) the conditions which must be complied with where a person from**
29 **another country which is a party to the conventions wishes to enter Nigeria for**
30 **purpose of any search and rescue operation;**

1 (b) anything which must or may be prescribed in terms of this Act;

2 (c) any matter which it is necessary or expedient to prescribe for the
3 effective carrying out or implementation of this Act.

4 (2) any regulation made under subsection (1)(a) must be made with
5 the concurrence of the Minister of Interior.

6 **21. Section 6 (f) of the National Emergency Management Agency**
7 **Act Cap N34 Laws of the Federation of Nigeria 2011 is hereby repealed as it**
8 **relate to Aeronautic Search and Rescue.**

Repeal of
Legislation

9 **22. In this Act, unless the context indicates otherwise, any word" or**
10 **expression to which a meaning is ascribed in the Conventions bears the same**
11 **meaning and:**

Definitions

12 "aircraft" means any machine that can derive support in the atmosphere
13 from the reactions of the air other than the reactions of the air against the
14 earth's surface;

15 "Authority" means the Nigerian Civil Aviation Authority;

16 "Director -General" means the Director-General: Nigerian Civil Aviation
17 Authority; "executive committee" means the executive committee of
18 NISAR contemplated in section 5(2)(a);

19 "head of NISAR" means an official of the Authority appointed in terms of
20 section 5(7)(a);

21 "international Civil Aviation Organization" means the specialized agency of
22 the United Nations responsible for formulating standards and recommended
23 practices for the purposes of civilian international air transport, established
24 in terms of Article 43 of the Convention on International Civil Aviation, in
25 Chicago on 7 December 1944;

26 "Minister" means the Minister of Aviation;

27 "person" includes any institution or organization equipped to assist in a
28 search and rescue operation, an organ of state, a government of a foreign
29 country;

30 "prescribed" means prescribed by regulation;

1 "rescue" includes the provision of the initial medical treatment of a person
2 rescued;

3 "rescue co-ordination centre" means an institution responsible for promoting
4 the efficient organization of search and rescue services and for co-ordinating
5 the conduct of search and rescue operations within a search and rescue region;

6 "rescue sub centre" means a suitably appointed unit tasked to carry out duties
7 of a rescue co-ordination centre in instances where the rescue co-ordination
8 centre cannot exercise direct and effective control over search and rescue
9 facilities in certain parts of a search and rescue region;

10 "NISAR" means the Nigerian search and rescue Service established by section
11 4;

12 "search and rescue region" means a region contemplated in section 11(1)(c) in
13 which the co-ordination of search and rescue operations is effected by a single
14 rescue co-ordination centre;

15 "the Conventions" means - Annex 12 to the Convention on International Civil
16 Aviation adopted on 7 December 1944 at Chicago;

17 "this Act" includes the regulations.

Short Title

18 **23.** This Bill may be cited as the Nigerian Aeronautical Search and
19 Rescue Bill, 2015.

20 **FIRST SCHEDULE**

21 **TRANSITIONAL PROVISIONS AS TO RIGHTS, VESTING OF PROPERTY ETC**

22 **1.** Accordingly, the statutory functions, rights, interests, obligations
23 and liabilities of the Rescue and Guard Response Initiative) existing before the
24 commencement of this Act under any contract or instrument, or law or in equity
25 shall by virtue of this Act be deemed to have been assigned to and vested in the
26 Service established by this Act.

27 **2.** Any such contract or instrument as is mentioned in paragraph 1 of
28 this schedule shall be of the same force and effect against or in favour of the
29 Service established by this Act and shall be enforceable as fully and effectively
30 as if instead of the conditions existing before the commencement of this Act,

1 the service established by this Act had been named therein or had been a
2 party thereto.

3 3. The Service established by this Act shall be subject to all the
4 obligations and liabilities to which the former Rescue and Guards Response
5 Initiative existing before the commencement of this Act was subject to
6 immediately before the commencement of this Act, and all other persons
7 shall have the same rights, powers and remedies against the service
8 established by this Act as they had against the former Rescue and Guards
9 Response Initiative existing before the commencement of this Act.

Obligations and
liabilities

10 4. Any proceeding or cause of action pending or existing before
11 the commencement of this Act by or against the Rescue and Guards
12 Response Initiative in respect of any rights, interest, obligation or liability
13 may be continued or as the case may be commenced, and any determination
14 of the court of law, tribunal or other authority or person may be enforced by
15 or against the service established by this Act to the same extent that such
16 proceeding or cause of action or determination might have been continued,
17 commenced or enforced by or against the Rescue and Guards Response
18 Initiative existing before the commencement of this Act.

Pending or
existing proceedings
or cause of action

19 5. All assets, funds, resources and other moveable or immoveable
20 property which immediately before the commencement of this Act were
21 vested in The Rescue and Guards Response Initiative existing before the
22 commencement of this Act shall by virtue of this Act and without further
23 assurances be vested in the Service established by this Act.

Vesting of Assets

24 6. Any person who immediately before the coming into force of
25 this Act is the holder of any office in the Rescue and Guards Response
26 Initiative existing before the commencement of this Act shall on the
27 commencement of this Act continue in office and be deemed to have been
28 appointed to his office by the service established by this Act, unless the
29 authority by which the person was appointed terminates the appointment.

Holders of
Office

EXPLANATORY MEMORANDUM

This Bill seeks to Incorporate Annex 12 to the Convention International Civil Aviation 1994 into the Nigerian Law to provide for the establishment of the Nigeria Search and Rescue Service.