

SPECIAL MAXIMUM SECURITY PRISONS (ESTABLISHMENT) BILL, 2016

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A BILL

FOR

AN ACT TO ESTABLISH THE SPECIAL MAXIMUM SECURITY PRISONS FOR PERSONS ACCUSED OR CONVICTED OF TERRORISM, INSURGENCY, KIDNAPING AND OTHER CRIMES AGAINST THE STATE AND FOR RELATED MATTERS

Sponsored by Hon. Henry Nwawubu

[] Commencement

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

1 1. There is hereby established a Special maximum security prison Establishment
2 for the purpose of detention, custody and imprisonment of persons
3 suspected or convicted of terrorism, insurgency, kidnaping and other crimes
4 against the state.

5 2. The minister of Interior or in the absence of a minister of Location of prison
6 interior, any such other minister charged with the administration of prisons,
7 the Comptroller-General of prisons in accordance with the Prisons Act shall
8 designate and declare such areas, building or place in Nigeria to be a special
9 maximum security prison for the purpose of detention, custody and
10 imprisonment of persons convicted or suspected of committing terrorism,
11 insurgency, kidnaping and other crimes against the state.

12 (1) Such prisons shall be located in a remote island, desert or forest
13 about 10 miles or 16km from the nearest human settlement or human
14 inhabitation-

15 (a) In the case of an island in Nigeria, such place shall be used
16 exclusively for the location of the special maximum security prison and be
17 bounded by at least 10 miles or 10km body of water of which the depth shall
18 not be less than 20 feet.

19 (b) In the case of desert within the territory of Nigeria, the prison

1 shall be located at least 10 (ten) miles away from any human habitation.

2 (c) In the case of a forest, area surrounding the prison shall be clear of
3 vegetation for at least 20 miles or equivalent and away from human habitation.

4 (2) Where such place exists with human habitation as a last resort, it
5 shall be the duty of the minister of Interior or the Comptroller-General of
6 prisons to ensure that such sites are isolated and cleared of 10 miles radius or
7 equivalent away from the prison.

8 (3) The special maximum security prison shall comprise of-

9 (a) The grounds and building within the prison enclosure; and

10 (b) Any lock up house for the temporary detention or custody of
11 prisoners newly convicted or suspect under remand which is declared by the
12 Comptroller General by order in the Federal Gazette to be part of the prison.

13 (4) Subject to subsection (3) of this section every special maximum
14 security prison shall be a prison for the imprisonment of convicts and suspects
15 of terrorism, insurgency and kidnaping.

16 (5) The minister of Interior may for effecting the separation of classes
17 of prisoners or for the training of any class to which any prison has been
18 appropriated may lawfully be conveyed thereto and imprisoned therein
19 whether or not the warrant or order for his imprisonment has been issued by a
20 court having jurisdiction in the place where the prison is situated.

21 (6) For the purpose of separation of classes of prisoners no
22 person below the age of 18 (eighteen) years shall be kept in such prisons unless
23 the person is charged with, remanded, detained or convicted with other
24 accomplices for an act of terrorism, insurgency or kidnaping.

25 (7) In this section, terrorism, insurgency, kidnaping and other crimes
26 against the state shall bear the same interpretation given to it under the
27 terrorism (prevention) amendment Act.

Correctional
facilities

28 3.-(1) the special maximum security prison shall have such
29 correctional facilities that will transform a convict or suspect of terrorism,
30 insurgency or kidnaping to a better citizen.

1 (2) The correctional facilities shall consist of psychological
2 lectures, sports equipment, skill acquisition and other such de-radicalization
3 and correctional facilities as to transform the convict or suspect to a
4 reformed and better citizen.

5 4.-(1) Subject to subsection (2) of this section, every prisoner
6 confined in a special maximum security prison shall be deemed to be in the
7 legal custody of the Comptroller General of prisons or such officers
8 appointed under the authority of the Comptroller General.

Legal custody of
prisoner

9 (2) Such prisoner shall be subject to discipline and regulations
10 made under the Prisons Act whether he or she is within or outside the
11 precincts of the prison.

12 (3) Subject to any provision of the Act, the Comptroller General is
13 authorized and required to keep and detain all persons duly committed to
14 custody of the prison by a judge and high court of competent jurisdiction.

15 (4) Such a person so detained shall be so detained in accordance
16 with the terms in a warrant or Order or court by which such a person has been
17 committed.

18 5.-(1) It shall be lawful for any prisoner in a special maximum
19 security prison to be removed to any other prison within Nigeria for any
20 reason other than reason specified in subsection 2 of this section.

Removal of
prisoner

21 (2) Where it appears to the Comptroller General of prisons that-

22 (a) The number of prisoners in a prison is greater than can
23 conveniently be kept there and that it is not convenient to transfer the excess
24 number of prisoners to another prison;

25 (b) By reason of outbreak within the prison of disease or for any
26 other reason it is desirable to provide for the temporary shelter and safe
27 custody of any prisoner.

28 (3) The Comptroller-General may by order under his hand direct
29 that so many of the prisoners as may be indicated in the order shall be kept
30 and detained in a building or place which is outside the prison and is

1 specified in the order and that building or place shall be deemed to form part of
2 the prison for the purposes of this Act until the order is cancelled.

production of
prisoner

3 6.-(1) Where the presence of a prisoner is required before a court, the
4 court may issue an order addressed to the Comptroller-General requiring the
5 prisoner to be produced before the court in proper custody at the time and place
6 specified in the order and may by endorsement on the order require that person
7 to be brought up again at an adjourned hearing.

8 (2) For the purpose of subsection (1) of this section in particular,
9 "Proper Custody" means the custody of prison officer.

10 (3) Where a suspect charge with an offence of terrorism, insurgency,
11 kidnapping or other crimes against the state is brought before a court under this
12 section, the same procedure shall be followed with respect to the offence as
13 would have been followed if he had been brought before the court on a warrant.

14 (4) The Comptroller-General if he is satisfied that it is in the public
15 interest to do so upon receipt of a request or subpoena that the presence of a
16 prisoner is required at any place in Nigeria, may by writing under his/her hand
17 order the prisoner to be taken to that place.

18 (5) A prisoner taken from a prison pursuant to subsection (3) of this
19 section above shall be kept in such custody while outside the prison as the
20 Comptroller-General or such officer acting under his authority directed and so
21 long as the prisoner is in that custody shall be deemed to be in lawful custody.

22 (6) For the purpose of this section, no prisoner shall be removed from
23 prison custody to a court notwithstanding the production of a warrant or a
24 subpoena for his/her production, unless such warrant or subpoena may be
25 executed for the purpose of trial of the prisoner/suspect in a charge of terrorism,
26 insurgency, kidnapping or such crimes against the state or for any other charge
27 for which the prisoner/ suspect was detained in the first place.

28 (7) For the purpose of subsection (1) of this section in particular,
29 "Proper Custody" means the custody of prison officer.

1 7.-(1) Where it appears to the Comptroller-General that a prisoner
2 undergoing a sentence of imprisonment is of unsound mind, the
3 Comptroller-General shall forthwith report the matter to the minister who
4 shall appoint two or more qualified medical practitioner (one of whom shall
5 be a medical officer of the prison) to inquire into the prisoner's soundless
6 mind.

Insanity of
prisoner

7 (2) The medical practitioners appointed under subsection (1) of
8 this section shall-

9 (a) Forthwith examine the prisoner and inquire as to the soundness
10 of mind of the prisoner;

11 (b) Give their opinion therein in a written report to the
12 Comptroller-General, who shall forward the report to the Minister;

13 (c) If majority of the examiner's above are of the opinion that the
14 prisoner is of unsound mind, they shall issue a certificate to that effect.

15 (3) Where a person is certified to be of unsound mind under
16 subsection (2) of this section, the following provisions shall apply-

17 (a) The minister shall by order in writing under his/her hand direct
18 addressed to the superintendent direct that the prisoner shall be removed
19 from general confinement to an exclusive cell within the prison and shall be
20 entitled to all reasonable medical facilities, personnel and treatment
21 necessary for speedy recovery of the prisoner;

22 (b) A prisoner removed to an exclusive cell pursuant to an order
23 made under paragraph (a) of this subsection shall subject to the mental
24 health laws, be detained therein until he/her is certified by two medical
25 practitioners to be of sound mind or until the sentence of imprisonment to
26 which he/her is subject determines, whichever first occurs;

27 (c) If the prisoner is certified to be of sound mind, he/her shall by
28 order in writing under the hand of the minister be removed from special
29 confinement to serve much of the sentence remaining;

30 (d) If the prisoner is still detained in a special confinement when

1 the sentence of imprisonment is about to determine, it shall be the duty of the
2 officer in charge of the confinement area to give such information as may be
3 necessary under the mental health laws to secure consideration of the question
4 whether the prisoner should be detained under those laws as a person of
5 unsound mind from the date of the determination of the sentence:

6 (e) Notwithstanding the severity of the insanity, no prisoner shall be
7 removed from the special maximum security prison facility for any reason
8 whatsoever unless after the determination of the sentence he/her is serving.

9 (4) In this section, the "mental health laws" means the laws
10 prescribing the procedure for finding persons of unsound mind and providing
11 for the custody and treatment of persons so found.

12 "The relevant authority" means authority in whom the prerogative of mercy is
13 vested upon.

Sick Prisoners

14 8.-(1) where the illness of a suspect or prisoner is a contagious disease
15 and may pose a health threat to the life of other in-mates of the prison, the
16 Comptroller-General may quarantine such prisoner or prisoners in a location of
17 the prison with the necessary medical facility, attention and medical precaution
18 taken to ensure that there is no outbreak of epidemic

19 (2) The provisions of subsection 7(1) above shall apply to sick
20 prisoners only and such prisoner must have been confirmed to be sick by a
21 competent medical professional duly recognized and authorized by the prison
22 authority.

Discharge of
Prisoners

23 9.-(1) where it appears to the Comptroller-General or an officer in
24 charge of a prison exercising authority on behalf of the Comptroller-General
25 that it is advisable in the interest of the public or in the interest of the prisoner
26 that a prisoner undergoing a sentence of imprisonment should upon being
27 discharged be sent back to the area in which he has usual place of abode.

28 (2) The Comptroller-General or the prison authority may also direct
29 that the prisoner be sent back to the area in which the court passed a sentence on
30 him/her.

1 (3) The Comptroller-General or an officer in charge of prison may
2 on expiry of a prison sentence further direct that all necessary and proper
3 precaution be taken to ensure the arrival of the ex-convict in the area of usual
4 abode or in the area where the court passed the sentence.

5 (4) If a prison sentence expires on a public holiday, the prisoner
6 shall be discharged on that day.

7 (5) A prisoner who is under medical treatment shall not be
8 discharged at the expiration of the sentence except on the request of the
9 prisoner or a relative or upon the certification by a medical officer who shall
10 certify that the discharge of such a Prisoner is without any medical danger.

11 (6) Notwithstanding the power of prerogative of mercy of a
12 Governor of a state in Nigeria or the President of the Federal Republic of
13 Nigeria under the Constitution of the Country, no person shall be granted
14 prerogative of mercy or released on parole until such prisoner has fully
15 served the sentence as passed.

16 **10.**-(1) subject to subsections (4) and (6) of this section, a prison Use of weapon
17 officer may use weapons against a prisoner escaping or attempting to
18 escape, but resort shall not be had to the use of weapons unless the officer has
19 reasonable grounds to believe that the escape of the prisoner could not
20 otherwise be prevented.

21 (2) subject to subsections (5) and (6) of this section, a prison officer
22 may use weapons on any prisoner engaged in any combined outbreak or in
23 any attempt to force or break open the outside door or gate or enclosure wall
24 of a prison and may continue to use weapons so long as the combined
25 outbreak or attempt is being prosecuted.

26 (3) subject to subsection (6) of this section, a prison officer may use
27 weapons against a prisoner using violence to the officer or to any other
28 prison officer or person if the officer using the weapon has reasonable
29 grounds to believe that the officer or person's life is in danger or likely to
30 have grievous harm.

1 (4) Before using firearms against a prisoner under subsection (1) of
2 this section, a prison officer shall give warning to the prisoner that the firearm is
3 about to be used.

4 (5) No prison officer may use weapons of any sort, against a prisoner
5 under subsection (2) of this section without the order and authorization of a
6 superior officer provided there is a superior around and within reach.

7 (6) The use of weapons under this section shall as far as possible be for
8 the purpose of, to disable the prisoner and not to kill.

9 (7) every police officer serving as an escort guard or as a guard in or
10 about a prison for the purpose of ensuring the safe custody of a prisoner or
11 prisoners, shall have the powers and privileges granted to prison officers under
12 this Act.

Invasion or
prison

13 11.-(1) where there is an invasion or attack by persons outside the
14 prison facility with a view to releasing prisoners, the prison officer may
15 execute such prisoner or prisoners whom is suspected of being freed

16 (2) Where the invasion or attack is in the opinion of the superintendent
17 of such scale that no reasonable precaution or defence can be taken to repeal the
18 attack.

19 (3) Where the superintendent has taken precautions to request for
20 reinforcement and such reinforcement is delayed such that the invasion or
21 attack may be successful.

22 (4) It shall be the duty of the Comptroller-General to promptly inform
23 the National Security Adviser in the advent of an imminent attack on the prison
24 for the purpose of preventing such invasion and release of prisoners.

Prison visitors

25 12.-(1) the following shall be prison visitors ex-officio-

26 (a) The Chief Justice of the Nigeria and the other Justices of the
27 Supreme Court;

28 (b) The President and other Justices of the court of Appeal;

29 (c) The Chief Judge and other Judges of the Federal High Court.

30 (2) The minister after consultation with the president may in respect

1 of such prison appoint such persons that are deemed fit in accordance with
2 the law to be visitors or members of a visiting committee.

3 (3) the officer in charge of a prison facility or Director may
4 authorize such persons as he/her deems fit to be voluntary visitors in respect
5 of any prison or prisons.

6 (4) Appointments or authorizations under subsections (2) and (3)
7 of this section may be notified in the Federal Gazette of the appropriate state.

8 (5) Visitors, visiting committee and voluntary visitors shall
9 exercise in respect of the persons to which their appointments or
10 authorization relates, such functions as may be prescribed.

11 (6) Persons who are in detention awaiting trial or have been
12 convicted of an offence shall not be entitled to visits from any relation,
13 spouse or family member except by the retained legal practitioner or where
14 none exist, by a court appointed legal practitioner.

15 **13.-(1)** the functions of the medical officer of a prison shall be
16 performed by medical officers in the public service of the federation or of a
17 state in the federation.

Prison Medical
Officers

18 (2) A medical expert of the prisoner's choice may be approved and
19 directed by the minister of health to attend to a prisoner with the concurrence
20 of a medical officer in the civil service of a state or the federation.

21 (3) The minister of health with the concurrence of the state
22 authority may permit a superintendent of health or health sister (or the
23 holder of any corresponding office) in the civil service of a state to attend to
24 matters pertaining to general sanitation in a prison and otherwise to assist the
25 medical officer thereof.

26 **14.-(1)** any person who-

Offences

27 (a) brings, throws or otherwise introduces into or removes from a
28 prison or gives to or takes from a prisoner any alcoholic liquor, tobacco,
29 intoxicating or poisonous drug or article prohibited by regulations made
30 under this Act;

1 (b) Communicates or attempts to communicate with a prisoner
2 without permission of the superintendent;

3 (c) is found in possession of an article which has been supplied to a
4 prison officer for the execution of a duty or of any other prison property and
5 fails to account satisfactorily for his/her possession of the article;

6 (d) Or without due authority purchases or receives any property from
7 a prison officer or aids or abets a prison officer to conceal or dispose of any
8 property;

9 (e) by any means directly or indirectly procures or attempts to procure
10 or persuade a prison officer to desert or aids, abets or is an accessory to the
11 desertion of a prison officer or having reason to believe that a person is a
12 deserting prison officer harbours that person or aids in the concealment or
13 rescue;

14 (f) directly and indirectly instigates, commands, counselor solicits
15 any mutiny, sedition or disobedience to a lawful order of a senior prison officer
16 or maliciously endeavors to seduce any prison officer from his/her allegiance
17 or duty;

18 (g) Knowingly harbours in his/her house, land or otherwise or
19 knowingly employs any person under sentence of imprisonment who is
20 illegally at large;

21 (h) Interferes with a prisoner working outside a prison or allows such
22 a prisoner to enter a house, yard or other premises (except at the request of the
23 prison officer or other person in charge of prison) or assist such a prisoner to be
24 absent from or neglect a duty or work; or

25 (i) Attempts to propagate or indoctrinate a prisoner about religious
26 intolerance or hate crimes or genocide and mass murder shall be guilty of an
27 offence and upon conviction shall be liable to a fine not exceeding
28 N1,000,000.00 (one million Naira) or imprisonment for a period not exceeding
29 5 (five) years or both.

30 (2) (a) if a person reasonably appearing to prison officer to have

1 committed an offence of the kind specified in subsections 1 (a) or (b) of this
2 section refuses to disclose his/her name and residence to the prison officer
3 on demand:

4 (b) gives a name or residence which the prison officer knows or has
5 reason to believe to be false, the prison officer may arrest the person and
6 hand them over to the police officer as soon as possible;

7 (c) the receiving police officer shall thereupon proceed as if the
8 offence had been committed before him/her.

9 **15.** The president may through the office of the Attorney General of Regulations
10 the federation make regulations with respect to the organization and
11 administration of the prison and the rights of the prisoners as enshrined in
12 the constitution.

13 **16.-(1)** in this Act unless the context otherwise requires- Interpretation
14 "Authority, superintendent" in relation to a prison or to a prisoner confined
15 in a prison means the prison officer or other person for the time being in
16 charge of the prison;
17 "Court" means the High Court;
18 "Director" means the director of the Nigerian Prisons service;
19 "function" includes powers and duty;
20 "medical officer" in relation to a prison means a person directed under
21 section 12 of this Act to perform the duty of a professional medical
22 personnel in respect of that prison;
23 "Minister" means the minister of interior or in the absence of such ministry,
24 the minister under which prison administration is supervised;
25 "Prison" means a prison declared under this Act;
26 "Prison officer" means an officer of whatever rank appointed pursuant to
27 section 1 of this Act;
28 "Prisoner" means any person lawfully committed to custody;
29 "Sentence of imprisonment" means any sentence involving confinement in
30 a prison (whether or not it is combined with labour of any kind) and includes

1 a sentence given by way of communication as well as an original sentence
2 passed by a court.

Short Title

3 17. This Bill may be cited as the Special Maximum Security Prisons
4 (Establishment) Bill, 2016.

EXPLANATORY NOTE

This Bill seeks to establish special maximum security prison as part of the terrorism prevention Act 2011 as amended.

This Bill also provides regulation on the management, control of such prison.

The Bill lays emphasis on correctional facilities as an integral part of the prison.