

A BILL

FOR

AN ACT TO REPEAL THE NATIONAL SECURITY AGENCIES ACT CAP N74 OF 1986 AND TO ENACT THE NATIONAL SECURITY AGENCIES ACT 2016 AND TO DEFINE THE FUNCTIONS OF MEMBERS OF THE NATIONAL SECURITY AGENCIES; THE DEFENCE INTELLIGENCE AGENCY; NATIONAL INTELLIGENCE AGENCY AND THE STATE SECURITY SERVICE AND THEIR FUNCTIONS AND PROCEDURES IN RESPECT OF INTELLIGENCE RELATING TO THE SECURITY OF THE NATION; AND TO PROVIDE FOR THE APPOINTMENT OF THE PRINCIPAL OFFICERS, THE COORDINATOR OF THE AGENCIES AND TO DEFINE THEIR FUNCTIONS; AND FOR RELATED MATTERS

Sponsored by Hon. Rimamnde Shawulu Kwewum

[] Commencement

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

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CHAPTER I

1. There is hereby for the effective conduct of the National security established the National Security Agencies which shall consist of:

(a) The Defence Intelligence Agency (DIA); (b). The National Intelligence Agency (NIA); and (c). The State Security Service (SSS):

1. The President shall for the purpose of the Agencies:
(1) Appoint Director Generals subject to confirmation by the National Assembly

(2) Establish the following directorates and departments or divisions for the Agencies:

- (a) Congressional Affairs;
- (b) Employment Opportunities;
- (c) Integrity and Compliance;
- (d) Ombudsman (Tribunal or Board of inquiry);

Establishment, Composition, organizations, roles and responsibilities of the National Security Agencies

- 1 (e) Public Affairs;
- 2 (f) Facilities and Logistic;
- 3 (g) Finance;
- 4 (h) Records management and data keeping;
- 5 (i) Intelligence;
- 6 (j) Training;
- 7 (k) Operations;
- 8 (3) Prescribe the functions of the structures contemplated in (2)
- 9 above;
- 10 (4) In general, but subject to the provisions of this Act, determine and
- 11 prescribe all matters that are necessary or expedient for the creation and
- 12 establishment of the Agencies out of the organizational component;
- 13 2.-(1) There is hereby established an Agency Known as the Defence
- 14 Intelligence Agency which shall be constituted in accordance with and shall
- 15 have such functions as are conferred on it by this Act.
- 16 (2) The Agency:
- 17 (a) Shall be a body corporate with perpetual succession and a
- 18 common seal;
- 19 (b) May sue and be sued in its corporate name and may, for the
- 20 purpose of its functions, acquire, hold or dispose of property (whether
- 21 moveable or immovable);
- 22 (c) The Headquarters of the Agency shall be in the federal Capital
- 23 Territory or any other place that has been designed by the (constitution of the
- 24 Federal Republic of Nigeria) an Act of the National Assembly.
- 25 (3) The Agency shall be responsible to:
- 26 (a) The detection and prevention of crime of a military nature against
- 27 the security of the Federal Republic of Nigeria;
- 28 (b) The protection and preservation of all military classified matters
- 29 concerning the security of the Federal Republic of Nigeria, both within and
- 30 outside Nigeria;

1 (c) The protection of both civil and military rights; and the
2 enforcement of discipline among its member

3 (d) Such other responsibilities affecting defence intelligence of a
4 military nature, both within and outside Nigeria, as the President or National
5 Security Advisory Council or the chief of Defence Staff as the case may be
6 may deem necessary.

7 (4) The Agency shall consist of the following members:

8 (a) The Director General who shall be:

9 (i) The chief Executive and Accounting officer of the Agency;

10 (ii) A serving military officer of not below the rank of Brigadier
11 General or equivalent;

12 (b) Directors to man the following departments of the Agency;

13 (i) Congressional Affairs;

14 (ii) Employment Opportunities;

15 (iii) Integrity and Compliance;

16 (iv) Ombudsman (Tribunal or Board of inquiry);

17 (v) Public Affairs;

18 (vi) Facilities and Logistic;

19 (vii) Finance;

20 (viii) Records management and data keeping;

21 (ix) Intelligence;

22 (x) Training;

23 (xi) Operations;

24 (5) The Director General of the Agency shall be appointed by
25 President subject to confirmation by the National Assembly.

26 (6) The tenure of the office of the Director General:

27 (a) shall hold office for a period of four years and may be re-
28 appointed for a further term of four years and no more;

29 (b) The Director General of the Agency may at any time be
30 removed by the President for inability to discharge the function of his office

1 (whether arising from infirmity of mind or body or any other cause) or for
2 misconduct or if the President is satisfied that it is not in the interest of the
3 Agency or national security or the interest of the public that he should continue
4 in office;

5 (c) The Director General of the Agency may resign his position by
6 giving a notice in writing to the President and shall on the date of the receipt of
7 the notice by the President, ceased to be the Director General of the Agency;

8 (d) Where a vacancy occurs of the office of the Director General of the
9 Agency, it shall be filled by the appointment of a successor by the President to
10 hold office for the remainder of the term of office of the predecessor, so
11 however that the successor shall represent the same interest as his predecessor;

12 (e) At any time when a vacancy occurs before appointment of a
13 Director General is perfected, the most senior Director may Act as the Director
14 General;

15 (f) No person outside the organization shall be appointed Acting
16 Director General;

17 (g) In the event of sudden death, resignation or incapacitation of the
18 Director General or at any time the office becomes vacant, before the
19 substantive Director General is nominated the President shall appoint the
20 Senior Director as the Acting Director General;

21 (h) The tenure of any Director General shall not only be extended
22 before six calendar months after approval by the Senate.

23 (7) The Director General of the Agencies as far as is reasonably
24 practicable, take steps to ensure that:

25 (a) National security intelligence, intelligence collection methods,
26 sources of information and identity of members of the Agencies as the case may
27 be, are protected from unauthorized disclosure;

28 (b) No action is carried out that could give rise to any reasonable
29 suspicion that the Agencies as the case may be, are concern in furthering,
30 protecting or undermining the interests of any section of the population or any

1 political party or organization;

2 (c) The function of the Agencies as the case may be are limited to
3 what is necessary for the purpose of the discharge of their functions in terms
4 of the National Security Agencies Act 2016; and

5 (d) Take steps to ensure the expeditious integration and
6 rationalization of the organizational components in to the agency.

7 (8) The Agency may make standing orders regulating its
8 proceedings or any of its directorate.

9 3.-(1) There is hereby established an Agency Known as the
10 National Intelligence Agency which shall be constituted in accordance with
11 and shall have such functions as are conferred on it by this Act.

Establishment of
the National
Intelligence
Agency

12 (2) The Agency:

13 (a) Shall be a body corporate with perpetual succession and a
14 common seal;

15 (b) May sue and be sued in its corporate name and may, for the
16 purpose of its functions, acquire, hold or dispose of property (whether
17 moveable or immovable);

18 (c) The Headquarters of the Agency shall be in the federal Capital
19 Territory or any other place that has been designed by the constitution of the
20 Federal Republic of Nigeria.

21 (3) The Agency shall be responsible to:

22 (a) the general maintenance of the security of Nigeria outside
23 Nigeria, concerning matters that are not related to military issues;

24 (b) the protection of the life and properties of all Nigerian and that
25 of the Nigerian embassy out side Nigeria; and

26 (c) such other responsibilities affecting national intelligence
27 outside Nigeria as the National Security Advisory Council or the President,
28 as the case may be, may deem necessary.

29 (4) The Agency shall consist of the following members:

30 (a) The Director General who shall be;

- 1 (b) The chief Executive and Accounting officer of the Agency;
- 2 (c) A serving member of the Agency or military officer of not
3 below the rank Director or Brigadier General or equivalent;
- 4 (5) Directors to man the following departments of the Agency:
- 5 (i) Congressional Affairs;
- 6 (ii) Employment Opportunities;
- 7 (iii) Integrity and Compliance;
- 8 (iv) Ombudsman (Tribunal or Board of inquiry);
- 9 (v) Public Affairs;
- 10 (vi) Facilities and Logistic;
- 11 (vii) Finance;
- 12 (viii) Records management and data keeping;
- 13 (ix) Intelligence;
- 14 (x) Training;
- 15 (xi) Operations;
- 16 (6) The Director General of the Agency shall be appointed by
17 President subject to confirmation by the National Assembly
- 18 (7) The tenure of the office of the Director General:
- 19 (a) shall hold office for a period of four years and may be re-appointed
20 for a further term of four years and no more;
- 21 (b) The Director General of the Agency may at any time be removed
22 by the President for inability to discharge the function of his office (whether
23 arising from infirmity of mind or body or any other cause) or for misconduct or
24 if the President is satisfied that it is not in the interest of the Agency or national
25 security or the interest of the public that he should continue in office;
- 26 (c) The Director General of the Agency may resign his position by
27 giving a notice in writing to the President and shall on the date of the receipt of
28 the notice by the President, ceased to be the Director General of the Agency;
- 29 (d) Where a vacancy occurs of the office of the Director General of the
30 Agency, it shall be filled by the appointment of a successor by the President to

1 hold office for the remainder of the term of office of his predecessor, so
2 however that the successor shall represent the same interest as his
3 predecessor;

4 (e) At any time when a vacancy occurs before appointment of a
5 Director General is perfected, the most senior Director may Act as the
6 Director General;

7 (f) No person outside the organization shall be appointed Acting
8 Director General;

9 (g) In the event of sudden death, resignation or incapacitation of
10 the Director General or at any time the office becomes vacant, before the
11 substantive Director General is nominated the President shall appoint the
12 Senior Director as the Acting Director General;

13 (h) The tenure of any Director General shall not only be extended
14 before six calendar months after approval by the Senate.

15 (8) The Director General of the Agencies as far as is reasonably
16 practicable, take steps to ensure that:

17 (a) National security intelligence, intelligence collection methods,
18 sources of information and identity of members of the Agencies as the case
19 may be, are protected from unauthorized disclosure;

20 (b) No action is carried out that could give rise to any reasonable
21 suspicion that the Agencies as the case may be, are concern in furthering,
22 protecting or undermining the interests of any section of the population or
23 any political party or organization;

24 (c) The function of the Agencies as the case may be are limited to
25 what is necessary for the purpose of the discharge of their functions in terms
26 of the National Security Agencies Act 2016; and

27 (d) Take steps to ensure the expeditious integration and
28 rationalization of the organizational components in to the agency.

29 (9) The Agency may make standing orders regulating its
30 proceedings or any of its directorate.

Establishment
of the State
Security Service

1 4.-(1) There is hereby established an Agency Known as the State
2 Security Services which shall be constituted in accordance with and shall have
3 such functions as are conferred on it by this Act.

4 (2) The Service:

5 (a) Shall be a body corporate with perpetual succession and a
6 common seal;

7 (b) May sue and be sued in its corporate name and may, for the
8 purpose of its functions, acquire, hold or dispose of property (whether
9 moveable or immovable);

10 (c) The Headquarters of the Service shall be in the federal Capital
11 Territory or any other place that has been designed by the constitution of the
12 Federal Republic of Nigeria.

13 (3) The Service shall be responsible for:

14 (a) The protection of national security and, in particular, its protection
15 against threats from espionage, terrorism and sabotage, from the activities of
16 agents of foreign powers and from actions intended to overthrow or undermine
17 parliamentary democracy by political, industrial or violent means;

18 (b) Safeguard the economic well-being of the Federal Republic of
19 Nigeria against threats posed by action or intention of persons outside Nigeria;

20 (c) the detection and prevention within Nigeria of any crime against
21 the internal security of the Federal Republic of Nigeria;

22 (d) the protection and preservation of all non-military classified
23 matters concerning the internal security of Nigeria;

24 (e) The protection of Nigeria against cyber based attacks and high
25 technology crimes;

26 (f) The protection of civil and criminal rights off all citizen of the
27 Federal Republic of Nigeria including members of the service;

28 (g) The combating of transnational/natural criminal organizations
29 and enterprises;

30 (h) such other responsibilities affecting internal security within

1 Nigeria as National Assembly or the Advisory Council or the President, as
2 the case may be, may deem necessary.

3 (4) The Service shall consist of the following members:

4 (a) The Director General who shall be;

5 (b) The Chief Executive and Accounting officer of the Service;

6 (c) A serving member of the Service or any person with intelligent
7 background and deem fit by the President to occupy such a position; but
8 shall not be a retired or removed or dismissed officer of the Service:

9 (i) The Director General shall be responsible for the efficiency of
10 the service and shall be his duty to ensure;

11 (ii) That there are arrangements for securing that no information is
12 obtained by the service except so far as necessary for the proper discharge of
13 its functions or disclosed by it except so far as necessary for that purpose or
14 for the purpose of preventing or detecting serious crime; and

15 (iii) That the service does not take any action to further the interest
16 of any political party.

17 (iv) The arrangement mentioned in d(i) above shall be such as to
18 ensure that information in the possession of the service is not disclosed for
19 use in determining whether a person should be employed, or continue to be
20 employed, by any person, or in any office or capacity, except in accordance
21 with the provisions in that behalf approved by the President.

22 (d) Directors to man the following departments of the Agency:

23 (i) Congressional Affairs;

24 (ii) Employment Opportunities;

25 (iii) Integrity and Compliance;

26 (iv) Ombudsman (Tribunal or Board of inquiry);

27 (v) Public Affairs;

28 (vi) Facilities and Logistic;

29 (vii) Finance;

30 (viii) Records management and data keeping;

1 (ix) Intelligence;

2 (x) Training;

3 (xi) Operations;

4 (e) The Director General of the Service shall be appointed by
5 President subject to confirmation by the National Assembly;

6 (f) The Director General shall be appointed from the ranks of
7 Directors and deputy Directors of the organization, provided that such a person
8 has been involved in the operations and intelligence gathering activities of the
9 organization;

10 (5) The tenure of the office of the Director General:

11 (a) shall hold office for a period of four years and may be re-appointed
12 for a further term of four years and no more;

13 (b) The Director General of the Service may at any time be removed
14 by the President for inability to discharge the function of his office (whether
15 arising from infirmity of mind or body or any other cause) or for misconduct or
16 if the President is satisfied that it is not in the interest of the Service or national
17 security or the interest of the public that he should continue in office;

18 (c) The Director General of the Service may resign his position by
19 giving a notice in writing to the President and shall on the date of the receipt of
20 the notice by the President, ceased to be the Director General of the Service;

21 (d) At any time when a vacancy occurs before appointment of a
22 Director General is perfected, the most senior Director may Act as the Director
23 General;

24 (e) No person from outside the organization shall be appointed as
25 Acting Director General;

26 (f) In the event of sudden death, resignation or incapacitation of the
27 Director General or at any time the office becomes vacant, before the
28 substantive Director General is nominated the President shall appoint the
29 Senior Director as the Acting Director General;

30 (g) The tenure of any Acting Director General shall only be extended

1 beyond six calendar months after approval by the National Assembly

2 (6) The Director General of the Agencies as far as is reasonably
3 practicable, take steps to ensure that:

4 (a) National security intelligence, intelligence collection methods,
5 sources of information and identity of members of the Agencies as the case
6 may be, are protected from unauthorized disclosure;

7 (b) No action is carried out that could give rise to any reasonable
8 suspicion that the Agencies as the case may be, are concern in furthering,
9 protecting or undermining the interests of any section of the population or
10 any political party or organization;

11 (c) The function of the Agencies as the case may be are limited to
12 what is necessary for the purpose of the discharge of their functions in terms
13 of the National Security Agencies Act 2016; and

14 (d) Take steps to ensure the expeditious integration and
15 rationalization of the organizational components in to the agency.

16 (7)(i) The Service may make standing orders regulating its
17 proceedings or any of its directorate;

18 (ii) The standing orders and Operational guidelines shall be
19 submitted to the national Assembly for approval

20 (8) Procedure for arrest:

21 (a) The Director General, Directors and all persons designated as
22 field Operations and Intelligence staff may carry firearms and may make
23 arrest without warrant for any offence against the Federal Republic of
24 Nigeria committed in their presence, or for any felony cognizable under the
25 laws of Nigeria if they have reasonable grounds to believe that the person(s)
26 to be arrested has committed such felony;

27 (b) In making an arrest, the officer or personnel of the Service
28 making the arrest shall actually touch or confine the body of the person to be
29 arrested, unless there is a submission to the custody by word or action;

1 (c) Arrest of persons on reasonable suspicion shall be conducted as
2 follows:

3 (i) Except when the person arrested is in the actual course of the
4 commission of a crime or is pursued immediately after the commission of a
5 crime or escaped from lawful custody, the officer or personnel making the
6 arrest shall inform the person arrested of the reason for the arrest;

7 (ii) The officer or personnel making the arrest or officer or personnel
8 in charge of the office of the service where the arrest is being effected shall
9 inform the person arrested of his rights to:

10 (i) Remain silent or avoid answering any question until after
11 consultation with a legal practitioner of his choice or any person of his choice;

12 (ii) Consult a legal practitioner of his choice before making or writing
13 any statement or answering any question put to him after arrest; and

14 (iii) Free legal representation by the Legal Aid Council.

15 (d) Noting in this section or in this Act shall be construed as permitting
16 an officer or personnel of the service to arrest a person by reason only of
17 consanguinity or affinity or association with the person alleged to have
18 committed an offence;

19 (e) The arresting officer must within 12 hours provide a written report
20 to the immediate superiors, providing details on why he reasonably suspects
21 the possible commission of the alleged offence;

22 (f) An investigation would be to ascertain the veracity or otherwise of
23 the allegations;

24 (g) Where there a prima facie is established, the suspect shall be
25 charged to court within 24hours where there is a court of competent
26 jurisdiction;

27 (h) Where the alleged offence is not matter of threat to National
28 Security or related there to the functions of the service as provide by the Act, the
29 suspect(s) shall be handed over to the Police for further investigation and
30 prosecution;

1 (i) Where a prima facie case was not establish the suspect(s) shall
2 be release unconditional within 12 hours;

3 (j) Where any of the fundamental human rights of the suspect(s)
4 was infringed upon at the arrest on reasonable suspicion, the service shall:

5 (i) Replace all damaged properties;

6 (ii) Provide medical attention and pay any cost incurred;

7 (iii) Apologise to the alleged suspect(s) provided such apologies
8 are made public, if such arrest were made publicly or announced in public

9 (8) Prosecution of offences: - subject to the provisions of the
10 constitution of the Federal Republic of Nigeria, relating to the powers of the
11 prosecution of the Attorney General of the federation, prosecution of all
12 offences in any court shall be undertaken by:

13 (a) A law officer in the office of the Attorney General of the
14 federation;

15 (b) A legal practitioner authorized by the Attorney General of the
16 Federation;

17 (c) legal practitioner authorized by any other enactment.

18 5.-(1) the Principal Officers of the Agencies shall with the
19 collaboration of the National Security Adviser make the following
20 regulations for the effective management of the Agencies:

Regulations for
the National
Security Agencies

21 (a) The employment, training, promotion, posting, transfer, leave
22 of absence, resignation, discharge, dismissal, suspension or reduction in
23 rank or grade of members and the personnel management of those members
24 of the Agencies;

25 (b) The standard of physical and mental fitness and medical
26 examination of members, and medical, dental and hospital treatment of such
27 members and their families;

28 (c) The numerical establishment of the Agencies, the conditions of
29 service of the members thereof, the salaries, salary scales, wages and
30 allowances of members and the systems relating to the administration and

1 determination thereof and various divisions, branches, grades, ranks, and
2 designations in the Agencies;

3 (d) The establishment and maintenance of training institutions or
4 centres for members, and the instruction, training, discipline and control of
5 such members, at such institutions or centres; the definition of offences against
6 duty and discipline and generally, the control and discipline of the Agencies;

7 (e) The charging of members with misconduct;

8 (f) The general management maintenance of the various Agencies;

9 (g) The control over administration of funds appropriated for the
10 Agencies in order to bring about the systematic and orderly management
11 thereof and to promote efficiency and economy in the utilization thereof;

12 (h) The conditions for and procedures regarding the permission of
13 access to any premises under the control of the Agencies and matters relating
14 thereof;

15 (i) Any matter which in terms of this Act shall or may be prescribed.

16 CHAPTER II

Coordinator on
National Security

17 2.-(1) For the purpose of coordinating the intelligence activities of the
18 National security Agencies set up under section 3 of this Act, there shall be
19 appointed by the President and confirm by the National house of Assembly a
20 coordinator on National Security to be known as National Security Adviser.

21 (2) The coordinator on National Security shall be a principal staff
22 officer in the office of the President.

23 (3) The National Security Adviser shall be charged with the following
24 functions:

25 (1) Advising the President on matters concerning the intelligence
26 activities of the Agencies;

27 (2) Making recommendations in relation to the activities of the
28 Agencies to the President, as contingencies may warrant;

29 (3) Correlating and evaluating intelligence reports relating to the
30 national security and providing the appropriate dissemination of such

1 intelligence within Government, using existing facilities as the President
2 may direct;

3 (4) May make regulations regarding the following:

4 (a) The protection of information and intelligence;

5 (b) The carrying out of the security screening investigation by
6 members of the National Security Agencies;

7 (c) Coordination of intelligence as an activity;

8 (d) Production and dissemination of intelligence for consideration
9 by the President and National Security Advisory Council as established by
10 section 5(1) of this Act;

11 (e) Coordinating all the Agencies as established under section 3 of
12 this Act;

13 (f) Any regulation which may affect the function of the any
14 Agencies under this Act shall be made in consultation with the Director
15 General or Principal Officers of such Agency;

16 (g) A security screening investigation contemplated in subsection
17 (4)(b) may entitle the relevant members of the National Security Agencies
18 concerned to subject the person undergoing a security screening
19 investigation to a polygraph examination as prescribed, in order to
20 determine the reliability of the information provided by him or her;

21 (h) A regulation made under this Act may not be publish in the
22 Gazette, but where such a regulation only affects the members of the
23 National Security Agencies or their functioning, the affected parties must be
24 notified in a manner as may be determined by the National Security Adviser;

25 (i) A regulation made under this section may provide that any
26 person who contravenes a provision thereof or fails to comply therewith
27 shall be guilty of an offence and liable on conviction to a fine or to
28 imprisonment for a period not exceeding five years.

29 (5) Doing any other matter necessary for the effective
30 administration of this Act or such other things in connection with the

1 foregoing provisions of this section as the President may from time to
2 determine

Establishment
of the National
Security Advisory
Councils

3 3.-(1) The President shall in the interest of National security, as he
4 may determine establish National Security Advisory Councils, on such
5 conditions and remuneration (if any) prescribed by him, to advise him on the
6 exercise of his powers under this Act and matters relating thereto and to also
7 advise the Director Generals of the Agencies concerned on the exercise of their
8 powers under this.

9 (2) The National Security Advisory Council shall be constituted by
10 the following:

11 (a) The President of the Federal Republic of Nigeria, who shall be the
12 Chairman and he may delegate such position to the Vice President or Minister
13 of Defence;

14 (b) The Vice President;

15 (c) The President of the Senate;

16 (d) The Speaker of the House of Representatives;

17 (e) Chief of Defence Staff;

18 (f) The Chief of Army Staff;

19 (g) The Chief of Air Staff;

20 (h) The Chief of Naval Staff;

21 (i) The Inspector General of Police;

22 (j) Minister of Defence;

23 (k) The Director General of State Security Service;

24 (l) The Director General of National Intelligence Agency;

25 (m) The Director General of Defence Intelligence Agency;

26 (n) The National Security Adviser;

27 (o) All former Presidents and head of states;

28 (p) All former Senate Presidents;

29 (q) All former Chief Justices of the Federation;

30 (r) All former Speaker of House of Representatives

1 (3) The National Security Advisory Council shall advise the
2 President:

3 (a) on all matters of national security including the sovereignty,
4 integrity, defence of state and crisis management;

5 (b) with the responsibility for matters relating:

6 (i) To the public security; and;

7 (ii) Generally to the structure, staff and other matters concerning
8 the Agencies set up under this Act.

9 4.-(1) The President may by an instrument under his hand make
10 provisions with respect to the following matters:

Instruments
relating to the
advisory Councils
of the Agencies

11 (a) The composition, membership and appointment to the National
12 Security Advisory Councils established by section 5(1) of this Act;

13 (b) The manner in which the powers of each Agency is to be
14 exercised and the conferment on specified officers of the Agencies, or the
15 power of a superior officer; and

16 (c) Such other matters concerning or incidental to any of the
17 matters mentioned in this Act as the President may deem fit.

18 5.-(1) Nothing in this Act contained shall be construed as
19 indemnifying any members against prosecution by any court of law in
20 respect of any offence.

Discipline

21 (2) The Director General concerned may, in the manner prescribed,
22 charge any member of his Agencies with misconduct and request him or her
23 so charged to submit, within such period and in such manner as may be
24 prescribed, a written admission or denial of the charge and any written
25 explanation he or she may wish to offer in connection with the alleged
26 misconduct.

27 (3) After the expiration of the said period the Director General
28 concerned may appoint a Board of Enquiry to investigate the charge in
29 question.

30 (4) A board of inquiry may subpoena any person as a witness and

1 administer an oath to a person so subpoenaed or, in lieu thereof, accept an
2 affirmation from him or her.

3 (5) At the investigation of any charge in terms of this section, the law
4 relating to evidence and witnesses as applicable in connection with the
5 criminal proceedings under the Criminal code, penal code and the evidence
6 Act, shall subject to the provision of this Act, apply

7 (6) Where a member is charged with misconduct which constitutes
8 an offence in respect of which he or she has been convicted by a court of law, a
9 certified copy of the record of the trial in question shall, on its mere production
10 by any person, be admissible in evidence before the board of inquiry
11 investigating the charge, and a certified copy of the charge and conviction in
12 question shall, on its mere production by any person to such board, be prima
13 facie proof of the commission of such offence by the member concerned

14 (7) After considering the evidence adduced at the enquiry and
15 affording the member charged, the board shall find the member charged guilty
16 or not guilty of the misconduct with which he or she has been charged and
17 inform him or her of its finding; provided that if the member charged admits
18 that he or she is guilty of the misconduct in question, he or she may be found
19 guilty without any evidence having been adduced.

20 (8) A member found guilty of misconduct may, within such period and
21 in such manner as may be prescribed, appeal to the National security Adviser
22 against the finding of the board of enquiry and make representation in writing
23 to the national security Adviser in regard to the imposition of punishment.

24 (9) The board of enquiry shall and the Director General concern may
25 make recommendations to the National security Adviser regarding the
26 punishment which may be imposed upon a member found guilty.

27 (10) The National Security Adviser may, after considering the record
28 of the proceedings before the board of enquiry and the recommendations of the
29 board, and recommendations of the Director General concerned and the
30 grounds of appeal of, any representations made by, the member charged, direct

1 that the conviction and sentence be set aside, or confirm the conviction on
2 any charge and:

3 (a) Direct that no further action be taken in the matter;

4 (b) Direct that the member concerned be cautioned or
5 reprimanded;

6 (c) Impose upon the member concerned a fine not exceeding the
7 amount determined from time to time by the National Security Adviser by
8 regulation, and which may be recovered by way of deductions from his or
9 her salary or allowances;

10 (d) Direct that his or her salary, rank, or grade or both his or her
11 salary and rank or grade be reduced to such extent as may be recommended;

12 (e) Direct that the member be called upon to resign from the
13 Agency from a date specified by the national Security Adviser or discharge
14 the member from the Agency from the date specified by the National
15 Security Adviser.

16 6. -(1) Unless otherwise provided in this Act:

General

17 (a) Every member of the Agencies shall place the whole of their
18 time at the disposal of the Agencies;

19 (b) No member of the Agencies shall perform or engage
20 themselves to perform any remunerative work outside their employment:

21 (c) No member of the Agencies may claim as of right additional
22 remuneration in respect of any official duty or work which they are required
23 by competent authority to perform.

24 (2) Any person who has in his possession or under his control any
25 code, password, sketch, plan, model, note, or other document, article or
26 information, which relates to or is used in a protected place or anything in
27 such a place, or which has been made or obtained in contravention of this
28 Act, or which has been entrusted in confidence to him by any person holding
29 a public office, or which he has obtained or to which he has access owing to
30 his position as a person who holds or has held such office or as a person who

1 is or was a party to a contract with the Government or a specified authority or a
2 contract the performance of which in the whole or in part is carried out in or in
3 relation to a protected place, or as a person who holds or has held such an office
4 or is or was a party to such contract, and who:

5 (a) Uses the same in any manner or for any purpose prejudicial to the
6 safety or interest of Nigeria;

7 Communicates the same to any person other than a person to whom he is
8 authorized to communicate it or to whom it is in the interest of Nigeria his duty
9 to communicate it;

10 (b) Fails to take proper care of, or so conducts himself as to endanger
11 the safety of, the same; or

12 (c) Retains the sketch, plan, model, note, document, or article in his
13 possession or under his control when he has no right or when it is contrary to his
14 duty so to do, or fails to comply with any lawful directions with regard to the
15 return or disposal thereof,

16 Shall be guilty of an offence and liable on conviction to imprisonment for a
17 term not exceeding ten years.

18 (3) Any person who has in his possession or under his control any
19 sketch, plan, model, note, or other document, article, or information relating to
20 munitions of war and who communicates it directly or indirectly to any person
21 in any manner for any purpose prejudicial to the safety or interests of Nigeria
22 shall be guilty of an offence and liable on conviction to imprisonment for a term
23 not exceeding ten years;

24 (4) Any person who receives any code, password, sketch, plan,
25 model, note or other document, article or information, knowing or having
26 reasonable grounds to believe at the time when he receives it that the same is
27 communicated to him in contravention of the provisions of this Act, shall,
28 unless he proves that the communication thereof to him was against his wish,
29 be guilty of an offence and liable on conviction to imprisonment for a term not
30 exceeding ten years.

1 (5) Any person who communicates to any person other than a
2 person to whom he is authorized by an authorized officer to communicate it
3 or to whom it is in the interest of Nigeria his duty to communicate it, any
4 information relating to the defence or security of Nigeria shall be guilty of an
5 offence and liable on conviction to imprisonment for a term not exceeding
6 ten years.

7 (6) For the purpose of section 5 "information relating to the
8 defence or security of Nigeria" includes information relating to the
9 movement or location of defence forces or members of the Agencies, the
10 steps taken to protect any vital installations or protected places, and the
11 acquisition or disposal of munitions of war.

12 7.-(1) The National Security Agencies Act 1986 is hereby repealed. Repeal

13 (2) If any other law is inconsistent with the provision of the Act, the
14 Provisions of this Act shall prevail and other law shall, to the extent of
15 inconsistency, be void.

16 8. In this Bill, unless the context otherwise indicates- Definitions

17 "Agency" means the National Security Agencies (the Defence Intelligence
18 Agency, the National Intelligence Agency and State Security Service) as
19 established by section 3 of this Act;

20 "Cabinet" means the Cabinet of the Federal Republic of Nigeria as referred
21 to by the Constitution;

22 "Constitution" means the Constitution of the Federal Republic of Nigeria,
23 1999 as amendment;

24 "Classified matters" has the same meaning assigned thereto in section 9 of
25 the Official Secrets Act or any information or thing declared to be classified
26 by an authorized officer;

27 "Co-ordinator of the agencies" means the National Security Adviser or any
28 person as may be appointed by the President or Designated by him;

29 "Counter-intelligence" means measures and activities conducted, instituted
30 or taken to impede and to neutralize the effectiveness of foreign or hostile

1 intelligence operations, to protect intelligence and any classified information,
2 to conduct security screening investigations and to counter subversion,
3 treason, sabotage and terrorism aimed at or against personnel, strategic
4 installations or resources of the Nigeria;

5 "Covert collection" means the acquisition of information which cannot be
6 obtained by overt means and for which complete and continuous secrecy is a
7 requirement;

8 "Crime intelligence" means intelligence used in the prevention of crime or to
9 conduct criminal investigations and to prepare evidence for the purpose of law
10 enforcement and the prosecution of offenders;

11 "Departmental intelligence" means intelligence about any threat or potential
12 threat to the national security and stability of Nigeria which falls within the
13 functions of a Department of State, and includes intelligence needed by such
14 department in order to neutralize such threat;

15 "Director General" means the person appointed as the Director General of the
16 Agencies under section 3 of this Act;

17 "Domestic intelligence" means intelligence on any internal activity, factor or
18 development which is detrimental to the national stability of Nigeria, as well as
19 threats or potential threats to the constitutional order of the Nigeria and the
20 safety and the well-being of its people;

21 "Domestic military intelligence" means intelligence required for the planning
22 and conduct of military operations within Nigeria to ensure security and
23 stability for its people;

24 "Evaluate" means the process of determining and assessing whether or not
25 information is possibly correct, probably correct or factually correct;

26 "foreign intelligence" means intelligence on any external threat or potential
27 threat to the national interests of Nigeria and its people and intelligence
28 regarding opportunities relevant to the protection and promotion of such
29 national interests irrespective of whether or not it can be used in the
30 formulation of the foreign policy of Nigeria;

1 "foreign military intelligence" means intelligence regarding the war
2 potential and military establishment of foreign countries (including their
3 capabilities, intentions, strategies and tactics) which can be used by Nigeria
4 in the planning of its military forces in time of peace and for the conduct of
5 military operations in time of war;

6 "Minister" means the President or the member of his Cabinet designated by
7 the President to assume the responsibility for intelligence services as
8 contemplated in the Constitution; or responsible for National Security;

9 "National intelligence estimate" means the product of the process of
10 considering and weighing the possibilities, probabilities and facts disclosed
11 by national security intelligence with regard to any situation, and of drawing
12 conclusions from such possibilities, probabilities and facts;

13 "National Security Agencies" means-

14 (a) Defence Intelligence Agency (DIA) as defined by section 2(a)
15 of this Act;

16 (b) National Intelligence Agency (NIA) as defined by section 2(b)
17 of this Act;

18 (c) State Security Service (SSS) as defined by Section 2© of this
19 Act.

20 "National security intelligence" means intelligence which relates to or may
21 be relevant to the assessment of any threat or potential threat to the security
22 of Nigeria in any field;

23 "National strategic intelligence" means comprehensive, integrated and
24 estimative intelligence on all the current and long-term aspects of national
25 security which are of special concern to strategic decision-making and the
26 formulation and implementation of policy and strategy at national level;

27 "Principal Officers" means the Director General of the Agencies or such
28 senior officials as created by this Act, or in the implementation of the Act;

29 "Subversion" means any activity intended to destroy or undermine the
30 constitutionally established system of government in Nigeria;

1 "This Act" includes the regulations.

Citation

2 9. This Act may be cited as the National Security Bill, 2016, and shall
3 come into effect on the date fixed by the President by proclamation in the
4 gazette.

EXPLANATORY MEMORANDUM

This Bill seeks to repeal the National Security Agencies Act CAP N74 of 1986 and to Enact the National Security Agencies Act 2016 and to define the functions of members of the National Security Agencies; the Defence Intelligence Agency; National Intelligence Agency and the State Security Service and their functions and procedures in respect of intelligence relating to the security of the Nation; and to provide for the appointment of the Principal Officers, the coordinator of the Agencies and to define their functions.