

A BILL

FOR

AN ACT TO MAKE SPECIAL PROVISIONS FOR SUPPRESSION OF PIRACY AND TO PROVIDE FOR PUNISHMENT FOR THE OFFENCE OF PIRACY AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO

Sponsored by Senator Nelson Effiong

[] Commencement

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

- 1 1. This Bill may be cited as the Piracy Bill, 2016 Citation
- 2 2.-(1) In this Act, unless the context otherwise requires- Interpretations
- 3 (a) "Convention State" means a State party to the United Nations
- 4 Convention of the Law of the Sea 1982;
- 5 (b) "Designated Court" means a Court as a Designated Court under
- 6 this Act;
- 7 (c) "Notification" means a notification published in the Official
- 8 Gazette;
- 9 (d) "piracy" means,
- 10 (e) any illegal act of violence or detention, or any act of
- 11 depredation, committed for private ends by the crew or the passengers of a
- 12 private ship or a private aircraft, and directed-
- 13 (a) on the high seas, against another ship or aircraft, or against
- 14 persons or property on board such ship or aircraft;
- 15 (b) against a ship, aircraft, persons or property in a place outside the
- 16 jurisdiction of any State;
- 17 (ii) any act of voluntary participation in the operation of a ship or of
- 18 an aircraft with knowledge of facts, making it a pirate ship or aircraft;
- 19 (iii) any act of inciting or of intentionally facilitating an act
- 20 described in sub-clauses (i) and (ii);

1 (iv) any act which is deemed piratical under the customary
2 international law;

3 (f) "pirate ship or aircraft" means a ship or aircraft which, if-

4 (i) it is intended by the persons in dominant control to be used for the
5 purpose of committing one of the acts referred to in sub-clauses (i) to (iii) of
6 clause (e);

7 (ii) it has been used to commit any such act, so long as it remains under
8 the control of the persons guilty of that act.

Punishment for
Piracy

9 **3.** Whoever commits an act of piracy shall be punished with
10 imprisonment for life except where the accused has caused death in
11 committing the act of piracy or attempt thereof in which case he may be
12 punished with death and in addition the Designated Court may also subject to
13 any restitution or forfeiture of property involved in the commission of the
14 offence.

Attempt to
commit Piracy

15 **4.** An attempt to commit piracy or any unlawful attempt intended to
16 aid, abet, counsel or procure for the commission of an offence of piracy shall
17 also constitute an offence and is liable on conviction to be punished with
18 imprisonment for a term which may extend to fourteen years and shall also be
19 liable to fine.

Punishment to
accomplice to
piracy

20 **5.** Every person who is an accomplice to an act of piracy shall be
21 liable on conviction to be punished with imprisonment for a term which may
22 extend to fourteen years and shall also be liable to fine.

Conferment of
power of
investigation

23 **6.-(1)** Notwithstanding anything contained in the Criminal Code Act,
24 for the purposes of this Act, the Federal Government may, by notification,
25 confer on any officer of Government the powers of arrest of any person,
26 investigation and prosecution exercisable by a police officer under the
27 Criminal Code Act.

28 (2) The Designated Court shall have jurisdiction to prosecute-

29 (a) any person who apprehended by or in the custody of the coast
30 guard vessel or an Indian naval warship regardless of the nationality or

1 citizenship of such person and is accused of committing an act punishable
2 under this Act;

3 (b) when a person is accused of committing an act of piracy is a
4 citizen or national of Nigeria or is a resident foreign national in Nigeria or is
5 a stateless person;

6 (c) when an offence under this Act is committed on board a foreign
7 flag ship, where the law enforcement or other public authority of the port or
8 place where the ship is located has been requested to intervene by the State
9 whose flag the vessel is entitled to fly, or by the owner of the ship or its
10 master or other person on board the ship:

11 Provided that nothing in this sub-section shall apply if the ship in question is
12 a warship or auxiliary ship or is a government owned ship employed in non-
13 commercial service and under the control of the government authorities at
14 the time of the act of piracy otherwise giving rise to jurisdiction to the Court.

15 (3) Notwithstanding anything contained in any other law for the
16 time being in force, the Designated Court shall have the jurisdiction to try a
17 proclaimed offender in absentia.

18 7. In any prosecution of an offence under this Act, if it is proved- Presumption

19 (a) that the arms, ammunition, explosives and other equipment's
20 were recovered from the possession of the accused and there is a reason to
21 believe that such arms, ammunition, explosives or other equipment's of
22 similar nature were used in the commission of the offence; or

23 (b) that there is evidence of use of the force, threat of force or any
24 other form of intimidation caused to the crew or passengers of the ship in
25 connection with the commission of the offence; or

26 (c) that there is evidence of an intended threat of using bomb, arms,
27 firearms, explosives or committing any form of violence against the crew,
28 passengers or cargo of a ship, the Designated Court shall presume, unless the
29 contrary is proved that the accused had committed such offence and the
30 burden of proof that the accused has not committed such offence shall shift

1 to the accused.

Designated
Court

2 8.-(1) For the purpose of providing for speedy trial of the offences
3 under this Act, the Federal Government shall, after consulting the Chief
4 Justice of the Federation, by notification, specify-

5 (i) one or more Court, to be Designated Court for the purposes of this
6 Act; and

7 (ii) the territorial jurisdiction of each such Court.

8 (2) Notwithstanding anything contained in the Criminal Code Act, a
9 Designated Court shall, as far as practicable, hold the trial on a day-to-day
10 basis.

Offences triable
by designated
Court

11 9.-(1) Notwithstanding anything contained in the Criminal Code Act-

12 (a) all offences under this Act shall be triable only by the Designated
13 Court specified under sub-section (1) of section 8;

14 (b) where a person accused of or suspected of the commission of an
15 offence under this Act is produced before a Magistrate under the Criminal Code
16 Act, such Magistrate may authorise the detention of such person in such
17 custody as he thinks fit for a period not exceeding fifteen days.

18 Provided that where such Magistrate considers-

19 (i) when such person is forwarded to him under this sub-section; or

20 (ii) upon or at any time before the expiry of the period of detention
21 authorised by him, that the detention of such person is unnecessary, he shall
22 order such person to be produced before the Designated Court having
23 jurisdiction;

24 (c) the Designated Court may exercise, in relation to the person
25 produced before him under clause (b), the same power which a Magistrate
26 having jurisdiction to try a case may exercise under the Criminal Code Act, in
27 relation to an accused person in such case who has been forwarded to him under
28 that section;

29 (d) a Designated Court may, upon a perusal of a complaint made by an
30 officer as the case may be, authorised in this behalf, take cognizance of that

1 offence without the accused being committed to it for trial.

2 (2) While trying an offence under this Act, a Designated Court may
3 also try an offence other than an offence under this Act, with which the
4 accused may, under the Code, be charged at the same trial.

5 10. Save as otherwise provided in this Act, the provisions of the
6 Criminal Code Act shall apply to the proceedings before a Designated Court
7 and the person conducting a prosecution before a Designated Court shall be
8 deemed to be a Public Prosecutor.

Application of
the Criminal
Code Act

9 11.-(1) Notwithstanding anything contained in the Criminal Code
10 Act, no person accused of an offence punishable under this Act shall, if in
11 custody, be released on bail or on his own bond unless-

Provision as to
bail

12 (a) the Public Prosecutor has been given an opportunity to oppose
13 the application for such release; and

14 (b) where the Public Prosecutor opposes the application, the Court
15 is satisfied that there are reasonable grounds for believing that he is not
16 guilty of such offence and that he is not likely to commit any offence while
17 on bail.

18 (2) Nothing contained in this section shall be deemed to affect the
19 special powers of the High Court regarding grant of bail under section 439 of
20 the Code.

21 12.-(1) The offence under this Act shall be deemed to have been
22 included as extraditable offences and provided for in all extraditable treaties
23 made by Nigeria.

Provision as to
extradition

24 (2) In the absence of a bilateral extradition treaty, the offences
25 under this Act shall be extraditable offences between Nigeria and other
26 Convention States on the basis of reciprocity.

27 (3) For the purposes of application of the provisions of the
28 Extradition Treaty to the offences under this Act, any ship registered in a
29 Convention State shall, at any time while that ship is plying, be deemed to be
30 within the jurisdiction of that Convention State whether or not it is for the

1 time being also within the jurisdiction of any other country.

2 (4) For the purposes of this section, the provisions of section 188 of
3 the Code shall apply.

Arrest and seizure
of property

4 **13.**-(1) On the high seas, or in any other place outside the
5 jurisdiction of any State, every State may seize a pirate ship or aircraft, or a
6 ship or aircraft taken by piracy and under the control of pirates, and arrest the
7 persons and seize the property on board.

8 (2) A seizure on account of piracy may be carried out only by
9 warships or military aircraft, or other ships or aircraft clearly marked and
10 identifiable as being on government service and authorised to that effect.

Geographic
Zone

11 **14.**-(1) For the purposes of geographic scope, the provisions of this
12 Act shall also extend to the exclusive economic zone of Nigeria.

13 (2) In this section, the expression "exclusive economic zone of
14 Nigeria" shall have the same meaning as assigned to it in the Territorial
15 Water, Continental Shelf, and Exclusive Economic Zone Act.

EXPLANATORY MEMORANDUM

This Bill seeks to make special provisions for suppression of piracy and to provide for punishment for the offence of piracy in Nigeria territorial waters