

A BILL

FOR

AN ACT TO PROHIBIT MERCENARY ACTIVITY; TO REGULATE THE PROVISION OF ASSISTANCE OR SERVICE OF A MILITARY OR MILITARY-RELATED NATURE IN A COUNTRY OF ARMED CONFLICT; TO REGULATE THE ESTABLISHMENT OF NIGERIAN CITIZENS OR PERMANENT RESIDENTS IN OTHER ARMED FORCES; TO REGULATE THE PROVISION OF HUMANITARIAN AID IN A COUNTRY OF ARMED CONFLICT; TO PROVIDE FOR EXTRA-TERRITORIAL JURISDICTION FOR THE COURTS OF NIGERIA WITH REGARD TO CERTAIN OFFENCES; TO PROVIDE FOR THE OFFENCES AND PENALTIES; AND FOR RELATED MATTERS

Sponsors: Hon. Rimamnde S. Kwewum, Hon. Kingsley K. Chinda

[] Commencement

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

- 1 1.-(1) No person may within the Nigeria or elsewhere-
- 2 {a} participate as a combatant for private gain in an armed conflict;
- 3 (b) directly or indirectly recruit, use, train, support or finance a
- 4 combatant for private gain in an armed conflict;
- 5 (c) directly or indirectly participate in any manner in the initiation,
- 6 causing or furthering of:
- 7 (i) an armed conflict; or
- 8 (ii) a coup d'etat, uprising or rebellion against any government; or
- 9 (d) directly or indirectly perform any act aimed at overthrowing a
- 10 government or undermining the constitutional order, sovereignty or
- 11 territorial integrity of a state.
- 12 {2} Any person who contravenes subsection (1) is guilty of an
- 13 offence.

Prohibition of
mercenary activity

Prohibition and
regulation of
certain assistance
or rendering of
services in country
of armed conflict
or regulated
country

1 **2.-(1)** No person may within Nigeria or elsewhere-
2 (a) negotiate or offer to provide any assistance or render any service to
3 a party to an armed conflict or in a regulated country, unless such a person has
4 been granted authorization in terms of section 7 to negotiate or offer such
5 assistance or service;
6 (b) provide any assistance or render any service to a party to an armed
7 conflict or in a regulated country, unless such assistance is provided or such
8 service is rendered in accordance with an agreement or arrangement authorized
9 in terms of section 7;
10 (c) recruit, use, train, support or finance any person to provide
11 assistance or render any service to a party to an armed conflict or in a regulated
12 country, unless such person has been authorized in terms of section 7 to recruit,
13 use, train, support or finance such a person;
14 (d) recruit, use, train, support or finance any person to provide
15 assistance or render a service to a party to an armed conflict or in a regulated
16 country unless such a person is recruited, used, trained, supported or financed
17 in accordance with an agreement or arrangement authorized in terms of section
18 7; or
19 (e) perform any other act that lies the result of furthering the military
20 interests of a party to an armed conflict or in a regulated county, unless such a
21 person has been authorized in terms of section 7.

Prohibition and
regulation of
enlistment of
Nigerians in
armed forces

22 **(2)** Any person who contravenes subsection (1) is guilty of an offence.
23 **3.-(1)** No Nigerian citizen or permanent resident may enlist with any
24 armed force, other than the Nigerian Armed Forces, including an armed force
25 of any foreign state, unless he or she has been authorized in terms of section 7.

26 **(2)** Subject to section 7(5) and (6), an authorization granted in terms
27 of section 7 may be revoked if the person to whom the authorization has been
28 granted takes part in an armed conflict as a member of an armed force other
29 than the Armed Forces and such authorization contravenes any one of the
30 criteria listed in section 9.

1 4.-(1) No Nigerian humanitarian organization may provide
2 humanitarian assistance in a country where there is an armed conflict or a
3 regulated country, unless such organization has been registered with the
4 Committee for that purpose.

Prohibition and
regulation of
humanitarian
assistance in
country of armed
conflict

5 (2) An organization referred to in subsection (1) must submit to the
6 Committee an application for registration in the prescribed form and
7 manner.

8 5.-(1) The Committee must inform the Federal Executive Council,
9 whenever it is of the opinion that-

Proclamation of
regulated country

10 (a) an armed conflict exists or is imminent in any country, and

11 (b) such a country should be proclaimed to be a regulated country.

12 (2) After the Committee has informed the Federal Executive
13 Council in the manner contemplated in subsection (1), the President, a
14 Chairman of the Federal Executive Council, may by proclamation in the
15 Gazette, proclaim a country as a regulated country.

16 (3) The President must notify National Assembly of any
17 proclamation issued in terms of subsection (2).

18 (4) This Act applies in a regulated country.

19 6.-(1) Any person who applies for an authorization referred in
20 section 3(1) (a) to (e) or section 4(1) must submit to the Committee an
21 application for authorization in the prescribed form and manner.

Application for
authorization

22 (2) The Committee must consider any application for authorization
23 submitted in terms of subsection (1), and, subject to section 9 may-

24 (a) refuse the application;

25 (b) grant the application subject to such conditions as it may
26 determine; or

27 (c) at any time withdraw or amend an authorization so granted.

28 (3) No authorization granted in terms of this section is transferable.

29 (4) The prescribed fees in respect of an application for
30 authorization must be paid before the Committee makes its decision known.

1 (5) Any person who feels aggrieved by a decision taken in terms of
2 this section, may apply for written reasons.

3 (6) Nothing in this Act must be construed as preventing a person from
4 instituting proceedings in a competent court for judicial review.

Register of
declarations,
authorizations
and exemptions

5 7.-(1) The Committee must maintain a register of any-

6 (a) authorization issued by the Committee, in terms of section 7(2);

7 (b) proclamation made by the President, in terms of section 6;

8 (c) exemption granted by the President, in terms of section 13;

9 (d) Nigerian humanitarian organizations registered by the
10 Committee, in terms of section 5; and

11 (e) Nigerian citizens or permanent residents enlisted with an armed
12 force whose enlistment is authorized by the Committee in terms of section 4

13 (2) The Committee must submit quarterly reports to the Federal
14 Executive Council and National Assembly with regard to the register.

Criteria for
authorization or
exemption

15 8. An authorization in terms of section 7(2), and exemption in terms
16 of section 13, may be given, unless it-

17 (a) is in conflict with the Country's obligations in terms of
18 international law;

19 (b) would result in the infringement of human rights and fundamental
20 freedoms in the territory where the assistance or service is to be rendered or the
21 exemption granted;

22 (c) endangers the peace by introducing destabilizing military
23 capabilities into the region or territory where the assistance or service, or
24 humanitarian aid is or is likely to be, provided or rendered;

25 (d) would contribute to regional instability or negatively influence the
26 balance of power in such region or territory;

27 (e) in any manner supports or encourages any terrorist activity or
28 terrorist and related activities,

29 (f) contributes to the escalation of regional conflicts;

30 (g) in any manner initiates, causes or furthers an armed conflict, or a

1 coup d'etat, uprising or rebellion against a government; or.

2 (h) prejudices the Country's national or international interests.

3 9.-(1) A person who contravenes or fails to comply with section Offences and
4 4(1) or section 5, or contravenes or fails to comply with a condition penalties
5 determined in respect of an application in terms of section 7(2)(b) or section
6 13 is guilty of an offence and liable upon conviction to a time or to
7 imprisonment, or to both a fine and imprisonment.

8 (2) A person referred to in section 15(2) who fails to apply for the
9 authorization within the period referred to in that subsection, and remains so
10 enlisted, is guilty of an offence and liable, upon conviction, to a fine or to
11 imprisonment or to both a fine and imprisonment.

12 (3) The court may when convicting any person of an offence under
13 this Act declare any armament, weapon, vehicle, uniform, equipment or
14 other property or object in respect of which the offence was committed or
15 which was used for, in or in connection with the commission of the offence,
16 to be forfeited to the State

17 10.-(1) any act constituting an offence under this Act and that is Extra-territorial
18 committed outside Nigeria by- jurisdiction

19 (a) a citizen of the Nigeria;

20 (b) a person ordinarily resident in Nigeria;

21 (c) a company incorporated or registered as such under any law in
22 Nigeria; or

23 (d) anybody of persons, corporate or unincorporated, in the
24 Nigeria, must be regarded as having been committed in the Nigeria and the
25 person who committed it may be tried in a court in Nigeria which has
26 jurisdiction in respect of that offence.

27 (2)(a) Any act that constitutes an offence under section 2 of this bill
28 and that is committed outside Nigeria by a person, other than a person
29 contemplated in subsection (1) against Nigeria, its citizens or residents must
30 be regarded as having been committed in the Nigeria if that person is found

1 in the Nigeria;

2 (b) A person contemplated in paragraph (a) may be tried for such an
3 offence by a Nigerian court if there is no application for the extradition of the
4 person or if such an application has been refused.

5 (3) Any offence contemplated in subsection (1) or (2) is for the
6 purpose of determining the jurisdiction of a court to try the offence, regarding
7 as having been committed at-

8 (a) the place where the accused is ordinarily resident;

9 (b) the accused principal place of business; or

10 (c) the place where the accused was arrested.

11 (4) Where a person is charged with conspiracy or incitement to
12 commit an offence or as an accessory after the fact, the offence is regarded as
13 having been committed not only at the place where the act was committed, but
14 also at every place where the conspirator, inciter or accessory acted or in the
15 case of an omission, should have acted.

Regulations

16 **11.**-(1) The President as Chairman of the Federal Executive Council
17 may make regulations relating to-

18 (a) any matter which is required or permitted in terms of this Act to be
19 prescribed;

20 (b) the consideration of an application for an authorization in terms of
21 section 7(2);

22 (c) the maintenance of the register; and

23 (d) generally, any other ancillary or incidental administrative or
24 procedural matter which it may be expedient or necessary to prescribe for the
25 proper implementation or administration of this Act.

26 (2) A regulation may prescribe a penalty of a fine or of imprisonment
27 for a period not exceeding five years, or both a fine and such imprisonment, for
28 any contravention thereof or any failure to comply herewith.

Exemptions

29 **12.** The President as Chairman of the Federal Executive Council may
30 subject to section 9 upon request in the prescribed form and manner, exempt

1 any humanitarian aid organization from the provisions of section 5 of this
2 Act, if such exemption would facilitate the rendering of humanitarian aid
3 without delay, in order to relieve the plight of civilians in an armed conflict,
4 and subject to such conditions as he or she may determine.

5 13.-(1) Any authorization or approval granted in terms of the
6 Regulation of Foreign Military Assistance, remains in force and effect until
7 withdrawn or amended or until expiry of the term for which it was granted.

Transitional
provisions

8 (2)(a) A citizen of Nigeria or a person ordinarily resident in the
9 Nigeria who at the time of the commencement of this Act, had already been
10 enlisted in an armed force, must within six months of the date of
11 commencement of this Act, apply for authorization in the manner required
12 by section 7; and

13 (b) If a citizen or person contemplated in paragraph (a), filed an
14 application for authorization within the period provided for in that
15 paragraph, the citizen or person may remain so enlisted until the application
16 is decided.

17 (3)(a) Any person who at the time of the commencement of this Act
18 is involved in the activities contemplated in section 3(1)(a) to (e) that did not
19 constitute an offence under the Regulation of Foreign Military Assistance
20 must within six months of the date of commencement of this Act apply for
21 authorization in the manner required by section 7;

22 (b) If a person contemplated in paragraph (a) filed an application
23 for authorization within the period provided for in that paragraph, the person
24 who conducts that activity may continue with the activity until the
25 application is decided.

26 (4) All formal hearings and court proceedings instituted, prior to
27 the commencement of this Act, in terms of the Regulation of Foreign
28 Military Assistance and that have not been concluded before the
29 commencement of this Act must be continued with and concluded as if this
30 Act had not been passed.

Interpretation

- 1 **14.-(1)** In this Bill, unless the context indicates otherwise:
- 2 "Armed conflict" includes any:
- 3 (a) situation in a regulated country proclaimed as such in terms
- 4 section 6 and
- 5 (b) armed conflict in any other country which has not been so
- 6 proclaimed, between:
- 7 (i) armed groups; (ii);
- 8 (iii) the armed forces of such country and dissident or rebel armed
- 9 forces or other the armed forces of any state; armed groups
- 10 (iv) armed forces of any occupying power and dissident or rebel
- 11 armed forces or any other armed group; or
- 12 (v) any other combination of the entities referred to in subparagraphs
- 13 "assistance or service" includes-
- 14 (a) Any form of military or military-related assistance, service or
- 15 activity;
- 16 (b) Any form of assistance or service to a party to an armed conflict by
- 17 means of-
- 18 (i) Advice or training;
- 19 (ii) Personnel, financial, logistical, intelligence or operational
- 20 support;
- 21 (iii) Personnel recruitment;
- 22 (iv) Medical or paramedical services; or
- 23 (v) Procurement of equipment; or
- 24 (c) Security services;
- 25 "Committee" mean the members of the Prohibition of Mercenary Activities
- 26 and Regulation of Certain Activities in Country of Armed Conflicts as
- 27 nominated by the President subject to confirmation by the National Assembly.
- 28 "Person" means a person who is a citizen of, or is permanently resident in
- 29 Nigeria, a juristic person registered or incorporated in Nigeria, or any foreign
- 30 citizen who contravenes this Act within the borders of Nigeria;

1 "Prescribed" means prescribed by regulation made in terms of section 12;

2 "register" means the register referred to in section 8;

3 "regulated country" means a country contemplated in section 6;

4 "security services" means one or more of the following services or activities:

5 (a) Protection or safeguarding of an individual, personnel or
6 property in any manner;

7 (b) Giving advice on the protection or safeguarding of individuals
8 or property;

9 (c) Giving advice on the use of security equipment;

10 (d) Providing a reactive or response service in connection with the
11 safeguarding of persons or
12 property in any manner;

13 (e) Providing security training or instruction to a security service
14 provider or prospective security service provider;

15 (f) Installing, servicing or repairing security equipment;

16 (g) Monitoring signals or transmissions from security equipment;

17 (h) Making a person or service of a person available, directly or
18 indirectly for the rendering of any service referred to in paragraphs (a) to (g);

19 (i) Managing, controlling or supervising the rendering of any of
20 the services referred to in paragraphs (a) to {h};

21 "this Bill" includes the regulations.

22 (2) No act may be construed as assistance or service if such act is-

23 (a) in accordance with the principles of international law,
24 especially international humanitarian law, including the purposes and
25 principles of the Charter of the United Nations and the Declaration on
26 Principles of International Law concerning Friendly Relations and
27 Cooperation among States; or

28 (b) performed by the security Agencies, as contemplated in
29 sections 214 & 217 of the Constitution of the Federal Republic of Nigeria
30 1999 and other Acts of the National Assembly in fulfillment of Nigeria's

- Short title
- 1 international obligations or in terms of any other law.
 - 2 15. This Bill may be cited as the Prohibition of Mercenary Activities
 - 3 and Regulation of Certain Activities in Country of Armed Conflict Bill, 2019.

EXPLANATORY MEMORANDUM

This Bill seeks to prohibit Mercenary activity; to regulate the provision of assistance or service of a military or military-related nature in a Country of armed conflict; to regulate the establishment of Nigerian citizens or permanent residents in other armed forces; to regulate the provision of humanitarian aid in a Country of armed conflict; to provide for extra-territorial jurisdiction for the Courts of Nigeria with regard to certain offences; to provide for the offences and penalties.