Version
as at 5 April 2025

Mercenary Activities (Prohibition) Act 2004

Public Act	2004 No 69
Date of assent	6 July 2004
Commencement	see section 2

Contents

		Page
1	Title	2
	Part 1 **Preliminary provisions**	
2	Commencement	3
3	Purpose	3
4	Interpretation	3
5	Mercenary defined	4
6	Act binds the Crown	5
	Part 2 **Mercenary activities**	
	Recruiting, using, financing, and training of mercenary	
7	Recruiting person to be mercenary	5
8	Using mercenary	6
9	Financing mercenary	6
10	Training prospective mercenary	7
11	Training mercenary	7

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Foreign Affairs and Trade.

Mercenary taking part in hostilities or concerted act of violence

12 Mercenary taking part in hostilities or concerted act of violence 8

Extraterritorial jurisdiction

13 Extraterritorial jurisdiction 8

Part 3
Miscellaneous provisions

Evidence that States are, or are not, Parties to Mercenaries Convention

14 Certificate as to States Parties under Mercenaries Convention 9

Investigation and prosecution of offences against Act or referred to in Mercenaries Convention

15 Application of sections 16 and 17 9
16 Attorney-General to notify relevant States Parties of measures taken to ensure person's presence 10
17 Attorney-General to indicate to relevant States Parties whether New Zealand to exercise jurisdiction 10
18 Rights of certain persons taken into custody to communicate with representative of State 10
19 Attorney-General's consent to prosecutions required 11
20 Attorney-General to communicate outcome of prosecution 11

Extradition

21 Offences deemed to be included in extradition treaties 11

Amendment to Extradition Act 1999

22 Amendment to Extradition Act 1999 12

Amendment to Mutual Assistance in Criminal Matters Act 1992

23 Schedule of Mutual Assistance in Criminal Matters Act 1992 amended to refer to Mercenaries Convention 12

Schedule 13
International Convention against the Recruitment, Use, Financing and Training of Mercenaries

1 Title

This Act is the Mercenary Activities (Prohibition) Act 2004.

Part 1
Preliminary provisions

2 Commencement

(1) This Act comes into force on a date to be appointed by the Governor-General by Order in Council.

(2) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 2(1): Mercenary Activities (Prohibition) Act 2004 brought into force, on 22 October 2004, by the Mercenary Activities (Prohibition) Act Commencement Order 2004 (SR 2004/270).

Section 2(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

3 Purpose

The purpose of this Act is to implement in New Zealand law New Zealand's obligations under the Mercenaries Convention.

4 Interpretation

(1) In this Act, unless the context otherwise requires,—

concerted act of violence means an act of violence designed to—

(a) overthrow a government or otherwise undermine the constitutional order of a State; or

(b) undermine the territorial integrity of a State

Mercenaries Convention means the International Convention against the Recruitment, Use, Financing and Training of Mercenaries done at New York on 4 December 1989 (a copy of the English text of which is set out in the Schedule)

mercenary has the meaning given to it in section 5(1).

(2) For the purposes of this Act, a person must be treated as being **ordinarily resident** in a specified State (including New Zealand) if—

(a) the person's home is in the State; or

(b) the person is residing in the State with the intention of residing there indefinitely; or

(c) having resided in the State with the intention of establishing his or her home in the State indefinitely, the person is outside the State but has an

intention to return to establish his or her home in the State or to reside in the State indefinitely.

5 Mercenary defined

(1) In this Act, unless the context otherwise requires, **mercenary** means—

(a) any person—

(i) who is recruited, within New Zealand or elsewhere, in order to take part in hostilities in an armed conflict; and

(ii) whose purpose, or one of whose purposes, in taking part in hostilities in the armed conflict is making private gain; and

(iii) who is promised or paid by, or on behalf of, a party to the armed conflict material compensation substantially in excess of that promised or paid to combatants of similar rank and functions in the armed forces of that party; or

(b) any person, other than a person referred to in paragraph (a),—

(i) who is recruited, within New Zealand or elsewhere, in order to take part in a concerted act of violence; and

(ii) whose purpose, or one of whose purposes, in taking part in the concerted act of violence is making significant private gain; and

(iii) who is promised or paid material compensation.

(2) A person is not a mercenary—

(a) within the meaning of subsection (1)(a) if he or she is—

(i) a citizen of a party to the armed conflict or ordinarily resident in territory controlled by a party to the armed conflict; or

(ii) a member of the armed forces of a party to the armed conflict; or

(iii) sent by a State that is not a party to the armed conflict on official duty as a member of its armed forces:

(b) within the meaning of subsection (1)(b) if he or she is—

(i) a citizen of, or ordinarily resident in, the State against which the concerted act of violence is directed; or

(ii) sent by a State on official duty; or

(iii) a member of the armed forces of the State on whose territory the concerted act of violence is undertaken.

(3) A person is not a mercenary within the meaning of subsection (1)(a) or subsection (1)(b) if he or she is taking part in—

(a) a peace support mission—

(i) for any of the purposes of the United Nations; or

(ii) that is undertaken in accordance with the principles of the Charter of the United Nations; or

(b) the detection, clearance, deactivation, or destruction of mines or unexploded ordnance, other than in a combat role; or

(c) the delivery of humanitarian aid; or

(d) domestic policing duties or other lawful activities of a similar kind involving the protection of individuals or property.

(4) Subsections (2) and (3) do not limit the circumstances in which a person is not a mercenary.

6 Act binds the Crown

This Act binds the Crown.

Part 2
Mercenary activities

Recruiting, using, financing, and training of mercenary

7 Recruiting person to be mercenary

(1) Every person commits an offence, and is liable on conviction to imprisonment for a term not exceeding 14 years, who recruits, within New Zealand or elsewhere, a person for the purpose of taking part in hostilities in an armed conflict—

(a) with the intention that the person being recruited make private gain from taking part in hostilities in the armed conflict; and

(b) knowing that the person being recruited has been or is being promised by, or on behalf of, a party to the armed conflict, material compensation substantially in excess of that promised or paid to combatants of similar rank and functions in the armed forces of that party.

(2) Subsection (1) does not apply if the person being recruited—

(a) is a citizen of a party to the armed conflict or ordinarily resident in territory controlled by a party to the armed conflict; or

(b) is, or once recruited will be, a member of the armed forces of a party to the armed conflict; or

(c) will be sent by a State that is not a party to the armed conflict on official duty as a member of its armed forces.

(3) Every person commits an offence, and is liable on conviction to imprisonment for a term not exceeding 14 years, who recruits, within New Zealand or elsewhere, a person for the purpose of taking part in a concerted act of violence—

(a) with the intention that the person being recruited make significant private gain from taking part in the concerted act of violence; and

(b) knowing that the person being recruited has been or is being promised material compensation to take part in the concerted act of violence.

(4) Subsection (3) does not apply if the person being recruited—

(a) is a citizen of, or ordinarily resident in, the State against which the concerted act of violence is or will be directed; or

(b) will be sent by a State on the official duty of that State; or

(c) is, or once recruited will be, a member of the armed forces of the State on whose territory the concerted act of violence is undertaken.

Section 7(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 7(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

8 Using mercenary

Every person commits an offence, and is liable on conviction to imprisonment for a term not exceeding 14 years, who,—

(a) knowing that a person is a mercenary of the kind described in section 5(1)(a), uses that person to take part in hostilities in an armed conflict; or

(b) knowing that a person is a mercenary of the kind described in section 5(1)(b), uses that person to take part in a concerted act of violence.

Section 8: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

9 Financing mercenary

(1) Every person commits an offence, and is liable on conviction to imprisonment for a term not exceeding 14 years, who, without lawful justification or reasonable excuse, provides funds intending that those funds be used, or knowing that they are to be used, in full or in part,—

(a) to enable a person who is a mercenary of the kind described in section 5(1)(a) to take part in hostilities in an armed conflict; or

(b) to enable a person who is a mercenary of the kind described in section 5(1)(b) to take part in a concerted act of violence.

(2) In subsection (1), **funds**—

(a) means assets of every kind, whether tangible or intangible, moveable or immoveable, however acquired; and

(b) includes legal documents or instruments (for example, bank credits, travellers' cheques, bank cheques, money orders, shares, securities, bonds, drafts, and letters of credit) in any form (for example, in electronic or digital form) evidencing title to, or an interest in, assets of any kind.

(3) In a prosecution for financing a mercenary, it is not necessary for the prosecutor to prove that the funds provided were actually used, in full or in part, to

enable a mercenary to take part in hostilities in an armed conflict or take part in a concerted act of violence.

Section 9(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

10 Training prospective mercenary

(1) Every person commits an offence, and is liable on conviction to imprisonment for a term not exceeding 14 years, who trains a person to take part in hostilities in an armed conflict—

(a) with the intention that the person being trained be recruited as a mercenary of the kind described in section 5(1)(a) once the person has completed the training; or

(b) knowing that the person being trained is likely to be recruited as a mercenary of the kind described in section 5(1)(a) once the person has completed the training.

(2) Every person commits an offence, and is liable on conviction to imprisonment for a term not exceeding 14 years, who trains a person to take part in a concerted act of violence—

(a) with the intention that the person being trained be recruited as a mercenary of the kind described in section 5(1)(b) once the person has completed the training; or

(b) knowing that the person being trained is likely to be recruited as a mercenary of the kind described in section 5(1)(b) once the person has completed the training.

Section 10(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 10(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

11 Training mercenary

Every person commits an offence, and is liable on conviction to imprisonment for a term not exceeding 14 years, who,—

(a) knowing that a person is a mercenary of the kind described in section 5(1)(a), trains that person to take part in hostilities in an armed conflict; or

(b) knowing that a person is a mercenary of the kind described in section 5(1)(b), trains that person to take part in a concerted act of violence.

Section 11: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Mercenary taking part in hostilities or concerted act of violence

12 Mercenary taking part in hostilities or concerted act of violence

(1) Every person commits an offence, and is liable on conviction to imprisonment for a term not exceeding 14 years, who, being a mercenary of the kind described in section 5(1)(a), intentionally takes part directly in hostilities in an armed conflict.

(2) Every person commits an offence, and is liable on conviction to imprisonment for a term not exceeding 14 years, who, being a mercenary of the kind described in section 5(1)(b), intentionally takes part directly in a concerted act of violence.

Section 12(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 12(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Extraterritorial jurisdiction

13 Extraterritorial jurisdiction

(1) Even if the acts or omissions alleged to constitute an offence occurred wholly outside New Zealand, proceedings may be brought for an offence under any of sections 7 to 12—

(a) if the person to be charged—

(i) is a New Zealand citizen; or

(ii) is ordinarily resident in New Zealand; or

(iii) has been found in New Zealand and has not been extradited; or

(iv) is a body corporate, or a corporation sole, incorporated under the law of New Zealand; or

(b) if any of the acts or omissions is alleged to have occurred on board—

(i) a ship registered, or required to be registered, under the Ship Registration Act 1992; or

(ii) a ship used as a ship of the New Zealand Defence Force; or

(iii) an aircraft registered, or required to be registered, in New Zealand under the Civil Aviation Act 2023; or

(iv) an aircraft for the time being used as an aircraft of the New Zealand Defence Force; or

(v) an aircraft that is leased to a lessee whose principal place of business is in New Zealand, or who is a New Zealand citizen or a person ordinarily resident in New Zealand; or

(c) if a person in respect of whom the offence is alleged to have been committed—

(i) is a New Zealand citizen; or

(ii) is ordinarily resident in New Zealand.

(2) The following sections do not apply in respect of an offence under any of sections 7 to 12:

(a) section 8 of the Crimes Act 1961 (which relates to jurisdiction in respect of crimes on ships or aircraft beyond New Zealand):

(b) section 400 of the Crimes Act 1961 (which requires the consent of the Attorney-General to proceedings in certain cases for offences on ships or aircraft).

(3) Nothing in this section limits the application of any of sections 7 to 12 in respect of—

(a) acts or omissions that occurred wholly in New Zealand; or

(b) the application of section 7 of the Crimes Act 1961 to the occurrence in New Zealand of—

(i) an act or omission forming part of an offence; or

(ii) an event necessary to the completion of an offence; or

(c) the application of section 8A of the Crimes Act 1961.

Section 13(1)(b)(iii): amended, on 5 April 2025, by section 486 of the Civil Aviation Act 2023 (2023 No 10).

Part 3
Miscellaneous provisions

Evidence that States are, or are not, Parties to Mercenaries Convention

14 Certificate as to States Parties under Mercenaries Convention

A certificate that appears to be signed by, or on behalf of, the Secretary of Foreign Affairs and Trade and that states that a State is, or is not, a State Party to the Mercenaries Convention is sufficient evidence of that matter, unless the contrary is proved.

Investigation and prosecution of offences against Act or referred to in Mercenaries Convention

15 Application of sections 16 and 17

(1) Sections 16 and 17 apply whenever the Attorney-General receives information that there may be present in New Zealand a person who has committed, or is alleged to have committed, an offence against article 2, article 3, or article 4 of the Mercenaries Convention.

(2) In sections 16 and 17, **relevant States Parties** means any—

(a) State Party where the offence was committed; and

(b) State Party in relation to which the offence was directed or attempted; and

(c) State Party in relation to which any person against whom the offence was directed or attempted is a person of the kind referred to in article 10(2)(c) of the Mercenaries Convention; and

(d) State Party—

(i) in relation to which the alleged offender is a citizen; or

(ii) in whose territory the alleged offender habitually resides, if the alleged offender is not a citizen of any State; and

(e) other interested States Parties the Attorney-General considers it appropriate to notify.

16 Attorney-General to notify relevant States Parties of measures taken to ensure person's presence

The Attorney-General must immediately notify the relevant States Parties, either directly or through the Secretary-General of the United Nations, if, as a result of receiving the information,—

(a) a person is taken into custody in accordance with New Zealand law; or

(b) other measures are taken under New Zealand law to ensure a person's presence for the purposes of the institution of criminal or extradition proceedings (being the measures contemplated by article 10(1) of the Mercenaries Convention).

17 Attorney-General to indicate to relevant States Parties whether New Zealand to exercise jurisdiction

When a preliminary inquiry has been undertaken under New Zealand law of the facts contained in the information (being a preliminary inquiry contemplated by article 10(1) of the Mercenaries Convention), the Attorney-General must promptly—

(a) report the findings of the inquiry to the relevant States Parties; and

(b) indicate to the relevant States Parties whether New Zealand intends to exercise jurisdiction.

18 Rights of certain persons taken into custody to communicate with representative of State

(1) This section applies to a person who is taken into custody in New Zealand as part of the measures referred to in section 16, and who is neither—

(a) a New Zealand citizen; nor

(b) a person who is ordinarily resident in New Zealand but who is not a citizen of any State.

(2) Promptly after being taken into custody, a person must be informed that he or she is entitled, and must be permitted,—

(a) to communicate without delay with the nearest appropriate representative of the relevant State; and

(b) to be visited by a representative of the relevant State.

(3) In subsection (2), **relevant State**, in relation to a person, means—

(a) the State in relation to which the person is a citizen; or

(b) the State that is otherwise entitled to protect the person's rights; or

(c) if the person is not a citizen of any State, the State in whose territory the person ordinarily resides.

(4) Nothing in this section affects any other rights of a person to whom this section applies.

19 Attorney-General's consent to prosecutions required

(1) No proceedings for an offence against this Act may be instituted in any court except with the consent of the Attorney-General.

(2) However, a person alleged to have committed an offence against this Act may be arrested, or a warrant for the person's arrest may be issued and executed, and the person may be remanded in custody or on bail, even though the Attorney-General's consent under subsection (1) has not been obtained.

20 Attorney-General to communicate outcome of prosecution

If a person is prosecuted for an offence under this Act, the Attorney-General must communicate the final outcome of the proceedings promptly to the Secretary-General of the United Nations, so that he or she may transmit the information to other States Parties to the Mercenaries Convention.

Extradition

21 Offences deemed to be included in extradition treaties

(1) For the purposes of the Extradition Act 1999 and any Order in Council in force under section 15 or section 104 of that Act, any offence under any of sections 7 to 12 is, if not already described in the treaty, deemed to be an offence described in any extradition treaty concluded before the relevant date and for the time being in force between New Zealand and any country that is a party to the Mercenaries Convention.

(2) If, under subsection (1), an offence is deemed to be an offence described in an extradition treaty, no person may be surrendered for the offence in accordance with the Extradition Act 1999 if the conduct alleged to constitute the offence occurred before the relevant date.

(3) In this section, **relevant date** means, in relation to an offence under this Act, the date on which this section comes into force.

Amendment to Extradition Act 1999

22 Amendment to Extradition Act 1999

Amendment(s) incorporated in the Act(s).

Amendment to Mutual Assistance in Criminal Matters Act 1992

23 Schedule of Mutual Assistance in Criminal Matters Act 1992 amended to refer to Mercenaries Convention

Amendment(s) incorporated in the Act(s).

Schedule
International Convention against the Recruitment, Use, Financing and Training of Mercenaries

s 4

The States Parties to the present Convention,

Reaffirming the purposes and principles enshrined in the Charter of the United Nations and in the Declaration on the Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations,

Being aware of the recruitment, use, financing and training of mercenaries for activities which violate principles of international law such as those of sovereign equality, political independence, territorial integrity of States and self-determination of peoples,

Affirming that the recruitment, use, financing and training of mercenaries should be considered as offences of grave concern to all States and that any person committing any of these offences should either be prosecuted or extradited,

Convinced of the necessity to develop and enhance international co-operation among States for the prevention, prosecution and punishment of such offences,

Expressing concern at new unlawful international activities linking drug traffickers and mercenaries in the perpetration of violent actions which undermine the constitutional order of States,

Also convinced that the adoption of a convention against the recruitment, use, financing and training of mercenaries would contribute to the eradication of these nefarious activities and thereby to the observance of the purposes and principles enshrined in the Charter of the United Nations,

Cognizant that matters not regulated by such a convention continue to be governed by the rules and principles of international law,

Have agreed as follows:

Article 1

For the purposes of the present Convention,

1. A mercenary is any person who:

   (a) Is specially recruited locally or abroad in order to fight in an armed conflict;

   (b) Is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a party to the conflict, material compensation substantially in excess of that promised or paid to combatants of similar rank and functions in the armed forces of that party;

(c) Is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict;

(d) Is not a member of the armed forces of a party to the conflict; and

(e) Has not been sent by a State which is not a party to the conflict on official duty as a member of its armed forces.

2. A mercenary is also any person who, in any other situation:

(a) Is specially recruited locally or abroad for the purpose of participating in a concerted act of violence aimed at:

(i) Overthrowing a Government or otherwise undermining the constitutional order of a State; or

(ii) Undermining the territorial integrity of a State;

(b) Is motivated to take part therein essentially by the desire for significant private gain and is prompted by the promise or payment of material compensation;

(c) Is neither a national nor a resident of the State against which such an act is directed;

(d) Has not been sent by a State on official duty; and

(e) Is not a member of the armed forces of the State on whose territory the act is undertaken.

Article 2

Any person who recruits, uses, finances or trains mercenaries, as defined in article 1 of the present Convention, commits an offence for the purposes of the Convention.

Article 3

1. A mercenary, as defined in article 1 of the present Convention, who participates directly in hostilities or in a concerted act of violence, as the case may be, commits an offence for the purposes of the Convention.

2. Nothing in this article limits the scope of application of article 4 of the present Convention.

Article 4

An offence is committed by any person who:

(a) Attempts to commit one of the offences set forth in the present Convention;

(b) Is the accomplice of a person who commits or attempts to commit any of the offences set forth in the present Convention.

Article 5

1. States Parties shall not recruit, use, finance or train mercenaries and shall prohibit such activities in accordance with the provisions of the present Convention.
2. States Parties shall not recruit, use, finance or train mercenaries for the purpose of opposing the legitimate exercise of the inalienable right of peoples to self-determination, as recognized by international law, and shall take, in conformity with international law, the appropriate measures to prevent the recruitment, use, financing or training of mercenaries for that purpose.
3. They shall make the offences set forth in the present Convention punishable by appropriate penalties which take into account the grave nature of those offences.

Article 6

States Parties shall co-operate in the prevention of the offences set forth in the present Convention, particularly by:

(a) Taking all practicable measures to prevent preparations in their respective territories for the commission of those offences within or outside their territories, including the prohibition of illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of such offences;

(b) Co-ordinating the taking of administrative and other measures as appropriate to prevent the commission of those offences.

Article 7

States Parties shall co-operate in taking the necessary measures for the implementation of the present Convention.

Article 8

Any State Party having reason to believe that one of the offences set forth in the present Convention has been, is being or will be committed shall, in accordance with its national law, communicate the relevant information, as soon as it comes to its knowledge, directly or through the Secretary-General of the United Nations, to the States Parties affected.

Article 9

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over any of the offences set forth in the present Convention which are committed:
    (a) In its territory or on board a ship or aircraft registered in that State;
    (b) By any of its nationals or, if that State considers it appropriate, by those stateless persons who have their habitual residence in that territory.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences set forth in articles 2, 3 and 4 of the present Convention in cases where the alleged offender is present in its territory and it does not extradite him to any of the States mentioned in paragraph 1 of this article.

3. The present Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 10

1. Upon being satisfied that the circumstances so warrant, any State Party in whose territory the alleged offender is present shall, in accordance with its laws, take him into custody or take such other measures to ensure his presence for such time as is necessary to enable any criminal or extradition proceedings to be instituted. The State Party shall immediately make a preliminary inquiry into the facts.

2. When a State Party, pursuant to this article, has taken a person into custody or has taken such other measures referred to in paragraph 1 of this article, it shall notify without delay either directly or through the Secretary-General of the United Nations:

   (a) The State Party where the offence was committed;

   (b) The State Party against which the offence has been directed or attempted;

   (c) The State Party of which the natural or juridical person against whom the offence has been directed or attempted is a national;

   (d) The State Party of which the alleged offender is a national or, if he is a stateless person, in whose territory he has his habitual residence;

   (e) Any other interested State Party which it considers it appropriate to notify.

3. Any person regarding whom the measures referred to in paragraph 1 of this article are being taken shall be entitled:

   (a) To communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to protect his rights or, if he is a stateless person, the State in whose territory he has his habitual residence;

   (b) To be visited by a representative of that State.

4. The provisions of paragraph 3 of this article shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 9, paragraph 1(b) to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

5. The State which makes the preliminary inquiry contemplated in paragraph 1 of this article shall promptly report its findings to the States referred to in paragraph 2 of this article and indicate whether it intends to exercise jurisdiction.

Article 11

Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in the present Convention shall be guaranteed at all stages of the proceedings fair treatment and all the rights and guarantees provided for in the law of the State in question. Applicable norms of international law should be taken into account.

Article 12

The State Party in whose territory the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

Article 13

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in the present Convention, including the supply of all evidence at their disposal necessary for the proceedings. The law of the State whose assistance is requested shall apply in all cases.
2. The provisions of paragraph 1 of this article shall not affect obligations concerning mutual judicial assistance embodied in any other treaty.

Article 14

The State Party where the alleged offender is prosecuted shall in accordance with its laws communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States concerned.

Article 15

1. The offences set forth in articles 2, 3 and 4 of the present Convention shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.
2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider the present Convention as the legal basis for extradition in respect of those offences. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those offences as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

4. The offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 9 of the present Convention.

Article 16

The present Convention shall be applied without prejudice to:

(a) The rules relating to the international responsibility of States;

(b) The law of armed conflict and international humanitarian law, including the provisions relating to the status of combatant or of prisoner of war.

Article 17

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by a request in conformity with the Statute of the Court.

2. Each State may, at the time of signature or ratification of the present Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 18

1. The present Convention shall be open for signature by all States until 31 December 1990 at United Nations Headquarters in New York.

2. The present Convention shall be subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 19

1. The present Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-second instrument of ratification or accession with the Secretary-General of the United Nations.
2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 20

1. Any State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations.
2. Denunciation shall take effect one year after the date on which the notification is received by the Secretary-General of the United Nations.

Article 21

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed the present Convention, opened for signature at New York on 4 December 1989.

Notes

1 General

This is a consolidation of the Mercenary Activities (Prohibition) Act 2004 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Civil Aviation Act 2023 (2023 No 10): section 486

Secondary Legislation Act 2021 (2021 No 7): section 3

Criminal Procedure Act 2011 (2011 No 81): section 413

Mercenary Activities (Prohibition) Act Commencement Order 2004 (SR 2004/270): clause 2

Wellington, New Zealand:
Published under the authority of the New Zealand Government—2025