

SIGNED this 16th day of March, 1992

J. S. MOMOH,
President.

LS

No. 2



Sierra Leone

1992

The Sierra Leone Roads Authority Act, 1992

Short title.

Being an Act to provide for the establishment of a Roads Authority for Sierra Leone; for the transfer to the Authority of the functions performed by the Roads Division of the Ministry of Works; and for connected purposes.

[

] Date of
Commence-

BE IT ENACTED by the President and Members of Parliament in this present Parliament assembled, as follows:—

PART I—PRELIMINARY

1. This Act shall come into operation on such date as the Minister may by order appoint.

ment.

Interpreta-
tion.

2. In this Act, unless the context otherwise requires—
- “Authority” means the Sierra Leone Roads Authority established under section 3;
- “Board” means the Board of the Sierra Leone Roads Authority established under section 12;
- “bridge” means any structure carrying vehicular or pedestrian traffic across a river, stream, valley, ravine, road, railway crossing, ditch and drainage structure;
- “construction” means supervising, inspecting and actual building; locating, surveying, mapping, railway-grade crossing, and other elimination of road hazards;
- “Director-General” means the Chief Executive designated as such under section 18;
- “ferry” includes any structure used for the transport of vehicles, passengers and goods or any of them across any river, pontoons, landing ramps, haulage gear and all appliances attached to or used for the operation of ferry;
- “maintenance” in the case of roads means the preservation of roads including surface, shoulders, roadsides, structures and such traffic signs as are necessary for the safe and efficient utilization of roads;
- “Minister” means the Minister for the time being responsible for matters relating to works;
- “Ministry” means the ministry of Works;
- “road” includes a public way or strip of land open to the public for purposes of travel as a matter of right and over which abutting property owners have the right of light, air and access, streets, right-of-way, bridges, railway-highway crossings, tunnels, drainage structures, traffic signs, guardrails, and protective structures connected with public ways;
- “Road Fund” means tax revenue dedicated to the payment of expenses incurred by the Authority in the routine periodic and emergency maintenance of roads;
- “road user charges” include fees levied by the Authority for the use of roads, bridges and ferries;
- “traffic sign” has the same meaning as that assigned to it in the Road Traffic Act 1964;

"vehicle" has the same meaning as that assigned to it in the Road Traffic Act, 1964.

PART II—ESTABLISHMENT OF AUTHORITY

3. (1) There is hereby established a body to be known as "the Sierra Leone Roads Authority" in this Act referred to as "the Authority".

Establishment of Authority.

(2) The Authority shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name and hold and dispose of real or other property in any manner whatsoever for the purpose of this Act.

4. The General Policies of the Authority shall be determined by the Minister.

General Policies of the Authority.

5. (1) Notwithstanding any existing law to the contrary the Authority shall be responsible for the administration, control, development and maintenance of all roads and related ferries in Sierra Leone.

Functions of the Authority.

(2) For the purposes of discharging the responsibility described in subsection (1) the Authority shall—

(a) define the National Road network and its subdivisions into international and national highways; primary, secondary and if necessary, tertiary routes based on considerations of national interest and a functional classification scheme determined by the Authority;

(b) carry out, on a permanent basis, such necessary engineering traffic and economic studies as it may consider necessary for the maintenance and improvement of the national road network;

(c) implement a maintenance management system for planning, organizing, directing and controlling routine and periodic maintenance activities performed by employees of the Authority or through independent contractors;

(d) carry out either by its employees or through contractors with qualified consultants, location and design studies (including right of way and borrow pit requirements) required for programmed road

- (4) The Authority may by notice in writing require the owner or occupier of land on which there is any traffic sign or any object which so clearly resembles a traffic sign that it might be reasonably taken to be such traffic sign, to remove it and if any person fails to comply with such notice the Authority may effect the removal of the traffic sign with as little damage as possible and may recover summarily as a civil debt from the person in default the expenses incurred in removing such sign.

Act No. 62 of 1964. Cap. 131. 7. (1) Subject to the provisions of the Road Traffic Act, 1964 and the Ferries Act, the Authority may erect or place or cause to be erected or placed in a conspicuous place on or near any bridge or ferry a notice to the effect that—

Control of Vehicular Traffic on bridges and ferries.

(a) the bridge or ferry is inadequate to carry more than a certain weight;

(b) a vehicle exceeding a certain width or height cannot safely be driven on or over such bridge or ferry.

- (2) Any person who contravenes or fails to comply with the terms of such notice shall be guilty of an offence and liable on conviction to a fine not exceeding fifty thousand leones or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

8. (1) Subject to the provisions of the Road Traffic Act, 1964 and the Ferries Act, the Authority or any person authorised by it may, at any time by notice, displayed on or over or adjacent to any road or ferry or part thereof restrict or prohibit temporarily the use of such road, ferry or part thereof by any vehicle, class of vehicle or vehicle of a specified construction where owing to the likelihood of serious damage to the road or ferry or injury or danger to the public the Authority or such person, considers it necessary that the restriction or prohibition shall be enforced immediately.

Closing of roads. Act No. 62 of 1964. Cap. 131.

- (2) Any notice referred to in subsection (1) shall contain such information as may be necessary relating to an alternative route, if any, available for traffic.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and liable on conviction to a fine of not less than fifty thousand leones or to imprisonment for a term of not less than six months and the authority shall, immediately thereafter, fill the excavation and recover the expense from the offender as if it were a debt due from the offender to the Authority.

(4) Where the Authority makes any excavation in any road, or delegates to any person the power to make any such excavation, the Authority or such person shall—

(a) cause the excavation to be sufficiently fenced;

(b) maintain sufficient light in a proper place or near the excavation every night from sunset to sunrise: and;

(c) fill up the excavation and restore the road as soon as possible after completing any works for which the excavation was required.

11. (1) The Authority may, with the approval of the Minister, by order in the *Gazette* delegate to any local authority or any competent body or person the control, maintenance and protection of any road or ferry or part thereof: Delegation of functions of the Authority.

Provided that in the case of a local authority no such order shall be made except after consultation with the Minister responsible for local Government.

(2) A local authority shall not refuse any delegation of power effected under subsection (1).

(3) While any delegation of power is in force under this section the local authority or any other body of persons to which or to whom the delegation is made may exercise all ancillary functions of the Authority delegated concerning the road or ferry or part thereof affected by the delegation.

(4) The order affecting the delegation of power may, for the removal of doubts, specify the ancillary functions to be exercised by the local Authority or body of persons under subsection (3).

PART III—THE BOARD

12. (1) The Governing body of the Authority shall consist of— Board of Directors.

(a) a chairman and nine other members; and

(b) the person appointed Director-General under section 18.

(2) The Chairman and Members of the Board shall be appointed by the President.

(3) The other members of the Board under paragraph (a) of subsection (1) shall be the following—

(a) the Professional Head of the Ministry or his representative;

(b) the Financial Secretary or his representative;

(c) a representative of the Sierra Leone Chamber of Commerce, Industry and Agriculture;

(d) a representative from Local Government;

(e) a professional engineer with sufficient experience in road development, construction and maintenance nominated by the Sierra Leone Institution of Engineers;

(f) a representative of road users;

(g) three other persons to be appointed by the President on the advice of the Minister.

Tenure of office of members of the Board.

13. (1) The Chairman and members of the Board appointed under paragraphs (c), (d), (e), (f) and (g) of subsection (1) shall hold office for a term of three years, but shall be eligible for reappointment.

(2) No person shall be qualified to be a member, or continue to be a member, of the Board if—

(a) he is adjudged to be a person of unsound mind;

(b) he has been convicted of an offence involving dishonesty or fraud and has not been granted free pardon;

(c) in the case of a person having professional qualifications, he is disqualified or suspended otherwise than at his request, from practising his profession by the order of any competent authority made in respect of him personally.

(3) Any member of the Board may resign his office as a member of the Board by notice in writing addressed to the Minister.

- (4) Where any member of the Board is unable by reason of his absence from Sierra Leone or illness or any other sufficient cause from performing any of the duties of his office, the President may appoint another person to hold office in his place until that person is able to resume his duties or until the expiry of the term of office of such member which ever occurs first.

14. The Board shall have general control of the management, property, business and funds of the Authority and of all other matters relating to the Authority. **General functions of the Board.**

15. For the purpose of discharging its functions under this Act, the Board shall delegate to the Director-General appointed under section (18) the following powers— **Delegation of powers to the Board.**

- (a) to sign any contract for or on behalf of the Authority;
- (b) to collect any monies due to the Authority such as monies from the Road Fund and Budgetary Allocations and to discharge debts owed to the Authority;
- (c) to sign, accept, negotiate, endorse and receive any negotiable instrument on behalf of the Authority.
- (d) to acquire or authorise the acquisition of any movable or immovable property and to transfer or allocate any funds of the Authority for that purpose;
- (e) to authorise the disposal of securities of any kind belonging to the Authority;
- (f) to open and operate current, deposit or credit accounts on behalf of the Authority at any bank or financial institution, and
- (g) to negotiate and obtain loans on behalf of the Authority and to determine the nature and conditions of such loans.

16. (1) The Board shall meet for the discharge of its business at least once in every month at such times and places as the Chairman shall appoint. **Meetings of the Board.**

- (2) The Chairman shall, at the written request of the Director-General or not less than five members of the Board, convene a special meeting of the Board to transact any extraordinary business on a date specified in the request.

- (3) Where any request under subsection (2) is made by members other than the Director-General, such request shall be transmitted to the Director-General for his business to be transacted at least five working days before the date specified in the request.
- (4) The quorum of the Board at any meeting shall be three, including the Chairman or the Director-General and both.
- (5) The Board shall take decisions by a simple majority of votes of members present and in the event of equality of votes the person presiding shall have a second or casting vote.
- (6) The Chairman shall preside at every meeting of the Board at which he is present and in his absence a member of the Board appointed by the meeting shall be present and voting from among themselves shall preside.
- (7) The minutes of every meeting of the Board shall be recorded, and signed by the Chairman of the meeting after confirmation.
- (8) The Board may at any time co-opt any person to act as an adviser at any of its meetings, but no person so co-opted shall be entitled to vote at any meeting on any matter for decision by the Board.
- (9) The validity of any proceedings of the Board shall not be affected by any vacancy among its members or by any defect in the appointment of any of its members.
- (10) Any member of the Board who—
 - (a) has any interest in any company or undertaking with which the Authority proposes to enter into a contract, shall disclose the nature of his interest to the Board and shall be disqualified from participating in any deliberations and voting of the Board in respect of such contract;
 - (b) contravenes the provisions of paragraph (a) shall be liable to be removed from the Board.

Allowances to members of the Board.

17. The Board may grant allowances to its members and persons co-opted by the Board under subsection (8) of section 16 at such rates as the Board may determine with the approval of the Minister.

PART IV—MANAGEMENT AND STAFF

18. (1) The Authority shall have a Chief Executive and Deputy Chief Executive both of whom shall be known as Director-General and Deputy Director-General respectively and appointed by the President on the advice of the Minister. Establishment of Director-General, etc.
- (2) The Director-General and Deputy Director-General shall be assisted by the five Directors designated as follows—
- (a) Director (Administration);
 - (b) Director (Development);
 - (c) Director (Maintenance);
 - (d) Director (Feeder Roads); and
 - (e) Director (Equipment and Supplies) respectively.
- (3) The five directors shall be appointed by the Board and shall be assigned such other duties and functions as the Director-General may determine.
- (4) The Director-General shall be responsible for the day-to-day direction of the business of the Authority for the implementation of the decision of the Board and for the administration, organisation and control of all employees of the Authority.
- (5) The Director-General shall be a Civil Engineer and a person of recognised technical and professional standing and shall be appointed and hold office upon such terms and conditions as the President may specify in the instrument of appointment.
- (6) If the Director-General is incapacitated or for any reason is unable to perform any of his functions or is absent from Sierra Leone, the Deputy Director-General shall act in his place for the duration of the incapacity or absence of the Director-General.
- (7) The Deputy Director-General shall work under the supervision of the Director-General and shall be responsible for all work assigned to him by the Director-General or the Board, and shall have general responsibility for the Area Engineers.

(8) The Directors shall act under the supervision of the Director-General and shall perform such functions and duties as may be assigned to them by the Director-General.

Execution of Contract.

19. (1) The use of the seal of the Authority shall be authenticated by two signatories, namely—

(a) the Director-General himself or some other member of the Board authorised in writing to authenticate the application of the seal; and

(b) the Secretary or some other officer of the Authority authorised in writing by the Board to act in the Secretary's place for that purpose.

(2) The Authority may in writing under its common seal give to any person either generally or in respect of any specific matters a power of attorney, to execute deeds on its behalf in any place not situated in Sierra Leone; and every deed signed by such attorney on behalf of the Authority and under its seal, shall be binding on the Authority and have the same effect as if it were executed by the Authority itself.

(3) Any instrument or contract which, if executed by a person other than a body corporate, would not be required to be under seal, may be executed or entered into on behalf of the Authority by the Director-General or any member of the Board in accordance with the provisions of Section 15 if such member has previously been authorised by a resolution of the Board to execute such instrument or enter into that particular contract:

Provided that if the Authority thinks fit it may in writing under its common seal appoint any person outside Sierra Leone as an agent to execute any instrument or enter into any contract on behalf of the Authority and such instrument or contract shall have effect as if it had been duly executed or entered into by the Authority as prescribed for in this subsection.

(4) Every document purporting to be an instrument executed or issued by or on behalf of the Authority and to be—

(a) sealed with the common seal of the Authority and authenticated in the manner provided for in subsection (1); or

(b) signed by and under the seal of a person appointed as attorney under subsection (2); or

(c) signed by the Director-General or by a member of the Board or other person authorised in accordance with subsection (3) to act for that purpose;

shall be deemed to have been so executed or issued by the Authority until the contrary is shown.

(5) The provisions of this section shall have effect subject to the provisions of section 11 and section 15.

20. (1) The Authority may engage such officers and other employees as it may deem expedient for the proper and efficient conduct of the business and functions of the Authority and on such terms and conditions as the Authority may determine. Staff of the Authority.

(2) The Authority may also engage the services of such consultants and advisers as the Board may, on the recommendation of the Director-General, determine.

(3) The Board shall, on the recommendation of the Director-General, be responsible for the appointment, discipline and removal of any category of Directors designated as such in subsection (2) of section 18.

(4) The Board acting on the recommendation of the Director-General shall be responsible for the discipline and removal of Directors referred to in subsection (3).

(5) The Board shall delegate to the Director-General the power to appoint, discipline and remove any person in respect of any post below the level of Divisional Head or any other similar post.

(6) Public officers on secondment to the Authority shall be subject to the disciplinary rules of the Authority.

- (7) Public officers may be transferred or seconded to the Authority or may otherwise be required to render assistance to the Authority.
 - (8) If a public officer, eligible to receive a pension on retirement is seconded to the Authority, the period during which he serves with the Authority shall be for the purposes of computation of the time for which an amount of pension under any law relating to pensions is for the time being in force and applicable to him shall be deemed to be service in the public service.
 - (9) The Authority shall adopt suitable policies in respect of conditions of service of staff which shall be compatible with the best standards of practice in comparable semi-autonomous or parastatal organisations.
 - (10) The Authority shall with the approval of the Minister make regulations establishing schemes for pensions, gratuities and other retirement benefits in respect of employees of the Authority and such regulations may include provisions for the grant of benefits to the dependants of its employees or their representatives.
 - (11) The Authority shall for the purpose of achieving maximum efficiency in the discharge of its functions under this Act institute schemes for the training of its employees in administrative, engineering, technical, managerial or in other capacities with a view to securing the benefit of their knowledge, experience and expertise in the conduct of the operations of the Authority.
- Secretary of the Authority.**
21. (1) The Director (Administration) shall be the Secretary to the Authority and shall act as Secretary to the Board.
- (2) The Secretary shall subject to the directions of the Board arrange the business for meetings of the Board.
 - (3) The Secretary shall also as Secretary, perform such functions as the Board may in writing direct or as the Director-General may in writing delegate to him and shall be assisted in his functions by such employees of the Authority as the Board may, on the recommendations of the Director-General, direct.

22. (1) The Authority shall have an Internal Auditor who shall be appointed by the Board from amongst persons registered with the Institute of Chartered Accountants, with the approval of the Auditor-General. Internal Auditor.
- (2) Subject to the provisions of this Part, the Internal Auditor shall be responsible to the Director-General for the performance of his functions.
- (3) The Internal Auditor, as part of his functions, shall prepare and submit to the Director-General at the end of each month, a report on the Internal Audit carried out during that month.
- (4) The Internal Auditor shall make in such report such observations as appear to him necessary as to the conduct of the financial affairs of the Authority during the month to which the report relates.
- (5) In addition to the requirement of subsection (3), the Internal Auditor shall prepare and forward quarterly a summary of reports prepared under subsection (3) to the following persons—
- (a) The Auditor-General; and
 - (b) The Board.

PART V—FINANCIAL PROVISIONS

23. The Financial year of the Authority shall be from the 1st day of July to the 30th day of June of the following year. Financial year of the Authority.
24. The Funds [and resources] of [the] Authority shall be— Funds of the Authority.
- (a) The Road Fund;
 - (b) sums of monies allocated by Government to the Authority for road development purposes;
 - (c) sums of monies from time to time appropriated by Parliament for use by the Authority in respect of recurrent expenditure;
 - (d) sums of monies from time to time received by or falling due to the Authority in respect of payment of any loans made by the Authority;
 - (e) Investment made by the Authority and the monies accruing therefrom;
 - (f) sums of monies accruing to the Authority for the course of its operations; and

(g) all other monies and property to which the Authority may become entitled.

Establishment and use of the Road Fund.

25. (1) There shall be a Road Fund into which shall be paid—

(a) road user charges levied on fuel;

(b) vehicle licencing fees;

(c) vehicle registration fees;

(d) any other road user charges that may from time to time be allocated to the Fund by any law.

(2) Notwithstanding the provisions of sub-section (1), the Authority may, with the approval of Parliament, raise other road user charges including tolls and other fees for the Road Fund.

(3) The Authority shall use the Road Fund exclusively for the purpose of defraying expenses incurred by it in routine, periodic and emergency maintenance of roads.

Borrowing Powers.

26. (1) Subject to subsection (2); the Authority may borrow money required by it for the exercise of its functions and for meeting its obligations.

(2) The Authority may borrow money only with the approval of the Minister as to the account, the source of borrowing and the terms and conditions of the loan.

(3) The approval of the Minister under subsection (2) may be either general or limited to a particular transaction and may be either unconditional or subject to conditions.

Power to invest funds.

27. The Authority may invest money outstanding to the credit of the Authority and not immediately required to be expended in meeting any of its obligations or commitments in such manner as the Minister may approve.

Authority to prepare annual budget.

28. (1) The Authority shall, not later than two months before the end of each financial year, cause to be prepared and submitted to the Minister for the approval of Parliament, an annual budget in respect of the ensuing financial year comprising estimates of expected recurrent maintenance, development and capital expenditure of the Authority in that financial year.

29. Where any person, body of persons or Government Agency requires the Authority to carry out any development or expenditure outside its annual budget, the money to meet such development or expenditure shall be provided by such person, body of persons or Government Agency. Expenditure outside Budget.

30. (1) The Authority shall keep proper books of accounts and other records and shall prepare annually a statement of accounts in such form and with such particulars as the Auditor-General may from time to time direct. Account and Audit.

(2) The books of accounts and other records of the Authority shall be audited each year by the Auditor-General or by independent auditors who shall be members of the Institute of Chartered Accountants to be appointed from time to time by the Authority with the approval of the Auditor-General.

(3) The Auditor-General or independent auditors as the case may be shall, not later than six months after the end of each financial year, send to the Minister a copy of the Auditor's accounts of the Authority for the immediately preceding financial year together with their report.

(4) The report of the Auditor-General or independent auditors shall state whether—

(i) proper books of accounts have been kept by the Authority; and

(ii) the financial statement of the Authority prepared on a basis consistent with that of the preceding year and is in agreement with books of accounts of the Authority.

(5) In addition to the annual audit, the Auditor-General or independent auditors may at any time audit the accounts and examine the records of financial transactions of the Authority and shall notify the Minister of any irregularity disclosed by such audit and examination.

(6) The Authority shall provide the Auditor-General or independent auditors with all necessary and appropriate facilities for the examination of the accounts and records.

(7) The Auditor-General or independent auditors may make copies of or take extracts from account books or other financial records of the Authority.

- (2) The notice shall state the cause of action, the name and place of abode of the intending Plaintiff and the relief which he claims.

34. The notice referred to in section 33 and any summons, notice of other document required or authorised to be served on the Authority in connection with any suit by or against the Authority may be served by delivering it to or sending it by registered post addressed to the Director-General of the Authority or to such other officer of the Authority as may be prescribed by regulations made under section 42. Service of documents.

35. In any action or suit against the Authority, no execution or attachment or process shall be issued against the Authority nor any sums of money which may by judgment of the court be awarded against the Authority be paid by the Authority from its funds before the expiration of at least three months of the judgment of the court. Restriction on execution of Judgment.

36. In any suit pending before the court, the Authority may be represented in court at any stage of the proceedings by any officer or other employee of the Authority duly authorised in writing by the Authority in that behalf. Representations of Authority in proceedings.

37. No officer or employee of the Authority or any person acting on the directions of an officer or employee of the Authority shall be liable in respect of any matter or thing done by him in good faith for the purposes of any provisions of this Act. Protection of Officers.

PART VIII—MISCELLANEOUS

38. (1) The Authority shall, within six months after the expiration of each financial year, submit to the Minister an annual report dealing generally with the activities and operations of the Authority within that year which shall include— Annual Report.
- (a) information with regard to the proceedings and policy of the Authority;
 - (b) a copy of the Audited accounts of the Authority in respect of that year together with the report of the Auditor-General or independent auditor as the case may be in compliance with subsection (4) of section 119 of the Constitution of Sierra Leone, 1991;
 - (c) each report submitted in relation to that financial year by the Auditor-General or independent auditors under section 30 as required under section 119 of the Constitution;

(d) such other information as the Minister request in writing.

(2) The Director-General shall also from time to time provide the Minister with such information relating to the affairs of the Authority as the Minister request in writing.

(3) The Minister shall as soon as possible after receiving the annual report cause it to be laid before Parliament.

Co-operation
with other
Public Agen-
cies.

39. In the discharge of its functions under this Act the Authority shall co-operate duly with all Government Ministries, departments and agencies and other public authorities.

Statutory
Power to be
exercised
consistently
with the Act.

40. No person shall exercise any statutory power or discharge any statutory duty in a manner inconsistent with the exercise of the functions conferred on the Authority by or under this Act.

Regulations,
etc.

41. (1) Subject to the provisions of the Road Traffic Act, 1952 and the Ferries Act, the Minister may at the request of or after consultations with the Authority make rules or regulations relating to Roads and Ferries for the following purposes—

(a) the use, safety or maintenance of roads and ferries;

(b) the erection of structures on, near, over or under roads and ferries;

(c) the drainage of streets, lands, compounds and buildings adjacent to roads;

(d) the level, width and construction of streets;

(e) the removal, demolition or alteration of any projection, structure or thing obstructing a road or ferry or likely to cause damage or inconvenience to users of roads or ferries; and

(f) the towing or removal of any vehicle obstructing a road or ferry.

(2) any rule or regulation made under sub-section (1) may prescribe penalties in respect of the contravention of any of the provisions made thereunder.

(3) Any rules or regulations made under subsection (1) may prescribe the fees to be charged for any services performed by the Authority or any penalty to be incurred under subsection (2).

42. (1) Where any bridge or ferry is damaged—
- Liability
of owner
and driver
for damage.
- (a) by reason of any vehicle passing over it in contravention of the provisions of section 7; or
- (b) by reason of any vehicle passing over the bridge and coming into contact with any portion thereof other than the surface of the road,
- the owner of the vehicle and any person driving or propelling it shall jointly and severally be liable to the Authority for any damage so caused.
- (2) A certificate under the hand of any person authorised in that behalf by the Authority, stating the amount of the cost of making good such damage, shall be *prima facie* evidence of such cost.
43. The Government, the Authority, a local authority or any other body of persons responsible for the maintenance of any road or ferry under this Act shall incur civil liability in respect of any injury, damage or loss which may accrue to any person or property through the failure of any such road or ferry to sustain any vehicle.
- Liability of
Authority for
failure to sus-
tain vehicle.
44. The Authority shall be exempted from such taxes and duties as the Minister responsible for Finance may with the approval of Parliament, prescribe.
- Exemption
from taxes,
and duties
etc.
45. (1) Unless otherwise directed by the Minister, the Authority shall not be responsible for any liabilities incurred by the Ministry before the commencement of this Act in respect of any functions to be performed by the Authority under this Act.
- Existing Lia-
bility.
46. Subject to the provisions of the Constitution of Sierra Leone, 1991 all laws in force at the commencement of this Act containing provisions relating to roads or ferries shall have effect with such modifications as may be necessary to give full effect to the provisions of this Act.
- Act No. 6
of 1991.
Modification
of existing
Laws relating
to roads and
ferries.
47. Notwithstanding the provisions of any existing law to the contrary, no local authority, or other body of persons shall exercise any power relating to the control, maintenance or protection of any road or ferry except where such power has been delegated under section 11 or such local authority, or body of persons is acting under the express approval of the Authority.
- Delegated
authority.

Passed in Parliament this 25th day of February, in the year of our Lord one thousand nine hundred and ninety-two.

M. T. BETTS-PRIDDY,
Acting Clerk of Parliament

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correctly printed copy of the said Bill.

M. T. BETTS-PRIDDY,
Acting Clerk of Parliament

DECREE

Supplement to the Sierra Leone Gazette Extraordinary Vol. CXXIII, No. 47

dated 10th July, 1992

N.P.R.C. Decree
No. 6



Sierra Leone

1992

The Prevention of Corruption Decree, 1992

Short title.

Being a Decree to make provision for the prevention of corruption;
and for related matters.

] Date of commencement.

PURSUANT to paragraph 3 of the Proclamation entitled "The Administration of Sierra Leone (National Provisional Ruling Council) Proclamation, 1992", published in the *Gazette* on the 4th day of May, 1992, the National Provisional Ruling Council hereby makes and issues the following Decree—

1. (a) For the purposes of this Decree—

Interpretation.

"advantage" includes any office or dignity and any forbearance to demand money or money's worth or valuable thing, and also includes any promise or procurement of an agreement or endeavour to procure, or the holding out of an expectation of any gift, loan, fee, reward, or advantage, as before defined;

“agent” includes any person employed by or acting for another;

“gratification” includes—

- (a) money or any other gift, loan, fee, reward, commission, valuable security or other property or interest in property of any description, whether moveable or immoveable;
- (b) any office, employment or contract;
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability whatsoever, whether in whole or in part;
- (d) any other service, favour or advantage of any description whatsoever, including protection from any penalty or disability incurred or apprehended or from any action of proceedings of a disciplinary or penal nature, whether or not already instituted and including the exercise or the forbearance from the exercise of any right or any official power or duty;
- (e) any offer, undertaking or promise of any gratification within the meaning of paragraph (a), (b), (c) and (d).

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“judicial office” in this section includes a member of a tribunal, an arbitrator or umpire, any person appointed as a Commissioner under the Commissions of Inquiry Act, or before whom, under the provisions of any enactment, proceedings are held in which evidence may be taken on oath;

“Local Authority” means any authority established under any enactment empowering it to levy a rate, such as a District Council, a Town Council or the Freetown City Council;

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“official emoluments” includes a pension or gratuity payable under the Pensions Act;

“persons” includes any company or association or body of persons, corporate or un-incorporate, as well as an individual;

“principal” includes an employer;

“Public Corporation” includes a statutory corporation or any company set up entirely out of public funds or funds provided either in whole or in part, by or otherwise guaranteed by the National Provisional Ruling Council or by Parliament;

“Public Office” includes an office the emoluments attaching to which are paid directly from the Consolidated Fund or directly out of moneys provided by the National Provisional Ruling Council;

“Public Officer” means a person holding or acting in a public office;

“Public Service” includes service of the Government of Sierra Leone in a civil capacity and includes the office of President, Vice-President, Minister, Deputy Minister, Attorney-General and Minister of Justice, Judges of the Superior Court of Judicature, the Armed Forces, the Police Force and principal representatives of Sierra Leone abroad.

2. (1) Any person who without lawful authority or excuse by himself or by or in conjunction with any other person— Punishment for corruption.

(a) corruptly solicits or receives, or agrees to receive for himself, or any other person; or

(b) corruptly gives, promises or offers to any person whether for the benefit of that person or of another person;

any gratification as an inducement to or reward for, or otherwise on account of—

(i) any person doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed; or

(ii) any public officer, or member, officer or servant of a Local Authority or Public Corporation doing or forbearing to do anything in respect of any matter whatsoever, actual or proposed, in which such public servant, a member, officer or servant of a Local Authority or Public Corporation is concerned;

shall be guilty of an offence.

Punishment
of corrupt
transactions
with agents.

3. If—

- (a) any person corruptly gives, or agrees to give, or offers any gift or consideration to any agent as an inducement or reward for doing, or forbearing to do, or for having, after this Decree comes into force, done or forborne to do any act in relation to his principal's affairs or business or for showing or forbearing to show, favour or disfavour to any person in relation to his principal's affairs or business; or
- (b) any agent corruptly accepts or obtains or agrees to accept, or attempts to obtain from any person for himself, or for any other person, any gift or consideration as an inducement or reward for doing, or forbearing to do or for having, after this Decree comes into force, done or forborne to do, any act in relation to his principal's affairs or business, or for showing, or forbearing to show, favour or disfavour to any person in relation to his principal's affairs or business; or
- (c) any person knowingly gives to any agent or any agent knowingly uses with intent to deceive his principal any receipt, account, or other documents in respect of which the principal is interested, and which contains any statement which is false or erroneous or defective in any material particular and which to his knowledge is intended to mislead the principal;

he shall be guilty of an offence and liable—

- (i) on summary conviction to a fine of not less than fifty thousand leones or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment;
- (ii) on conviction on indictment to a fine of not less than five hundred thousand leones or to imprisonment for a term not exceeding ten years, or to both such fine and imprisonment.

Soliciting or
accepting an
advantage.

4. Any public officer or any member, officer or servant of a Local Authority or Public Corporation who, without the general or special permission of the National Provisional Ruling Council, solicits or accepts any advantage or benefit shall be guilty of an offence.

5. (1) Any person who, being or having been a public officer or a member, officer or servant of a Local Authority or Public Corporation— Possession of unexplained property.

- (a) maintains a standard of living above that which is commensurate with his present or past official emoluments; or
- (b) is in control of pecuniary resources or property disproportionate to his present or past official emoluments;

shall be guilty of an offence, unless he can give a satisfactory explanation to the Court as to how he was able to maintain such a standard of living or how such pecuniary resources or property came under his control.

(2) Where a Court is satisfied in proceedings under paragraph(b) of sub-section (1) that having regard to the closeness of his relationship to the accused and to other circumstances, there is reason to believe that any person was holding pecuniary resources or property in trust for or otherwise on behalf of the accused or acquired such resources or property as a gift from the accused, such resources or property shall, until the contrary is proved, be presumed to have been in the control of the accused.

6. (1) If, in any proceedings for an offence under any section, it is proved that the accused accepted any advantage or benefit, believing or suspecting or having grounds to believe or suspect that the advantage or benefit was given as an inducement to or reward for or otherwise on account of his doing or forbearing to do, or having done or forborne to do, any act referred to in that section, it shall be no defence that— Giver and Acceptor of bribe to be guilty notwithstanding that purpose not carried out, etc.

- (a) he did not actually have the power, right or opportunity so to do or forbear;
- (b) he accepted the advantage or benefit without intending so to do or forbear; or
- (c) he did not in fact so do or forbear;

(2) If, in any proceedings for an offence under this Decree, it is proved that the accused offered any advantage or benefit to any other person as an inducement to or reward for or otherwise on account of that other person doing or forbearing to do, or having done or forborne to do, any act referred to in that section, believing or suspecting or having reason to believe or suspect that such other person had the power, right or opportunity so to do or forbear, it shall be no defence that such other person had no such power, right or opportunity.

Aiding and
Abetting.

7. If a person gives assistance to a public officer or any member, officer or servant of a Local Authority or Public Corporation, even though they themselves are not within that definition, in the commission of an offence under section 5 of this Decree, provided the person knows that the principal offender is maintaining a standard of living, knows that no explanation can be given or is reckless as to whether or not an explanation satisfactory to the Court can be given; then in those circumstances such a person can be convicted of aiding and abetting the public officer, a member, officer or servant of a Local Authority or a Public Corporation.

Penalty for
offences.

8. (1) Any person who commits an offence against the provisions of sections 2, 4 or 5 shall be liable—

- (a) on summary conviction to a fine of not less than two million leones or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment;
- (b) on conviction on indictment to a fine not less than five million leones or to imprisonment for a term not exceeding ten years, or to both such fine and imprisonment;

and shall be ordered to pay to the Government, a Local Authority or Public Corporation and in such manner as the Court may direct, the amount or value of any advantage or benefit received by him, or such part thereof as the Court may specify.

(2) In addition to any penalty imposed under subsection (1) the Court may order a person convicted of an offence under section 5 (1) (b) to pay to the Government or Local Authority or Public Corporation—

- (a) a sum not exceeding the amount of the pecuniary resources; or
- (b) a sum not exceeding the value of the property, the acquisition of which by him was not explained to the satisfaction of the Court.

Confiscation
of assets.

9. (1) Subject to this section, where a person is convicted on indictment of an offence under section 5 (1) (b) the Court may in addition to any penalty imposed under section 8(1), order the confiscation of any pecuniary resources or property—

- (a) found at the trial to be in his control as provided in section (5), and

obtain a contract from the Government or a Local Authority or Public Corporation, the money, gift or consideration shall be deemed to have been paid or given or received corruptly on such inducement or reward as is mentioned in this Decree, unless the contrary is proved.

Bribery for giving assistance, etc. in regard to contracts.

11. (1) Any person who without lawful authority or reasonable excuse offers an advantage or benefit to any public officer or any member, officer or servant of a Local Authority or a Public Corporation as an inducement to or reward for or otherwise on account of that public officer's, member's, officer's or servant's of a Local Authority or Public Corporation giving assistance or using influence in or having given assistance or used influence in—

(a) the promotion, execution or procuring of—

(i) any contract with the Government, a Local Authority or a Public Corporation for the performance of any work, the providing of any service, the doing of anything or the supplying of any article, material or substance; or

(ii) any sub-contract to perform any work, provide any service, do anything or supply any article, material or substance required to be performed, provided, done or supplied under any contract with the Government, a Local Authority or a Public Corporation;

(b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in any such contract or sub-contract as aforesaid;

shall be guilty of an offence and liable on conviction on indictment to a fine of not less than ten million leones or to imprisonment for a term of not less than seven years, or to both such fine and imprisonment.

(2) Any public officer, a member, officer or servant of a Local Authority or a Public Corporation who, without lawful authority or reasonable excuse, solicits or accepts any advantage or benefit as an inducement to or reward for or otherwise on account of his giving assistance or using influence on, or having given assistance or used influence in—

(a) the promotion, execution or procuring of, or

(b) the payment of the price, consideration or other moneys stipulated or otherwise provided for in—

any such contract or sub-contract as is referred to in sub-section (1) shall be guilty of an offence and liable on conviction on indictment to a fine of not less than ten million leones or to imprisonment for a term of not less than seven years, or to both such fine and imprisonment.

12. (1) Any person who, without lawful authority or reasonable excuse, offers any advantage or benefit to any other person as an inducement to or a reward for or otherwise on account of the withdrawal of a tender, or the refraining from the making of a tender, for any contract with the Government, a Local Authority or a Public Corporation for the performance of any work, the providing of any service, the doing of any thing or the supplying of any article, material or substance shall be guilty of an offence and liable on conviction on indictment to a fine of not less than two million leones or to imprisonment for a term of not more than seven years, or to both such fine and imprisonment.

Bribery for procuring withdrawal of tenders.

(2) Any person, who without lawful authority or reasonable excuse, solicits or accepts any advantage or benefit as an inducement to or a reward for or otherwise on account of the withdrawal of a tender, or the refraining from the making of a tender, for such a contract as is referred to in subsection (1) shall be guilty of an offence and liable on conviction on indictment to a fine not less than two million leones or to imprisonment for a term of not more than seven years, or to both such fine and imprisonment.

13. Any person who—

(a) being a judicial officer, corruptly asks, receives or obtains, or agrees or attempts to receive or obtain, any property or advantage of any kind for himself or any person on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him in his judicial capacity; or

(b) corruptly gives, confers, or procures, or promises or offers to give or confer, or to procure or attempt to procure, to, upon, or for, any judicial officer, or to, upon, or for, any other person, any property or benefit of any kind on account of any such act or omission on the part of that judicial officer;

Official corruption by judicial officer.

shall be guilty of an offence and liable on summary conviction to a fine of not less than fifty thousand leones or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

17. (1) In any proceedings against a person for an offence under section (5), the fact that the accused was at or about the date of, or at any time since the date of, the alleged offence, or is in possession, for which he cannot satisfactorily account, of pecuniary resources or property disproportionate to his known resources or income, or that he had, at or about the date of or at any time since the date of the alleged offence, obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account, may be proved and may be taken by the Court as—

Evidence of pecuniary resources or property.

- (a) corroborating the testimony of any witness as evidence in such proceedings that the accused, accepted or solicited any advantage or benefit; and
- (b) showing that such advantage or benefit was accepted or solicited as an inducement or reward.

(2) For the purpose of subsection (1), a person accused of an offence under section (5) shall be presumed to be or to have been in possession of pecuniary resources or property, or to have obtained an accretion thereto, where such resources or property are or were held, or such accretion was obtained by any other person whom, having regard to his relationship to the accused or to any other circumstances, there is reason to believe is or was holding such resources or property or obtained such accretion in trust for or otherwise on behalf of the accused or as a gift from the accused.

18. In any proceedings for an offence under this Decree, it shall not be a defence that any such advantage or benefit as is mentioned in this Decree is customary in any profession, trade, vocation or calling.

19. Notwithstanding any rule of law or practice to the contrary, no witness shall, in any proceedings for an offence under this Decree, be regarded as an accomplice by reason only of any payment or delivery by him or on his behalf of any advantage or benefit to the person accused or, as the case may be, by reason only of any payment or delivery or any advantage or benefit by or on behalf of the accused to him.

20. In any proceedings against a person for an offence under this Decree, the burden of proving a defence of lawful authority or reasonable excuse shall lie upon the accused.

Burden of Proof.

Presumption of corruption in certain cases.

21. Where in any proceedings for an offence under section (2) or (4) it is proved that the accused gave or accepted an advantage or benefit, the advantage or benefit shall be presumed to have been given and accepted as such inducement or reward as is alleged in the particulars of the offence unless the contrary is proved.

Comment or failure of accused to give evidence.

22. Notwithstanding any law or practice to the contrary, it shall be lawful for the Court in any proceedings for any offence under this Decree to comment on the failure of the accused to give evidence on Oath.

Trial in absence.

23. (1) Notwithstanding anything to the contrary contained in any other law, any person who commits an offence in contravention of any of the provisions of this Decree and is not within the jurisdiction shall be tried in his absence.

(2) In such a case, the substance of the charge shall be read out in Court and a plea of "not guilty" entered in favour of the accused or defendant.

(3) The Court may proceed to hear and determine the matter notwithstanding the absence of the accused or the defendant.

Offences by public officers, etc. abroad.

24. (1) Any public officer, or member, officer or servant of a Local Authority or a Public Corporation who commits outside Sierra Leone, when acting or purporting to act in the course of his duties, any act, which if committed in Sierra Leone would be an offence, shall be guilty of an offence of the same nature, and subject to the same punishment as if the act had been committed in Sierra Leone.

(2) Any person may be proceeded against, tried and punished for an offence under this section in any part of Sierra Leone in which he is apprehended or is in custody as if the offence had been committed in that part of Sierra Leone and the offence shall for all purposes incidental to or consequential on the trial or punishment thereof, be deemed to have been committed in that part of Sierra Leone.

Frivolous, false or groundless complaints to the Attorney-General and Minister of Justice.

25. At the conclusion of proceedings for an offence under this Decree, the Court may, if it is of the opinion that the complainant or any other person has knowingly, and with intent to harm the accused or defendant, made a false, frivolous or groundless allegation against him, so certify in writing and transmit the certificate and the record of the proceedings to the Attorney-General and Minister of Justice.

26. A prosecution for an offence under this Decree shall not be instituted except by or with the consent of the Attorney-General and Minister of Justice or the Director of Public Prosecutions. Prosecution
of offences.

27. The Prevention of Corruption Act is hereby suspended. Suspension
of Cap. 33.

MADE and ISSUED this 3rd day of July, 1992.

CAPTAIN VALENTINE E. M. STRASSER
Chairman,
National Provisional Ruling Council.