

Assented to in Her Majesty's name this 16th day of April, 1970.

BANJA TEJAN-SIE,
Acting Governor-General.

LS

No. 11



Sierra Leone

1970

The Banking Act, 1970

Short title.

Being an Act to Regulate the Business of Banking in Sierra Leone
and to Provide for the Licensing of Banks.

[1st day of July, 1970]

P.N. 25/70

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Representatives in this present Parliament assembled, and by the authority of the same, as follows:—

Date of
Commence-
ment.

PART I—PRELIMINARY

1. This Act shall come into operation on such date as may be notified in the *Gazette* by the Governor-General, provided that different dates may be prescribed for the coming into operation of different sections or subsections of the Act.

Interpreta- tion.

2. In this Act unless the context otherwise requires—

"bank" means any company carrying on banking business in Sierra Leone;

“banking business” means the business of receiving funds from the general public on current or deposit account and employing part or all of these funds for making loans and advances to customers or investing in any other form;

“the Central Bank” means the Bank of Sierra Leone established by the Bank of Sierra Leone Act, 1963;

"company" means any company registered under the Companies Act and includes any company incorporated outside Sierra Leone, which has complied with Part IX of that Act;

of that Act;
 66 "Credit institution" means — — — — —
 "demand liability" means any deposit in a bank which
 must be repaid on demand;

"director" in relation to a bank, includes any person, by whatever name he may be referred to, carrying out or empowered to carry out substantially the same functions in relation to the direction of the bank as those carried out by a director of a company registered under the Companies Act:

Act: *financial institution* means -- Act 10/78
Governor" means the Governor of the Bank of Sierra
Leone;

"licence" means a licence granted under section 5 authorising the carrying on of banking business in Sierra Leone;

"licensed bank" means a bank holding a valid licence, and all the offices and branches in Sierra Leone of such bank shall be deemed to be one bank, and the aggregate of all offices and branches in Sierra Leone of a licensed bank whose head office is outside Sierra Leone shall be deemed to constitute a single bank separate from the head office.

"Minister" means the Minister responsible for Finance;

"time liabilities" means all those deposits in a bank which are not payable on demand including savings deposits.

PART II—LICENSING

3. (1) ~~No person or company shall carry on banking business in Sierra Leone unless it is a company and is in possession of a valid licence issued in writing by the Governor after consultation with the Minister:~~

Provided that any person or company already carrying on banking business in Sierra Leone at the commencement of this Act may continue to do so and may on making application under section 4 within one month after the commencement of this Act, be granted a licence by the Governor:

Banking
business to
be licensed.

Replaced by Act
10/1978

Cap. 249.

Act 10/78

Cap. 249.

"foreign financial institution" means -
(Act 10/78)

Act 10/78

Replaced by
sec. 2 of
Act 10/78

Provided further that the Governor need not grant such a licence if after consultation with the Minister it appears to him not to be in the public interest to do so and in any such case no other reason need be given for such refusal but the decision shall be communicated to the company or person concerned within ninety days of the date on which their application is received.

sec. 2 of Act
10/78

(2) Any person or company who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of not less than two hundred Leones for each day during which the offence continues.

4. Any company wishing to obtain authority to carry on banking business in Sierra Leone shall apply in writing to the Governor for the grant of a licence and shall submit—

Application
for a
licence.

(a) a copy or, if the original is not in the English language an officially certified English translation of the memorandum of association and articles of association or other instrument under which it is incorporated, duly verified by a statutory declaration made by a senior officer of the company;

(b) a copy or, if the original is not in the English language, an officially certified English translation of its latest audited balance sheet;

(c) such other information as the Governor may require.

5. (1) Upon receipt of an application for the grant of a licence, the Governor shall conduct such investigation as he may deem necessary to ascertain whether:

Grant of
licence.

(a) the documents required under section 4 are valid and otherwise satisfy the requirements of this Act;

(b) the convenience and needs of the public will be served by the proposed bank;

(c) the characteristics of the area primarily to be served by the proposed bank afford reasonable promise of adequate support;

(d) the character and fitness of the proposed directors and officers are such as to command the confidence of the public and to warrant the belief that the business of the proposed bank will be honestly and efficiently conducted;

(e) the capital structure of the proposed bank is adequate in relation to the amount and character of the anticipated business of the institution and the safety of prospective depositors;

(f) the financial position and history of the applicant is satisfactory;

(2) Within ninety days after receipt of an application, the Governor shall, on the basis of his investigation and after consultation with the Minister, decide whether or not to grant a licence and shall give written notice of his decision to the applicant.

(3) Any licence granted shall authorise the applicant to carry on banking business in Sierra Leone at the place or places designated in the licence for a period not to exceed three years.

(4) Conditions may be prescribed under this or any other law, for the grant and maintenance of a licence.

(5) In refusing to grant a licence, the Governor shall furnish to the applicant a written statement of the reasons for his decision:

Provided that, in the event of a certification by the Minister to the Governor that the granting of a licence would not be in the public interest, no other reason need be furnished for the refusal.

Minimum
paid up
capital.

6. No bank shall be licensed to carry on business in Sierra Leone unless—

(a) in the case of a bank whose Head Office is situated in Sierra Leone, its capital issued and paid up is not less than four hundred thousand Leones;

(b) in the case of a bank whose Head Office is situated outside Sierra Leone, the Board of Management or other controlling body gives an undertaking to the Governor to keep deposited with the Central Bank at all times during the currency of its licence, in lieu of paid up capital, out of its own funds transferred from outside Sierra Leone, in the form of assigned capital, cash or unencumbered securities of the Government of Sierra Leone, based upon principal amount or market value, whichever is lower, amounting to not less than eight hundred thousand Leones:

Provided that so long as it shall continue business in the ordinary course, such bank shall be permitted to collect interest on the securities so deposited and from time to time exchange, examine and compare such securities.

Revocation
of licence.

7. (1) The Governor, after consultation with the Minister, may by Order published in the *Gazette* and in one newspaper of general circulation in Sierra Leone revoke any licence if the holder—

(a) is carrying on its business in a manner detrimental to the interest of its depositors and other creditors; or

(b) has insufficient assets to cover its liabilities to the public; or

(c) has ceased to carry on banking business in Sierra Leone; or

(d) fails at any time to comply with any of the conditions imposed upon it under subsection (4) of section 5:

Provided that the Governor, shall prior to any such revocation, notify his intention to take such action to the bank concerned and shall give the bank concerned an opportunity to submit reasons why its licence should not be revoked.

(e) added by sec. 17 of Act 10/78

Replaced by
sec. 3 of Act
10/78

(2) Where the licence of a bank has been revoked under subsection (1) the bank may, within thirty days of such revocation, appeal in such manner as appeals are made from decisions of Magistrates against such revocation to the Supreme Court which may make such order thereon as it thinks proper, including any directions as to the costs of the appeal and the Supreme Court shall in relation to any such appeal have all the powers conferred upon it by the Courts Act, 1965 in relation to an appeal from the decision of a Magistrate. Act. No. 31 of 1965.

(3) Pending the decision of the Supreme Court upon any appeal under this section, the revocation of a licence shall remain in full force and effect.

(4) The decision of the Supreme Court upon any appeal under this section shall not be questioned by any Court of Law.

8. (1) Subject to the prior written approval of the Governor— Branches, merger and consolidation.
- (a) a licensed bank may close, or change the location of, existing branch offices;
 - (b) a licensed bank may open new branch offices in Sierra Leone;
 - (c) a licensed bank may, other than in the ordinary course of its business, sell the whole or part of its assets in Sierra Leone to any other bank and the other bank may purchase them;
 - (d) one or more licensed banks may merge or consolidate together or with another bank;

(e) a licensed bank etc.

(2) Upon receipt of a written application for approval of one of the matters enumerated in subsection (1), the Governor shall cause an investigation to be made to determine whether or not the public convenience and advantage will be served by his approval of that application. On the basis of his investigation and after consultation with the Minister on an application involving any matter enumerated in paragraph (c) or (e) of subsection (1), the Governor shall notify the applicant as to his decision. Such notification shall be made within ninety days after receipt of the application, may be conditional in nature, and shall if the decision is in the nature of a refusal, contain a written statement of the reasons underlying the decision:

Provided that, in the event of the certification by the Minister to the Governor that the approval of an application involving any matter enumerated in paragraph (c) or (e) of subsection (1) would not be in the public interest, no other reason need be furnished for the refusal to approve.

(3) If an application etc. . . . added by Act 1/71

PART III—DUTIES OF LICENSED BANKS

9. ~~Every~~ licensed bank shall maintain a reserve fund in Sierra Leone and, before any dividend is declared, or in the case of a licensed bank whose Head Office is outside Sierra Leone before any profit is transferred, shall transfer to such fund out of the net profits of each year (after due provision has been made for taxation) a sum equal to Maintenance of reserve fund.

*Replaced by
Sec. 5 of Act
10/78*

A 10/78

Local
assets.

fifty per centum of such net profits so long as the reserve fund is less than half the paid up or assigned capital as the case may be. So long as the reserve fund is equal to half but less than the whole amount of the paid up or assigned capital, a sum equal to twenty-five per centum of such net profits shall be transferred to the reserve fund.

10. At the close of business on any day the assets in Sierra Leone of every licensed bank, including any licensed bank whose Head Office is situated outside Sierra Leone, shall be not less in value than an amount representing such percentage of its liabilities payable at or through its branch or branches in Sierra Leone as may be prescribed by the Central Bank from time to time:

Provided that for the purposes of this subsection—

- (a) the percentage so prescribed shall not exceed eighty-five per cent;
- (b) assets in Sierra Leone shall include, without limitation, currency, bonds, notes, debentures, drafts, bills of exchange or other evidences of indebtedness or other obligations payable in Sierra Leone or in Sierra Leone funds;
- (c) liabilities payable at or through its branch or branches in Sierra Leone shall include, without limitation, acceptances, but exclude paid up or assigned capital, accrued expenses, and amounts due and other liabilities to other offices or branches of, and wholly owned subsidiaries of the licensed bank outside of Sierra Leone;
- (d) marketable securities shall be valued at principal amount or market value, whichever is lower, and the Central Bank shall have the right to determine the value of any non-marketable bond, note, debenture, draft, bill of exchange, or any other evidence of indebtedness, or of any other obligation held by or owed to the licensed bank.

Publication
of balance
sheet.First
Schedule.

11. (1) (a) Not later than three months after the expiry of each calendar year, every licensed bank incorporated in Sierra Leone, in respect of all business transacted by it and every licensed bank incorporated outside Sierra Leone, in respect of all business transacted through its branches in Sierra Leone, shall prepare, with reference to that year, a balance sheet and profit and loss account as on the last working day of the year in the Forms set out in the First Schedule under the joint signatures of the chief executive and a majority of directors of the licensed bank incorporated in Sierra Leone and of the Manager and the next most senior officer of the principal office in Sierra Leone if the licensed bank is incorporated outside Sierra Leone.

(b) The Central Bank may by Regulations and after giving not less than three months notice in the *Gazette*, amend the Forms set out in the First Schedule.

- (c) The balance sheet and profit and loss account prepared in accordance with paragraph (a) shall be audited in the manner prescribed in section 20.

(2) Every licensed bank shall—

- (a) exhibit throughout the year in a conspicuous position in every office and branch of that bank in Sierra Leone a copy of its latest audited balance sheet prescribed in paragraph (a) of subsection (1) together with the full and correct names of all persons who are directors of that bank, as soon as it is available;
- (b) publish a copy of that balance sheet in at least one news paper of general circulation in Sierra Leone.

(3) Any licensed bank which fails to comply with either subsection (1) or subsection (2) shall be guilty of an offence and be liable on conviction to a fine not exceeding one thousand Leones.

12. (1) A licensed bank shall within three months after the making of any alteration in the memorandum and articles of association or other instrument under which it is incorporated furnish to the Central Bank particulars in writing (verified by a statutory declaration made by a senior officer of the bank) of such alteration.

Central Bank to be advised of alteration in a bank's constitution.

(2) Any licensed bank which fails to comply with the requirements of subsection (1) shall be guilty of an offence and be liable on conviction to a fine not exceeding one hundred leones for every day the default continues.

13. No licensed bank shall declare, credit or pay any dividend or make any other transfer from its profits—

Restriction on dividends.

- (a) until all its capitalised expenditure (including preliminary expenses, organisation expenses, share selling commission, brokerage, amounts of losses incurred and any other item of expenditure not represented by tangible assets) has been completely written off;
- (b) so long as there is any impairment of capital or assigned capital as the case may be.

14. (1) A licensed bank shall not in Sierra Leone—

- (a) grant to any person any advance or credit facility or give any financial guarantee or incur any other liability on behalf of such person so that the total value of the advance, credit facility, financial guarantee and other liability in respect of such person is at any time more than ten per centum of the total deposit liabilities of the licensed bank:

Restriction on certain activities.

Provided that the provisions of this paragraph shall not apply—

- (i) to transactions between banks or between the branches of a bank;

(ii) to the purchase of, or advances made against, any of the following provided that the holder thereof is entitled to payment outside Sierra Leone for exports from Sierra Leone that is to say—

(aa) clean or documentary bills of exchange,

(bb) telegraph transfers,

(cc) documents of title to goods;

(iii) to advances or credit facilities granted to, or established on behalf of, the Government or any marketing corporation or institution established directly by an Act of Parliament, or to the purchase of bills of exchange payable in Sierra Leone and accepted by any such corporation or institution, or to advances made against such bills where such advances or credit facilities or bills are for the purpose of financing the movement in Sierra Leone of produce delivered to any such corporation or institution;

sec. 6 of Act 10/78

✓ (b) grant any advance or credit facility against the security of its own shares ~~or those of any other banks~~;

✓ (c) grant or permit to be outstanding unsecured advances or unsecured credit facilities of an aggregate amount in excess of one thousand Leones—

(i) to any one of its directors whether such advances or facilities are obtained by its directors jointly or severally;

9 (ii) to any firm, partnership, private company as defined in section 27 of the Companies Act, or other association of persons corporate or unincorporate in which it or any one or more of its directors is interested as a director, partner, manager, agent or member, or to any individual firm, partnership or private company of whom or of which any one or more of its directors is a guarantor;

9 (iii) to any body of persons in which it or any one or more of its directors jointly or severally maintains a controlling interest;

(d) grant or permit to be outstanding to its officials and employees unsecured advances or unsecured credit facilities which in aggregate amount for any one official or employee exceed one year's emoluments of such official or employee;

(e) engage, whether on its own account or on a commission basis, in the wholesale or retail trade, including the import or export trade, except in so far as may exceptionally be necessary in the course of the banking operations and services of that bank or in the course of the satisfaction of debts due to it;

Cap. 249.

- (f) acquire or hold any part of the share capital of any financial, commercial, agricultural, industrial or other undertaking except such share holding as a bank may acquire in the course of the satisfaction of debts due to it which share holding shall, however, be disposed of at the earliest suitable moment:

Provided that this paragraph—

- (i) shall not prevent the purchase and sale of shares or stock upon the order and for the account of a customer and without recourse; and

- (ii) shall not apply—

(aa) in respect of any share holding approved by the Central Bank in any corporation set up for the purpose of insuring bank deposits or of promoting the development of a money market or securities market in Sierra Leone or of facilitating the financing of economic development;

(bb) to all share holdings in other undertakings the aggregate value of which does not at any time exceed twenty-five per cent of the sum of the paid up or assigned capital and published reserves of that bank;

- (g) purchase, acquire or lease real estate except as may be necessary for the purpose of conducting its business including provision for future expansion or housing its staff or in other exceptional circumstances where the agreement of the Central Bank is obtained:

Provided that a bank may secure a debt on any transferable real or other property and in default of repayment may acquire such property for resale by the bank as soon as possible thereafter.

(2) In the application of the limitation of paragraph (a) of subsection (1), if the Central Bank shall determine that the interests of a group of more than one individual, partnership, private company as defined in section 27 of the Companies Act, or other association of persons corporate or unincorporate, are so interrelated that they should be considered as a unit, the total indebtedness of that group shall be combined and deemed in respect of a single person: Cap. 249.

Provided that a licensed bank shall not be deemed to have violated paragraph (a) of subsection (1) solely by reason of the fact that the combined indebtedness exceeds the limitation at the time of the determination, but the licensed bank shall dispose of indebtedness of the group in the amount in excess of the limitation within such reasonable time as shall be fixed by the Central Bank.

(3) In paragraphs (c) and (d) of subsection (1), the expression "unsecured advances or unsecured credit facilities" means advances or credit facilities made without security, or in respect of any advance or credit facility made with security, any part thereof which at any time exceeds the market value of the assets constituting that security or, where the Governor is satisfied there is no established market value, the unsecured value as established on the basis of a valuation approved by the Central Bank.

(4) Any licensed bank which, prior to the commencement of this Act, entered into any transactions incompatible with the provisions of paragraph (a) of subsection (1), shall so soon as may be after the commencement of this Act submit a statement thereof to the Central Bank and shall, within one year from the said date, finally liquidate all such transactions.

Statements
to be sent
to Central
Bank.

Second
Schedule.

Third
Schedule.

15. (1) Every licensed bank shall send to the Central Bank—

- (a) not later than the twentieth day of each month a statement in the Form set out in the Second Schedule showing the assets and liabilities of its banking offices in Sierra Leone at the close of business on the last business day of the preceding month;
- (b) not later than one month after the last day of each quarter ending on 31st March, 30th June, 30th September and 31st December, a statement in the Form set out in the Third Schedule giving an analysis of advances and other assets of its banking offices in Sierra Leone as at 31st March, 30th June, 30th September and 31st December respectively:

Provided that the Central Bank may from time to time call for any additional information which it may require from any bank about its operations in Sierra Leone, or those of its affiliates in Sierra Leone.

(2) The Central Bank may by Regulations amend the Forms set out in the Second and Third Schedules.

(3) Any bank which fails to comply with the requirements set out in subsection (1) shall be liable upon conviction to a fine not exceeding one hundred Leones for every day during which the default continues.

(4) It shall be the responsibility of the Central Bank to prepare and to publish consolidated statements aggregating the figures in the returns furnished under subsection (1). The figures contained in the individual returns shall be regarded as secret as between each bank and the Central Bank.

Examina-
tion of
licensed
banks.

16. (1) The Governor shall cause an examination to be made of each licensed bank not less frequently than once in each calendar year, and whenever in his judgement such examination is necessary or expedient, in order to determine that the licensed bank is in a sound financial condition and that the requirements of law have been complied with in the administration of its affairs.

(2) For the purpose of determining the condition of a licensed bank and its compliance with law, the Governor may at any time cause an examination to be made of any of its affiliates in Sierra Leone to the same extent that an examination may be made of the licensed bank.

(3) In any investigation of the affairs of a licensed bank, instituted under Section 133 or 135 of the Companies Act, only persons nominated by the Central Bank shall be appointed to perform an investigation and notwithstanding any provision of the Companies Act, the Central Bank may direct the inspectors to furnish it with a copy of the Report and to report to it on any additional matters. Without prejudice to the remedies set forth in the Companies Act, the Central Bank may deem any investigation of a licensed bank made thereunder as an examination made under the provisions of this section for the purposes of section 18. Cap. 249.

17. (1) Every licensed bank and every affiliate of the bank in Sierra Leone of which an examination has been ordered under section 16 shall produce for the inspection of any examiner appointed by the Governor to examine the affairs of the Bank and its affiliates at such times as the examiner specifies, all books, minutes, accounts, cash, securities, documents, and vouchers in its possession or custody, relating to its business in Sierra Leone, and shall supply all oral information concerning its business in Sierra Leone as may reasonably be required by the examiner within such time as the examiner specifies. Production of books, etc.

(2) If any books, minutes, accounts, cash, securities, documents and vouchers are not produced or information is not supplied in accordance with subsection (1) the defaulting bank or affiliate or both as the case may be shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred Leones in respect of every day during which the default continues. If any information supplied or item produced is false in any material particular, the bank or affiliate or both as the case may be shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand Leones.

(3) As soon as may be after the conclusion of the examination the examiner shall submit a full report thereon to the Governor. A copy of the report shall also be sent to the Head Office of the bank concerned.

(4) The Governor shall have power to order that all expenses of and incidental to an examination shall be paid by the bank.

18. If in the opinion of the Governor an examination pursuant to section 16 shows that the bank concerned is carrying on its business in a manner detrimental to the interests of its depositors or is engaging in unauthorised or unsafe practices or has insufficient assets to cover its liabilities to the public or is contravening any law the Governor may— Governor's powers after examination.

(a) require that bank forthwith to take such steps as he may consider necessary to rectify the matter; or

- (b) appoint a person who in his opinion has had proper training and experience to advise the bank on the steps to be taken to rectify the matter, and shall fix his remuneration which shall be paid by the bank;
- (c) suspend the right of the bank to extend new credit, for such a period as the Governor may deem appropriate:

Provided that such right shall not be suspended—

- (i) without giving the bank reasonable prior notice of the intention to do so and an opportunity of submitting a written statement in reply;
- (ii) if the Governor is satisfied that the bank is taking adequate measures to rectify the matter.

Banking
emergen-
cies and
liquidation.

19. (1) A licensed bank which considers that it is likely to become unable to meet its obligations or is about to suspend payment shall forthwith inform the Governor in writing of that fact.

Cap. 249.

(2) On receipt of notification under subsection (1), or following a claim by a depositor or other creditor that a licensed bank is unable to pay its debts according to the standard specified in the Companies Act, or on its own initiative, when there is reason to believe that a bank is having difficulty in meeting its deposit liabilities, the Central Bank may initiate the procedures specified in subsection (3), or subsection (5).

(3) Pursuant to a decision under subsection (2) the Central Bank may by Public Notice published in the *Gazette*, order that the bank or branch in question shall suspend all business, except as prescribed, for a period not exceeding six months, and that any prescribed obligations of the bank shall be unenforceable in any court for the prescribed period.

Provided that the Central Bank may amend the provisions of such an Order from time to time.

(4) In the event of net withdrawals from demand and savings deposit accounts of any licensed bank exceeding ten per cent of its total liabilities on these accounts in any period of less than six consecutive working days the Central Bank, notwithstanding paragraph (d) of section 30 of the Bank of Sierra Leone (Amendment) Act, 1970, may lend to the licensed bank, on terms and conditions specified by the Central Bank, an amount sufficient to meet in an orderly fashion, any remaining demands for withdrawals from those accounts:

Act No. 10
of 1970.

Provided that any credit outstanding under this subsection shall be secured by assets having a face value of twice the amount of the credit, and shall be repayable within five years.

(5) Pursuant to a decision under subsection (2), the Central Bank may make an application to the Supreme Court for the liquidation or winding up of a licensed bank, or for the conservation of its assets.

(6) When petitioned by the Central Bank, the Supreme Court may appoint a conservator nominated by the Central Bank, for the preservation of a licensed bank and the protection of its depositors, at a remuneration paid by the bank to be determined by the Court on the recommendation of the Central Bank. For the period of the appointment, the conservator shall take into his control and may, on application to the Court be vested with any property of the licensed bank whose assets he is charged with conserving, having in relation to that property, the same powers as are conferred upon liquidators under the Companies Act. He shall be placed in charge of its management, with a right to exercise any powers of the licensed bank in order to conserve its assets or improve its management. He shall prepare a plan for either the bank's resumption of banking business, or its merger or consolidation with another bank, unless liquidation or winding up appears unavoidable. While acting as conservator subject to the supervision of the Court and the technical advice of the Central Bank, he shall pay due regard to the interests of the depositors and other creditors, as well as the potential contributories of the bank. At the request of a conservator the Central Bank may initiate or amend an Order under subsection (3), or extend it until the date the Central Bank approves the plan prepared under this subsection, notwithstanding any provision of subsection (3). Upon the approval of such a plan by the Central Bank, the Court shall order the licensed bank and its directors, officers, employees and servants to implement it. Cap. 249.

(7) Notwithstanding any provision of the Companies Act the Central Bank shall nominate any receiver or liquidator of a bank being wound up in Sierra Leone, and the Central Bank may represent the interests of depositors on any committee of inspection or in any litigation. Notwithstanding any other provision of law, the permanent cessation of operations or the liquidation and withdrawal of a major portion of the assets in Sierra Leone by a licensed bank shall be deemed for all purposes to be the winding-up of a company under the Companies Act, and the shareholders of the company whose branches and offices in Sierra Leone are being wound up shall be deemed to be rateably the shareholders of the licensed bank itself. Notwithstanding any other provisions of law, the claims in liquidation of the depositors of a licensed bank shall have priority over all other claims other than those specified in sections 202, 240 and subsections (1) and (5) of section 249 of the Companies Act and the payment of secured claims of Sierra Leone creditors. Cap. 249.

20. (1) Every licensed bank shall appoint annually auditors, who shall be professionally qualified persons satisfactory to the Central Bank, whose duties shall be to make a report to the shareholders of each such bank incorporated in Sierra Leone and to the Head Office of each such bank incorporated outside Sierra Leone upon the annual balance sheet and accounts, and in every such report they shall state whether in their opinion the balance sheet is full and fair and properly drawn up, whether it exhibits a true and correct statement of the bank's affairs and, if the auditors have called for explanations or information from the officers or agents of the bank whether this is satisfactory. Appoint-
ment of
auditors.

(2) The report of the auditors shall be read together with the report of the Board of Management of the bank at the annual meeting of shareholders or members of each bank incorporated in Sierra Leone and shall be transmitted to the Head Office of each licensed bank incorporated outside Sierra Leone. A copy of it including the balance sheet and profit and loss account shall be sent to the Central Bank. If any default is made in complying with the requirements of this subsection the defaulting bank shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand Leones.

(3) If a bank fails to appoint auditors satisfactory to the Central Bank or appoints only one such auditor, the Governor shall have the power to appoint one or two auditors as the case may be.

(4) The remuneration of the auditors, whether appointed by the bank or by the Governor shall be paid by the bank, and in the case of an auditor or auditors appointed by the Governor shall be fixed by him.

(5) No person having any interest in any bank otherwise than as a depositor and no officer or agent of any bank shall be eligible for appointment as an auditor to such bank and any person appointed as auditor to any bank who shall after such appointment acquire such interest or become an officer or agent of such bank shall forthwith cease to be such auditor.

(6) The duties, powers and liabilities imposed and conferred by subsections (1) and (2) of section 17 in relation to examiners are hereby imposed and conferred also in relation to auditors.

PART IV—POWERS OF THE CENTRAL BANK

21. (1) Every licensed bank in Sierra Leone shall maintain at all times such an amount of liquid assets as may from time to time be prescribed by the Central Bank in writing to each licensed bank and in the *Gazette*. The amount of the assets so prescribed shall be expressed as a percentage not to exceed forty per cent which such assets shall bear, to the gross demand and time liabilities of each bank due in Sierra Leone currency. No bank shall be required to maintain a higher percentage than any other bank. For the purposes of this section, advances granted to a bank by any other bank or by an overseas branch, office or wholly owned subsidiary of the same bank, shall be excluded from any computation of that bank's demand and time liabilities.

(2) Whenever the Central Bank issues a notice under subsection (1) raising the percentage of liquid assets to be held by each bank, each bank shall be allowed such uniform period of grace, being not less than fourteen working days, as may be specified in such notice, in which to comply with the provisions thereof. The distribution of amounts between the classes of liquid assets enumerated in subsection (3) shall be made at the discretion of each bank.

(3) For the purposes of this section "liquid assets" shall consist of freely transferable assets free from any charge or lien whatsoever of all or any of the following classes, namely—

Minimum
liquidity
require-
ments.

Replaced by

Sec. 70

Act 10/78

- (a) notes and coin which are legal tender in Sierra Leone;
- (b) balances at the Central Bank;
- (c) net balances with other banks in Sierra Leone and money at call in Sierra Leone;
- (d) Treasury Bills issued by the Government and maturing within ninety-three days;
- (e) inland bills of exchange and promissory notes which are eligible for re-discount at the Central Bank, subject to such limitations in amount as the Central Bank may from time to time prescribe.

(4) A bank shall be held to be guilty of an offence if it—

- (a) fails to furnish within a reasonable time any information required by the Central Bank to satisfy the Central Bank that the bank is observing the requirements of this section; or
- (b) allows its holding of liquid assets to be less than is from time to time prescribed by the Central Bank; or
- (c) grants or permits increases in advances or overdrafts without the prior approval of the Central Bank after the Central Bank has notified it of the deficiency and before the deficiency has been rectified.

Replaced by

A 10/78

(5) Any bank which commits an offence under subsection (4) shall be liable on conviction to a fine of one hundred Leones—

- (a) for every day during which a default under paragraph (a) thereof exists;
- (b) for every day during which a deficiency under paragraph (b) thereof exists, and
- (c) for every offence under paragraph (c) thereof.

(6) Any bank which fails to maintain the liquidity requirements prescribed from time to time by the Central Bank under this section may, in addition to the penalties provided in subsection (5), be ordered by the Central Bank to pay interest on the amount of the deficiency in liquid assets not in excess of five per cent per annum above the minimum rediscount rate of the Central Bank.

22. Following consultations with licensed banks, the Central Bank may by order prescribe uniform hours of business for the branches and offices of those banks in any specified area.

*Uniform
business
hours.*

PART V—GENERAL

23. (1) Without prejudice to anything contained in any Disqualifica-
enactment relating to companies, any person who is a director, tion of
manager or other officer concerned in the management of a bank directors
shall cease to hold office— etc.

(a) if he becomes bank up or suspends payment or compounds with his creditors

(b) if he be convicted of an offence involving dishonesty or fraud.

(2) No person who has been a director of, or directly or indirectly concerned in, the management of a bank which has had its licence revoked in accordance with section 7 or been wound up by a Court, shall, without the express authority of the Governor, act or continue to act as a director of or be directly or indirectly concerned in the management of any bank.

(3) Any person acting in contravention of subsections (1) or

(2) shall be liable on conviction to imprisonment for a term not exceeding three years or to a fine not exceeding two thousand Leones or to both such imprisonment and such fine.

~~(1) (5) --- added by sec. 8 of Act 10/78~~
24. (1) Save with the consent of the Governor, no person other than a licensed bank shall—

(a) use, or continue to use, the word "bank" or any of its derivatives, either in English or in any other language, in the description or title under which such person is carrying on business in Sierra Leone;

(b) make or continue to make any representation in any billhead, letter paper, notice, advertisement or in any other manner whatsoever that such person is carrying on banking business in Sierra Leone:

Provided that nothing in this subsection shall apply to any association of licensed banks formed for the protection of their mutual interests.

(2) Every licensed bank shall use as part of its description or title the word "bank" or some one or other of its derivations, either in English or in some other language.

(3) Any person who acts in contravention of this section shall be liable on conviction to a fine of one hundred Leones for every day during which the offence continues.

Penalties
on directors
and
managers.

25. Any person who being a director or manager or other official of a licensed bank—

(a) fails to take all reasonable steps to secure compliance by the bank with the requirements of this Act; or

(b) fails to take all reasonable steps to ensure the correctness of any statement submitted under the provisions of this Act,

shall be liable on conviction to imprisonment for a term not exceeding two years or a fine not exceeding one thousand Leones or both such imprisonment and such fine.

Attorney-
General's
fiat.

26. No prosecution in respect of any offence committed by a licensed bank or other person under this Act shall be instituted except by, or with the consent of, the Attorney-General.

Replaced by sec. 8
of Act 10/78

Use of the
word "bank"
in business
and com-
pany.

27. The prohibition contained in subsection (1) of section 3 Exemptions. of this Act shall not apply to—

(a) the Central Bank;

(b) the Post Office Savings Bank established under the provisions of the Post Office Savings Bank Act; and Cap. 161.

(c) any co-operative society registered under the Co-operative Societies Act. Cap. 253.

28. (1) Nothing in this Act shall authorise the Minister or the Central Bank to enquire or cause an enquiry to be made into the affairs of any individual customer of a licensed bank. Protection of individual accounts from investigation.

(2) The Central Bank or any examiner appointed by the Governor to enquire into the affairs of any licensed bank shall not (unless lawfully required to do so by any Court) reveal to any person any information as to the affairs of any individual customer obtained in the course of such inquiry.

29. The Governor may make such Regulations as may be Regulations. required from time to time for giving effect to the provisions of this Act.

30. (1) The Banking Act, 1964 is hereby repealed and sections 1 to 30 are substituted for its corresponding provisions as of the date each section of the present Act enters into operation. Repeal and savings. Act No. 19 of 1964.

(2) Any Bye-Laws, Rules, Regulations, Orders, Notices, prescriptions or other instruments or directives issued under any provision repealed by the present Act, except for licenses to carry on banking business, and exemptions granted under subsection (2) of section 8 and proviso (iv) to paragraph (a) of subsection (1) of section 12 of the Banking Act, 1964, hereby repealed, shall continue until their expiration, or until their express repeal under the present Act, whichever occurs first. Act No. 19 of 1964.

FIRST SCHEDULE

ANNUAL BALANCE SHEET AND PROFIT AND LOSS ACCOUNT

(To be submitted in accordance with section 11 (1) of Banking Act, 1970)

Covering all business transacted by (1) a licensed bank with Head Office in Sierra Leone or (2) all offices and branches in Sierra Leone of a licensed bank whose Head Office is situated outside Sierra Leone.

Form A. BALANCE SHEET OF AS AT 31ST DECEMBER, 19.....

(name of bank)

Capital and Liabilities		Le	Assets	Le	Le
1. Capital			1. Cash in hand		
Paid-up	...	...	(a) Leone notes and coins	...	...
Issued	...	...	(b) Foreign currencies	...	...
Authorised	...	...	2. Balances with other banks:		
2. Reserves:			(a) Bank of Sierra Leone	...	...
(a) Reserve Fund	...	...	(b) Other banks in Sierra Leone	...	...
(b) Other Reserves	...	...	(c) Head Office branches abroad	...	...
3. Debentures	...	...	(d) Other banks abroad	...	...
4. Deposits:			3. Money at Call:		
(a) Time	...	...	(a) In Sierra Leone	...	...
(b) Savings	...	...	(b) Outside Sierra Leone	...	...
(c) Demands and contingent accounts, etc.	...	...	4. Treasury Bills Maturing:		
5. Borrowings from and Balances due to:			(a) Within 3 months		
(a) Central Bank	...	...	(i) Sierra Leone	...	...
(b) Other banks in Sierra Leone	...	...	(ii) Foreign	...	...
(c) Head Office and branches abroad	...	...	(b) After 3 months	...	...
(d) Other banks abroad	...	...	(i) Sierra Leone	...	...
(e) Other creditors abroad	...	...	(ii) Foreign	...	...

(name of bank)

Capital and Liabilities		Le	Le	Assets	Le	Le
6. Bills payable	...	...	—	5. Investments in:	...	—
7. Other Liabilities payable:				(a) Sierra Leone Government Securities	...	—
(a) to banks in Sierra Leone	...	—		(b) Other Sierra Leone Shares, etc.,	...	—
(b) to others in Sierra Leone	...	—		(c) Foreign Govt. Securities	...	—
(c) outside Sierra Leone	...	—		(d) Other Foreign Securities	...	—
8. Bills for collection being bills receivable as per contra:				6. Advances		
(a) to banks in Sierra Leone	...	—		(a) Loans, Cash credits, Overdrafts:		
(b) to others in Sierra Leone	...	—		(i) In Sierra Leone	...	—
(c) outside Sierra Leone	...	—		(ii) Outside Sierra Leone	...	—
9. Confirmed documentary credits as per contra:				(b) Bills discounted and purchased excluding Treasury Bills:	...	—
(a) Imports	...	—		(i) Payable in Sierra Leone	—	—
(b) Exports	...	—		(ii) Payable outside Sierra Leone	—	—
10. Acceptances, Endorsements, Guarantees and other obligations as per contra.	...	—		7. Bills Receivable being Bills for Collection as per contra:		
11. Contingent Liabilities	...	—		(a) Payable in Sierra Leone	...	—
12. Profit and Loss:				(b) Payable outside Sierra Leone	—	—
Profit as per last balance sheet	...	—		8. Customers' Liabilities for confirmed documentary credits as per contra	...	—
Less Appropriation	...	—		9. Customers' Liabilities for acceptances, endorsements, guarantees and other obligations as per contra	...	—
Add current Profit as per Profit and Loss Account	...	—				

Form A. BALANCE SHEET OF.....

AS AT 31ST DECEMBER, 19.....

42

(name of bank)

Capital and Liabilities

Le

Assets

Le

- | | | |
|-----|------------------------|-----|
| 10. | Bank Premises | ... |
| | Less Depreciation | ... |
| 11. | Furniture and Fixtures | ... |
| | Less Depreciation | ... |
| 12. | Other assets | ... |
| 13. | Profit and Loss | ... |
| | Total | ... |

Total ...

(Date)

(Signature and Designation)

(Signature and Designation)

INSTRUCTIONS REGARDING FIRST SCHEDULE FORM A

(1) In the case of a licensed bank whose Head Office is situated outside Sierra Leone, the amount of deposit with the Central Bank in the form of cash and/or Government Securities in terms of section 6 (b), should be shown in the First Schedule Form A under the head, capital paid-up but the amount should neither be extended to the outer column nor should it be added to total liabilities because it is a blocked liability to the Head Office to be included in item 5 (c) on the liabilities side of the balance sheet and in items 2 (a) and/or 5 (a) on the assets side as the case may be.

(2) The advances to be entered in the balance sheet should exclude bad and doubtful debts. A certificate to this effect should be incorporated in the balance sheet which should state that adequate provision has been made for such bad debts to the satisfaction of the Auditors.

Further, the following particulars in respect of advances, duly certified by the bank and authenticated by the Auditors, should be attached to the balance sheet:

(a) Debts considered good in respect of which the bank is fully secured.

(b) Debts considered good secured by the personal liabilities of one or more parties in addition to the personal security of the debtors.

(c) Debts due by directors or officers of the bank or any of them either severally or jointly with any other person.

(d) Debts due by companies or firms in which the directors of the bank are interested as directors or partners or in the case of private companies, as members.

FORM B.

FIRST SCHEDULE

PROFIT AND LOSS ACCOUNT OF FOR YEAR ENDING 31ST DECEMBER, 19.....
 (name of bank)

1. CURRENT ACCOUNT

*Expenditure**Le*

1. Interest paid on deposits, borrowings, etc. ...
2. Salaries, wages, allowances and bonuses paid to officers and staff and fees paid to Directors ...
3. Contributions to staff provident funds, superannuation funds and pensions paid by the bank ...
4. Rent, lighting, etc. ...
5. Taxes ...
6. Insurance ...
7. Stationery, Printing and Office Materials ...
8. Postage, Telegrams and Stamps ...
9. Auditor's Fees ...
10. Law Charges ...
11. Advertising and Publicity ...
12. Travelling Expenses ...
13. Bad debts written off and provision for bad debts and similar contingencies ...
14. Depreciation ...
15. Losses on realisation, redemption or revaluation of investments and other assets ...
16. All other expenditure (excluding capital expenditure shown in Capital Account below) ...
17. Total expenditure ...
18. Net Income ...

Total

...

*Income**Le*

1. Discount and Intetest ...
 - (a) On loans and advances ...
 - (b) On trade bills ...
 - (c) On Government Securities and Treasury Bills ...
 - (d) On other securities ...
 - (e) Other ...
2. Commission, inland exchange, other bank charges ...
3. Commissions and fees from foreign exchange Transactions ...
4. Dividends on investments in shares ...
5. Rents ...
6. Bad debts recoveries ...
7. Profit on realisation, redemption or revaluation of investments and other assets ...
8. All other income ...
9. Total income ...
10. Loss if any ...

Total

...

PROFIT AND LOSS ACCOUNT (Continued)

2. CAPITAL ACCOUNT

<i>Capital Expenditure</i>	<i>Le</i>	<i>Financing</i>	<i>Le</i>
1. Cost of construction of new buildings	...	1. Out of Depreciation Reserve	...
2. Cost of renovation of old buildings	...	2. Out of Net Profits	...
3. Cost of new machinery and equipment	...	3. Out of Capital Receipts from Head Office	...
4. Cost of new motor vehicles	...	4. Other sources (specify)	...
5. Cost of new fixtures and fittings	...		
6. Other Capital expenditure	...		
Total	...	Total	...

3. DISTRIBUTION OF NET PROFITS

<i>Net Profit</i>	<i>Le</i>	<i>Distribution of Net Profit</i>	<i>Le</i>
1. Net Income	...	1. Remitted to Head Office abroad	...
2. Less		2. Remitted to shareholders abroad	...
(1) Taxes on Net Income		3. Paid to shareholders in Sierra Leone	...
(a) Taxes in Sierra Leone			
(b) Taxes abroad			
(2) Transferred to Reserve			
2 Net Profit	...	Total	...

(Date)

(Signature and Designation)

(Signature and Designation)

SECOND SCHEDULE

MONTHLY STATEMENT OF ASSETS AND LIABILITIES OF

(Name of bank) AS AT 19.....

(To be submitted in accordance with Section 15 (1) (a) of the Banking Act 1970)

<i>Liabilities</i>		<i>Assets</i>	
<i>Le</i>	<i>Le</i>	<i>Le</i>	<i>Le</i>
1. Capital paid up	...	1. Cash in Hand	...
2. Reserve Fund	...	2. Balances with other banks:	...
3. Debentures	...	(including items in transit)	...
4. Deposits:		(a) In Sierra Leone	...
(a) Repayable on demand	...	(b) Head office and branches	...
(b) Savings Account	...	abroad	...
(c) Other deposits repayable*	...	(c) Other banks abroad	...
up to 3 months	...	3. Money at call:	...
from 3 to 6 months	...	(a) In Sierra Leone	...
from 6 to 12 months	...	(b) Outside Sierra Leone	...
beyond 12 months	...	4. Treasury Bills maturing	...
5. Balances held for other banks:		within 3 months	...
(a) In Sierra Leone	...	(a) In Sierra Leone	...
(b) Head office and branches	...	(b) Outside Sierra Leone	...
abroad	...	Treasury Bills maturing beyond	...
(c) Other banks abroad	...	3 months	...
		(a) In Sierra Leone	...
		(b) Outside Sierra Leone	...
		5. Investments:	...
		(a) In Sierra Leone Government	...
		Securities	...
		(b) In other securities in Sierra	...
		Leone	...
		(c) In other Government Securi-	...
		ties abroad	...
		(d) In other securities abroad	...

*As from the date of this return.

MONTHLY STATEMENT OF ASSETS AND LIABILITIES (continued)

46

Liabilities		Le	Assets	Le
6. Loans and advances from:			6. Bills discounted or purchased and payable:	
(a) Other banks in Sierra Leone	_____		(a) In Sierra Leone	_____
(b) Head office and branches abroad	_____		(b) Outside Sierra Leone (including bills maturing*)	_____
(c) Other banks abroad ...	_____		(i) within 3 months ...	_____
(d) Other creditors ...	_____		(ii) beyond 3 months ...	_____
Contingent liabilities included in above	_____		(iii) past due—unpaid and unaccepted	_____
in respect of:			Loans and advances to:	
(a) bills discounted ...	_____		(a) Other banks in Sierra Leone	_____
(d) other ...	_____		(b) Head office and branches abroad	_____
7. Bills payable ...	_____		(c) Other banks abroad ...	_____
8. Other liabilities ...	_____		(d) Other customers:	
9. Acceptances on account of customers (as per contra) ...	_____		(i) secured ...	_____
10. Confirmed documentary credits (as per contra) ...	_____		(ii) unsecured ...	_____
11. Guarantees, endorsements and other obligations on account of customers (as per contra) ...	_____		8. Bank premises...	_____
			9. Other assets ...	_____
			10. Liability of customers for acceptances (as per contra)...	_____
Total Liabilities ...			11. Liability of customers for confirmed documentary credits (as per contra)	_____
Net external liabilities/assets ...	Le		12. Liability of customers for guarantees etc. (as per contra) ...	_____
			Total Assets ...	_____

*as from the date of this return.

We declare that this statement is, to the best of our knowledge and belief, correct.

.....
Date

.....
Accountant

.....
Manager