

ACTS

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SIGNED this 21st day of December, 1990.

J. S. MOMOH,
President.

LS

No. 3



Sierra Leone

1990

The Electoral Provisions (Amendment) Act, 1990

Short title.

Being an Act to amend the Electoral Provisions Act, 1962

[Date of
commence-
ment.

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

1. Section 2 of the Electoral Provisions Act, 1962 is hereby amended—

Amendment
of Section
2 of Act No.
14 of 1962.

(4) Returning Officers and Assistant Returning Officers shall comply with any general or special directions, not inconsistent with this Act or with any Regulations made thereunder, which may be given by the Electoral Commission with respect to the arrangements to be made by such officers for carrying out their duties under this Act."

4. Section 13 of the principal Act is repealed and replaced by the following new section—

"Payment of the sum of Le 10,000.00

13. (1) Every candidate for an election as an ordinary Member of Parliament under paragraph (b) of subsection (1) of section 43 of the Constitution of Sierra Leone, 1978 shall, at the time when his nomination paper is delivered at the office of the Returning Officer in accordance with Section 12, pay or cause to be paid to the Returning Officer the sum of ten thousand leones or a written receipt issued by or on behalf of the Accountant-General for ten thousand leones received from or on account of that candidate in respect of that sum and the nomination shall not be valid until the payment has been made.

(2) The payment shall be non-refundable and shall be paid into the Consolidated Fund."

5. Sections 22 to 50 of the principal Act are repealed and replaced by the following new sections—

"Electoral Commission to make arrangements for contested elections.

22. (1) The Electoral Commission shall make arrangements for the holding of a contested election at the time and place notified under Section 11.

(2) The Electoral Commission shall—

(a) Provide one or more polling stations in each electoral area and allot the voters within the electoral area to the polling stations in such manner as it thinks most convenient;

(b) on or before the fourth day before the day of election give notice of the election in such manner as it may think fit, specifying—

(i) the day and hours fixed for voting;

Repeal and replacement of Section 13 of Act No. 14 of 1962.

Repeal and replacement of Sections 22 to 50 of Act No. 14 of 1962.

shall affix one photograph together with the symbol of that candidate on the wall of each polling booth where the elector goes alone to place his mark.

- (f) provide the Presiding Officer at each polling station with instruments for making an official mark on the ballot papers;
- (g) provide the Presiding Officer at each polling station with copies of the Register of Electors or such part thereof as contains the names of the electors allotted to vote at such polling station;
- (h) cause to be published in each polling station the photograph of every candidate together with the symbol which the Electoral Commission has allotted to each candidate for whom a vote can be cast at such polling station;
- (i) do such other acts and things as may be necessary for conducting the election in the manner provided in this Act.

23. (1) Each nominated candidate may appoint two persons (hereinafter referred to as "polling agents") to attend at each polling station within the electoral area for which he is a candidate, for the purpose of detecting personation and making representations to Polling Assistants under the provisions of paragraph (e) of section 26, or to the Presiding Officer under the provisions of subsection (1) of section 30; and generally for drawing the attention of the Presiding Officer to irregularities in the procedure at a polling station.

Polling Agents.

(2) Notice in writing of the appointment, stating the names and addresses of the polling agents, together with the polling stations to which they have been assigned, shall be given by the candidate to the Returning Officer not later than three days before the first day appointed for the election and before four o'clock in the afternoon of the last day for the delivery of the notice.

(3) If any polling agent dies or becomes incapable of acting as such, the candidate may appoint another polling agent in his place, and shall give to the Returning Officer due notice in writing of the name and address of the polling agent so appointed.

(4) A candidate may do any act or thing which his polling agent is authorised to do under subsection (1).

Precautions
to ensure
secrecy.

24. (1) Every ballot box shall be so constructed that the ballot papers can be put therein by the voter but cannot by him be withdrawn.

(2) The Presiding Officer shall cause to be placed at each polling station a ballot box in which shall be deposited the votes of the elections.

(3) Immediately before the commencement of voting the Polling Officer at each polling station shall show the ballot box empty to such persons as may be lawfully present so that they may see that it is empty and shall in such person's presence close and place distinctive seals upon the ballot box in such manner as to prevent the ballot box being opened without breaking the seals and shall keep it so closed and sealed until the voting is completed and counting commenced.

(4) The Presiding Officer shall place the ballot box which he shall have caused to be prepared under this section, in the Polling Station in full view of the Presiding Officer, the Polling Assistants, the Polling Agents, as the case may be, and such other persons as authorised to be present in the Polling Station throughout the voting time prescribed.

Hours of
voting.

25. The Hours of voting shall be from seven o'clock in the morning to six o'clock in the afternoon, and no ballot paper may be placed in any ballot box outside these hours of voting.

Manner of
voting.

26. The voting at an election shall be conducted in the following manner—

(a) Every elector desiring to record his vote shall present himself to a Polling Assistant at the polling station at which he is entitled to vote, and the Polling Assistant, after satisfying himself that—

(i) the name of such elector appears in the copy of the Register of Electors, or part thereof, provided for that polling station; and

(ii) he has not already voted; shall deliver to him a ballot paper and the elector shall proceed to the polling booth where in secret he shall mark the ballot paper:

Provided that the Presiding Officer may, before any ballot paper is delivered to the elector, require the elector to submit to being searched in private by a person appointed by the Presiding Officer for the purpose of ensuring that no ballot paper relating to the election is already in his possession, and if the elector in such case does not submit to a search he shall not be entitled to receive a ballot paper or to vote; and provided that no female elector shall be searched except by a female.

(b) Immediately before the Polling Assistant delivers a ballot paper to an elector—

(i) he shall call out the elector's serial ward number and his name and address as stated in the Register of Electors;

(ii) he shall examine the elector's left hand for traces of the ink (if any) referred to in paragraph (c), and if he is satisfied that there are such traces he shall not deliver any ballot paper to that elector;

(iii) he shall mark the ballot paper or papers with any official mark which may be prescribed by the Electoral Commission;

(iv) the number of the elector in the copy of the Register of Electors shall be marked on the counter-foil of the ballot paper or ballot papers.

(v) a mark shall be placed against the number of the elector in the copy of the Register of Electors to denote that a ballot paper or ballot papers have been delivered, but without stating or showing the printed number of the ballot paper or ballot papers which have been delivered.

(c) A Polling Assistant may, and, if required by a candidate or polling agent, shall put to any persons applying for a ballot paper or papers at the time of his application, but not afterwards, the following questions, or any of them—

(i) “Are you the person whose name is on the Register of Electors as (reading the entry in the Register)?”

(ii) “Have you already voted at the present election at this or any other polling station?”

(d) No person who is required by the Polling Assistant to answer these questions, or either of them, shall be provided with a ballot paper or allowed to vote until he has answered the same to the satisfaction of the Presiding Officer.

(e) An elector, if the Electoral Commission so direct, immediately before receiving a ballot paper, shall submit to having his left thumb or a finger of the left hand marked with indelible ink.

- (f) The elector shall then go alone to the booth or enclosure, put his mark against the symbol of the candidate of his choice secretly and then come out of the booth or enclosure with his ballot paper folded which he will then cast in full view of everyone present.
- (g) An elector who has accidentally dealt with a ballot paper in such manner that it cannot conveniently be used as a valid ballot paper may, on delivering such ballot paper, and any other ballot paper issued to him bearing the same serial number to the Presiding Officer and after satisfying the Presiding Officer that the ballot paper has been spoiled by accident, obtain another ballot paper or other ballot papers in the place of the ballot paper or ballot papers so delivered up, and the spoiled ballot paper or ballot papers and any other ballot paper bearing the same number shall be immediately cancelled by the Presiding Officer writing the word "CANCELLED" across the face of the same, and the Presiding Officer shall preserve all such cancelled ballot papers and shall deliver them to the Returning Officer as hereinafter mentioned.
- (h) (i) An elector shall not place on the ballot paper any writing or mark by which he may be identified.
- (ii) For the purpose of subparagraph (i), a fingerprint or other mark caused by merely handling a ballot paper shall not be regarded as a mark of identification.
- (i) If any elector, by reason of blindness, or other physical disability, is unable to cast his vote or votes in person, he

(2) The Presiding Officer shall regulate the admission of electors to the polling station, and shall exclude all other persons except candidates, polling agents, polling Assistant, constables on duty, and any other person who in his opinion has lawful reason to be admitted.

(3) Every elector present in a polling station shall comply with any directions of the Presiding Officer for regulating the casting of votes and generally shall conduct himself in an orderly manner.

Personation.

30. (1) If at the time a person applies for a ballot paper or after he has so applied and before he has left the polling station, a polling agent declares to the Presiding Officer that he has reasonable cause to believe that the applicant has committed the offence of personation and undertakes to substantiate the charge in a court of law or, if the Presiding Officer himself has reasonable cause to believe that an applicant for a ballot paper has committed the offence of personation, the Presiding Officer may order a constable to arrest such person and the order of the Presiding Officer shall be sufficient authority for the constable to do so.

(2) A person in respect of whom a polling agent makes a declaration in accordance with subsection (1) of this section or whom the Presiding Officer has reasonable cause to believe has committed the offence of personation shall not, by reason thereof, be prevented from voting, but the Presiding Officer shall cause the words "Protested against for personation" to be placed against his name in the marked copy of the Register of Electors or part thereof:

Provided that where a person in respect of whom such declaration is made admits to the Presiding Officer that he is not the person he held himself out to be, he shall not be permitted to vote if he has not already done so, and if he has already voted, the Presiding Officer shall make a note of the number of the ballot paper delivered to him, and upon the count being taken, such ballot paper shall be invalid.

cease to receive any votes and shall as soon as is practicable thereafter, in the presence of any polling agents in attendance, make up into separate packets, each sealed with his own seal—

- (a) the ballot box in use at the polling station, unopened and sealed so as to prevent the introduction of additional ballot papers;
- (b) any certificates he has received under paragraphs (j) and (k) of section 26;
- (c) the unused and spoilt ballot papers, placed together;
- (d) the tendered ballot papers in separate packets relating to each candidate;
- (e) the marked copies of the Register of Electors or the part thereof;

and shall deliver the packets to the Returning Officer.

(2) The packets shall be accompanied by a statement to be called the Ballot Papers Account, which shall be in the Form D prescribed in the First Schedule, prepared by the Presiding Officer showing the number of ballot papers entrusted to him and accounting for them under the following heads—

- (a) number of spoilt ballot papers; and
- (b) number of unused ballot papers; and
- (c) number of persons marked on the Register of Electors as having been issued with a ballot paper.

34. (1) Each candidate shall appoint one person, hereinafter referred to as a counting agent, for each polling station to attend at the counting of votes.

(2) Notice in writing of the appointment, stating the name and address of the counting agent, shall be given by the candidate to the Returning Officer not later than three days before the last day of the election and before four o'clock in the afternoon

Form D
First Schedule.

Counting Agents.

42. Upon the conclusion of the counting of the votes the Returning Officer shall seal up in separate packets (a) the counted and (b) the rejected and tendered ballot papers, the ballot papers for each candidate being kept separate from those of any other candidate as each packet shall be endorsed on the outside by the Returning Officer with the name of the candidate for whom the votes represented by the ballot papers therein were cast. He shall not open the sealed packet containing the marked copy of the Register of Electors nor the sealed packets containing the counterfoils of used ballot papers, but shall proceed, in the presence of the counting agents, to verify the ballot paper account given by each Presiding Officer by comparing it with the number of ballot papers counted or rejected in accordance with section 35 and the unused and spoilt papers in his possession, and shall reseal each packet after examination. The Returning Officer shall prepare a statement as to the result of the verification and showing the number of ballot papers rejected, which shall be in the Form E prescribed in the First Schedule and shall, on request by any counting agent, allow him to copy the statement. The Returning Officer shall receive results of counted ballot papers from the Counting Officer from each polling station.

Returning Officer's duties at conclusion of counting.

Form E First Schedule.

43. When the result of the election has been ascertained, the Returning Officer shall—

Declaration of results.

- (a) forthwith declare to be elected the candidate or candidates, as the case may be, for whom the majority of votes has been cast;
- (b) forthwith publish at the place of counting, the number of votes cast in favour of each candidate and the name or names of the candidates whom he has declared to be elected;
- (c) send notification of election in writing to the successful candidate or candidates;

- (d) deliver personally to the Secretary of the Electoral Commission the sealed packages containing the voting papers and all other documents relating to the election, including all forms whether used or unused; and
- (e) (i) in the case of an election to Parliament certify to the Electoral Commission in writing the result of the election; or
- (ii) in the case of an election to a Local Authority, inform the Minister and the Electoral Commission in writing of the result of the election.

**Publication
of results.**

44. (1) The Electoral Commission, on receipt of the results of an election in accordance with section 43 shall forthwith cause to be published in the Gazette the result of the election, together with the number of votes recorded for each candidate.

(2) The Secretary of the Electoral Commission shall retain in safe custody the voting papers and other documents transmitted to him under seal by the Returning Officer for a period of six months on the expiration of which period he shall destroy such of them as are not required for the investigation or trial of any election petition or offence.

**Power of
Polling
Assistants.**

45. A Polling Assistant may be authorised by the Presiding Officer to do any act which the Presiding Officer is required or authorised to do at a polling station by this Act, except that he may not order the arrest or search of any person, or the exclusion or removal of any person from the polling station.

**Candidate
has power
of his agent.**

46. A candidate may do any act or thing which his agent would have been authorised or required to do, and may assist his agent in the doing of any such act or thing.

47. Where in this Act any act or thing is required or authorised to be done in the presence of the candidates or polling or counting agents, the non-attendance of any candidate or agent or agents at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done.

Non-attendance of candidate or agents not to invalidate.

48. The Returning Officer, Assistant Returning Officers, Presiding Officers and Polling Assistants shall receive such reasonable remuneration for their services as the Minister shall authorise, on the recommendation of the Electoral Commission.

Remuneration of Returning Officer, etc

49. (1) All expenses properly incurred by the Returning Officer in the conduct of the election, the remuneration of the officers specified in section 48 and, except where the proceedings result from the act or omission of the Returning Officer done otherwise than in the *bona fide* performance of his duty under this Act, any expenses incurred by a Returning Officer in any legal proceedings arising in connection with an election held under the provisions of this Act shall be a charge upon the Consolidated Revenue Fund.

Expenses of the election.

(2) Upon the determination of any legal proceedings arising in connection with an election under the provisions of this Act, the High Court shall, if a Returning Officer is a party thereto, certify whether or not such proceedings result from an act or omission of the Returning Officer done otherwise than in the *bona fide* performance of his duty under this Act.

Secrecy of voting.

50. No person who has voted at an election shall, in any legal proceedings arising out of the election, be required to state for whom he voted."

6. Subsection (3) of Section 52 of the principal Act is repealed and replaced by the following new subsection—

"(3) Before so issuing a ballot paper the Polling Assistant shall place a mark against the number of the Elector in the *Gazette* List to denote that a ballot paper has been delivered to him, but without showing the number of the ballot paper which has been issued."

Repeal and replacement of Section 52 (3) of Act No. 14 of 1962.

Repeal and
replacem-
ent of
Section 60
of Act
No. 14 of
1962.

7. Section 60 of the principal Act is repealed and replaced by the following new Section—

“Security
for costs

60. (1) At the time of presenting an election petition the petitioner shall give security for the payment of all costs, charges and expenses which may become payable by him to any witnesses summoned on his behalf or to any respondent.

(2) The security shall be of such an amount (not exceeding one hundred thousand leones) and shall be given in such a manner as the court may order.

(3) No proceedings shall be heard on the petition if the petitioner fails to give the security for costs prescribed by subsection (2) of this section.”

Repeal and
replacement
of Section
61 of Act
No. 14 of
1962.

8. Section 61 of the principal Act is hereby repealed and replaced by the following new section—

“Trial of
election
petition.

61. (1) Every election petition shall be tried by a Judge of the High Court in open Court.

(2) During such trial the Court may order—

(a) the inspection and production of any rejected ballot papers; or

(b) the inspection of any counted ballot papers:

Provided that in making and carrying into effect the order, care shall be taken that the way in which the vote of any particular elector has been given shall not be disclosed until it has been proved that his vote was given and the vote has been declared by the Court to be invalid.

(3) At the conclusion of the trial, the Court shall determine whether the person whose return or election is complained of was duly returned or elected, or whether the election was void, and shall certify such determination as provided in subsection (2) of section 57 where the question decided concerns an election to Parliament, or, where such question concerns an election to a Local Authority, the Court shall certify its determination to the Minister and the Electoral Commission.”

9. Section 73 of the principal Act is repealed and replaced by the following new section—

"Offences
in respect of
nomination
papers,
ballot
papers, etc.

73. (1) Every person who—

Replac-
ment of
Section 73
of Act No
14 of 1962.

- (a) forces or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to any person or authority to whom nomination papers are required by this Act or any regulations made hereunder to be delivered, any nomination paper knowing the same to be forged; or
- (b) signs a nomination paper as candidate in more than one constituency; or
- (c) forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper or any official mark on any ballot paper; or
- (d) without due authority, supplies any ballot paper to any person; or
- (e) fraudulently puts into any ballot box any paper other than a ballot paper which he is authorised by law to put in; or
- (f) without the authority of the Presiding Officer brings into or takes out of any polling station, place of voting or place of election, any ballot paper; or
- (g) without due authority destroys, takes, opens, or otherwise interferes with any ballot box or packet of ballot papers then in use for the purposes of the election; or
- (h) unlawfully votes for more candidates than one or records more than one vote in favour of any candidate;

shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding one hundred thousand leones or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

(2) Any attempt to commit an offence specified in this section shall be punishable in the manner in which the offence itself is punishable.

(3) In any prosecution for an offence in relation to the nomination papers, ballot box, ballot papers, marking instruments and other things in use at an election, the property in such papers, box, instruments and things may be stated to be in the Returning Officer at such election.

Replace-
ment of
Section 82
of Act No.
14 of 1962.

10. Section 82 of the principal Act is repealed and replaced by the following new section—

“Penalty for
certain
illegal prac-
tices.

82. Every person who—

- (a) votes or induces or procures any person to vote at any election under this Act knowing that he or such other person is prohibited by this Act or by any other law from voting at such election; or
- (b) before or during an election under this Act knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate;

shall be guilty of an illegal practice and shall be liable on summary conviction to a fine not exceeding fifty thousand leones and be incapable during a period of five years from the date of his conviction of being registered as an elector or voting at any election.”

Replace-
ment of
Section 83
of Act No.
14 of 1962.

11. Section 83 of the principal Act is repealed and replaced by the following new section—

“Use of
fetish, etc.

83. Every person who—

- (a) (i) swears or administers any oath otherwise than for the purpose of any legal proceedings, whether or not such oath is recognised as lawful by the customary laws;
- (ii) or administers, invokes or makes any other use of any fetish; or
- (iii) makes any other invocation; or
- (iv) purports to cast any spell; and relates any such act to or connects any such act with the voting or

General amendment to Act No. 14 of 1962.

13. The principal Act is amended as follows—

(a) by the substitution of the words "ballot paper" for the words "ballot token" wherever they appear in the Act;

(b) by the substitution of the words "ballot papers" for the words "ballot tokens" wherever they appear in the Act;

(c) by the substitution of the word "papers" for the word "tokens" wherever such word relates to ballot.

Replacement of Forms D and E of First Schedule to Act No. 14 of 1962.

14. Forms D and E of the First Schedule to the principal Act are hereby repealed and replaced by the following new Forms—

FORM D

(Sections 33 (2) and 55 (a))

.....ELECTIONS

ELECTORAL PROVISIONS ACT, 1962
BALLOT PAPERS ACCOUNT

To the Returning Officer:.....

(i)

(ii)

(iii)

(iv)

Serial numbers provided (to be completed by the Returning Officer)	Serial numbers unused	Serial numbers spoilt	Number of persons marked on Register of Electors or Gazette List as being issued with Ballot Papers.

Date:.....

.....
**Signature of Presiding Officer/
Returning Officer.

.....Polling Station

.....Electoral Area

*(State the nature of the elections here)

** (Delete inappropriate)

FORM E

(Section 42 and 55 (e))

*.....ELECTIONS

ELECTIONS PROVISIONS ACT, 1962
VERIFICATION OF BALLOT PAPERS

**.....Constituency/District/Ward

No. of Ballot papers issued toPolling Station

Station.....

Name

Ballots

(1) No. of ballot papers cast for

.....

(2) No. of ballot papers cast for

.....

(3) No. of ballot papers cast for

.....

.....

.....

No. of ballot papers spoilt

.....

No. of ballot papers unused

.....

No. of ballot papers rejected, under categories (b)
and (c) below:

.....

Total

.....

.....

REJECTED BALLOT PAPERS

(a)

(b)

(c)

(d)

No. cast for candidate No. (1)

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.....

.....

No. cast for candidate No. (2)

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No. cast for candidate No. (3)

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Totals

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(a) by inserting immediately before the definition of "artisanal fisheries" the following new definition—

"agent" means any person or unit appointed by the Director of Fisheries to execute certain functions under this Act;

(b) by repealing the definitions of "authorised officers", "fisheries waters", and "licensing officer" and replacing them by the following new definitions—

"authorised officer" means any public official within the Ministry, Ministry of Defence, or any agent appointed as such under section 35;

"fisheries waters" means the maritime area within 200 nautical miles from the baselines from which the breadth of the territorial sea is measured, and any other waters over which fisheries jurisdiction may be claimed from time to time;

"Licensing officer" means the Director, any other officer, or designated agent, authorised under section 8 to issue and take other actions with regard to licences under this Act.

Repeal and replacement of Section 7 of Act No. 4 of 1988.

2. Section 7 of the principal Act is repealed and replaced by the following new section—

"Delegation by the Director."

7. The Director may delegate in writing, the exercise of any or all powers and functions conferred upon him by this Act, except as may be specifically prohibited therein, to his deputy or such other officers or agent as he may think fit:

Provided that the power of the Director to issue licences under section 25 of this Act shall not be delegated to any other person or authority."

Repeal and replacement of section 25 (3) of Act No. 4 of 1988.

3. Subsection (3) of section 25 of the principal Act is repealed and replaced by the following new subsection—

"(3) No licence may be issued authorising a foreign fishing vessel to fish within the fisheries waters without a determination in the applicable fishery management and development plan prepared under section 11 that adequate fishery resources are available for harvesting by foreign fishing vessels."

Passed in Parliament this 13th day of December, in the year of our Lord one thousand nine hundred and ninety.

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.