



Sierra Leone

1985

A BILL ENTITLED

The Presidential Elections Act, 1985

Short title.

an Act to make provision for the election of a President of the Republic of Sierra Leone in pursuance of the provisions of the Constitution of Sierra Leone, 1978 (Act No. 12 of 1978) and for other matters connected therewith or incidental thereto.

[

1985] Date of commencement.

HEREAS subsection (3) of section 21 of the Constitution provides that the President of the Republic of Sierra Leone shall be elected to office in accordance with section 23 of the Constitution;

section 23 of the Constitution, in relation to the Presidential Elections requires or authorises various things prescribed by or under an Act of Parliament and also empowers Parliament to make laws for the purpose of regulation of the President and other matters connected therewith.

It is expedient to make provision generally purporting to amend the Constitution regulating the holding of elections for the President:

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

PART I—GENERAL PROVISIONS

Unless the context otherwise requires—

“the Constitution” means the Constitution of Sierra Leone, (Act No. 12 of 1978);

“eligible person” means any person whose name is on any Register of Electors prepared in accordance with the Franchise and Electoral Registration Act, 1961 (Act No. 44 of 1961);

“Presidential Candidate” has the meaning assigned to it by section 6 of this Act;

“Presidential Election” means an election for the election of a person to the office of President of the Republic of Sierra Leone;

“Registered Party” has the same meaning as prescribed by section 23 of the Constitution;

“Returning Officer” means the Chief Justice.

Whenever the office of President becomes vacant, a person shall be held to that office in accordance with the provisions of section 23 of the Constitution subject to the provisions of section 23 of the Constitution.

The office of President shall become vacant—

(a) on the expiration of the period mentioned in subsection (4) of section 21 or subsection (1) of section 22 of the Constitution; or

(b) if the incumbent dies or resigns the office or ceases to hold office in pursuance of section 30 or 31 of the Constitution:

Provided that the President shall not resign his office or even at the due expiration of his office while a general election of members of Parliament is pending within the ensuing six months, where a state of public emergency has been declared.

1. A Presidential Election shall take place—

(a) if a retiring President continues in office after the beginning of the period of four months ending with the date when the term of office of the retiring President would expire by the effluxion of time, during the first three months of that period;

(b) in any case, during the period of one month beginning with the date when the office of President becomes vacant:

Period during which Presidential Election shall take place.

Provided always that whenever there is a vacancy during dissolution of Parliament the Presidential Election shall be held and completed before the election of Members of Parliament.

A person shall be qualified for election as President if, and not be so qualified unless, he—

Qualifications for office of President.

(a) is a citizen of Sierra Leone;

(b) is a member of the Recognised Party;

(c) has attained the age of forty-five years; and

(d) is otherwise qualified to be elected as a Member of Parliament.

At every Presidential Election there shall be only one Sole Presidential Candidate who shall be the person elected in relation to that election. The National Candidate shall be the leader of the Recognised Party by the Members of the National Conference of that Party, in this Act referred to as "the National Candidate".

(1) The Chief Justice shall be the Returning Officer for Presidential Election of a President.

Returning Officer.

(2) The Returning Officer shall have the functions conferred on him by this Act subject to the provisions of the Constitution.

All persons registered in Sierra Leone as voters for the election of members of Parliament shall be entitled to vote in a Presidential Election.

Persons entitled to vote at a Presidential Election.

PART II—PROCEDURE FOR PRESIDENTIAL ELECTION

9. The Returning Officer shall by Proclamation published in the *Gazette*, declare the occurrence of any vacancy in the office of President—

- (a) in the case of a vacancy occurring by the effluxion of time, within the first two months of the last four months of the term of the President in respect of the expiry of whose term of office the vacancy occurs; or
- (b) in the case of any other vacancy, within ten days after the vacancy has occurred.

10. The Returning Officer shall, upon the declaration of a vacancy in the office of President under section 9 of this Act, by Order published in the *Gazette*, appoint the day or days on which an election shall be held to elect a person to fill the vacancy in the office of President.

11. (1) Within three days after the election of a Leader of the Recognised Party by the National Delegates Conference of that Party for the purposes of his being the sole Candidate in a Presidential Election under section 23 of the Constitution, the Chairman of the said National Delegates Conference shall notify the Returning Officer of the result of the election stating the full name, address and occupation of the person so elected.

(2) The Returning Officer shall, within twenty-four hours after receipt thereof, transmit the said result to the Electoral Commission.

(3) The Electoral Commission shall, as soon as possible upon receipt thereof from the Returning Officer, cause the said result and the full name, address and occupation of the person elected Leader of the Recognised Party to be published in the *Gazette* and in such other manner as it may consider appropriate.

12. (1) The nomination of the Presidential Candidate shall be in writing subscribed by the Presidential Candidate and by the electors and shall be in the form specified in the Schedule to the Act.

(2) The Presidential Candidate shall deliver his nomination papers to the Returning Officer on such day and at such time and place as may be prescribed by the Returning Officer by Order published in the *Gazette*.

(1) The Presidential Candidate shall not be entitled to participate in an election to the office of President unless he has paid the Returning Officer an election fee of Le10,000.00 which shall be refundable. Presidential Candidate to pay election fee.

(2) The Returning Officer shall cause an official receipt to be issued in respect of any election fee paid under subsection (1) of this section.

(3) The election fee shall be deemed to be duly paid under this section if the Presidential Candidate deposits with the Returning Officer a written receipt issued by or on behalf of the Accountant-General for the amount mentioned in subsection (1) of this section from or on account of the Candidate in respect of that sum.

(4) The election fee prescribed by this section shall be paid before such date as may be fixed by the Electoral Commission and published in the *Gazette*.

Upon the expiration of the time prescribed under section 10 of this Act for the delivery by the Presidential Candidate to the Returning Officer of his nomination papers, the Returning Officer shall cause to be published in the *Gazette* and in such other manner as he may think fit, the full name, address and occupation of the Presidential Candidate who has been nominated and also the full names, addresses and occupations of the persons by whom he was nominated. Publication of nomination.

(1) The poll at every Presidential Election shall be by ballot. Manner of the poll, etc.

(2) Subject to the provisions of this Act and of the Constitution, the voting at every Presidential Election shall be under the supervision of the Electoral Commission.

(1) Where a day or days have been appointed under section 10 of this Act for the holding of a Presidential Election, the Electoral Commission shall, by notice published in the *Gazette*, appoint fit and proper persons to be known as "Counting Officers" who shall perform the duties and functions imposed or conferred on Returning Officers by the Electoral Commission Provisions Act, 1962 (Act No. 14 of 1962). Appointment of Counting Officers Electoral Commission etc.

(2) Each Counting Officer may also appoint fit and proper persons to be known as "Assistant Counting Officers" to perform the duties and functions of Assistant Returning Officers under the said Act.

(3) The said Act shall, in relation to a Presidential Election have effect as if any reference therein to "Returning Officer" and "Assistant Returning Officer" were references to a "Counting Officer" and "Assistant Counting Officer" respectively.

17. The poll in a Presidential Election shall be from eight o'clock in the morning to seven o'clock in the afternoon and no vote shall be accepted outside these hours.

18. (1) After the expiration of the time fixed for polling, the votes shall be counted and the Electoral Commission shall, as soon as possible after the votes have been counted, certify to the Returning Officer the result of the counting stating the number of valid votes cast in favour of the Presidential Candidate and the number of valid votes cast against him.

(2) As soon as possible after receipt of the result of the counting of votes at a Presidential Election under subsection (1) of this section the Returning Officer shall, either—

- (a) declare the Presidential Candidate to be elected as President if the Presidential Candidate has received a majority of the valid votes cast in the election, or
- (b) declare that the Presidential Candidate has not been so elected if he has not obtained the said majority.

19. The Returning Officer shall, after declaring the result of a Presidential Election under section 18 of this Act—

- (a) where a President has been elected, issue to the successful candidate a certificate of election; and
- (b) in any case as soon as possible, cause the results of the election to be published in the *Gazette* and in such other manner as he may think fit, stating the number of valid votes cast in favour of the Presidential Candidate and the number of valid votes cast against the Presidential Candidate at the Presidential Election.

20. (1) Where—

- (a) the Presidential Candidate dies, or
- (b) the Presidential Candidate withdraws his candidature by notice in writing signed by him and delivered to the Returning Officer not later than four o'clock in the afternoon of the tenth day before the day fixed for the election; or

(c) the Presidential Candidate is not elected President,
or

(d) the person elected President dies before he assumes the office of President.

the members of the National Delegates Conference of the recognised Party shall elect another person to be the Leader of that Party and such person shall be the next Presidential Candidate and the provisions of this Act relating to nomination and election shall apply.

(2) Where the election of a person as President is set aside by the Returning Officer under section 24 of the Constitution and section 21 of this Act then—

(a) where the Presidential Candidate continues to be qualified to stand for election to the office of President under the provisions of sections 22 and 23 of the Constitution and sections 5 and 6 of this Act, another Presidential Election at which the said Presidential Candidate shall be the sole candidate shall be held on such day as the Returning Officer may appoint by Order published in the *Gazette*, and

(b) where he is not so qualified, the members of the National Delegates Conference of the Recognised Party shall elect another person to be the Leader of the Party and such person shall be the next Presidential Candidate and the provisions of this Act relating to nomination and election shall apply.

PART III—MISCELLANEOUS PROVISIONS

(1) Any question which may arise as to whether—

(a) any provision of the Constitution or this Act or any other law relating to election of a President under section 23 of the Constitution has been complied with, or

(b) any person has been validly elected as President under section 24 of the Constitution,

shall be referred to and determined by the Returning Officer whose name and shall not be inquired into in any

Determination of questions relating to validity of election, etc.

(2) Any such question shall be referred to the Returning Officer within seven days after the result of the election has been declared by the Returning Officer under section 18 of this Act.

(3) Any such objection shall be in writing signed by the person raising the question who shall be a person who is an elector and shall state clearly the grounds and the facts upon which his objection is based.

(4) The person presenting the written objection under this section shall, at the time he presents it or within such time as the Returning Officer may order, give security for costs, charges and expenses which may be payable by him to any witness summoned on his behalf or to any respondent.

(5) The security shall be of such amount not exceeding Le5,000.00 and shall be given in such manner as the Returning Officer may order.

(6) Where the person presenting the written objection fails to comply with an order given under subsection (5) of this section no proceedings shall be heard on the objection.

(7) The Returning Officer shall, in determining a question under this section act as expeditiously as possible.

(8) Subject to subsection (7) of this section, the Returning Officer shall determine any question coming before him under this section in such manner as, having regard to all the circumstances of the case, appears to him to be just, fair and proper and in the public interest, and he may make such order thereon as may appear to him to be appropriate.

(9) No decision or order of the Returning Officer made under this section shall be questioned in any proceeding whatsoever.

22. (1) Subject to the other provisions of this section, the provisions of the Electoral Provisions Act, 1962 (Act No. 14 of members of Parliament, shall apply to a Presidential Election.

applied by subsection (1) of this section shall have effect with necessary

particular, but without prejudice to the generality of the foregoing, the effect to the requirement that the person elected Leader of the Organised Party by the National Delegates Conference of that Party shall be the sole Presidential Candidate at a Presidential Election.

(3) Without prejudice to the generality of subsection (2) of this section, the Electoral Commission shall make such provision as may be necessary for enabling the casting of votes by electors who are entitled to vote for or against a Presidential Candidate in a Presidential Election.

(4) The provisions of the Electoral Provisions Act, 1962 (Act No. 14 of 1962) applied by subsection (1) of this section, are the following—

sections 2 and 7, subsections (2), (3) and (4) of section 10, section 11, subsection (1) of section 22, subsection (2) of section 22 other than subparagraphs (e) and (f) thereof, section 23, subsections (1), (3) and (4) of section 24, sections 25, 26, 27, 28, 29, 31 and 32, subsections (1) and (2) of section 33, sections 34, 35, 36, 37, 38, 39, 40 and 42, sections 45, 47 and 48, subsection (1) of section 49, section 50, section 68, sections 70, 71 and 72, subsection (1) of section 73 other than paragraphs (b) and (h) thereof, subsections (2) and (3) of section 73, sections 74 to 83 and Forms D and E in the First Schedule.

(5) In their application to a Presidential Election the amending provisions of the said Act shall have effect with the amendments specified in this subsection in relation to them—

(a) in section 39, for the words “on an election petition” there shall be substituted the words “on a written objection to the Returning Officer under section 24 of the Constitution and section 21 of the Presidential Elections Act, 1985 (Act No. 14 of 1985)”, and

(b) subsection (2) of section 68 shall be deemed to read as follows:—

“(2) No prosecution shall be initiated for any offence created by this Part of this Act unless the offence is committed during the period between the day fixed under subsection (2) of section 12 of the Presidential Elections Act, 1985 (Act No. 14 of 1985) for the delivery of nomination papers for the election and the time of the day when the result of the election is declared under section 18 of that Act.

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23. The Electoral Commission may make regulations not being inconsistent with the provisions of this Act, for giving full effect to the provisions of this Act.

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24. The following enactments shall cease to have effect—

- (a) the Election of President of Sierra Leone Act, 1976 (Act No. 2 of 1976);
- (b) the Proclamation for the declaration of a vacancy in the office of President dated 22nd March, 1976 and published as Public Notice No. 7 of 1976;
- (c) the Election of President (Date of Deposit of Preferences) Order, 1976 (P.N. No. 8 of 1976).

SCHEDULE

PRESIDENTIAL ELECTION

(Section 12)

PRESIDENTIAL ELECTIONS ACT, 1985

(Act No. of 1985)

NOMINATION PAPER OF PRESIDENTIAL CANDIDATE

Date of Presidential Election:

1. I, the undersigned, am the Presidential Candidate to whom this nomination paper relates and I hereby certify that I am willing to stand for election to the office of President of the Republic of Sierra Leone.
2. I also hereby state that I am qualified and not disqualified for election to the said Office of President of the Republic of Sierra Leone in accordance with the provisions of sections 22 and 23 of the Constitution of Sierra Leone, 1978 (Act No. 12 of 1978).

Full name.....

Address.....

Occupation.....

Date.....

.....

Signature

We the undersigned, are the three nominators of the above Presidential Candidate and are electors within the meaning of the Presidential Elections Act, 1985 (Act No. of 1985).

Full name.....

Address.....

Elector of.....

(State ward on whose Register of Electors nominator's name appears)

Occupation.....

Date.....

Signature

Full name.....

Address.....

Elector of.....

(State ward on whose Register of Electors nominator's name appears)

Occupation.....

Date.....

Signature

Full name.....

Address.....

Elector of.....

(State ward on whose Register of Electors nominator's name appears)

Occupation.....

Date.....

Signature

This nomination paper was completed and signed in our presence.

(1) Name..... Address.....

(2) Name..... Address.....

Signature of witness (1).....

Signature of witness (2).....

Received by me at..... o'clock on the..... day

of..... 19.....

(Signed).....

Returning Officer

The Presidential Candidate and his nominators must all sign in the presence of the two witnesses who must be of full age and who must sign in the place indicated.

OBJECTS AND REASONS

The Object of this Bill is to make provision for the regulation of Presidential Elections in accordance with the Constitution of Sierra Leone, 1978 (Act No. 12 of 1978) and in particular section 23 of the Constitution.

A. B. KAMARA,
Attorney-General and Minister of Justice.

TOWN,
SIERRA LEONE.
16th March, 1985