



A COMPILATION OF MEDIA AND COMMUNICATION LAWS AND REGULATIONS IN SIERRA LEONE

by
Media Reform Coordinating Group (MRCG)
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(NED)



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INTRODUCTION

Media and communication laws and regulations are the legal frameworks that govern the use of media across the world. They aim to protect freedom of expression and media freedom and regulate media markets, ownership, infrastructure and technical standards. They also seek to protect public interests such as media pluralism and diversity. Media regulations can vary, depending on the country, the type of media, and the purpose of the intervention.

They exist essentially for maintaining a vibrant, responsible, and diverse media landscape that serves the public interest while respecting individual rights and freedoms in Sierra Leone. They reflect each country's unique context, values, and priorities. Balancing freedom of expression, public interest, and ethical standards remains an ongoing challenge worldwide, and create a framework that balances freedom, responsibility, and societal well-being, ultimately benefiting both media professionals and the public.

This compilation of media and communication laws and regulations of Sierra Leone, the first produced by the MRCG, is one of the major components in the Media Development Strategy of the MRCG (2019-2024) supported by the National Endowment for Democracy (NED) in the United States of America (USA). The compilation was mainly done to assist journalists, media workers, media stakeholders and researchers with a single document containing media and communication laws and regulations in Sierra Leone.

Sierra Leone as a country, has specific statutes (Acts) containing laws, regulations, policies and institutions governing the media space in Sierra Leone. The major laws used to regulate the media are the Constitution of Sierra Leone, 1991 (Section 25 (1) and Section 11), the Independent Media Commission Act, 2020, the Defamation Ordinance, 1961 and the Independent Media Commission (Print and

Electronic Media) Regulations, 2022. On the professional aspect, there is the Sierra Leone Association of Journalists (SLAJ) Code of Ethics.

There is the Right to Access Information Act, 2013, that provides for access to certain information held by public bodies, and the Right to Access Information Regulations 2022, which enhances the work of the Commission. There is also the Cyber Security and Crime Act 2021. The Act, among other things, provides for the prohibition, prevention, detection, prosecution and punishment of cybercrimes; and protection of privacy rights. There are other sectoral laws with specific provisions dealing with media and journalism in Sierra Leone. The compilation only presents the Acts and Regulations as passed by parliament.

The laws and regulations have been carefully copied verbatim and structured exactly the way they are, in order to avoid any form of misinterpretation or ambiguity to the readers. The laws and regulations compiled are subject to review. Once the respective organizations and Parliament make any amendments to them and the MRCG will review and update the compiled media laws and regulations.

**SPECIFIC ACTS ON MEDIA LAWS/REGULATIONS –
ACTS OF PARLIAMENT**

No.	Specific Acts on Media Laws & Regulation	Year	Status of the Laws
1.	The Independent Media Commission (IMC) Act	2020	In Force
2.	Sierra Leone Broadcasting Corporation Act	2010	In Force
3.	Cybersecurity and Crime Act 2021	2021	In Force
4.	Undesirable Publication - Cap 113 of the laws of Sierra Leone	1961	In Force
5.	Undesirable Advertisement Ordinance - Cap 114 of the laws of Sierra Leone	1960	In Force
6.	Defamation Ordinance Act No. 32	1961	In Force

**OTHER STATUTES ACTS OF PARLIAMENT RELATING
TO MEDIA REGULATIONS**

No.	Other Statutes Act of Parliament relating to Media Regulations	Year	Status of the Laws
1.	The Independent Media Commission Code of Practice		In Force
2.	Sierra Leone Association of Journalists Code of Ethics	2016	In Force
3.	The National Communication Authority Act	2022	In Force
4.	The Independent Media Commission Elections (Coverage and Reporting) Regulations, 2022 (Statutory Instrument No. 11 of 2022)	2022	In Force
5.	The Independent Media Commission Elections (Coverage and Reporting)	2022	In Force

	Regulations, 2022 (Statutory Instrument No. 17 of 2022)		
6.	The Right to Access Information Act 2013 (Act No 2 of 2013)	2013	In Force
7.	The Right to Access Information Regulations 2022 (Statutory Instrument No. 9 of 2022)	2022	In Force

**OTHER STATUTES PROVISIONS RELATING TO MEDIA
REGULATIONS**

No.	Other Statutes Provisions Relating To Media Regulations	Year	Status of the Laws
1.	The Constitution of Sierra Leone	1991	In Force
2.	The Child Rights Act	2007	In Force
3.	The Anti-Corruption Act	2008	In Force
4.	The Sexual Offences Act	2019	In Force
5.	The Copyright Act	2011	In Force

1. STATUTES AND REGULATIONS ON MEDIA, COMMUNICATION AND INFORMATION

ACT

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THE INDEPENDENT MEDIA COMMISSION ACT, 2020

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2020

Sierra Leone

A BILL ENTITLED

The Independent Media Commission Act, 2020.

Short title.

Being an Act to provide for the continuation of the Independent Media Commission, to provide for the registration and regulation of mass media institutions in Sierra Leone licensing institutions engaged in radio, television or direct to home” digital satellite service broadcasting and registration of persons and institutions engaged in the publication of newspapers, magazines in Sierra Leone and to provide for other related matters.

[]

Date of commencement.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

PART I – PRELIMINARY

Definitions.

1.

In this Act, unless the context otherwise requires-

"Chairman" means the Chairman of the Commission;

"Commission" means the Independent Media Commission;

"cross media ownership" means common ownership of multiple media sources by a single person or corporate entity;

"direct to home" means a digital satellite service that provides television viewing services directly to subscribers through satellite transmission anywhere in the country;

"Inter-Religious Council of Sierra Leone" means the Inter-Religious Council of Sierra Leone established in April 1997 to facilitate dialogue and confidence building among the different parties to the conflicts in Sierra Leone;

"media institution" means an institution engaged in the print or electronic media services, including newspapers, newsletters, magazines, radio, television, online publications, direct-to-home and digital satellite television, satellite broadcasting, public relations, advertising, media production and other similar services;

"Minister" means the Minister responsible for information and "Ministry" shall be construed accordingly;

"National Council for Technical, Vocational and other Academic Awards" means the National Council for Technical, Vocational and other Academic Awards established by section 2 of the National Council for Technical Vocational Awards Act, 2001 (Act No. 10 of 2001);

"National Telecommunications Commission" means the National Telecommunications Commission established under section 2 of the National Telecommunications Act, 2006 (Act No. 9 of 2006);

"Sierra Leone Association of Journalists" means the Sierra Leone Association of Journalists established on 5th June 1971 to protect its members, guard and promote media freedom, professionalism and ethical standards of journalism in Sierra Leone;

"Sierra Leone Institution of Engineers" means the Sierra Leone Institute of Engineers registered under the Professional Engineers Registration Council Act, 1990 (Act No. 3 of 1990);

"Tertiary Education Commission" means the Tertiary Education Commission established by section 2 of the Tertiary Education Commission Act, 2001 (Act No. 8 of 2001).

"Media practitioner" means A person engage in the writing, editing or transmitting of news and information from a registered media outlet under this Act including free lancers).

"Auditor-General" means Auditor General of Sierra Leone established in Section 119 of the constitution of Sierra Leone (Act No. 6 of 1991).

PART II- CONTINUATION OF COMMISSION

Continuation of
Commiss-ion. **2.** (1) There shall continue in existence the body known as the Independent Media Commission.

(2) The Commission shall be a body corporate having perpetual succession and capable of acquiring, holding and disposing of any property whether moveable or immoveable and of suing and being sued in its corporate name and subject to this Act, of performing all such acts as bodies corporate may by law perform.

(3) The Commission shall have a common seal the use of which shall be authenticated by the signatures of the Chairman and one other member of the Commission designated in that behalf by the Commission.

Composition
of Commiss-ion. **3.** (1) The Commission shall consist of a Chairman and the following members-

(a) 2 legal practitioners each qualified enough to hold office as a Judge of the High Court

of Sierra Leone, one of whom shall be a woman, nominated by the Sierra Leone Bar Association;

(b) 2 experts in the field of electronic journalism, one of whom shall be a woman, nominated by the Sierra Leone Association of Journalists;

(c) 2 experts in the field of print journalism one of whom shall be a woman nominated by the Sierra Leone Association of Journalists;

(d) 1 expert in the field of information, communication and technology nominated by the Sierra Leone Association of Journalists;

(e) 1 expert in the field of telecommunications nominated by the Sierra Leone Institution of Engineers ;

(f) A nominee of the Inter-Religious Council of Sierra Leone; and

(g) A representative of the Ministry nominated by the Minister.

(h) A representative of the Sierra Leone Association of Journalists nominated by the Sierra Leone Association of Journalist

(i) A representative from Civil Society organisation engaged in media issues nominated by the Minister in consultation with Civil Society Organisation.

(2) The Chairman shall be a person with proven relevant technical experience of at least 10 years as a media practitioner appointed by the President in consultation with the Sierra Leone Association of Journalists and subject to the approval of Parliament.

4. (1) The Chairman and all nominated members of the Commission shall hold office for a term of 3 years and shall be eligible for re-appointment for a further term of 3 years only. Tenure of
members of
Commission.

(2) A person shall cease to be a member of the Commission on any of the following grounds-

(a) inability to perform the functions of his office by reason of infirmity of mind or body;

(b) proven misconduct;

(c) if he becomes bankrupt or insolvent;

(d) if he is convicted of an offence involving sexual offences, fraud or dishonesty;

(e) if he fails to attend 3 regular consecutive meetings of the Commission, other than committee meetings, without reasonable cause; or

(f) if he ceases to be a member of the

organisation that nominated him;

(g) if he resigns by written notice to the President.

Filling of vacancies.

5. (1) Where the Chairman or a member of the Commission dies, resigns, is removed from office or is absent for a continuous period exceeding 3 months or is by reason of illness unable to perform the functions of his office for a continuous period of 3 months-

(a) in the case of the Chairman, the members of the Commission shall elect one of their number to act as Chairman until such time as the Chairman resumes his office or another is appointed in his stead; and

(b) in the case of a member, the institution that nominated the member shall, subject to this Act, nominate another person to the Commission.

(2) Where a person is appointed as Chairman or as a member to fill a vacancy, he shall hold office for the remainder of the term of the previous Chairman or member, as the case may be, and shall, subject to this Act, be eligible for re-appointment.

Independence of Commission

6. Subject to this Act, the Commission shall not be subject to the direction or control of any person or authority in the execution of its functions.

Remuneration

7. The Chairman and other members of the Commission shall

and allowances of members with

be paid such remuneration and allowances as are commensurate

with those paid to members of statutory bodies as Parliament may

8. (1) The Commission shall ordinarily meet for the dispatch Meetings of

of its business at such times and places as the Chairman may Commission. determine but shall meet at least once every month.

(2) A special meeting of the Commission shall be held upon a written request of not less than 3 members of the Commission.

(3) At every meeting of the Commission at which he is present the Chairman shall preside and in his absence, a member elected by the members present from among their number shall preside.

(4) Every question before a meeting of the Commission shall be determined by a simple majority of the votes of the members present and where there is an equality of votes, the Chairman or the person presiding shall have a second or casting vote.

(5) The quorum for a meeting of the Commission shall be

(6) The Commission may co-opt any person it considers fit to attend any of its meetings, except that a person co-opted shall not be entitled to vote on any matter for decision by the Commission.

(7) The validity of the proceedings of the Commission shall not be affected by a vacancy in its membership.

(8) The Commission shall make regulations governing the conduct of the members of the Commission in relation to issues of conflict of interest and misconduct of members in respect of their duties under this Act as it deems fit.

(9) Except as otherwise provided in this Act, the Commission shall regulate the procedure of its meetings.

9. (1) A member of the Commission who has any direct or indirectly interest in a matter being considered or to be considered by the Commission shall disclose the nature of his interest to the Commission and the disclosure shall be recorded in the minutes and the members shall not take part in any deliberation or decision relating to that matter

Disclosure of Interest

(2) A member of the Commission who contravenes subsection (1) shall be removed from the Commission.

Immunity
of members.

10. (1) Action or other proceedings shall not lie or be instituted against any member of the Commission or member of a Committee of the Commission for or in respect of any act or thing done or omitted to be done in good faith in the exercise of his functions under this Act.

(2) A member of the Commission or Committee of the Commission shall not be personally liable for any debt or obligation of the Commission.

PART III- OBJECTS, FUNCTIONS AND POWERS OFCOMMISSION

Objects of
Commission.

- 11.** The object for which the Commission is established is to-
- (a) promote a free and pluralistic media industry throughout Sierra Leone;
 - (b) ensure that media institutions achieve the highest level of efficiency in the provision of media services;
 - (c) promote fair competition among media institutions and persons engaged in the provision of media services;
 - (d) protect the interest of the public against exploitation or abuse by media institutions;
 - (e) promote communication and media research and development of human resources for the advancement of the media industry throughout Sierra Leone;

- (f) ensure that every person has access to fair coverage in the print , broadcast and electronic media irrespective of the person's race, colour, sex, religion, ethnicity or political orientation.

12. (1) The Commission shall be responsible for the implementation and enforcement of this Act and regulations made under it. Functions
of Commission.

(2) Without prejudice to the generality of subsection (1), the Commission shall be responsible to -

- (a) advise the Minister on media policy formulation and development;
- (b) ensure compliance with this Act and regulations made under it;
- (c) establish categories of licences and grant such licences to media institutions in Sierra Leone;
- (d) prescribe minimum percentage of total broadcast hours to be devoted to public service programmes by various types and categories of electronic media institutions;
- (e) maintain a register of print and electronic media institutions in Sierra Leone;
- (f) establish clear limits on media ownership including cross-media ownership;
- (g) establish, monitor and enforce a media code of practice throughout Sierra Leone in consultation with the Sierra Leone Association of Journalists and other media practitioners and associations; and

- (h) do all such things as may contribute to the attainment of the objects of the Commission under this Act.

Powers to regulate.

13. (1) A person or institution shall not-

- (a) carry out radio, television or "direct to home" digital satellite service broadcasting unless that person or institution obtains a licence issued by the Commission for that purpose; or
- (b) publish a newspaper or magazine unless that person or institution is registered with the Commission for that purpose.

(2) A person or institution who contravenes subsection (1), commits an offence and shall be liable to a fine not less than Le. 30,000,000 and not exceeding Le. 60, 000,000.

Suspension or cancellation of licence.

14. (1) The Commission may suspend or cancel a licence where it is satisfied that -

- (a) the holder of the licence has-
 - (i) violated a term or condition of the licence; or
 - (ii) within 6 months period contravened the media code of practice more than once-

(2) Where the Commission intends to cancel or suspend a licence under subsection (1), it shall give written notice to the holder of the licence specifying the -

- (a) condition of the licence which was breached;
- (b) direct action to be taken by the holder of the licence to rectify the breach;
- (c) time to rectify the breach; and
- (d) action the Commission will take in the event of non-compliance with the notice.

(3) The Commission shall proceed to cancel or suspend the licence where the holder of the licence fails to comply with paragraphs (b) and (c) of subsection (2).

(4) The Commission shall restore the licence when the holder remedies the situation that gave cause for the cancellation or suspension.

(5) A person or media institution aggrieved by the suspension or cancellation of a licence under subsection (1) may appeal to the High Court within 30 days of the suspension or cancellation and the High Court shall within 30 days of receipt of the appeal make a decision thereon.

15. (1) The Commission may suspend or cancel a newspaper or magazine registration where it is satisfied that -

Suspension or cancellation of registration.

- (a) the holder of the certificate of registration has-
 - (i) violated a term or condition of the registration;
 - (ii) within 6 months period contravened the media code of practice more than once-

(2) Where the Commission cancels or suspends a licence under subsection (1), it shall give written notice to the holder of the licence specifying the -

- (a) condition of the licence which was breached;
- (b) direct action to be taken by the holder of the licence to rectify the breach;
- (c) time to rectify the breach; and
- (d) action the Commission will take in the event of non-compliance with the notice.

(3) A person or media institution aggrieved by the suspension or cancellation of a registration under subsection (1) may appeal to the High Court within 30 days of the suspension or cancellation and the High Court shall within 30 days of receipt of the appeal make a decision thereon.

(4) The Commission shall proceed to cancel or suspend the licence where the holder of the licence fails to comply with paragraphs (b) and (c) of subsection (2).

(5) The Commission shall restore the licence when the holder remedies the situation that gave cause for the cancellation or suspension.

Enforcement **16.** (1) Where the Commission suspends or cancels a licence under section 14 or registration of a person or institution under section 15 the Commission shall order that person or institution to shut down and stop operations unless he complies with the directives of the Commission.

(2) The Commission may, where a person or institution fails to comply with an order under subsection (1), enter a building or place where the person or institution is operating, with the assistance of a police officer not below the rank of Assistant Superintendent, with a warrant, signed by the High Court and shut down and stop operations of that person or institution.

PARTIV- ADMINISTRATIVE PROVISIONS

17. (1) The Commission shall have a Secretariat which shall be responsible for the efficient discharge of the functions of the Commission. Secretariat and staff of Commission.

(2) The Secretariat shall be headed by an Executive Secretary who shall be appointed by the Commission upon such terms and conditions as the Commission may determine.

(3) The Executive Secretary shall be a person with a wide experience in media and administrative matters and shall be responsible for-

- (a) the day-to-day administration of the affairs of the Commission;
- (b) the supervision and discipline of the staff of the Commission;
- (c) the recording and keeping of minutes of the meetings of the Commission; and
- (d) the performance of such other functions as the Commission may determine.

18. The Commission shall have other staff as may be required for the efficient performance of the functions of the Commission. Other staff of Commission.

19. (1) The Commission may, for the discharge of its functions under this Act, appoint one or more committees consisting of members of the Commission or non-members or both to perform such function as the Commission may determine, including - Committees of Commission.

- (a) an Applications Committee, responsible for receiving and screening applications for Newspapers and Magazines.
- (b) a Complaints Committee, responsible for -
 - (i) inquiring into complaints made against a media institution or a person engaged in media services, breach of the conditions attached to a licence or registration and breach of the media code of practice; and
 - (ii) settlement of disputes between members of the public and media institutions or persons engaged in media services;
- (c) a Policy Committee, responsible for -
 - (i) studying development in the media and making appropriate recommendations for media policy formulation and legislation; and
 - (ii) promoting research, training and professionalism in the media industry throughout Sierra Leone; and
- (d) a Technical Committee, responsible for -
 - (i) receiving and screening applications for the licensing of electronic media institutions including radio, television and direct to home digital satellite service;
 - (ii) establishing the criteria for the operation of electronic media in collaboration with the National Telecommunications Commission;

- (iii) ensuring that electronic media operators conform with the required regulations.
- (2) A complaint relating to the conduct of a journalist or media institution shall be sent to the Complaints Committee through the Commission.
- (3) A complaint sent to the Commission under subsection (2) shall be supported by an affidavit setting out the facts on which the complaint is based.
- (4) The Complaints Committee shall, in the adjudication of complaints brought before it, have the power of the High Court to -
 - (a) issue summons in the form set out in the First Schedule to any person or media institution against whom or which a complaint has been lodged to appear before it;
 - (b) subpoena, in the form set out in the First Schedule, any person to attend a hearing of the Committee, to give evidence and to be examined as a witness.
- (5) Where a person or media institution fails to appear before the Complaints Committee after a summons has been issued twice for his appearance and an affidavit of service duly served by the commission, the Complaints Committee shall proceed with the matter as if the person or institution is before it.
- (6) After inquiring into a complaint, the Complaints Committee shall submit its report containing its recommendations to the Commission.
- (7) Where the Commission is satisfied that a case has been established against a person or media institution, it may order the person or media institution concerned to -

- (a) publish an apology and a retraction and may in addition reprimand the person or media institution concerned;
- (b) pay a fine in such sum of money as the Commission shall consider commensurate to the wrong done.

(8) Where a person or media institution fails to comply with an order of the Commission made under paragraph (a) or (b) of subsection (7), the Commission shall suspend the registration or licence of the person or media institution concerned until the person or media institution complies with the order.

(9) A person aggrieved with the decision of the Commission shall appeal to the High Court within 30 days from receipt of the decision of the Commission provided that such appeal shall not act as a stay of the suspension or cancelation of the registration or licence of the media institution.

(10) The hearings of the Complaints Committee shall be conducted in public.

PART V- FINANCIAL PROVISIONS

Funds of Commission. **20.** (1) The activities of the Commission shall be financed by funds consisting of -

- (a) moneys appropriated by Parliament for the purposes of the Commission;
- (b) loans raised by the Commission;
- (c) grants or gifts from any person or organisation; and.
- (d) licence fees, registration fees and fines.

(2) The funds of the Commission shall be applied only for the purposes of the approved budget of the Commission.

21. (1) The Commission shall keep proper books of account and other records in relation to the activities, property and finances of the Commission in a form approved by the Auditor-General and shall prepare in respect of each financial year of the Commission a financial statement which shall include -

- (a) balance sheet accounts;
- (b) income and expenditure accounts; and
- (c) source and application of funds;

(2) The accounts of the Commission kept under subsection (1) shall, not later than 2 months after the end of each financial year, be audited by the Auditor-General or an auditor appointed by him.

(3) For the purposes of subsection (2), the Auditor-General or the auditor appointed by him shall be entitled to have access to all books of account, vouchers and other financial records of the Commission and to require such information and explanation thereon as he may think fit.

(4) The Commission shall provide the Auditor-General or the auditor appointed by him with all necessary and appropriate facilities for the examination of the accounts and records of the Commission.

(5) The Auditor-General or the auditor appointed by him shall submit to the Commission a report on the audited accounts and the financial statements referred to in subsection (1) and shall, in his report draw attention to -

- (a) any irregularity in the accounts;
- (b) any matter that is likely to adversely affect the operations of the Commission; and
- (c) any other matter which, in his opinion, ought to be brought to the notice of the Commission.

Financial year of Commission.

22. The financial year of the Commission shall be the same as the financial year of the Government.

Annual report.

23. (1) The Commission shall, within 3 months after the end of the financial year, submit to the Minister an annual report on the performance of its functions during that year and on its policy and programmes.

(2) The annual report submitted by the Commission under subsection (1), shall include the accounts and annual financial statement prepared under section 21 and the report of the audit thereon.

(3) The Minister shall lay copies of the annual report before Parliament within 2 months after he has received the report.

(4) The Commission shall make copies of the report available to all stakeholders once it has been laid before Parliament.

PART VI- LICENSING AND REGISTRATION

A. RADIO, TELEVISION AND DIGITAL SATELLITE SERVICE

Radio, television, etc., licence.

24. (1) A person or media institution who wishes to carry out radio, television or digital satellite service broadcasting shall apply to the Commission for a licence for that purpose.

(2) Subject to this Act, a person or media institution shall not be eligible to apply for radio, television or digital satellite service broadcasting licence under subsection (1), unless he is -

- (a) a body corporate established by an Act of Parliament or registered under the Companies Act, 2009 (Act No. 5 of 2009); or
- (b) a partnership registered under the Partnership Act, 1890.
- (c) has a registered business as a sole proprietor.

(3) An application for a licence under subsection (1), shall be-

- (a) in such form as the Commission may determine;
- (b) accompanied by-
 - (i) information in support of the application as may be required by the Commission;
 - (ii) a non-refundable application fee prescribed by the Commission;
 - (iii) evidence of compliance with the following obligations imposed by -

(a) section 12 of the National Revenue Authority Act 2002 (Act No. 5 of 2002)

(b) section 25 of the National Social Security and Insurance Trust Act, 2002 (Act No. 5 of 2001); and

(c) the Minimum Wage Act, 1997 (Act No. 1 of 1997) and its amendments

(4) The Commission shall, on receipt of an application under subsection (1) -

- (a) acknowledge receipt of the application, within 5 working days; and
- (b) inform the applicant in writing of its decision in not later than 30 days.

(5) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not less than 30 million Leones and not exceeding 60 million Leones.

Grant of
licence.

25. (1) The Commission shall, where it is satisfied that an application under subsection (1) of section 24 has complied with all the registration requirements -

- (a) issue a provisional licence to the applicant after payment of the prescribed fee, provided that the Commission shall issue a certificate of final licence where it is satisfied that the applicant has fulfilled the requisite licence criteria, not later than 6 months after the issue of a provisional licence; and
- (b) make a recommendation to the National Telecommunications Commission for the issue of a spectrum licence and appropriate broadcasting frequency to the applicant.

(2) A licence shall not be granted by the Commission under subsection (1), unless the Commission is satisfied that -

- (a) the particulars contained in the application are correct and sufficient;

(b) there is evidence of the applicant's technical capacity to provide the services;

(c) the application fee has been paid; and

(d) the application provides access to plurality of views and variety of programming,

(3) The Commission may, in granting a licence under subsection (1), specify in the licence such conditions including conditions requiring the holder of a licence to-

(a) pay to the Commission, for the duration of the licence, such fees as may be determined by the Commission;

(b) maintain the standard of performance determined by the Commission;

(c) operate the media institution in accordance with such standards of performance as the Commission considers appropriate;

(d) guarantee that the licence granted shall not be transferable;

(e) acknowledge that the licence shall be valid for a period of one year; and

(f) do or not to do specified things unless written approval is given by the Commission.

(4) The Commission shall where the applicant is in breach of paragraph (e) of Sub Section 3, order by notice in writing that the applicant pay 20 percent of the application fee after one month extension from the expiration of a valid licence.

Refusal of application.

26. (1) Subject to this Act, the Commission may refuse an application for a radio, television or digital satellite service broadcasting licence where -

- (a) the applicant does not have the technical capacity required;
- (b) the application contains false or misleading particulars; or
- (c) the applicant has not complied with the application procedure.

(2) The Commission shall, where it intends to refuse an application under subsection (1) -

- (a) inform the applicant in writing of its intention to refuse the application;
- (b) state the grounds for refusal; and
- (c) give the applicant or his solicitor an opportunity to be heard in his defence.

(3) The Commission shall, after a hearing under subsection (2) -

- (a) grant or refuse the application;
- (b) inform the applicant in writing of its decision; and
- (c) where it refuses, it shall state the reason for refusal.

27. (1) A licence granted under this Act shall be for such period as specified therein and may be renewable. Renewal of licence.

(2) An application for the renewal of a licence shall be made to the Commission not later than 3 months before the expiry of the licence.

(3) The procedure for the renewal of a licence shall be in accordance with the Commission's regulatory requirement.

(4) In considering an application for renewal of a licence, the Commission shall have regard to the performance of the person or media institution up to the time of the application for renewal.

(5) A person or media institution who fails to renew his licence or whose application for the renewal is rejected by the Commission shall cease to function as a radio, television or digital satellite television broadcasting station.

28. A person or media institution aggrieved by the refusal of the Commission to grant or renew a licence under this Act, may appeal to the High Court within 30 days of the refusal and the High Court shall within 30 days of receipt of the appeal make a decision thereon. Appeal.

B. NEWSPAPERS AND MAGAZINES

29. (1) A person or media institution who publishes a newspaper or magazine shall apply to the Commission for registration of the newspaper or magazine. Newspapers and magazines.

(2) Subject to this Act, a person or media institution shall not be eligible to apply for the registration of a newspaper or magazine under subsection (1), unless he-

- (a) is a body corporate registered under the Companies Act, 2009 (Act No. 5 of 2009);
- (b) a partnership registered under the Partnership Act, 1890; or
- (c) has registered business as a sole proprietor.
- (3) An application for registration under subsection (1), shall -
- (a) be in such form as the Commission may determine;
- (b) be accompanied by-
- (i) information in support of the application as may be required by the Commission;
- (ii) a non-refundable application fee prescribed by the Commission.
- (iii) evidence of compliance with obligations imposed by -
- (a) section 12 of the National Revenue Authority Act 2002 (Act No. 5 of 2002)
- (b) section 25 of the National Social Security and Insurance Trust Act, 2001 (Act No. 5 of 2001); and
- (c) the Minimum Wage Act, 1997 (Act No1 of 1997) and its amendments

- (c) specify among other things -
- (i) the name of the newspaper, magazine or newsletter; and
- (ii) the name and permanent address of the chief executive, managing director or other chief operating officer of the company or partnership .
- (4) The Commission shall, on receipt of an application under subsection (1) -
- (a) acknowledge receipt of the application, within 5 working days; and
- (b) inform the applicant in writing of its decision in not later than 30 days.
- (5) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not less than 15 million Leones and not exceeding 30 million Leones.
- 30.** The Commission shall not register a newspaper or magazine that has -
- (a) the same name as an existing newspaper or magazine; or
- (b) a name closely resembling that of an existing newspaper or magazine.
- 31.** The Commission shall where it is satisfied that an application under subsection (1) of section 29 has complied with all the registration requirements -
- (a) approve the registration, subject to such conditions as may be specified; and
- (b) issue a certificate of registration to the

Same or similar names not to be registered.

Approval
Registration

(2) An application under subsection (1) of section 29 shall not be granted by the Commission unless the Commission is satisfied that -

- (a) the particulars contained in the application are correct and sufficient; and
- (b) the application fee has been paid.

(3) The Commission may, in approving an application under subsection (1), specify conditions to which the approval is subject, including the requirement that -

- (a) the proprietor of a newspaper or magazine shall -
 - (i) pay to the Commission, for the duration of the registration, such fees as may be determined by the Commission;
 - (ii) maintain the standard of performance determined by the Commission;
 - (iii) operate the media institution in accordance with such standards of performance as the Commission considers appropriate; and
 - (iv) do or not to do specified things unless written approval is given by the Commission.

(b) the registration is not transferable; and

(c) the registration shall be valid for the period specified in the certificate.

32. (1) Where an application for registration is successful of the Commission shall issue a provisional certificate of registration to the successful applicant after payment of a prescribed fee, provided that the Commission shall issue a certificate of final registration where it is satisfied that the applicant fulfilled the requisite registration criteria, not later than 6 months after the issue of a provisional certificate of registration. Certificate registration.

(2) A certificate of registration issued under subsection (1) shall-

- (a) not be transferable; and
- (b) be valid for a period of 1 year.

33. (1) Subject to this Act, the Commission may refuse an application for a newspaper or magazine registration where - Refusal of application.

- a. the applicant contravenes this Act;
- b. the application contains false or misleading particulars; and
- c. the applicant has not complied with the application procedure.

(2) The Commission shall, where it intends to refuse an application under subsection (1) -

- (a) inform the applicant in writing of its intention to refuse the application;
- (b) state the grounds for refusal; and
- (c) give the applicant or his solicitor an opportunity to be heard in his defence.

(3) The Commission shall, after a hearing under subsection (2) -

- (a) grant or refuse the application;
- (b) inform the applicant in writing of its decision; and
- (c) where it refuses, it shall state the reason for refusal.

Renewal
of Certificate.

34. (1) A certificate of registration issued to a newspaper or magazine under subparagraph (b) of subsection (1) of section 30 shall be valid for a period of one year and may be renewed.

(2) An application for the renewal of registration shall be made to the Commission not later than 3 months before the expiry of the registration.

(3) The procedure for the renewal of registration shall, be in accordance with the commissions regulatory requirements.

(4) In considering an application for renewal of a registration, the Commission shall have regard to the performance of the person or media institution up to the time of the application for renewal.

35. A person or media institution aggrieved by the refusal of the Commission to grant or renew his registration under this Act, may appeal to the High Court within 30 days of the refusal and the High Court shall within 30 days of receipt of the appeal make a decision thereon.

36. (1) Where there is a change in the management of a magazine or newspaper the new management shall submit to the Commission: the name, permanent address and other particulars of the chief executive, managing director or other managing or operating officer of the company, partnership or sole proprietorship in such form as specified in the Second Schedule.

(2) A person who willfully makes or causes to be made in the form referred to under subsection (1) -

- (a) an insertion of-
 - (i) the name of a person who is not a chief executive, managing director or other managing or operating officer or officers;

Appeal.

Obligation to
report change
in manage-
ment.

(ii) the incorrect occupation of the chief

executive, managing director or other chief managing or operating officer or officers; or

(iii) the incorrect address of the chief executive, managing director or other chief managing or operating officer or officers;

(b) any other misrepresentation;

(c) an omission of prescribed particulars,

commits an offence and is liable to a fine as the Commission may by statutory instrument prescribe.

Particulars of publishers to appear on newspapers or magazines.

37. (1) A person shall not print, publish or disperse a newspaper or magazine unless there is in legible characters on the front of that newspaper or magazine, or upon the first or last leaf the name, permanent address and other particulars of the chief executive, managing director or other chief managing or operating officer or officers of the company, partnership or sole proprietorship.

(2) A person who contravenes subsection (1) commits an offence and is liable to a fine not less than 15 million Leones and not exceeding 30 million Leones.

38. (1) The editor and publisher of a newspaper or magazine

shall, on each day on which the newspaper or magazine is published deliver to the Commission 5 copies of the newspaper or magazine published and of every supplement thereto, signed by the editor or publisher thereof and where the publisher is a company, the copies shall be signed by a director or the secretary of the company and in the case of partnership or sole proprietorship the managing partner of sole proprietor.

Delivery of signed copies.

(2) The signed copies of every newspaper or magazine delivered to the Commission under subsection (1) shall be submitted on day of publication and shall be filed and kept by the Commission.

(3) An editor and publisher of a newspaper or magazine who contravenes subsection (1) commits an offence and is liable to a fine not less than 3 million Leones and not exceeding 5 million Leones.

PART VII - OBLIGATION TO EMPLOY REGISTERED EDITORS AND STATION MANAGERS.

39. A person or media institution shall not employ or otherwise engage a person as an editor or station manager in the business of-

Obligation to employ registered media practitioner.

(a) radio, television or digital satellite television broadcasting;

(b) a newspaper or magazine publication.

unless that person is registered as a media practitioner.

Obligation to employ qualified editors and station managers.

40. (1) A person or media institution shall not employ or otherwise engage a person as an editor or station manager in the operation of a radio, television or digital satellite service broadcasting or a newspaper or magazine publication, unless that person -

- (a) is a journalist with a minimum of 5 years experience; and
- (b) has obtained a diploma in journalism, mass communication or media studies or a University Degree from a recognised Institution.

(2) Subsection (1) shall not apply to a person who, before the commencement of this Act, has had 10 years experience as an editor or station manager in a media institution.

PART VIII - MISCELLANEOUS PROVISIONS

Register of Licences and Registrations.

41. (1) There shall be a Register of Licences and Registrations maintained by the Executive-Secretary, in such form as the Commission may determine.

(2) The register maintained by the Executive-Secretary under subsection (1), shall contain entries of -

- (a) television or digital satellite television broadcasting licences issued by the Commission;

(b) newspaper and magazine registered with the Commission;

(c) the names and address of the chief executive, managing director or other management or operating officer or officers of media institutions that are registered with the Commission; and

(d) licences and registrations suspended or cancelled by the Commission.

(3) A person may upon the payment of the prescribed fee inspect the register or request an extract from a part of the register.

42. A person who owns or operates a media institution in Sierra Leone immediately before the coming into force of this Act and who intends to continue shall, subject to this Act, within 6 months from the date of the coming into operation of this Act, apply to the Commission for the grant of a licence or a registration certificate. Existing media institution.

43. The Minister may, by statutory instrument, after consultations with the Commission and the Sierra Leone Association of journalists, make regulations for giving effect to this Act. Regulations.

44. (1) The Independent Media Commission Act, 2000 (Act No.12 of 2000) is hereby repealed. Repeal and savings.

(2) Notwithstanding subsection (1)-

- (a) a licence granted under the repealed Act, which is in force at the coming into operation of this Act shall continue in force as if granted under this Act;
- (c) all regulations, rules, guidelines, orders, notices, directives and instruments prescribed or issued under the repealed Act and in force at the coming into operation of this Act shall, unless they are inconsistent with any provision of this Act or until they are expressly revoked, remain in force.

19(4) **FIRSTSCHEDULE** (Section

COMPLAINTS COMMITTEE

Summons / Subpoena

To:.....

.....

You are hereby required to attend a hearing of the Complaint Committee on the day of , 20 at 9,30am.

At the suit of;

.....

Who alleges that on the day of 20 your newspaper/radio station Broadcasted/Published the following words against him/her:

.....

Attach additional page(s) if necessary)

Signed-----

(Section 36 (1))

SECOND SCHEDULE

Return made pursuant to section 36

Title of Newspaper	Name of person who ceased to be	Name of person who becomes	Occupation of new	Place of Business of new	Place of Residence of new
	chief executive, managing director or other chief managing or operating officer or officer	chief executive, managing director or other chief managing or operating officer or officer	chief executive, managing director or other chief managing or operating officer or officer	chief executive, managing director or other chief managing or operating officer or officer	chief executive, managing director or other chief managing or operating officer or officer

Signature of Person making the return

This return was received by me on the day of 20

Registrar-General

MORANDUM OF OBJECTS AND REASONS

The object of this Bill is to provide for the continuation of the Independent Media Commission, to provide for the registration and regulation of mass media institutions in Sierra Leone and to provide for other related matters.

The Bill is divided into 8 parts-

Part 1 – Preliminary provides for the interpretation of certain terms and expressions in the Bill.

PART 11- provides for the continuation of the Independent Media Commission, its new composition, terms of its membership, meetings, remuneration and immunity of its members.

PART III – outlines the objects, functions and powers of the Commission, procedure of suspension and cancellation of licences and registration certificates of media institutions and enforcement ,

PART – 1V- establishes a Secretariat and the appointment of staff of the Commission and special committees.

PART V– financial provisions, deals with the funds of the Commission including accounts and audit.

PART V 1- provides for the licensing of radio, television and digital satellite television and for the registration of newspapers, magazines and newsletters.

PART VII – imposes an obligation on media institutions to employ journalists registered with the Sierra Leone Association of Journalists as editors and station managers.

PART VIII - contains provisions for registers of licences and registration certificates, repeal and savings and for the Minister to make regulations for giving effect to the Act.

MADE this 4th day of June, 2020

MOHAMED RAHMAN SWARAY
FREETOWN,
SIERRA LEONE
Minister of Information and Communications

ACT

Supplement to the Sierra Leone Gazette Vol. CXLI, No. 8

dated 28th January, 2010

THE SIERRA LEONE BROADCASTING CORPORATION ACT,

2009 ARRANGEMENT OF SECTIONS

PART I—PRELIMINARY

Section

1. Interpretation.

PART II—ESTABLISHMENT OF CORPORATION

2. Establishment of the Sierra Leone Broadcasting Corporation.
3. Board of Corporation.
4. Tenure of members.
5. Functions of Board.
6. Remuneration of Board.
7. Filling of vacancies.
8. Meetings of Board.
9. Disclosure of interest.

PART III—FUNCTIONS OF CORPORATION

10. Functions of Corporation.
11. Guiding principles.
12. Independence of Corporation.

PART IV—STAFF OF CORPORATION

13. Director-General.
14. Deputy Director-General.
15. Other staff and employees of Corporation.

PART V—FINANCIAL PROVISIONS

16. Funds of Corporation.
17. Accounts and audit.
18. Financial year of Corporation.
19. Annual report.

PART VI—MISCELLANEOUS

20. Transfer of assets.
21. Transitional provisions.
22. Regulations.

SIGNED this 8th day of January, 2010.

DR. ERNEST BAI KOROMA,
President.



No. 1



2010

Sierra Leone

The Sierra Leone Broadcasting Corporation Act, 2009.

Short tit

Being an Act to establish the Sierra Leone Broadcasting Corporation and to provide for other related matters.

[

]

Date of commencement.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

PART I—PRELIMINARY

Interpretation.

1. In this Act, unless the context otherwise requires—

“Board” means the Board of Trustees referred to in section 3;

“Corporation” means the Sierra Leone Broadcasting Corporation an autonomous legal entity established by section 2;

“Minister” means the Minister responsible for Information and Communication;

“Broadcasting” means radio (audio) and TV (video audio) transmission via terrestrial transmitters, direct home satellite, or cable, using analogue or digital technologies and transmission of multimedia content via internet, mobile phones or using other

broadcasting technologies that may be developed in the future transmitted for direct public receiving by an unlimited number of users;

“Independent Media Commission” means the Independent Media Commission established by the Independent Media Commission Act, 2000 (Act No. 12 of 2000)

“Sierra Leone Broadcasting Service” means the state owned radio and television service established in 1935 transmitting via terrestrial transmitters using analogue technology to an unlimited number of users.

PART II—ESTABLISHMENT OF CORPORATION

Establishment of Sierra Leone Broadcasting Corporation.

2. (1) The Sierra Leone Broadcasting Service is hereby transformed into a body corporate to be known as the Sierra Leone Broadcasting Corporation.

(2) The Corporation shall have perpetual succession and capable of acquiring, holding and disposing of any property, whether

movable or immovable, and of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as bodies corporate may by law perform.

(3) The Corporation shall have a common seal, the affixing of which shall be authenticated by the signatures of —

- (a) the Chairman or other member of the Board generally or specifically authorised by the Board for that purpose; and
- (b) the Director-General or other officer of the Corporation authorised by the Board for that purpose.

3. (1) The governing body of the Corporation shall be a Board of

Board of Trustees consisting of the following members — Trustees.

- (a) a Chairman, who shall be a person competent and knowledgeable in the operation and management of broadcasting, appointed by the President subject to the approval of Parliament.
- (b) a representative each, of the following bodies, elected by their respective governing bodies
 - (i) Council of Paramount Chiefs;
 - (ii) Inter-Religious Council;
 - (iii) Women’s Forum;
 - (iv) Sierra Leone Bar Association;
 - (v) University of Sierra Leone (Engineering Department);

- (vi) Youth Council;
- (vii) Sierra Leone Association of Journalists;
and
- (viii) Civil Society Sierra Leone.

- (c) the Director-General of the Corporation who shall be *ex-officio* and Secretary to the Board.

(2) The members of the Board shall be persons of high personal probity, appointed by the President and subject to the approval by Parliament.

Tenure of members.

4. (1) The Chairman and members of the Board who are not *ex-officio* shall hold office for three years and shall be eligible for re-appointment for not more than two terms.

(2) A person shall cease to be a member of the Board on any of the following grounds –

- (a) for his inability to perform the functions of his office by reason of infirmity of mind or body;
- (b) for proven misconduct;
- (c) if he becomes bankrupt or insolvent;
- (d) if he is convicted of an offence involving fraud or dishonesty;
- (e) if he fails to attend three consecutive meetings of the Board without reasonable cause; or
- (f) if he resigns his office by written notice to the President.

Functions of Board.

5. (1) Subject to this Act, the Board shall have control and supervision of the Corporation.

(2) It shall also be the responsibility of the Board to provide such policy guidance and advice as well as secure the efficient implementation of the functions of the Corporation and enhance the overall performance of the Corporation.

6. The Chairman and the other members of the Board and any person co-opted under subsection (5) of section 8, shall be paid such remuneration, fees and allowances and shall be reimbursed by the Corporation for expenses incurred in connection with the discharge of their functions as the Board may determine, with the approval of the Minister .

Remuneration of Board.

7. (1) Where the Chairman or a member of the Board dies, resigns, is removed from office or is absent from Sierra Leone for a continuous period exceeding three months or by reason of illness unable to perform the functions of his office –

Filling of vacancies.

- (a) the members of the Board shall, as the case may be, elect one of their number to act as Chairman until such time as the Chairman resumes his office or another is appointed in his stead; and
- (b) in the case of the members, the Chairman shall arrange, subject to this Act, to have another person appointed to the Board.

(2) Where a person is elected as Chairman or appointed as a member to fill a vacancy, he shall hold office for the remainder of the term of the previous Chairman or member, as the case may be and shall, subject to this Act, be eligible for reappointment.

8. (1) The Board shall meet for the dispatch of its business such time and place as the Chairman may determine, but shall meet at least once every month.

Meetings at of Board.

(2) A special meeting of the Board shall be summoned by the Chairman or at the written request of not less than two other members of the Board.

(3) The Chairman shall preside at meetings of the Board at which he is present and in his absence, a member elected by the members present from among their number, shall preside.

(4) Each member shall have one vote but where there is

an equality of votes, the Chairman or other member presiding shall have a casting vote.

(5) All acts, matters or things authorized or required to be done by the Corporation shall be decided at a meeting where a quorum is present and the decision is supported by the votes of a majority of the members.

(6) The quorum for a meeting of the Board shall be 5.

(7) Any proposal circulated among all members and agreed to in writing by a majority of all members shall be of the same force or effect as a decision made at a duly constituted meeting of the Board and shall be incorporated in the minutes of the next succeeding meeting of the Board:

Provided that, if a member requires that such proposal be placed before a meeting of the Board subsection (7) shall not apply to such proposal.

(8) The Board may co-opt any person to attend and participate in its deliberations on any matter but such person shall not vote on any matter for decision by the Board.

(9) The Board shall cause minutes of all its meetings to be taken and signed by the Chairman and kept in proper form as a public record.

(10) Subject to this Act, the Board shall regulate its own procedure.

Disclosure
of interest.

9. (1) Any member having a personal interest whether pecuniary or otherwise, direct or indirect through any member of his immediate family or business partner, in any matter to be considered by the Board shall disclose the fact of such interest and the nature thereof, and such disclosure shall be recorded in the minutes of the Board, and such member shall take no part in any deliberation or discussion of the Board relating to such matter.

(2) Any member who contravenes subsection (1) shall be guilty of misconduct and shall be liable to removal from the Board.

PART III—FUNCTIONS OF CORPORATION

Functions of
Corporation

10. (1) The object for which the Corporation is established is to provide information, education, entertainment and reflect all shades of opinion throughout Sierra Leone.

(2) Without prejudice to the generality of subsection (1), the Corporation—

- (a) shall provide, as a public service, independent and impartial broadcasting services for general reception throughout Sierra Leone which will include a minimum level of regional programmes broadcast nationally every week;
- (b) shall, in collaboration with such institution as may be appropriate, provide external radio and television services through transmission for general reception in countries and places outside Sierra Leone;
- (c) shall allow and accept limited sponsorship for programmes and advertisement, except that no sponsorship shall be allowed for news programmes or accepted from political, ethnic or religious groups or institutions;
- (d) shall provide, in the minimum,—
 - (i) one free-to-air television channel for general reception throughout Sierra Leone, including any number of satellite, cable or other services;
 - (ii) one free-to air radio channel;
- (e) shall acquire bands for specific channels using names that do not include Sierra

Leone Broadcasting Corporation, but are clearly identified as owned by Sierra Leone Broadcasting Corporation;

- (f) shall establish and maintain broadcasting archive of materials that is likely to be of historical interest and make such material available on the internet;
- (g) shall broadcast programmes in Sierra Leonean languages, English and in such other foreign languages as may be determined;
- (h) shall erect, maintain and operate transmitting and receiving stations;
- (i) shall acquire copyrights;
- (j) shall enter into arrangements with the competent authorities for the purpose of obtaining rights, privileges and concessions in connection with broadcasting;
- (k) shall establish and maintain facilities for training and education for the purpose of –
 - (i) advancing the skills of persons employed by the Corporation; and
 - (ii) Carrying out research for the purpose of improving the physical and operational efficiency of any of the equipment of the Corporation;
- (l) may outsource its advertising component to ensure reliable funding and sustainably;
- (m) shall produce, manufacture, purchase or otherwise acquire films for television, information and communication technologies and other mechanical or electronic materials and apparatus associated with broadcasting and to use them in connection with broadcasting;
- (n) shall ensure the diffusion of important public announcements;

- (o) shall provide appropriate coverage of the proceedings of key decision making bodies, including Parliament;
- (p) shall adhere at all times to the Independent Media Commission Code of Practice for Journalists; and
- (q) shall adhere at all times to the Code of Practice adopted by the Board containing its broadcasting policies and programme content, including a full complaints procedure for viewers and listeners.

11. (1) In the discharge of its functions under section 9, the Corporation shall be guided by principles geared toward the development of free and educated opinion, the respect for the rule of law, human rights and with due regard to issues of public interest and fair play. Guiding Principles

(2) Without prejudice to the generality of subsection (1), the discharge of its functions of the Corporation under section 9, shall be guided by –

- (a) Sierra Leone's constitutional guarantees of freedom of expression;
- (b) the principles enshrined in the Media Code of Conduct adopted by Sierra Leone's Independent Media Commission;
- (c) promotion of fair competition based on internationally accepted principles for a public broadcaster, which include independent management, public service ethos and representation of all viewpoints and sectors of society in a non-partisan and objective manner;

- (d) accountability to the public through an independent board, protected against interference of a political or economic nature, with editorial independence and adequately funded in a manner that protects it from arbitrary interference;
- (e) transmission covering the whole country and politically balanced programmes.

Independence
of Cor-
poration.

12. In the performance of its functions under this Act, the Corporation shall not be subject to the direction or control of any person or authority.

PARTIV-STAFF OF CORPORATION

Director-
General.

13. (1) The Corporation shall have a Director-General appointed by the President on the recommendation of the Board of Trustees and subject to the approval of Parliament.

(2) The Director-General shall be the Chief Executive Officer of the corporation and shall hold office for a period of four years renewable for one term only.

(3) The Director-General shall be responsible to the Board for –

- (a) the day-to-day management of the Corporation;
- (b) the administration, organisation and control of the other staff of the Corporation;
- (c) the management of the funds of the Corporation;
- (d) The performance of such other functions as the Board may determine.”

Deputy
Director-
General.

14. (1) The Corporation shall have a Deputy Director- General who shall be appointed by the Board and shall hold office on such terms and conditions as may be determined by the Board.

(2) The Deputy Director- General shall have the competence and experience that will enable him, subject to this Act,

to perform the duties of the Director-General and shall be charged with the performance of any of the functions of the Director- General when the Director- General is absent from Sierra Leone or is otherwise incapacitated from performing his functions under this Act and who shall otherwise assist the Director- General in the performance of his functions and perform such functions as the Director- General may delegate to him.

15. (1) There shall be appointed by the Board on such terms and conditions as the Board may determine such other employees as the Corporation may require for the efficient discharge of its functions under this Act.

Other staff
and em-
ployees of
the Cor-
poration.

(2) Public officers may be seconded or otherwise give assistance to the Corporation.

(3) The Corporation may engage the services of such consultants and advisers as it considers necessary for the efficient discharge of its functions.

PARTV-FINANCIAL PROVISIONS

16. (1) The activities of the Corporation shall be financed by a fund consisting of –

Funds of
Corporation.

- (a) moneys appropriated by Parliament for the purposes of the Corporation;
- (b) moneys accruing to the Corporation in the course of its operations, including moneys paid for services rendered by the Corporation;
- (c) any investment revenue;
- (d) loans, and
- (e) gifts or donations from any person or authority.

(2) The funds of the Corporation shall be applied only for the purposes of the approved budget of the Corporation.

Accounts. **17.** (1) The Corporation shall keep proper and audited books of account and proper records in relation to them in a form approved by the Auditor-General.

(2) The books of account kept under subsection (1) shall within three months after the end of each financial year, be audited by the Auditor-General or an auditor appointed by him.

Financial year of Corporation. **18.** The financial year of the Corporation shall be the same as the financial year of Government.

Annual report. **19.** (1) The Corporation shall, as soon as possible but not later than three months after the end of each financial year, submit to the Minister a report of the activities, operations, undertakings, property and finances of the Corporation for that year, including the Auditor-General's report and a list of persons granted licences in that year.

(2) The Minister shall, within thirty days of the receipt of the report referred to in subsection (1), lay a copy before Parliament.

PART VI—MISCELLANEOUS

Transfer of assets. **20.** There is hereby transferred to the Sierra Leone Broadcasting Corporation, without more, the property and other assets of the Sierra Leone Broadcasting Service which shall cease to exist in that name in the coming into force of this Act.

Transitional provisions. **21.** Any act or thing done by the Sierra Leone Broadcasting Service prior to the commencement of this Act, shall if consistent with this Act, be deemed to have been done or made under this Act.

Regulations. **22.** The Minister may, by statutory instrument, make regulations for the effective implementation of this Act.

Passed in Parliament this 17th day of *December*, in the year of our Lord two thousand and Nine.

VICTOR A. KAMARA,
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 correct printed copy of the said Bill.

VICTOR A. KAMARA,
Clerk of Parliament.

ACT

THE CYBER SECURITY AND CRIME ACT, 2021

ARRANGEMENT OF SECTIONS

PART I—PRELIMINARY

Section

1. Interpretation.

PART II—ADMINISTRATION AND COORDINATION

2. Establishment of the National Computer Security Incidence Response Coordination Center.
3. Functions and Powers of the Center
4. Establishment of the National Cybersecurity Advisory Council.
5. Functions and Powers of the Council.
6. Establishment of National Cyber Security Fund.

PART III—CRITICAL NATIONAL INFORMATION INFRASTRUCTURE

7. Designation of Critical National Information Infrastructure.
8. Audit and Inspection of Critical National Information Infrastructure.

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SIGNED this 15th day of November, 2021.



DR. JULIUS MAADA BIO,
President.

No. 7



Sierra Leone

The Cyber Security and Crime Act, 2021.

Short title

Being an Act to provide for the effective, unified and comprehensive legal, regulatory and institutional framework for the prohibition, prevention, detection, prosecution and punishment of cybercrimes; prevention of the abusive use of computer systems; to provide for the establishment of structures to promote cybersecurity and capacity building; to provide for the timely and effective collection of electronic evidence for the purpose of investigation and prosecution of cybercrime; to provide for the protection of Critical National Information Infrastructure and the protection of computer systems and networks, electronic communications, data and computer programs, intellectual property and privacy rights to provide for facilitation of international cooperation in dealing with cybercrime matters and to provide for other related matters.

[] Date of
commencement

ENACTED by the President and Members of Parliament in this present
Parliament assembled.

PART I – PRELIMINARY

Interpretation. **1.** In this Act, unless the contrary intention appears -

"Attorney General" means The Attorney-General and Minister of Justice established under the Constitution;

"Authorised person" means a member of the National Cyber Security Coordination Center or a person mandated by it, involve in the prohibition, prevention, elimination or combating of Computer crimes and Cyber Security threats.

"Computer data" means any representation of facts, information or concepts in a form suitable for processing in a computer system, including a program suitable to cause a computer system to perform a function;

"Computer data storage medium" means any device, physical or virtual, containing or designed to contain, or enabling or designed to enable storage of data, whether available in a single or distributed form for use by a computer;

"computer system" means any physical or virtual device, or any set of associated physical or virtual devices; or a group of interconnected or related devices, one or more of which, pursuant to a program, performs automatic processing of data at least one of which use electronic, magnetic, optical or other technology, to perform logical, arithmetic storage and data or which perform control functions on physical or virtual devices including mobile devices and reference to a computer system includes a reference to part of a computer system;

"crime against humanity" includes any of the following acts committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack: murders, extermination, enslavement, deportation or forcible transfer of population, imprisonment, torture rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization or any other form of sexual violence of comparable gravity, persecution against an identifiable group on political, racial, national, ethnic, cultural,

religious or gender grounds, enforced disappearance of persons, the crime of apartheid, other inhumane acts of similar character intentionally causing great suffering or serious bodily or mental injury;

"Critical National Information Infrastructure" means computer systems that are necessary for the continuous delivery of essential services that Sierra Leone relies on, the loss or compromise of which will lead to a debilitating impact on-

- (a) the security, defence or international relations of Sierra Leone;
- (b) the existence or identity of a confidential source of information relating to the enforcement of the criminal law;
- (c) the provision of services directly related to communications, infrastructure, banking and financial services, public utilities, public transportation or public key infrastructure; or
- (d) the protection of public safety including system related to essential emergency services;

"Cyberstalking" is when a person intentionally initiate communications or a course of conduct directed at a specific person or persons with the intent to coerce, intimidate, harass, or cause emotional distress.;

"Cybersquatting" means the acquisition of a domain name over the internet in bad faith to profit, mislead, destroy reputation, and deprive others from registering the same, if such a domain is;

- (i) Similar, identical, or confusingly similar to an existing trademark registered with the appropriate government agency at the time of the domain name registration;
- (ii) Identical or in any way similar with the name of a person other than the registrant, in case of a personal name; and
- (iii) Acquired without right or with intellectual property interests in it;

"data" means representations of information or of concepts that are being prepared or have been prepared in a form suitable for use in a

computer;

"Database" means digitally organized collection of data for one or more purposes which allows easy access, management and update of data;

"Device" means any object or equipment that has been designed to do a particular job or whose mechanical or electrical workings are controlled or monitored by a microprocessor;

"Electronic communication" means communications in electronic format, instant messages, short message service (SMS), e-mail, video, voice mails, multimedia message service (MMS), Fax, and pager;

"Enforcement officer" means an officer in a law enforcement agency trained in cyber security work designated or authorised to carryout functions including for the purposes of Part IV of this Act;

"Extradite" means the legal obligation of states under public international law to handover persons who commit international crimes to a foreign state for indictment, prosecution or imprisonment.

"encrypted data" means data which has been transformed from its plain text version to an unintelligible format, regardless of the technique utilized for such transformation and irrespective of the medium in which such data occurs or can be found, for the purposes of protecting the content of such data;

"false news" means incorrect deceptive information or propaganda, misinformation or hoaxes deliberately spread under the guise of being authentic news via traditional print and broadcast news media or online social media written and published with the intent to mislead for gains;

"Financial Institution" means any individual, body, association or group of persons, whether corporate or unincorporated which carries on the business of investment and securities, a discount house, finance company and money brokerage whose principal object

includes factoring project financing equipment leasing, debt administration, fund management, private ledger services, investment management, local purchase order financing, export

finance, project consultancy, financial consultancy, pension fund management, insurance institutions, debt factorization and conversion firms, dealer, clearing and settlement companies, legal practitioners, hotels, casinos, bureau de change, supermarkets and such other businesses as the Central Bank or appropriate regulatory authorities may, from time to time, designate;

"Financial Transaction" means a transaction which in any way involves movement of funds by wire or other electronic means; involving one or more monetary instruments; or the transfer of title to any real or personal property;

"function" means logic, control, arithmetic, deletion, storage, retrieval and communication or telecommunication to or from, or within a computer;

"genocide" means any of the following acts committed with intent to destroy in whole or in part, a national, ethnic, racial or religious group as such: killing members of the group, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, imposing measures intended to prevent births within the group; forcibly transferring children of the group to another group;

"identity theft" means the stealing of somebody else personal identifying information and pretends to be that person in order to commit fraud or to gain other financial benefits such as making unauthorised transactions or purchases.

"interference" means any impairment to the confidentiality, integrity or availability of a computer system, or any program or data on a computer system,

or any act in relation to a computer system which impairs the operation of the computer system, program, or data;

"law enforcement agencies" means any agency for the time being responsible for implementation and enforcement of the provisions of this Act;

"Minister" means the Minister responsible for Information and Communications;

"modification" means in relation to a computer system, program or data, the alteration or modification with respect to the contents of a computer system by the operation of a function of the computer system or any other computer if ;

(a) a program or data held in the computer system is altered or erased;

(b) a program or data is added to its contents; or

(c) an act occurs which impairs the normal operation of a computer system,

and any act which contributes towards causing such alteration or modification shall be deemed to have caused it;

"password" means any data by which a computer service or a computer system is capable of being obtained or used;

"person" includes a natural person, a corporation, company, partnership, firm, association or societies;

"Phishing" means the criminal and fraudulent process

of acquiring or attempting to acquire sensitive information such as usernames, passwords and credit card details, by masquerading as an authentic entity in an electronic communication through emails, telephone or text message asking a user to change his or her password or reveal his or her identity so that such information can later be used to defraud the user;

"plain text" means original data before it has been transformed into an unintelligible format.

"plain text version" means original data before it has been transformed into an unintelligible format.

"pornography" means the representation in books, magazines, photographs, films, and other media, telecommunication apparatus of scenes of sexual behavior that are erotic or lewd and are designed to arouse sexual interest;

"premises" means land, buildings, movable structures, a physical or virtual space in which data is maintained, managed, backed up remotely and made available to users over a network, vehicles, vessels or aircraft;

"President" means the President of the Republic of Sierra Leone as established by the Constitution.

"program or computer program" means computer data representing instructions or statements that, when executed in a computer system, causes the computer system to perform a function;

"prosecute" means the legal obligation of states under public international law to prosecute persons who commit international crimes where no other state has requested extradition;

"racist or xenophobic material" means any written or printed material, any image or any other representation of ideas or theories, which advocates, promotes or incites hatred, discrimination or violence against any individual or group of individuals, based on race, colour, descent or national or ethnic origin, as well as religion if used as a pretext for any of these factors.

"Requested State" means a state being requested to provide legal assistance under the terms of this Act;

"Requesting State" means a state requesting for legal assistance and may for the purposes of this Act include an international entity to which Sierra Leone is obligated;

"service provider" means a public or private entity that provides to users of its services the means to communicate by use of a computer system including any other entity that processes or stores computer data on behalf of that entity or its users;

"seize" with respect to a program or data be defined to include:

- (a) secure a computer system or part of it or a device;
- (b) make and retain a digital image or secure a copy of any program or data, including using an on-site equipment;
- (c) render the computer system inaccessible;
- (d) remove data in the accessed computer system; or
- (e) obtain output of data from a computer system;

"Sexually explicit conduct" includes at least the following real or simulated acts done with intent to exploit a child-

- (a) sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal, involving a child, or between an adult and a child, of the same or opposite sex;
- (b) bestiality;
- (c) masturbation;
- (d) sadistic or masochistic abuse in a sexual context; or
- (e) lascivious exhibition of the genitals or the pubic area of a child. It is not relevant whether the conduct depicted is real or simulated;

"Spamming" means deliberate abuse of electronic messaging systems to indiscriminately send unsolicited bulk messages to individuals and corporate organizations;

"subscriber information" means any information contained in the form of data or any form that is held by a service provider, relating to subscribers of its services, other than traffic data or content data, by which can be established-

- (a) the type of communication service used, the technical provisions taken thereto and the period of service;
- (b) the subscriber's identity, postal, geographic, electronic mail address, telephone and other

access number, billing and payment information available on the basis of a service agreement or arrangement; or

- (c) any other information on the site of an installation of communication equipment available on the basis of a service agreement or arrangement;

"traffic data" means computer data relating to a communication by means of a computer system, generated by a computer system that formed a part in the chain of communication, indicating the communication's origin, destination, route, time, date, size, duration or the type of underlying service;

"unauthorised" means access of any kind, to a computer system, program or data, by a person who-

- (a) is not entitled to access that computer system, program or data; and
- (b) does not have or exceeds the level of authorisation consented to by the person entitled to grant such consent, for the particular kind or type of access with respect to that computer system, program or data:

Provided that any act or access in exercise of powers under this Act shall not be deemed to be unauthorized

PART II ADMINISTRATION AND COORDINATION

Establishment Of
the National
Computer
Security
Incidence
Response
Coordination
Centre

2. (1) There is established a National Computer Security Incidence Response Coordination Centre responsible for managing cyber security incidences in Sierra Leone, headed by the National Cyber Security Coordinator, who subject to the approval of Parliament shall be appointed by the President on the recommendation of the Minister

- (2) The National Cybersecurity Coordinator shall hold office for a term of (5) years and is eligible for reappointment for another term of (5) years only.
- (3) A person shall not be appointed National Cyber Security Coordinator unless that person has relevant knowledge, qualification and expertise in either Computer Science, Information Technology, Cyber Security or Information Security and related matters of at least (10) years and is a person of proven integrity.
- (4) The National Cybersecurity Coordinator shall cease to hold office on any of the following grounds:
- (a) for his or her inability to perform the functions of the office by reason of infirmity of mind or body;
- (b) for proven misconduct;
- (c) if he becomes bankrupt or insolvent;
- (d) if he is convicted and sentenced for an offence involving fraud or dishonesty;
- (e) if he resigns his office by written notice to the minister; or
- (f) at the expiration of his term of office.
3. The National Computer Security Incidence Response Coordination Center shall be responsible for cyber security issues under this Act including:
- (a) provision of support to computer systems and networks in preventing and combating cybercrime in Sierra Leone;
- (b) formulation and implementation of national cyber security policy and cyber security strategy;
- (c) overseeing of the management of computer forensic laboratories;
- (d) provision of support to the Judiciary and other law enforcement agencies in the discharge of their functions in relation to cybercrime in Sierra Leone;
- (e) promotion of Sierra Leone's involvement in international cyber security cooperation; and
- (f) doing such other acts or things that are necessary for

Functions
and Powers
of the
Center.

the effective performance of the functions of the relevant security and enforcement agencies under this Act.

4. (1) There is established, a National Cybersecurity Advisory Council comprising the Vice President as Chairman and the following other members-

- (a) the Minister of Finance;
 - (b) the Attorney-General and Minister of Justice;
 - (c) the Minister of Internal Affairs;
 - (d) the Minister of Foreign Affairs and International Cooperation;
 - (e) the National Security Coordinator, Office of National Security;
- National Cybersecurity Advisory Council.
- (f) the Director-General, Central Intelligence and Security Unit;
 - (g) the Chief of Defence Staff, Republic of Sierra Leone Armed Forces;
 - (h) the Inspector-General, Sierra Leone Police;
 - (i) the Director-General, National Telecommunications Commission;
 - (j) the Governor, Bank of Sierra Leone;
 - (k) the National Cyber Security Coordinator as Secretary
 - (l) the Director General Financial Intelligence Unit

- (m) the Minister of Information and Communications.
 - (n) a barrister and solicitor of over 15 years post enrolment at the bar nominated by the Sierra Leone Bar Association, appointed by the President.
- (2) A member of the Council shall cease to hold office if-
- (a) he ceases to hold the office on the basis of which he became a member of the Council; or
 - (b) the member listed in paragraph (n) of clause 4 (1) shall cease to hold office only for stated misconduct or infirmity of body or mind for a term of 3 years which said term may where the President deems fit be renewed for a further term of 3 years without any further renewal.
- (3) The meeting of the Council shall be presided over by the Vice President and the Council shall meet, at least, 4 times a year.

5.

- (1) The Council shall-
- (a) provide strategic leadership, oversight and guidance on implementation and development of national cyber security legal framework in Sierra Leone in order to ensure that-
 - (i) Sierra Leone's cybercrime policies and laws are in conformity with regional and international standards;
 - (ii) there is maintenance of international cooperation required for preventing and combating cybercrimes and promoting cybersecurity; and
 - (iii) effective prosecution of cybercrimes and cyber security matters.
- (b) make recommendation to Government on issues relating

to the prevention and combating of cybercrime and the promotion of cyber security in Sierra Leone;

- (c) provide general policy guidelines for the implementation of this Act; and
 - (d) promote the development of educational programs and research in cyber security defences, techniques and processes.
- (2) The Council shall have power to regulate its proceedings and make standing orders with respect to the holding of its meetings, notices to be given, the keeping of minutes of its proceedings and such others matters as Council may from time to time determine.

Establishment
of National
Cybersecurity
Fund.

6. (1) There is established a fund which shall be known as the National Cyber Security Fund.

(2) There shall be paid and credited into the Fund established under subsection (1) and domiciled in the Central Bank of Sierra Leone -

- (a) grants-in-aid and assistance from donor, bilateral and multilateral agencies;
- (b) all other sums accruing to the Fund by way of gifts, endowments, bequests or other voluntary contributions by persons and organisations:

Provided that the terms and conditions attached to such gifts, endowments, bequests or contributions will not jeopardize the functions of the Council; and

- (c) allocation from the consolidated fund;
- (c) all other monies or assets that may, from time to time accrue to the Fund.

(3) An amount not exceeding 30 percent of the Fund may be allocated for programs relating to public education and awareness raising on cyber security issues.

(4) (i) The office of the National Computer Security Incidence Response Coordination Centre shall keep proper records of the accounts in a form approved by the Auditor General.

(ii) The books of account kept under sub-section

(4) (i) shall within 3 months after the end of each financial year be audited by the Auditor General or an auditor appointed by him.

(iii) The financial year shall be the same as the financial year of the Government.

(5) (i) The Council shall, as soon as possible but not later than 6 months after the end of each financial year, submit to the Minister a report of the activities, operations, undertakings, properties and finances of the National Computer Security Incidence Response Coordination Center for that year, including the Auditor General's Report.

(ii) The Minister shall within 30 days of the receipt of the report referred to in sub-section (5) (i) lay a copy before Parliament.

PART III-CRITICAL NATIONAL INFORMATION INFRASTRUCTURE

Designation
Of Critical
National
Information

Infrastructure.

- 7.** (1) The Minister shall in consultation with the National Cybersecurity Council recommend to the President who may by Order published in the Gazette, designate certain computer systems, computer data or traffic data vital to Sierra Leone or any combination of those matters, as constituting Critical National Information Infrastructure.
- (2) A Presidential Order made under subsection (1), shall prescribe minimum standards, guidelines, rules or procedures reasonably required in respect of-
- (a) the protection or preservation of Critical National Information Infrastructure;
 - (b) the general management of Critical National Information Infrastructure;
 - (c) the implementation of critical information systems to ensure all systems are secured by default and system and user activities are logged to facilitate accurate and efficient information systems operations audits.
 - (d) access to, transfer and control of data in Critical National Information Infrastructure;
 - (e) infrastructural or procedural rules and requirements for securing the integrity and authenticity of data or information contained in any designated Critical National Information Infrastructure;
 - (f) the storage or archiving of data or information designated as Critical National Information Infrastructure;
 - (g) recovery plans in the event of disaster, breach or

loss of the Critical National Information Infrastructure or any part of it; and

(h) any other matter required for the adequate protection, management and control of data and other resources in any Critical National Information Infrastructure.

(i) respect for and protection of the fundamental freedoms, including the right to privacy.

Audit and
Inspection of
Critical
National
Information
Infrastructure

- 8.** A Presidential Order made under subsection (1) of section 7 may require the National Computer Security Incidence Response Team established under section (2) to audit and inspect any Critical National Information Infrastructure at any time to ensure compliance with the provisions of this Act.

PART IV - POWERS AND PROCEDURES

Scope of
Powers and
Procedures.

- 9.** (1) Powers and procedures under this Act shall be applicable to and may be exercised with respect to-
- (a) criminal offences under this Act;
 - (b) criminal offences committed by means of a computer system, including mobile phones and other electronic equipment, under any other law; and
 - (c) the collection of evidence in electronic form of a criminal offence under this Act or any other law.
- (2) In a trial of an offence under any law, the fact that evidence has been generated, transmitted or seized from or identified in a search of a computer system, shall not of itself prevent that evidence from being presented, relied upon or admitted provided that the evidence has been properly obtained and preserved.

- (3) The powers and procedures provided under this Part are without prejudice to the operation of, or powers granted under the Criminal Procedure Act, when exercised lawfully by any other law enforcement agency or service or any regulatory authority that by itself does not investigate or prosecute an offence.

10. (1) Upon an application by an enforcement officer or other Search and authorised person to a Judge of the High Court that there is reasonable grounds to believe that there may be in a specified computer system, program, data, computer data storage medium material specifying the basis of the belief and the scope of the warrant required which-

- (a) may be reasonably required as evidence in proving a specifically identified offence in a criminal investigation or criminal proceedings;
- (b) has been acquired by a person as a result of the commission of an offence,

the Judge may issue a warrant which shall authorize the enforcement officer or other authorised person, with such assistance as may be necessary, to access, seize or secure a specified computer system, program, data or computer data storage medium.

(2) A warrant issued under subsection (1) shall authorize an enforcement officer or other authorised person to-

- (a) enter and search any premises or place if within those premises or place-
 - (i) an offence under this Act is being committed; or
 - (ii) there is evidence of the commission of an offence under this Act; or

- (iii) there is an urgent need to prevent the commission of an offence under this Act
- (b) search any person found on any premises or place which such authorised officers who are empowered to enter and search under paragraph (a) of subsection 1;
- (c) stop, board and search where there is evidence of the commission of an offence under this Act;
- (d) seize or secure a computer system or part of it or a computer-data storage medium;
- (e) make and retain a copy of computer data;
- (f) maintain the integrity of stored computer data;
- (g) render inaccessible or remove computer data in the accessed computer system;
- (h) have access to, inspect and check the operation of a computer system to which the warrant applies;
- (i) have access to any information, obtained from the encrypted data contained or available to a computer system into an intelligible format for the purposes of the warrant;
- (j) require a person possessing knowledge about the functioning of a computer system or measures applied to protect a computer data therein, to provide the necessary computer data or information, to enable an enforcement officer or other authorised person in conducting an activity authorised under this section;
- (k) have access to such reasonable technical and other assistance as he may require for the purposes of the warrant.

- (l) require any person having charge of or otherwise concerned with the operation of any computer or electronic device in connection with an offence under this Act to produce such computer or electronic device.

(3) An application under subsection (1) shall provide reasons explaining why it is believed that-

- (a) the material sought will be found on the premises to be searched; or
- (b) the purpose of an investigation search may be frustrated or seriously prejudiced unless an investigating officer arriving at the premises can secure immediate entry to them.

(4) The court may issue a warrant under subsection (2) of this section where it is satisfied that-

- (a) the warrant is sought to prevent the commission of an offence under this Act or to prevent the interference with investigative process under this Act; or
- (b) the warrant is for the purpose of investigating cybercrime, cyber security breach, computer related offences or obtaining electronic evidence; or
- (c) there are reasons for believing that the person or material on the premises may be relevant to the cyber-crime or computer related offences under investigation; or
- (d) there are reasons to believe that the person named in the warrant is preparing to commit an offence under this Act.

Provided that any such warrant is issued access shall be without prejudice to the rights to privacy of persons and may be rescinded upon an application by a person affected to a Judge of the High Court.

(5) Where an enforcement officer or other authorised person (s) authorised to search or access a specific computer system or part of it has reasonable grounds to believe that the data sought is stored in another cloud computer system and there is reasonable grounds to believe that such data is accessible from or available to the initial system, the enforcement officer or other authorised person may extend the search or accessing to such other system or systems.

(6) Computer data seized under subsection (2) shall only be lawfully used for the purpose for which it was originally obtained.

(7) An enforcement officer or other authorised person shall-

(a) only seize a computer system under sub-section (2) when it is-

- (i) not practical to secure the computer data; or
- (ii) necessary to ensure that data will not be destroyed, altered or otherwise interfered with;

(b) exercise reasonable care while the computer system or computer data storage medium is retained.

(8) An enforcement officer or other authorised person who intentionally, recklessly or negligently misuses the powers granted under this section commits an offence and is liable on conviction to a fine not less than Le 10,000,000 and not more than Le 50,000,000 or to a term of imprisonment not less than 1 year and not more than 5 years or to both such fine and imprisonment.

(9) A person who willfully obstructs an enforcement officer or other authorised person in the lawful exercise of the powers under this section commits an offence and is liable on conviction to a fine not less than Le5,000,000 and not more than Le30,000,000 or to a term of imprisonment not less than 6 months and not more than 3 years or to both such fine and imprisonment and in the case of a corporation, partnership or association to a fine not less than Le 50,000,000 and not more than Le100,000,000.

(3) An enforcement officer or other authorised person may refuse to give access or provide copies seized under subsection (2) if he has reasonable grounds to believe that giving access or providing copies would-

- (a) constitute a criminal offence; or
- (b) prejudice-
 - (i) an investigation; or
 - (ii) any prosecution:

Record of and Access
11. (1) Where a computer system or data has been removed and or rendered inaccessible, following a search or seizure, the person who made the search or seizure shall, at the time of the search or seizure or as

to Seized Data
soon as practicable after the search -

- (a) make a list of what has been seized or rendered inaccessible, with the date and time of seizure; and
- (b) give a copy of that list to -
 - (i) the occupier of the premises; or
 - (ii) the person in control of the computer system.

(4) Notwithstanding subsection (3), a Judge of the High Court may, upon sufficient and reasonable grounds, allow a person under sub paragraph (a), (b) or (c) to access or copy computer data.

(5)The National Computer Security Incidence Response Team shall develop standards, policies, procedures and guidelines to be used in the implementation of this Act subject to the approval of the National Cyber Security Advisory Council in respect of:

- (2) Subject to subsection (3), an enforcement officer or other authorised person shall, on request, permit a person-
 - (a) who has custody or control of a computer system,
 - (b) who has right to data or information seized under subsection (2) of section 10; or
 - (c) acting on behalf of a person under subparagraph (a) or (b),to access and copy computer data on the system or give such person a copy of the computer data.

- (a) the warrant request process;
- (b) the process of collecting and handling evidence;
- (c) chain of custody of evidence collected;
- (d) processes related to device collection;
- (e) processes related to email collection;
- (f) the storage and inventory of data or evidence collected;
- (g) the process of examining evidence;

- (h) the analysis of data and evidence collected; and
- (i) evidence reporting.

12. (1) Where it is necessary or desirable for the purposes of an investigation under this Act, a Judge of the High Court may upon an application by an enforcement officer or other authorised person, order-

- (a) a person in possession or control of specified data stored in a computer system or a computer data storage medium; or
- (b) a service provider in possession or control of specified subscriber information relating to services offered -
 - (i) in Sierra Leone; or
 - (ii) based outside Sierra Leone but, offering its services in Sierra Leone;

to submit information in his possession or control.

(2) A Judge of the High Court may, by order, require a person-

- (a) to whom an order is made under subsection (1), or
- (b) in control of a computer system, to whom a warrant is issued under subsection (1) of section 10;

to keep such order or warrant confidential.

- (3) A person who fails to comply with an order under subsection (1) commits an offence and is liable on conviction to a fine not less than Le 5,000,000 and not more than Le 30,000,000 or to a term of imprisonment not less than 6 months and not more than 3 years or to both such fine and imprisonment and for a corporation partnership or association not less than Le100, 000,000 and not more than Le250, 000,000.

- (4) An enforcement officer or other authorised person who uses the powers granted under subsection (1) for a purpose other than that stated in section 10 commits an offence and is liable on conviction to a fine not less than Le 10,000,000 and not more than Le 50,000,000 or to a term of imprisonment not less than 1 year and not more than 5 years or to both such fine and imprisonment.

(5) An application under subsection (1) shall state the reasons explaining why it is believed that-

- (a) a specified computer data sought is likely to be available with a person mentioned in subparagraph (a) or (b) of subsection (1);
- (b) an investigation may be frustrated or seriously prejudiced unless the specified computer data or the subscriber information, as the case may be, is produced;
- (c) the type of evidence suspected is likely to be produced by a person mentioned in subparagraph (a) or (b) of subsection (1);
- (d) subscribers, users or unique identifiers who are the subject of an investigation or prosecution, may be disclosed as a result of the production of the specified computer data;
- (e) an identified offence is an offence in respect of which the order is sought;
- (f) measures taken shall prepare and ensure that the specified computer data will be produced-
 - i. whilst maintaining the privacy of other users, customers and third parties; and
 - ii. without the disclosure of data of any party who is not part of the investigation; and
- (g) measures taken shall prepare and ensure that the

production of the specified computer data is carried out through technical means such as mirroring or copying of relevant data and not through physical custody of computer systems or devices.

- (6) Notwithstanding the provision of sub-section (1) above, a service provider or a person in possession or control of relevant specified data shall have the right to apply to the Judge of the High Court to challenge the issuance of a production order issued under this section on the ground of relevance, privilege, capacity to implement provisions of the order or otherwise protected from disclosure by law, or non-satisfaction of the requirements in sub-section (5) of this Section.

Expedited

13. (1) An enforcement officer or other authorised person may,

Preservation and
Partial Disclosure of
Traffic Data.

where he is satisfied that-

- (a) a specified computer data stored in a computer system or computer data storage medium is reasonably required for the purposes of a criminal investigation; and
- (b) there is a risk or vulnerability that the computer data may be modified, lost, destroyed or rendered inaccessible,

by written notice given to a person in possession or control of the computer system or computer data storage medium, require that person to undertake expeditious preservation of the computer data.

(2) A notice under subsection (1) may require a person in possession or control of the computer system or computer data storage medium to disclose sufficient traffic data about the communication to identify-

- (a) the service providers; and
- (b) the path through which the communication was transmitted.

(3) The period of preservation of data required under subsection (1) shall be for a period not exceeding 30 days.

(4) The period of preservation of data under subsection (3) may be extended by a Judge of the High Court for a further specified period of time, on an application by an enforcement officer or other authorised person, where such extension is reasonably required for the purposes of-

- (a) an investigation or prosecution;
- (b) avoiding a risk or vulnerability that the computer data may be modified, lost, destroyed or rendered inaccessible; or
- (c) averting overly burdensome cost of such preservation on the person in control of the computer system.

(5) A person to whom a notice under subsection (1) is given shall-

- (a) be responsible to preserve the data for -
 - (i) a period not exceeding 30 days as specified in subsection (3); or
 - (ii) any extended period permitted by a Judge of the High Court under subsection (4).
- (b) respond expeditiously to requests for assistance, whether to facilitate requests for police assistance or mutual assistance requests, and
- (c) disclose as soon as practicable, a sufficient amount of the non-content data to enable an enforcement officer or other authorised person to identify any other telecommunications providers involved in the transmission of the communication.

14 (1) Where there are reasonable grounds to believe that traffic data associated with specified communications is reasonably required for the purposes of a specific criminal investigation, a Judge of the High Court may, on an application by an enforcement officer or other authorised person, order a service provider with the capacity to monitor, collect and record to-

- (a) collect or record traffic data in real-time; and
- (b) provide specified traffic data to an enforcement officer or other authorised person.

(2) An Order for the real-time collection or recording of traffic data under sub-section (1) shall not be for a period beyond what is absolutely necessary and in any event for not more than 30 days.

(3) A period of real-time collection or recording of traffic data under subsection (2) may be extended by a Judge of the High Court for a further reasonable specified period of time the same to be for an additional period of 30 days, on an application by an enforcement officer or other authorised person, where the extension is reasonably required for the purposes of-

- (a) an investigation or prosecution;
- (b) further real-time collection or recording of traffic data necessary to achieve the purpose for which the Order under sub-section (1) was made;
- (c) ensuring that the real-time collection or recording of traffic data is carried out whilst maintaining the privacy of other users, customers and third parties and without the disclosure of information and data of any party not part of the investigation;

(d) preventing the investigation of being frustrated or seriously prejudiced; and

(e) averting overly burdensome cost of such extension on the person in control of the computer system.

(4) An application under subsection (1) shall state reasons explaining why it is believed that-

(a) a traffic data sought will be available with the person in control of the computer system;

(b) a type of traffic data suspected will be found on that computer system;

(c) the subject of an investigation or prosecution may be found on that computer system;

(d) an identified offence is an offence in respect of which the order is sought;

(e) measures shall be taken to maintain the privacy of other users, customers and third parties; and

(f) there will be no disclosure of data of any party not part of the investigation.

(5) A Judge of the High Court may also require a service provider to keep confidential, an Order under subsection (1) and a warrant issued under subsection (1) of section 10.

(6) A service provider who without reasonable excuse fails to comply with an Order under subsection (1) commits an offence and is liable on conviction to a fine not less than Le 100,000,000 and not more than Le 5,000,000,000.

Interception of **15** (1) Where there are reasonable grounds to believe that the content of

content data.

a specifically identified electronic communications is reasonably required for the purposes of a specific investigation in respect of a felonious offence, a Judge of the High Court may, on an application by an enforcement officer or other authorised person, order a service provider to-

(a) collect or record; or

(b) cooperate and assist a competent authority in the collection or recording of,

content data of specified communication within the jurisdiction transmitted by means of a computer system, in real time.

(2) An Order for the real-time collection or recording of content data under sub-section (1) shall not be for a period beyond what is absolutely necessary and in any event not more than 30 days

(3) An application under subsection (1) shall state reasons explaining why it is believed that -

(a) the content data sought will be available with the person in control of the computer system;

(b) the type of content data suspected will be found on a computer system;

(c) an identified offence is the offence for which the warrant is sought;

(d) further disclosures are needed to achieve the purpose for which the warrant is to be issued, where authority to seek real-time collection or recording on more than one occasion is needed;

(e) measures taken shall be guided by regulations made pursuant to this Act which shall ensure that the real-time collection or

recording is carried out whilst maintaining the privacy of other users, customers and third parties without the disclosure of information and data of any party not part of the investigation;

(f) the investigation may be frustrated or seriously prejudiced unless the real time collection or recording is permitted;

(g) to achieve the purpose for which the warrant is being applied, real time collection or recording by a person in control of a computer system is necessary; and

(h) adequate provision is made to ensure the safe storage and protection of the content data obtained and be used solely for matters relating to investigations.

(4) A period of real-time collection or recording of content data under subsection (3) may be extended by a Judge of the High Court for a further reasonable specified period of time the same to be for an additional period not more than 30 days, on an application by an enforcement officer or other authorised person, where the extension is reasonably required for the purposes of-

(a) an investigation or prosecution;

(b) achieving the objective for which the warrant is to be issued;

(c) ensuring that the real-time collection or recording of content data is carried out whilst maintaining the privacy of other users, customers and third parties and without the disclosure of information and data of any party not part of the investigation;

(d) preventing an investigation from being frustrated or seriously prejudiced; and

- (e) averting overly burdensome cost of such real- time recording and collection on the person in control of the computer system.

(5) A Judge of the High Court may also require a service provider to keep confidential, an order made under subsection (1) and a warrant issued under subsection (1) of section 10.

(6) The service provider shall have express right to challenge an order regarding the collection of real time content data where there is non-compliance with the provisions of the Act by filling an application to a Judge of the High Court.

(7) A service provider who fails to comply with an order under subsection (1) commits an offence and is liable on conviction to a fine not less than Le 100,000,000 and not more than Le 5,000,000,000.

Confidentiality and Limitation of Liability. **16** (1) A service provider shall not be subject to civil or criminal liability arising in connection with its compliance with its obligation, unless it is established that the service provider-

(a) had actual notice, actual knowledge or willful and malicious intent and not merely through omission or failure to act; or

(b) had facilitated, aided or abetted the use by any person of a computer system controlled or managed by the service provider in contravention of this Act or any other law.

(2) A service provider shall not be liable under this Act or any other law for-

(a) maintaining and making his services available; or

(b) the disclosure of any data or other information to the extent required or in compliance with the exercise of powers under this Act.

Territorial Jurisdiction. **17** (1) The High Court shall have jurisdiction over any violation of this Act, including any violation committed by a Sierra Leone national regardless of the place of commission.

(2) The Jurisdiction of the High Court under subsection (1), shall lie if an offence under this Act was committed –

(a) within Sierra Leone;

(b) with the use of a computer system wholly or partly situated in Sierra Leone; or

(c) when by such commission, damage is caused to a natural or juridical person who, at the time the offence was

committed, was in Sierra Leone.

Prosecution of Extraditable Offences **18** Subject to the powers of the Attorney-General and Minister of Justice, law enforcement agencies shall have power to prosecute offences under this Act. In the case of offences committed under section 24 and 26 of this Act, the approval of the Attorney-General must be obtained before prosecution.

Forfeiture to the State. **19** (1) The Court in imposing sentence on any person convicted of an offence under this Act, may order that the convicted person forfeits to the Republic of Sierra Leone-

(a) any as set, money or property, whether tangible or intangible, traceable to proceeds of such offence; and

- (b) any computer, equipment, software, electronic device or any other device used or intended to be used to commit or to facilitate the commission of such offence;

(2) Where it is established that a convicted person has assets or properties in a foreign country, acquired as a result of such criminal activities listed in this Act, such assets or properties, shall subject to any Treaty or arrangement with such foreign country, be forfeited to the Republic of Sierra Leone.

(3) The Attorney-General and Minister of Justice shall ensure that

the forfeited assets or properties are effectively transferred and vested in the Republic of Sierra Leone.

(4) Any person convicted of an offence under this Act shall have his passport withheld and only returned to him after he has served the sentence or paid the fines imposed on him.

Restitution. 20 In addition to any other penalty prescribed under this Act, the Court may order a person convicted of an offence under this Act to make restitution to the victim of the false presence or fraud by directing that the person –

(a) where the property involved is money, pay to the victim an

amount equivalent to the loss sustained; in any other case to-

(i) return the property to the victim or to a person designated by him; or

(ii) pay an amount equal to the value of the property, where the return of the property is impossible or impracticable.

(b) an order of restitution may be enforced by the victim or by the prosecutor on behalf of the victim in the same manner as a judgment in a civil action.

PART V - INTERNATIONAL COOPERATION

Spontaneous
disclosure of
information.

21 (1) The Attorney-General may, subject to this Act and without prior request, forward to a foreign state, information obtained under this Act, where he considers that the disclosure of such information may-

(a) assist the foreign state in initiating or carrying out an investigation or prosecution; or

(b) lead to a request for co-operation by a foreign state.

provided that such foreign state shall have or undertake to effect mutual exchange of information with Sierra Leone in such manner as shall be agreed upon between the authorised personnel of such foreign state and the Attorney-General subject to the approval of Parliament

(2) Information provided under subsection (1), may be subject to such conditions including confidentiality, as the Attorney- General may require.

(3) Where a foreign state cannot comply with conditions required under subsection (2), it shall notify the Attorney-General, who shall determine whether the information should nevertheless be provided and where the foreign state accepts the information subject to the conditions, it shall be bound by them.

Powers of
the
Attorney-
General.

22 (1) The Attorney-General may cooperate with any foreign state or international agency for the purpose of-

(a) investigating or prosecuting offences under this Act; or

(b) collecting electronic evidence related to an offence punishable under the laws of Sierra Leone.

- (2) The Attorney-General shall communicate directly with the appropriate authority of a foreign state responsible for sending, answering, executing or transmitting requests for mutual assistance or extradition.
- (3) Notwithstanding subsection (2), in case of urgency, requests may be sent directly from judicial authority to judicial authority, provided that the appropriate authority of the requested state is notified by the appropriate authority of the requesting state.
- (4) For urgent request or communication, the International Police Organisation network may be used.

Authority to make and act on mutual assistance requests.

- 23** (1) The Attorney-General may make requests on behalf of Sierra Leone to a foreign state for mutual assistance in an investigation commenced or prosecution instituted in Sierra Leone, relating to a computer related offence or collection of electronic evidence.
- (2) The Attorney-General may, in respect of a request from a foreign state for mutual assistance in an investigation commenced or prosecution instituted in that state -
- (a) grant the request, in whole or in part, on such terms and conditions as may be deemed necessary;
 - (b) refuse the request on such conditions as he deems necessary; or
 - (c) postpone a request, in whole or in part, after consulting with the appropriate authority of the foreign state, on the ground that granting the request would be likely to prejudice the conduct of an investigation or prosecution in Sierra Leone.
- (3) Mutual assistance requests under this section shall be effectuated-

- (a) in accordance with the procedures specified by a foreign state, except where it is incompatible with the laws of Sierra Leone; or
 - (b) where the conduct alleged does not constitute a crime in both the foreign state and in Sierra Leone.
- (4) The Attorney-General shall, where appropriate, before refusing or postponing assistance, after having consulted with the foreign state, consider whether the request may be granted partially or subject to such conditions, as he deems necessary.
- (5) The Attorney-General shall promptly inform a foreign state of-
- (a) the outcome of the execution of a request for mutual assistance;
 - (b) any reason that renders impossible, the execution of a request for mutual assistance or is likely to delay it significantly; or
 - (c) any reason for refusal or postponement of a request for mutual assistance.
- (6) A foreign state may request that Sierra Leone keeps confidential the fact of any request for mutual assistance, except to the extent necessary for its execution and if Sierra Leone cannot comply with the request for confidentiality, it shall promptly inform the foreign state, which shall then determine whether the request should nevertheless be executed.

Extradition

- 24** (1) This Act complements the Extradition Act, 1974 (Act No. 11 of 1974) which makes provision for the extradition of persons accused or convicted of an offence in another country.
- (2) Extradition shall not be requested for an offence unless it is an offence in both the foreign state and in Sierra Leone.
- (3) An offence under this Act shall be extraditable if the penalty imposed is imprisonment for a term of not less than one year or a fine equivalent to the penalty of one year imprisonment
- (4) Extradition will be subject to the conditions provided for by the law of the foreign state or applicable extradition treaties, including the grounds on which the foreign state may refuse extradition.
- (5) In line with the extradition or prosecution principle, where extradition is refused on the sole basis of-
- (a) the nationality of the person sought to be extradited; or
 - (b) Sierra Leone having jurisdiction over the offence,
- the investigation or prosecution shall be conducted and the matter reported to the foreign state.

Confidentially
and Limitation of
use.

- 25** Where there is no mutual assistance treaty or arrangement in force between a foreign state and Sierra Leone, Sierra Leone shall make the supply of information in response to a request on condition that it is-
- (a) kept confidential; or
 - (b) used only for investigations or prosecutions stated in the request.

Expedited

Preservation of
stored computer
data.

- 26** (1) A foreign state may request or obtain the expeditious preservation of data stored by means of a computer system, located within Sierra Leone, in respect of which it intends to submit a request for mutual assistance, for the search, access, seizure, security or disclosure of the data.
- (2) A request for preservation of data submitted under subsection (1) shall specify the-
- (a) authority seeking the preservation of data;
 - (b) offence that is the subject of an investigation or prosecution, including a brief summary of the related facts;
 - (c) stored computer data to be preserved and its relationship to the offence;
 - (d) available information identifying the custodian of the stored computer data or the location of the computer system;
 - (e) necessity of the preservation of data; and
 - (f) intention to submit a request for mutual assistance for the search, access, seizure, security, or disclosure of the stored computer data.
- (3) Upon receiving a request under subsection (1), the Attorney-General shall take all appropriate measures to expeditiously preserve the specified data in accordance with the procedures and powers under this Act.
- (4) A request under subsection (1) shall be effected where the conduct alleged does not constitute a crime in both the foreign state and in Sierra Leone.

(5) A preservation of data effected in response to a request under subsection (1) shall be for a period not less than 90 days, in order to enable the foreign state, to submit a request for the search, access, seizure, security or disclosure of the data and following the receipt of such a request, the data shall continue to be preserved until a final decision is taken on that pending request.

27 (1) Where during the course of executing a request under section 26, with respect to a specified communication, it is discovered preserved that a service provider in another state was involved in the transmission of the communication, the Attorney-General shall expeditiously disclose to the foreign state, sufficient amount of traffic data to identify that service provider and the path through which the communication was transmitted.

(2) Expedited disclosure of preserved traffic data under subsection (1) may only be withheld where the -

- (a) request concerns a political offence or an offence related to a political offence; or
- (b) Attorney-General considers that the execution of the request is likely to prejudice the sovereignty of Sierra Leone, security or public interest.

Mutual **28** (1) A foreign state may request the search, access, secure or disclosure of data stored by means of a computer system located within Sierra Leone, including data that has been preserved under section 26.

assistance
regarding
accessing of
stored
computer
data.

(2) When making a request under subsection (1), the foreign state shall provide adequate information on the following-

- (a) the name of the authority conducting the investigation or prosecution to which the request relates;
- (b) a description of the nature of the criminal offence and a statement setting out a summary of the relevant facts and laws;
- (c) a description of the purpose of the request and of the nature of the assistance being sought;
- (d) in the case of a request to restrain or confiscate assets believed on reasonable grounds to be located in Sierra Leone, details of the offence in question, particulars of any investigation or prosecution commenced in respect of the offence, including a copy of any relevant restraining or confiscation order;
- (e) details of any procedure that the foreign state wishes to be followed by Sierra Leone in giving effect to the request, particularly in the case of a request to take evidence;
- (f) a statement setting out any wishes of the foreign state concerning confidentiality relating to the request and the reasons for those wishes;
- (g) details of the period within which the foreign state wishes the request to be complied with;
- (h) where applicable, details of the property, computer, computer system or device to be traced, restrained, seized or confiscated and of the grounds for believing that the property is believed to be in Sierra Leone;

- (i) details of the stored computer data, data or program to be seized and its relationship to the offence;
- (j) information identifying the custodian of the stored computer data or the location of the computer, computer system or device;
- (k) an agreement on the question of the payment of the damages or costs of fulfilling the request;
- (l) details to the effect that warrant in regard the matter under investigation has already been obtained to extend the investigations overseas; and
- (m) any other information that may assist in giving effect to the request.

- (3) Upon receiving a request under subsection (1), the Attorney-General shall take all appropriate measures to obtain necessary authorisation including a warrant to execute in accordance with the procedures and powers under this Act or any other law.
- (4) Upon obtaining necessary authorisation under subsection (3), including a warrant to execute, the Attorney-General may seek the support and cooperation of the foreign state during such search and seizure.
- (5) Upon conducting the search and seizure under subsection (4), the Attorney-General shall provide the results of such search and seizure, as well as the evidence seized, to the foreign state.

29. Subject to this Act, an enforcement officer or other authorized person may, without authorisation-

- (a) access publicly available (open source) stored computer data, regardless of where the data is located geographically; or
- (b) access or receive through a computer system in Sierra Leone, stored computer data located in a foreign state, if such an enforcement officer or other authorised person obtains the lawful and voluntary consent of the person who has the lawful authority to disclose the data through that computer system.

Provided that any such access shall be without prejudice to the rights to privacy of persons and may be rescinded upon an application by a person affected to a Judge of the High Court.

Mutual **30.** (1) A foreign state may request the Attorney-General to provide

assistance in
real time
collection of
traffic data

assistance in real time collection of traffic data associated with specified communications in Sierra Leone transmitted by means of a computer system.

(2) A request for assistance under subsection (1) shall specify-

- (a) the authority making the request;
- (b) the offence that is the subject of a criminal investigation or prosecution and a brief summary of the related facts;
- (c) the name of the authority with access to the relevant traffic data;
- (d) the location at which the traffic data may be held;
- (e) the intended purpose for the required traffic data;

- (f) sufficient information to identify the traffic data;
- (g) further details of relevant traffic data;
- (h) the necessity for use of powers under this section; and
- (i) the terms for the use and disclosure of the traffic data to third parties.

(3) Upon receiving a request under subsection (1), the Attorney-General shall take all appropriate measures to obtain necessary authorisation including a warrant to execute upon the request in accordance with the procedures and powers under this Act or any other law.

(4) Upon obtaining necessary authorisation including a warrant to execute a request under subsection (1), the Attorney-General may seek the support and cooperation of the foreign state during the search and seizure.

(5) Upon conducting the measures under this section, the Attorney-General shall provide the results of such measures as well as real-time collection of traffic data associated with specified communication to the foreign state.

Mutual **31** (1) A foreign state may, in relation to a serious offence in that state, request or provide assistance in the real time collection or recording of content data of specified communication transmitted by means of a computer system in Sierra Leone.

(2) A request for assistance under subsection (1) shall specify-

- (a) the authority making the request;
- (b) the offence that is the subject of a criminal investigation or prosecution and a brief summary of the facts;

- (c) the name of the authority with access to the relevant communication;
- (d) the location at which or nature of the communication;
- (e) the intended purpose for the required communication;
- (f) sufficient information to identify the communication;
- (g) details of the data of the relevant interception;
- (h) the recipient of the communication;
- (i) the intended duration for the use of the communication;
- (j) the necessity for use of powers under this section; and
- (k) the terms for the use and disclosure of the communication to third parties.

(3) Upon receiving a request under subsection (1), the Attorney-General shall take appropriate action to execute the request in accordance with the procedures and powers under this Act.

(4) The Attorney-General shall, on executing the request under subsection (3), provide the results of such action as well as real time collection or recording of content data of specified communication to the foreign state.

Point of **32** (1) The National Cybersecurity Coordinator or his authorized

Contact representative shall designate a point of contact available on a 24-hour, 7-days-a-week basis, in order to ensure the provision of immediate assistance for the purpose of investigation or prosecution of offences related to computer systems and data, or for the collection of evidence in electronic form.

(2) Immediate assistance to be provided under subsection (1) shall include -

- (a) the provision of technical advice;
- (b) the preservation of data pursuant to expedited preservation of stored computer data and expedited disclosure of preserved traffic data; and
- (c) the collection of evidence, the provision of legal information, and locating of suspects.

(3) A point of contact under subsection (1), shall -

- (a) be resourced with and possess the requisite capacity to securely and efficiently carry out communication with other points of contact in other states, on an expedited basis;
- (b) have the authority and be empowered to coordinate and enable access to international mutual assistance under this Act or if applicable extradition procedures, upon an expedited basis.

PART VI OFFENCES

33 (1) A person, including a corporation, partnership, or association,

who intentionally and without authorisation causes a computer system to perform a function with intent to secure access to the whole or a part of a computer system or to enable such access to be secured other than to secure and protect the integrity of digital communications or for unlawful purposes, commits an offence and is liable upon conviction to fine not

less than Le 100,000,000 and not more than Le 250,000,000 or to a term of imprisonment not less than 2 years and not exceeding 5 years or to

both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le500,000,000 and not exceeding Le 1,000,000,000.

(2) For the purposes of this section, a person secures access to computer data stored in a computer system if by causing a computer system to perform a function he-

(a) alters or erases computer data; or

(b) copies, transfers or moves computer data to

(i) a computer system or computer data storage medium other than that in which it is stored; or

(ii) a different location in the same computer system or computer data storage medium in which it is stored;

(c) has the computer data output from the computer system in which it is held, whether by having it displayed or in any other manner;

(d) uses the computer data.

(3) For the purposes of this section, "unauthorised" means access of any kind, to a computer system, program or data, by a person who has been authorised to access a specific data in a computer system and without lawful excuse, whether temporary or not, cause a computer system to perform a function other than those authorised, with intent to secure access to the whole or a part of a computer system or to enable such access to be secured.

(4) The absence of authority to secure access to the whole or any part of a computer system under subsection (1) includes instances where there may exist general authority to access a computer system but a specific type, nature or method of access may not be authorised.

(5) For the purposes of this section intention or recklessness needs not relate to-

- (a) a particular computer system;
- (b) a particular program or data; or
- (c) a program or data of any particular kind.

(6) A person shall be deemed to have contravened subsection (1)-

- (a) in the absence of proof that the accused has the requisite knowledge to access the computer, program or data;
- (b) notwithstanding the fact that committing the offence is impossible;
- (c) in the absence of a program or data of any particular kind.

34 (1) A person, including a corporation, partnership, or association, who intentionally or without reasonable authorisation causes a computer system to perform a function with intent to secure access to computer or program or data used directly in connection with or necessary for a Critical National Information Infrastructure commits an offence and is liable upon conviction to a fine not less than Le 100,000,000 and not more than Le 250,000,000 or to a term of imprisonment not less than 2 years and not exceeding 5 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 500,000,000 and not exceeding Le 1,000,000,000.

(2) A person, including a corporation, partnership, or association, who has been authorised to access a specific data in a computer system and without lawful excuse, whether temporary or not, cause a computer system to perform a function other than that authorised, or intentionally permits tampering of such computer systems with intent to secure access to the whole or a part of a computer system or to enable such access to be secured, commits an offence and is liable on conviction to a fine not less than Le 100,000,000 and not more than Le 250,000,000 or to a term of imprisonment not less than 2 years and not exceeding 5 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 500,000,000 and not exceeding Le 1,000,000,000.

(3) The absence of authority to secure access to the whole or any part of any computer system under subsection (1) includes instances where there may exist general authority to access a computer system but a specific type, nature or method of access may not be authorised.

35 (1) A person, including a corporation, partnership, or association, who intentionally and without authorisation intercepts or causes to be intercepted non-public transmissions of data to or from a computer system whether directly or indirectly the transmission of which -

Unauthorised
data
interception

- (a) results in a significant financial loss;
- (b) threatens national security;
- (c) causes physical injury or death to any person; or
- (d) threatens public health or public safety,

commits an offence and is liable upon conviction to a fine not less than Le 100,000,000 and not more than Le 250,000,000 or to a term of imprisonment not less than 2 years and not exceeding 5 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 500,000,000 and not exceeding Le 1,000,000,000.

(2) Where a person, including a corporation, partnership, or association, intentionally and without authorisation, intercepts or causes to be intercepted, the transmission of data to or from a computer system over a telecommunication under subsection (1), commits an offence and is liable upon conviction to a fine not less than Le 100,000,000 and not more than Le 250,000,000 or to a term of imprisonment not less than 2 years and not exceeding 5 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 500,000,000 and not exceeding Le 1,000,000,000.

It is immaterial whether -

- (a) the unauthorised interception is not directed at-
 - (i) a telecommunications system;
 - (ii) a particular computer system;
 - (iii) a program or data of any kind; or
 - (iv) a program or data held in any particular computer system;
- (b) an unauthorised interception or an intended effect of it is permanent or temporary.

36 A person, including a corporation, partnership, or association, who intentionally or without authorisation does an act in relation to a computer system which-

- (a) causes destruction, damage, deletion, erasure, deterioration, generation, modification or alteration of a program or data or any aspect or attribute related to the program or data;
- (b) renders a program or data meaningless, useless or ineffective;
- (c) obstructs, interrupts or interferes with the use of any program or data or any aspect or attribute related to the program or data;

- (d) causes denial, prevention, suppression or hindrance of access to a program or data or any aspect or attribute related to the program or data or to any person entitled to it;
- (e) causes impairment to the operation of a program;
- (f) causes impairment to the reliability of any data, aspect or attribute related to a program or data;
- (g) causes impairment to the security of a program or data or any aspect, attribute related to a program or data; or
- (h) enables any of the acts mentioned in paragraphs (a) to (g) to be done,

commits an offence and is liable upon conviction to a fine not less than Le 100,000,000 and not more than Le 250,000,000 or to a term of imprisonment not less than 2 years and not exceeding 5 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 500,000,000 and not exceeding Le 1,000,000,000

37 A person, including a corporation, partnership, or association, who intentionally or without authorisation does an unauthorised act in relation to a computer system which -

- (a) interferes with, hinders, damages, prevents, suppresses, deteriorates, impairs or obstructs the functioning of a computer system;
- (b) interferes with, hinders, damages, prevents, suppresses, deteriorates, impairs or obstructs the communication between or with a computer system;
- (c) interferes with or hinders access to a computer system;
- (d) impairs the operation of a computer system;

Unauthorised
data
interference

Unauthorised
system
interference.

(e) impairs the reliability of a computer system;

(f) impairs the security of a computer system; or

(g) enables any of the acts mentioned in paragraphs (a) to (f) to be done,

commits an offence and is liable upon conviction to a fine not less than Le 100,000,000 and not more than Le 250,000,000 or to a term of imprisonment not less than 2 years and not exceeding 5 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 500,000,000 and not exceeding Le 1,000,000,000

Provided that it shall not be an offence if interference with a computer system is undertaken in compliance and in accordance with the terms of a warrant issued under this Act or any law.

38 (1) A person, including a corporation, partnership, or association, who intentionally or without authorisation manufactures, adapts, sells, procures for use, receives, possesses, imports, offers to supply, distributes or otherwise makes available-

(a) a device designed or adapted primarily for the purpose of committing an offence under this Act; or

(b) a computer password, access code or similar data by which the whole or any part of a computer system is capable of being accessed, designed or adapted primarily for the purposes of a computer system.

(c) uses electronic communication equipment to bypass standard inter-connection path by illegal redirection of traffic.

commits an offence and is liable upon conviction to a fine not less than Le 500,000,000 and not more than Le 1,500,000,000 or to a term of imprisonment not less than 5 years and not exceeding 10 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 3,000,000,000 and not exceeding Le 6,000,000,000.

(2) Notwithstanding subsection (1) a person shall not be deemed to have committed an offence if he does an act under subsection (1),-

(a) for the purpose of training, testing or protection of a computer system; or

(b) in compliance of and in accordance with the terms of a judicial order issued or in exercise of a power under this Act or any law.

(3) For the purpose of subsection (1), possession of a program or a computer password, access code, or similar data includes having-

(a) possession of a computer system which contains the program or a computer password, access code, or similar data;

(b) possession of a data storage device in which the program or a computer password, access code, or similar data is recorded; or

(c) control of a program or a computer password, access code, or similar data that is in the possession of another person.

39. A person, including a corporation, partnership, or association, who intentionally or without authorisation discloses to another person a password, access code or other means of gaining access to any program or data held in a computer system-

Unauthorised disclosure of Password

(a) for any wrongful gain;

(b) for any unlawful purpose; or

(c) to occasion any loss,

commits an offence and is liable upon conviction to a fine not less than Le 10,000,000 and not more than Le 30,000,000 or to a term of imprisonment not less than 1 year and not exceeding 3 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 50,000,000 and not exceeding Le 100,000,000.

40. (1) A person, including a corporation, partnership, or association, who intentionally or without authorisation inputs, alters, deletes or suppresses computer data, resulting in inauthentic data with the intent that it be considered or acted upon for legal purposes as if it were authentic, regardless of whether or not the data is directly readable or intelligible, commits an offence and is liable upon conviction to a fine not less than Le 10,000,000 and not more than Le 30,000,000 or to a term of imprisonment not less than 1 year and not exceeding 3 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 50,000,000 and not exceeding Le 100,000,000

(2) A person, including a corporation, partnership, or association, who dishonestly or with similar intent -

- (a) for wrongful gain;
- (b) for wrongful loss to another person; or
- (c) for any economic benefit for oneself or for another person,

intentionally or without authorisation inputs, alters, deletes or suppresses computer data, resulting in inauthentic data with the intent that it be considered or acted upon for legal purposes as if it were authentic, regardless

of whether or not the data is directly readable or intelligible commits an offence and is liable on conviction to a fine not less than Le 30,000,000 and not more than Le 50,000,000 or to a term of imprisonment not less than 2 years and not exceeding 5 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 100,000,000 and not exceeding Le 250,000,000

41. A person, including a corporation, partnership, or association, who intentionally causes loss of property, valuable security or consideration to another person by -

- (a) inputting, alteration, modification, deletion, suppression or generation of a program or data;
- (b) interference, hindrance, impairment or obstruction with the functioning of that computer system; or
- (c) copying, transferring or moving data or program to another computer system, device or storage medium other than that in which it is held or to a different location in any other computer system, device or storage medium in which it is held;
- (d) using any data or program; or
- (e) having any data or program output from the computer system in which it is held, whether by having it displayed or in any other manner,

with fraudulent or dishonest intent of procuring, without right, an economic benefit for himself or for another person commits an offence and is liable upon conviction to a fine not less than Le 30,000,000 and not more than Le 50,000,000 or to a term of imprisonment not less than 2 years and not exceeding 5 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 100,000,000 and not exceeding Le 250,000,000

42. (1) A person, including a corporation, partnership, or association, who is engaged in the services of any financial institution, and as a result

of his special knowledge commits identity theft, phishing of its employer, staff, service providers and consultants with the intent to defraud commits an offence and is liable upon conviction to a fine not less than Le 50,000,000 and not more than Le 100,000,000 or to a term of imprisonment not less than 3 years and not exceeding 7 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 100,000,000 and not exceeding Le 250,000,000.

Computer
Fraud

Identity
theft and
imperson-
-ation

Computer
related
forgery.

(2) A person, including a corporation, partnership, or association, who fraudulently-

- (a) or dishonestly makes use of the electronic signature, password or any other unique identification feature of any other person; or
- (b) impersonates another entity or person, living or dead, with intent to-

(i) gain advantage for himself or another person;

(ii) obtain any property or an interest in any property;

(iii) cause disadvantage to the person or entity being impersonated or another person; or

(iv) avoid arrest or prosecution or to obstruct, pervert or defeat the course of justice, commits an offence and is liable upon conviction to a fine not less than Le 50,000,000 and not more than Le 100,000,000 or to a term of imprisonment not less than 3 years and not exceeding 7 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 100,000,000 and not exceeding Le 250,000,000.

(3) A person, including a corporation, partnership, or association, who makes or causes to be made, either directly or indirectly, any false news as a material fact in writing, knowing it to be false and with the intent that it be relied upon respecting his identity or that of any other person or his financial condition or that of any other person for the purpose of procuring the issuance of a card or other instrument to himself or another person commits an

offence and shall be liable on conviction to a fine not less than Le 50,000,000 and not more than Le 100,000,000 or to a term of imprisonment not less than 3 years and not exceeding 7 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 100,000,000 and not exceeding Le 250,000,000

Electronic signature.

43. A person, including a corporation, partnership, or association, who with the intent to defraud and or misrepresent, forges through electronic devices another person's signature or company mandate commits an offence and shall be liable on conviction to a fine not less than Le 50,000,000 and not more than Le 1,000,000,000 or to a term of imprisonment not less than 3 years and not exceeding 5 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 500,000,000 and not exceeding Le 5,000,000,000.

44. (1) A person, including a corporation, partnership, or association, who

individually or with another person, willfully and repeatedly communicates, either directly or indirectly, with another person, if he knows or ought to have known that his conduct -

(a) is likely to cause that person apprehension or fear of violence to him or damage or loss on his property; or

(b) detrimentally affects that person;

commits an offence and shall be liable on conviction to a fine not less than Le 30,000,000 and not more than Le 50,000,000 or to a term of imprisonment not less than 2 years and not exceeding 5 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 100,000,000 and not exceeding Le 250,000,000

(2) A person, including a corporation, partnership, or association, who recklessly or intentionally sends a message or other matter by means of a computer system or network that-

(a) is grossly offensive, pornographic or of an indecent, obscene or menacing character or causes any such message or matter to be so disseminated without consent; or

Cyber
Stalking
and
Cyber
Bullying

- (b) he knows to be false, for the purpose of causing danger, obstruction, insult, injury, criminal intimidation, enmity, hatred, ill will or needless anxiety to another or causes such a message to be sent,

commits an offence and shall be liable on conviction to a fine not less than Le 30,000,000 and not more than Le 50,000,000 or to a term of imprisonment not less than 2 years and not exceeding 5 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 100,000,000 and not exceeding Le 250,000,000.

(3) Notwithstanding subsection (1) a person shall not be deemed to have acted in contravention of this Act if he does an act -

- (a) for the purpose of preventing or detecting crime;
- (b) in compliance of and in accordance with the terms of a judicial order issued or in exercise of any power under this Act or any law; or
- (c) which is in the interest of the public.

45. (1) A person, including a corporation, partnership, or association, who intentionally takes or makes use of a name, business name, trademark, domain name or other word or phrase registered, owned or in use by an individual, body corporate or belonging to a government institution in Sierra Leone, on the internet or any other computer network, without authority, right or reasonable excuse and for the purpose of interfering with the use by the owner, registrant or legitimate prior user, shall be liable to damages in a civil action as determined by a Judge of the High Court.

(2) In awarding penalty against an offender under this section, a court shall have regard to the following-

- (a) refusal by the person to relinquish, upon formal request by the rightful owner without reasonable excuse of a name, business name, trademark, domain name, or other word or phrase registered, owned or in use by any individual, body corporate or belonging to the Government of Sierra Leone; or
- (b) any attempt by the offender to obtain compensation in any form for the release to the rightful owner for use of the name, business name, trademark, domain name or other word or phrase registered, owned or in use by the individual, body corporate or belonging to the Government of Sierra Leone.
- (3) In addition to the penalty specified in this section, the court may make an order directing an offender to relinquish such registered name, mark, trademark, domain name or other word or phrase to the rightful owner.

46. A person, including a corporation, partnership, or association, who,

through input, alteration, modification, deletion, suppression or generation of a program or data or through use of a computer, computer system or electronic device willfully infringes any right protected under the Copyright Act, 2011 (Act No. 8 of 2011) or any law in force for protection of copyrights and related rights, commits an offence and is liable on conviction to a fine not less than Le 100,000,000 and not more than Le 250,000,000 or to a term of imprisonment not less than 2 years and not exceeding 5 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 500,000,000 and not exceeding Le 1,000,000,000 without prejudice to civil remedies that may be available.

47. (1) A person, including a corporation, partnership, or association, who, intentionally-

Infringement of copyright and related rights.

Online child sexual abuse.

- (a) distributes, produces, transmits, disseminates, circulates, delivers, exhibits, lends for gain, exchanges, barter, sells or offers for sale, lets on hire or offers to let on hire, prints, photographs, copies, provides location, requests for, offers in any other way, or makes available in any way child pornography through a computer system or storage data medium; or

- (b) acquiesces a child's participation in pornography,

commits an offence and shall be liable on conviction to a fine not less than Le 100,000,000 and not more than Le 250,000,000 or to a term of imprisonment not less than 5 years and not exceeding 10 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 500,000,000 and not exceeding Le 1,000,000,000

- (2) A person, including a corporation, partnership, or association, who intentionally poses, grooms or solicits, through any computer system or network, to meet a child for the purpose of-

- (a) engaging in sexual activity with the child;

- (b) engaging in sexual activity with the child where-

- (i) coercion, inducement, force or threat is used;
 - (ii) a recognised position of trust, authority or influence over the child, including within the family is abused; or
 - (i) child's mental or physical disability or situation of dependence is abused;

commits an offence and shall be liable on conviction to a fine not less than Le 100,000,000 and not more than Le 250,000,000 or to a term of imprisonment not less than 5 years and not exceeding 10 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 500,000,000 and not exceeding Le 1,000,000,000

- (3) Notwithstanding subsection (1) a person shall not be deemed to have committed an offence if he does an act intended for a bona fide scientific or medical research or law enforcement.

- (4) For purposes of this section-

"child" means a person under the age of 18 years;

"child pornography" includes data which, whether visual or audio, depicts-

- (a) a child engaged in sexually explicit conduct;
- (b) a person who appears to be a child engaged in sexually explicit conduct; or
- (c) realistic images representing a child engaged in sexually explicit conduct.

- 48.** (1) A person, including a corporation, partnership, or association who:

- (a) take or share an intimate image or voice material of a depicted person without his/her consent;
 - (b) take or share an intimate image or voice material of a depicted person without his/her consent, with the intention to humiliate, alarm or distress the victim;

Online
adult
sexual
abuse

- (c) take or share an intimate image or voice material of a depicted person without his/her consent, for the purpose of either sexual gratification by the perpetrator or that of another;
- (d) threaten to share any intimate image or voice material of a depicted person with intent to cause the depicted person to fear that the image or audio material will be shared, or being reckless as to whether the depicted person will have such fear that the threat will be executed;
- (e) disseminate or post sexually explicit image, media or voice material without the consent of the depicted person, whether or not the intent is to shame, humiliate, frighten or cause the depicted person harm.

commits an offence and shall be liable on conviction to a fine not less than Le 100,000,000 and not more than Le 250,000,000 or to a term of imprisonment not less than 5 years and not exceeding 10 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 500,000,000 and not exceeding Le 1,000,000,000.

(2) In this section, the expressions "intimate image or voice material" shall include video, images or voice media created by the depicted person which he/she has not willingly put into the public domain; video, images or voice media taken by another; video, images or voice media in the possession of the perpetrator by any means whatsoever including been stolen from a hacked computer or other digital device of the depicted person; video, image or voice material that may have been doctored by superimposing the face or voice of a depicted person unto an existing intimate or sexually explicit image or some other voice media.

49. (1) A person, including a corporation, partnership, or association, who intentionally abets the commission of, aids to commit, attempts to commit or does any act preparatory to or in furtherance of the commission of an offence under this Act commits an offence and is liable upon conviction to the same penalty as that prescribed in respect of the substantive offence under this Act.

Attempting
and Aiding
or Abetting.

(2) An offence may be deemed to have been committed under subsection (1), notwithstanding where the act in question took place.

50. (1) No person shall engage in the operation of a business of providing computers for accessing the internet, playing games, chatting or doing other computer-related tasks unless the business.

Registration
of cyber
cafes.

- (a) has a registered business name with the Corporate Affairs Commission established under the Companies Act, 2009 (Act No. 5 of 2009); or
- (b) is registered with a local council; or
- (c) is registered with the office of the Administrator and Registrar General; and
- (d) registered with National Telecommunications Commission established under the Telecommunications Act, 2006 (Act No. 9 of 2006) as a business concerned with providing computer access to the internet.

(2) A person, including a corporation, partnership, or association, who perpetrates electronic fraud or online fraud under this Act using a cybercafé, commits an offence and is liable on conviction to a fine not less than Le 50,000,000 and not more than Le 500,000,000 or to a term of imprisonment not less than 3 years and not exceeding 5 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 500,000,000 and not exceeding Le 5,000,000,000.

provided that the cybercafé owner or manager shall not be liable for such an offence unless there is evidence to the effect that he or she or it were complicit in the commission of the offence.

Cyber
Terrorism

51. (1) A person who accesses or cause to be accessed a computer or computer system or network for purposes of a terrorist act, commits an offence and is liable on conviction to a term of imprisonment not less than 10 years and not exceeding 20 years.

(2) For purposes of this section, "terrorist act" shall have the same meaning as provided under the Anti-Money Laundering and Combating of Financing of Terrorism Act, 2012 (Act No. 2 of 2012).

Racist
Xenophobia
Offences.

52. (1) A person, including a corporation, partnership, or association, who with intent-

- (a) distributes or otherwise makes available, racist or xenophobic material to the public through a computer system or network;
- (b) threatens through a computer system or network any other person or group of persons for the reason of belonging to a group distinguished by race, colour, descent, national or ethnic origin, gender religion, as well as disability
- (c) insults publicly through a computer system or network any other person or group of persons distinguished by race, colour, descent or national or ethnic origin, as well as religion; or
- (d) distributes or otherwise makes available, to the public, material which denies or approves or justifies acts constituting genocide or crimes against humanity,

commits an offence and is liable upon conviction to a fine not less than Le 50,000,000 and not more than Le 100,000,000 or to a term of imprisonment not less than 1 year and not exceeding 3 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le250, 000,000 and not exceeding Le 500,000,000.

53. (1) A person or institution that operates a computer system or network, whether public or private, shall immediately inform the National Computer Security Incidence Response Team of an attack, intrusion and other disruption liable to hinder the functioning of another computer system or network, and the National Computer Security Incidence Response Team shall take necessary and appropriate measures to protect computer systems and networks.

Reporting
cyber
threats

(2) In order to protect a computer system or network under subsection (1), the National Computer Security Incidence Response Team may propose the isolation of an affected computer system or network pending the resolution of the issues.

- (4) A person or institution who intentionally or without reasonable excuse fails to report an incident of an attacks, intrusions and other disruptions liable to hinder the functioning of another computer system or network to the National Computer Security Incidence Response Team within 7 days of its occurrence, commits an offence and is liable on conviction to a fine not less than Le10,000,000 and not more than Le 30,000,000 or to a term of imprisonment not less than 1 year and not exceeding 3 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le50,000,000 and not exceedingLe 100,000,000.

54. (1) A person or institution which, being a computer based Breach of service provider and or vendor does an act with intent to defraud by virtue of his position as a service provider, forges, illegally uses security codes of the consumer with the intent to gain a financial and or material advantage or with intent to provide less value for money in his or its services to a consumer

commits an offence and upon conviction is liable to a fine not less than Le 30,000,000 and not more than Le 50,000,000 or to a term of imprisonment not less than 1 year and not exceeding 3 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 100,000,000 and not exceeding Le 250,000,000.

(2) Where an offence under this Act committed by a body

corporate is proved to have been committed on the instigation or with the connivance of or attributable to willful neglect on the part of a director, manager, secretary or other like officer of the body corporate or any officer purporting to act in any such capacity, he, as well as the body corporate, where practicable, shall be deemed to have committed the offence.

(3) Notwithstanding subsection (1), where a body corporate is convicted of an offence under this Act, which threatens national security the Court may in the case of multiple or repeated

offenders, order that the body corporate shall be wound up and all its assets and properties forfeited to the state, without prejudice to any liability owing from the said body corporate being first satisfied.

(5) Nothing contained in this section shall render a person liable to punishment, where he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

55. (1) Without prejudice to any contractual agreement between an employer and employee, an employee shall relinquish or surrender all codes and access rights to his employer within a reasonable time in his possession, power or control upon disengagement from employment.

(2) An employee who, without any lawful reason, continues to hold unto the code or access right of his employer after disengagement without any lawful reason commits an offence and shall be liable on conviction to a fine not less than Le 10,000,000 and not more than Le 30,000,000 or to a term of imprisonment not less than 1 year and not

exceeding 3 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 50,000,000 and not exceeding Le 100,000,000.

56. (1) A natural person, who exercises management or supervisory authority, based on-

- (a) power of representation of a legal person;
- (b) authority to take decisions on behalf of a legal person;
- (c) authority to exercise control within a legal person, acting either individually or as part of an organ of the legal person,

and fails to exercise reasonable and proper control over such legal person commits an offence under this Act, and is liable on conviction to a fine not less than Le 10,000,000 and not more than Le 30,000,000 or to a term of imprisonment not less than 1 year and not exceeding 3 years or to both such fine and imprisonment and in the case of a corporation, partnership, or association, to a fine not less than Le 100,000,000 and not exceeding Le 250,000,000.

(2) Where a natural person commits a criminal offence under this Act, for the benefit of a legal person, due to the lack of supervision or control by a natural person, the legal person shall be liable for the offence under this Act.

Acts by **57.** Without prejudice to the offences prescribed under this Act and subject to children. the provisions of the Children and Young Persons Act Cap.44 and the Child Rights Act 2007, where an act done by a child would be deemed to be an offence under this Act such child shall be treated as a juvenile and dealt with accordingly

PART VII -MISCELLANEOUS PROVISIONS

Regulations **58.** The Minister may by Statutory Instrument make Regulations as it considers necessary or expedient for giving effects to any of the provisions of this Act.

Passed in Parliament this *23th day of July*, in the year of our Lord two thousand and twenty one.

PARAN UMAR TARAWALLY,
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 correct printed copy of the said Bill.

PARAN UMAR TARAWALLY,
Clerk of Parliament.

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SIERRA LEONE.

CHAPTER 113.

UNDESIRABLE PUBLICATIONS.

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.
3. Power to prohibit importation of publication.
4. Offences.
5. Delivery of prohibited to Police Station or District Office.
6. Power to examine packages.

CHAPTER 113.

UNDESIRABLE PUBLICATIONS.

An Ordinance to prohibit the Importation and Publication of Undesirable Literature.

[24Ta 7Une 1939]

1. This Ordinance may be cited as the Undesirable Publications Ordinance, and shall apply to the Colony and Protectorate.

Interprets-
ti 8. In this Ordinance, unless the context otherwise requires,—
publication ” includes all written or printed matter and everything,
whether of a nature similar to written or printed matter or not, containing
any visible representation, or by its form, shape, or in any manner
capable of suggesting words or ideas, and every copy and reproduction
of any publication;

“periodical publication ” includes every publication issued periodically or in
parts or regular or irregular;

“import” includes—

numbers at intervals whether

(o) to bring into the Colony, and

(b) to bring whether or not within the inland waters of the Colony the
publication is brought ashore, and whether or not there is an intention
to bring the same ashore;

“Colony” includes Protectorate.

Power to
prohibit
important of
publications 8
of 1955.

3. (1) If the Governor in Council is of the opinion that the
importation of any publication would be contrary to the public
interest he may, in his absolute discretion, by Order, prohibit the
importation of such publication, and in the case of a periodical
publication may, by the same or a subsequent Order, prohibit the
importation of any past or future issue thereof.

(2) Where the Governor in Council has by an Order under sub-section
(1) of this section prohibited the importation of any publication he may,
if in his opinion it would be in the public interest to do so, by a
subsequent Order prohibit the importation of all or any other
publications of the same publisher.

4. (1) Any person who imports, publishes, sells, offers for sale, distributes,
or reproduces any publication, the importation of which has been
prohibited under section 3, or any extract therefrom, shall be guilty of
an offence and liable for a first offence to imprisonment for a term not
exceeding two years or to a fine not exceeding one hundred pounds or
to both such imprisonment and fine, and for a subsequent offence to
imprisonment for a term not exceeding three years ; and such
publication or extract therefrom shall be forfeited to Her Majesty.

Offences.

- (2) Any person who without lawful excuse has in his possession any
publication the importation of which has been prohibited under section
3, or any extract. therefrom, shall be guilty of an offence and liable for

a first offence to imprisonment for a term not exceeding one year or to a fine not exceeding fifty pounds or to both such imprisonment and fine, and for a subsequent offence to imprisonment for a term not exceeding two years; and such publication or extract therefrom shall be forfeited to Her Majesty.

Delivery of prohibited publication to Police Station or District Office.

5. (1) Any person to whom any publication the importation of which has been prohibited under section 3, or any extract therefrom, is sent without his knowledge or privity or in response to a request made before the prohibition of the importation of such publication came into effect, or who has such a publication or extract therefrom in his possession at the time when the prohibition of its importation comes into effect, shall forthwith if or as soon as the nature of its contents has become known to him, or in the case of a publication or extract therefrom coming into the possession of such person before an Order in Council prohibiting its importation has been made forthwith upon the coming into effect of an Order in Council prohibiting the importation of such publication deliver such publication or extract therefrom to the officer in charge of the nearest Police

Station, or District Office, and in default thereof shall be guilty of an offence and liable to imprisonment for a term not exceeding one year or to a fine not exceeding fifty pounds or to both such imprisonment and fine; and such publication or extract therefrom shall be forfeited to Her Majesty.

- (2) A person who complies with the provisions of sub-section (1) of this section or is convicted of an offence under that sub-section shall not be liable to be convicted for having imported or having in his possession the same publication or extract therefrom.

Power to Examine packages.

8. (1) Any of the following officers, that is to say—

(c) the Postmaster-General;

(h) any officer of the Customs Department not below the rank of Collector;

- (c) any Police Officer not below the rank of Assistant Superintendent;
(d) any other official authorised in that behalf by the Governor,

may detain, open and examine any package or article which he suspects to contain any publication or extract therefrom which it is an offence under the provisions of section 4 to import, publish, sell, offer for sale, distribute, reproduce, or possess, and during such examination may detain any person importing, distributing, or posting such package or article or in whose possession such package or article is found.

- (2) If any such publication or extract therefrom is found in such package or article, the whole package or article may be impounded and retained by the officer and the person importing, distributing, or posting it, or in whose possession it is found, may forthwith be arrested and proceeded against for the commission of an offence under section 4 or section 5 as the case may be.

CHAPTER 114.

UNDESIRABLE ADVERTISEMENTS.

ARRANGEMENT OF SECTIONS.

SECTION.

1. Short title.
2. Interpretation.
3. Prohibition of advertisement relating to certain diseases.
4. Restriction of advertisements of patent or proprietary medicine.
5. Disclosure of composition of medicines.
6. Prohibition of advertisements relating to abortion.
7. Penalty.

CHAPTER 114.

UNDESIRABLE ADVERTISEMENTS.

An Ordinance to Prohibit and Restrict Certain Kinds of 43 of 1946. Undesirable Advertisements.

[* .]

1. This Ordinance may be cited as the Undesirable Advertisements Ordinance; it shall apply to the Colony and Protectorate and shall come into force on such day as the Governor may fix by notice in the *Gazette*.

2. In this Ordinance, unless the context otherwise requires- Interpretation.

“venereal disease ” means syphilis, gonorrhea, soft chancre or other genitourinary diseases in any of their forms;

“medicine” means any kind of medicament or other curative or preventive substance, and whether a proprietary medicine or preparation, packed goods or patent medicine or preparation;

* It seems that this Ordinance has not yet come into operation. There was published in the Sierra Leone Royal Gazette No. 3964, dated the 31st December, 1946, Government Notice No. 960. It was thereby notified that the Ordinance would come into force on the 1st January, 1948. Subsequently and before that

appointed date, it was notified, in Government Notice No. 814 published in the Royal Gazette No. 4040, dated the 20th November, 1947, that the Governor had cancelled the former Notice, No. 960 of 1946; and also that the date on which the Ordinance would come into operation would be notified by a subsequent Government Notice. There does not appear to have been any subsequent notification.

" patent or proprietary medicine " means any medicine held out by advertisement as efficacious for the prevention cure or relief of any malady, ailment, infirmity or disorder affecting human beings and

- (a) which is sold under a trade name or trade mark to the use of which any person has or claims or purports to have any exclusive right, or
- (b) of which any person has or claims or purports to have the exclusive right of manufacture or for the making of which any person has or claims or purports to have any secret process or protection by letters patent;

"surgical appliance" includes any device which purports to be or is represented, directly or by implication, as being such an appliance;

"advertisement" includes any notice, circular, label, wrapper or other document, or any canvassing.

Prohibition of advertisements relating to certain disease.

3. (I) No person shall take any part in the publication of any advertisement by any method whatsoever, referring to the sale, supply, or to an offer to sell, or supply any medicine or surgical appliance, or referring to the administration of, or to an offer to administer any treatment to the public whether directly or indirectly or by implication as being effective for the purpose of treatment of human beings for any of the following purposes-

- (a) for the cure of venereal diseases;
- (b) for the prevention, relief or cure of Bright's disease, cancer, consumption or tuberculosis, lupus, diabetes, epilepsy or fits, locomotor ataxia, paralysis, or infantile

paralysis;

- (c) for the cure of arteriosclerosis, septicæmia, diphtheria, dropsy, erysipelas, gallstones, kidney stones and bladder stones, goitre, heart disease, tetanus or lockjaw, pleurisy, pneumonia, scarlet fever, smallpox, trachoma, amenorrhœa, hernia or rupture, blindness or any structural or organic ailment of the auditory system;
- (d) for the cure of any habit associated with sexual indulgence or of any ailment associated with those habits or for the promotion of sexual virility, desire or fertility or for the restoration, or stimulation of the mental faculties.

(2) In any proceedings for a contravention of any of the provisions of the foregoing sub-section, it shall be a defence for the person charged to prove-

- a. that the advertisement to which the proceedings relate was published only in a publication of a technical character intended for circulation mainly amongst persons of the following classes, or of one or some of them-
 - i. duly registered medical practitioners or dentists;
 - ii. duly registered or licensed chemists and druggists or dispensers;
 - iii. duly registered midwives;
 - iv. the governing body, managers of a hospital, infirmary and mental hospital; or
- b. that the said advertisement was published in connection with an application for a patent or trade mark submitted to the appropriate authority so far as may be requisite for the purpose of the application.

(3). Nothing in this section shall apply to any advertisement published by the authority of or with the sanction of the Director of

Medical Services.

Restriction of
advertisements
of patent or
proprietary
medicine.
43 of 1946.
10 of 1947

4. (1) No person shall take any part in the publication of any advertisement by any method whatsoever, referring to the sale or supply of, or to an offer to sell or supply, any patent or proprietary medicine to the public, whether directly or indirectly, without disclosing in the advertisement the following information-

- (a) the name and address of the manufacturer;
- (b) the name and address of any one or more of the manufacturer's authorised representatives in Sierra Leone, where the patent or proprietary medicine is not of local manufacture;
- (c) the retail price of the patent or proprietary medicine in Sierra Leone;
- (d) the purpose for which the patent or proprietary medicine is recommended by the manufacturer.

(2) Where the patent or proprietary medicine is not of local manufacture, the manufacturer shall appoint one or more authorised representatives in Sierra Leone. Without prejudice to the liability of any other person for contravening the provisions of this section, any authorised representative of a manufacturer in Sierra Leone shall be personally responsible for any contravention of this section by whomsoever committed in respect of the patent or proprietary medicine belonging to the unless he shall prove to the satisfaction of the Court that the contravention was committed without his knowledge and that he had taken all reasonable means to prevent the contravention.

Disclosure of
composition
of medicines.
43 of 1946.

5. (I) Subject to the provisions of this Ordinance, no person shall-

- (a) sell by retail any article consisting of or comprising a substance recommended as a medicine; or
- (b) supply any such article as a sample for the purpose of inducing

persons to buy by retail the substance of which it consists or which it comprises; unless there is written so as to be clearly legible on the article or a label affixed thereto, or, if the article is sold or supplied as aforesaid in a container, on the container or a label affixed thereto or, if the article is sold or supplied as aforesaid in more than one container, on the inner container or a label affixed thereto-

- (i) the appropriate designation of the substance so recommended, or of each of the active constituents thereof, or of each of the ingredients of which it has been compounded; and
- (ii) in a case where the appropriate designation of each of the active constituents or the ingredients is written as aforesaid, the appropriate quantitative particulars of the constituents or ingredients ; and
- (iii) the retail price of the article in Sierra Leone:

Provided that this sub-section shall not apply to any article made up and supplied for the use of a particular person, being an article prescribed by reference to the needs of that person.

(2) In the preceding sub-section-

(a) the expression "appropriate designation", in relation to a substance, constituent or ingredient, means-

- (i) in a case where the substance, constituent or ingredient is a poison included in the Poisons List, the name with which the container of the poison is for the time being required to be labelled in pursuance of paragraph (c) of section 31 of the Medical Practitioners, Dentists and Druggists Ordinance;
- (ii) in a case where the substance, constituent or ingredient is not such a poison and is described in any of the

monographs contained in the edition of the British Pharmacopeia or the British Pharmaceutical Codex which was last published before the date on which the article was sold or supplied, the description set out at the head of that monograph;

(iii) in a case where the substance, constituent or ingredient is not such a poison and is not so described, the accepted scientific name, or other name descriptive of the true nature, of the substance, constituent or ingredient;

(b) the expression "appropriate quantitative particulars," in relation to the active constituents or the ingredients of a substance, means--

(i) the appropriate percentage of each of those constituents or ingredients contained in the substance or the approximate quantity of each of those constituents or ingredients contained in the article sold or supplied; or

(ii) in a case where the said article consists of or comprises a number of separate portions of the substance, either the approximate percentage or quantity aforesaid, or the approximate quantity of each of the constituents or ingredients contained in each portion; and

(c) the expression "container" includes a wrapper.

6. No person shall take any part in the publication of any Prohibition of advertisement referring to any article, or articles of any description, in terms which are calculated to lead to the use of that article or articles of that description for procuring the miscarriage of women. Prohibition of advertisements relating to abortion.

7. If any person acts in contravention of any of the provisions of this Ordinance, he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding fifty pounds, or to imprisonment, with or without hard labour, for a period not exceeding six months or to both such fine and Penalty.

imprisonment, provided that a prosecution for any such offence shall not be instituted without the consent of the Attorney General.

No. 32

1961



Sierra Leone

**An Ordinance to Amend the Law Relating to Libel and
Slander and other Malicious Falsehoods**

[11th May, 1961.] Date of
Commence-
ment.

BE IT ENACTED by the Legislature of Sierra Leone, as follows: - -

- Short title. **1.** This Ordinance may be cited as the Defamation Ordinance, 1961
- Interpretation, construction and application. Cap. 267. **2.** (1) In this Ordinance " broadcasting by means of wireless telegraphy " means publication for general reception by means of telegraphy within the meaning of the Wireless Telegraphy Ordinance or any other Ordinance replacing the same, and "broadcast by means of wireless telegraphy " shall be construed accordingly.
- (2) Any reference in this Ordinance to words shall be construed as including a reference to pictures, visual images, gestures and other methods of signifying meaning.
- (3) The provisions of Part III of the Schedule to this Ordinance shall

have effect for the purposes of the interpretation of that Schedule.

(4) Where words broadcast by means of wireless telegraphy are simultaneously transmitted by telegraph as defined by the Telegraph Ordinance, as amended by the Telegraph (Amendment) Ordinance, 1954, in accordance with a licence granted by the Postmaster- General, the provisions of this Ordinance shall apply as if the transmission were broadcasting by means of wireless telegraphy.

Slander of women
3. Words spoken and published after the passing of this Ordinance which impute unchastity or adultery to any woman or girl shall not require special damage to render them actionable:

Provided always, that in any action for words spoken and made actionable by this Ordinance, a plaintiff shall not recover more costs than damages, unless the judge shall certify that there was reasonable ground for bringing the action.

Broadcast statements
4. For the purposes of this Ordinance, the broadcasting of words by means of wireless telegraphy shall be treated as publication in permanent form.

Slander affecting official professional or business reputation.
5. In an action for slander in respect of words calculated to disparage the plaintiff in any office, profession, calling, trade or business held or carried on by him at the time of the publication, it shall not be necessary to allege or prove special damage, whether or not the words are spoken of the plaintiff in the way of his office, profession, calling, trade or business.

Slander of title, etc.
6. In an action for slander of title, slander of goods or other malicious falsehood, it shall not be necessary to allege or prove special damage-

(a) if the words upon which the action is founded are calculated to cause pecuniary damage to the plaintiff and are published in writing or other permanent form ; or

(b) if the said words are calculated to cause pecuniary damage to the plaintiff in respect of any office, profession, calling, trade or

business held or carried on by him at the time of the publication.

7. (1) A person who has published words alleged to be defamatory of another person may, if he claims that the words were published by him innocently in relation to that other person, make an offer of amends under this section and in any such case-

Unintentional defamation.

(a) if the offer is accepted by the party aggrieved and is fully performed, no proceedings for libel or slander shall be taken or continued by that party against the person making the offer in respect of the publication in question (but without prejudice to any cause of action against any other person jointly responsible for that publication) ;

(b) if the offer is not accepted by the party aggrieved, then, except as otherwise provided by this section, it shall be a defence, in any proceedings by him for libel or slander against the person making the offer in respect of the publication in question, to prove that the words complained of were published by the defendant innocently in relation to the plaintiff and that the offer was made as soon as practicable after the defendant received notice that they were or might be defamatory of the plaintiff, and has not been withdrawn.

(2) An offer of amends under this section must be expressed to be made for the purposes of this section, and must be accompanied by an affidavit specifying the facts relied upon by the person making it to show that the words in question were published by him innocently in relation to the party aggrieved ; and for the purposes of a defence under paragraph (b) of subsection (1) of this section no evidence, other than evidence of facts specified in the affidavit, shall be admissible on behalf of that person to prove that the words were so published .

(3) An offer of amends under this section shall be understood to mean an offer-

(a) in any case, to publish or join in the publication of a suitable correction of the words complained of, and a sufficient apology to the party aggrieved in respect of those words ;

(b) where copies of a document or record containing the said words have been distributed by or with the knowledge of the person making the offer, to take such steps as are reasonably practicable on his part for notifying persons to whom copies have been so distributed that the words are alleged to be defamatory of the party aggrieved.

(4) Where an offer of amends under this section is accepted by the party aggrieved-

(a) any question as to the steps to be taken in fulfilment of the offer as so accepted shall in default of agreement between the parties be referred to and determined by the Supreme Court, whose decision thereon shall be final :

(b) the power of the court to make orders as to costs in proceedings by the party aggrieved against the person making the offer in respect of the publication in question, or in proceedings in respect of the offer under paragraph (a) of this subsection, shall include power to order the payment by the person making the offer to the party aggrieved of costs on an indemnity basis and any expenses reasonably incurred or to be incurred by that party in consequence of the publication in question;

and if no such proceedings as aforesaid are taken, the Supreme Court may, upon application made by the party aggrieved, make any such order for the payment of such costs and expenses as aforesaid as could be made in such proceedings.

(5) For the purposes of this section words shall be treated as published by one person (in this subsection referred to as the publisher) innocently in relation to another person if and only if the following conditions are satisfied, that is to say-

(a) that the publisher did not intend to publish them of and concerning that other person, and did not know of circumstances by

virtue of which they might be understood to refer to him; or

(c) that the words were not defamatory on the face of them, and the publisher did not know of circumstances by virtue of which they might be understood to be defamatory of that other person ;

and in either case that the publisher exercised all reasonable care in relation to the publication ; and any reference in the subsection to the publisher shall be construed as including a reference to any servant or agent of his who was concerned with the contents of the publication.

(5) Paragraph (b) of subsection (1) of this section shall not apply in relation to the publication by any person of words of which he is not the author unless he proves that the words were written by the author without malice.

8. In an action for libel or slander in respect of words containing two or more distinct charges against the plaintiff, a defence or justification shall not fail by reason only that the truth of every charge is not proved if the words not proved to be true do not materially injure the plaintiff's reputation having regard to the truth of the remaining charges.

Justification

9. In an action for libel or slander in respect of words consisting partly of allegations of facts and partly of expression of opinion, a defence of fair comment shall not fail by reason only that the truth of every allegation of fact is not proved if the expression of opinion is fair comment having regard to such of the facts alleged or referred to in the words complained of as are proved.

Fair
Comment.

10. (1) Subject to the provisions of this section, the privilege of publication in a newspaper of any such report or other matter as is mentioned in the Schedule to this Ordinance shall be privileged unless the publication is proved to be made with malice,

Qualified
privilege of
newspapers

(2) In an action for libel in respect of the publication of any such report or matter as is mentioned in Part II of the Schedule to this Ordinance, the provisions of this section shall not be a defence if it is proved that the defendant has been requested by the plaintiff to publish in the

newspaper in which the original publication was made a reasonable letter or statement by way of explanation or contradiction, and has refused or neglected to do so, or has done so in a manner not adequate or not reasonable having regard to all the circumstances.

(3) Nothing in this section shall be construed as protecting the publication of any matter the publication of which is prohibited by law, or of any matter which is not of public concern and the publication of which is not for the public benefit.

(4) Nothing in this section shall be construed as limiting or abridging any privilege subsisting immediately before the commencement of this Ordinance.

(5) A fair and accurate report in any newspaper of proceedings publicly heard before any court exercising judicial authority in Sierra Leone shall, if published contemporaneously with such proceedings, enjoy absolute privilege.

(6) In this section the expression newspaper " means any paper containing public news or observations thereon, or consisting wholly or mainly of advertisements, which is printed for sale and is published in Sierra Leone either periodically or in parts or numbers.

Extension of
certain
defences in
broadcasting.

11. Section 10 of the Ordinance shall apply in relation to reports or matters broadcast by means of wireless telegraphy as part of any programme or service provided by means of a broadcasting station within Sierra Leone, and in relation to any broadcasting by means of wireless telegraphy of any such report or matter, as they apply in relation to reports and matters published in a newspaper and to publication in a newspaper; and subsection (2) of the said section 10 shall have effect, in relation to any such broadcasting, as if for the words " in the newspaper in which " there were substituted the words in the manner in which ".

Limitation on
privilege at
elections.

12. A defamatory statement published by or on behalf of a candidate in any election to a local government authority or to the House of Representatives shall not be deemed to be published on a privileged

occasion on the ground that it is material to a question in issue in the election, whether or not the person by whom it is published is qualified to vote at the election.

13. An agreement for indemnifying any person against civil liability for libel in respect of the publication of any matter shall not be unlawful unless at the time of the publication that person knows that the matter is defamatory, and does not reasonably believe there is a good defence to any action brought upon it.

Agreements
for indemnity

14. In any action for libel or slander the defendant may give evidence in mitigation of damages that the plaintiff has recovered damages, or has brought actions for damages, for libel or slander in respect of the publication of words to the same effect as the words on which the action is founded, or has received or agreed to receive compensation in respect of any such publication

Evidence
of other
damaged
by plaintiff.

15. (1) It shall be competent for a judge or the court, upon an application by or on behalf of two or more defendants in actions, etc. actions in respect to the same, or substantially the same, libel brought by one and the same person, to make an order for the consolidation of such actions, so that they shall be tried together and after such order has been made, and before the trial of the said actions, the defendants in any new actions instituted in respect of the same, or substantially the same, libel shall also be entitled to be joined in a common action upon a joint application being made by such new defendants and the defendants in the actions already consolidated.

Consolid-
ation and
actions, etc.

In a consolidated action under this section the judge shall assess the whole amount of the damages (if any) in one sum, but a separate finding shall be made for or against each defendant in the same way as if the actions consolidated had been tried separately; and if the judge shall have made a finding against the defendant or defendants in more than one of the actions so consolidated, he shall proceed to apportion the amount of damages which he shall have assessed between and against the said last-mentioned defendants ; and if the judge awards to the plaintiff the costs of the action, shall thereupon make such order as he

shall deem just for the apportionment of such costs between and against such defendants.

(2) Subsection (1) shall apply to actions for slander of title, slander of goods or other malicious falsehood as it applies to actions for libel ; and references in that sub section to the same, or substantially the same, libel shall be construed accordingly.

Proceedings
affected and
saving.

16. (1) This Ordinance applies for the purposes of any proceedings begun after the commencement of this Ordinance, whenever the cause of action arose, but does not affect any proceedings begun before the commencement of this Ordinance.

(2) Nothing in this Ordinance affects the law relating to criminal libel.

**SCHEDULE
NEWSPAPER STATEMENTS HAVING QUALIFIED
PRIVILEGE**

**PART I
STATEMENTS PRIVILEGED WITHOUT EXPLANATION
OR CONTRADICTION**

1. A fair and accurate report of any proceedings in public of the legislature of Sierra Leone.
2. A fair and accurate report of any proceedings in public of an international organisation of which Sierra Leone or Her Majesty's Government in Sierra Leone is a member, or of any international conference to which that government sends a representative.
3. A fair and accurate report of any proceedings in public of an international court.
4. A fair and accurate report of any proceedings before a court exercising jurisdiction throughout any part of Her Majesty's dominions outside Sierra Leone, or of any proceedings held outside Sierra Leone under the Naval

Discipline Act, 1957 as applied by section 5 of the Naval Volunteer Force (General Service) Ordinance (Cap. 216) and the Naval Discipline (Colonial Naval Forces) Order, 1959 (Public Notice No. 9 of 1959) or under the Royal West African Frontier Force Ordinance (Cap. 204).

5. A fair and accurate report of any proceedings in public of a body or person appointed to hold a public inquiry by the Governor or legislature of Sierra Leone.

6. A fair and accurate copy of or extract from any register kept in pursuance of any Ordinance which is open to inspection by the public, or of any other document which is required by any law in force in Sierra Leone to be open to inspection by the public.

7. A notice or advertisement published by or on the authority of any court with Sierra Leone or any judge or officer of such a court.

PART II

**STATEMENTS PRIVILEGED SUBJECT TO EXPLANATION
OR CONTRADICTION**

8. A fair and accurate report of the findings or decision of any of the following associations, or of any committee or governing body thereof, that is to say—

- (a) an association formed in Sierra Leone for the purpose of promoting or encouraging the exercise of or interest in any art, science, religion or learning, and empowered by its constitution to exercise control over or adjudicate upon matters of interest or concern to the association, or the actions or conduct or adjudication;
- (b) (b) an association formed in Sierra Leone for the purpose of promoting or safeguarding the interests of any trade, business, industry or profession, or of the persons carrying on or engaged in any trade, business, industry or profession, and empowered by its constitution to exercise control over or adjudicate upon matters connected with the trade, business, industry or profession or the

actions or conduct of those persons.

(c) an association formed in Sierra Leone for the purpose of promoting or safeguarding the interests of any game, sport or pastime to the playing or exercise of which members of the public are invited or admitted, and empowered by its constitution to exercise control over or adjudicate upon persons connected with or taking part in the game, sport or pastime,

being a finding or decision relating to a person who is a member of or is subject by virtue of any contract to the control of the association.

9. A fair and accurate report of the proceedings at any public meeting held in Sierra Leone, that is to say, a meeting bona fide and lawfully held for a lawful purpose and for the furtherance or discussion of any matter of public concern, whether the admission to the meeting is general or restricted.

10. A fair and accurate report of the proceedings at any meeting or sitting in any part of Sierra Leone of-

(a) any local authority or committee of a local authority or local authorities ;

(b) any Magistrate acting otherwise than as a court exercising judicial authority ;

(c) any commission, tribunal, committee or person appointed for the purposes of any inquiry by Ordinance, by the Governor or by a Minister of the Government ;

(d) any person appointed by a local authority to hold a local inquiry in pursuance of any Ordinance ;

(e) any other tribunal, board, commission, committee or body constituted by or under and exercising functions under, an Ordinance

not being a meeting or sitting admission to which is denied to

representatives of newspapers and other members of the public.

11. A fair and accurate report of the proceedings at a general meeting of any company or association constituted, registered or certified by or under any Ordinance or incorporated by Royal Charter, not being a private company within the meaning of the Companies Ordinance, Cap. 39.

12. A copy or fair and accurate report or summary of any notice or other matter issued for the information of the public by or on behalf of any government department, officer of state, local authority or chief officer of police.

PART III

13. In this Schedule the following expressions have the meanings hereby respectively assigned to them, that is to say -

“international court” means the International Court of Justice and any other judicial or arbitral tribunal deciding matters in dispute between States ;

“local authority “ means-

(a) the City Council of Freetown as established under the Freetown Municipality Ordinance (Cap. 91) ;

(b) the Rural Area Council as established under the Rural Area Ordinance, 1949 (No. 11 of 1949) ;

(c) the Sherbro Urban District Council as established under the Sherbro Urban District Council, Ordinance, 1950 (No. 22 of 1950);

(d) the District Councils as established under the District Councils Ordinance, 1950 (No. 17 of 1950) ;

(e) the Bo Town Council as established under the Bo Town Council Ordinance, 1954 (No. 11 of 1954);

"part of Her Majesty's dominions " means the whole of any territory within those dominions which is subject to a separate legislature.

14. In relation to the following countries and territories, that is to say, India, the Republic of Ireland, any protectorate, protected state or trust territory within the meaning of the British Nationality Act, 1948, any territory administered under the authority of a country mentioned in subsection (3) of section 1 of that Act, and the New Hebrides, the provisions of this Schedule shall have effect as they have effect in relation to Her Majesty's dominions, and references therein to Her Majesty's dominions shall be construed accordingly.

Passed in the House of Representatives this 8th day of March, in the year of our Lord one thousand nine hundred and sixty-one.

S. V. WRIGHT,
Clerk of the House of
Representatives.

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

S. V. WRIGHT,
Clerk of the House of Representatives.



SIERRA LEONE ASSOCIATION OF JOURNALIST (SLAJ)

This SLAJ Code of Ethics is developed and adopted by the Sierra Leone Association of Journalists (SLAJ) on June 2016.

PREAMBLE

The SLAJ Code of Ethics is to address the ethical issues facing Sierra Leone's journalism. It draws inspiration and conforms to most of the principles drawn from other Codes of Ethics and international best practices. It is to ensure that journalists adhere to the highest ethical standards, professional competence and good behaviour in performing their duties.

This Code is to provide a guide to professional media practice, and it is therefore applicable to those practising journalism in Sierra Leone, especially to all members of the Sierra Leone Association of Journalists.

We recognise that the Code may not address all the ethical issues to help both seasoned professionals and new journalists to hold themselves accountable for professional work. We, however, believe that the Code provides a frame of reference to the SLAJ National Executive, the Disciplinary Committee and members of the association when it becomes necessary to initiate disciplinary action against any member who flouts any Article of the Code.

MISSION

To defend freedom of the media, freedom of expression and information, uphold the ethics of journalism and exemplary standards of professional practice.

VISION

To have efficient and effective media institutions that will serve as powerful forces for the betterment of the nation through the dissemination of accurate and objective information, a constant quest for improved standards and techniques of journalism, and work towards the attainment of media self-regulation in Sierra Leone.

CORE VALUES

Conscious of our mission, vision, core values, responsibilities and duties as

journalists, we, journalists in Sierra Leone, subscribe and give to ourselves this Code of Ethics. It is the duty of every journalist to adhere to and observe the provisions in the Code as set out in the various articles.

ARTICLE 1: FREEDOM AND RESPONSIBILITY

- Journalists shall at all times strive to uphold and defend the right of freedom of expression and information, the principle of media freedom and responsibility, and the right of the public to be informed.
- Journalists shall strive to employ open, honest and ethical means in the gathering and dissemination of information. Ethical journalism means taking responsibility for one's work and explaining one's decisions to the public.
- Journalists must fully realize their personal responsibility for everything they publish or broadcast in their newspapers, radio or television stations or send to a news agency or on Social Media. They should not distort, falsify information or documents or misrepresent facts.
- A journalist shall obtain information, photographs and illustration only by straightforward means. The use of other means can be justified only by overriding considerations of the public interest.

ARTICLE 2: RESPECT FOR NATIONAL VALUES, PUBLIC INTEREST AND SOCIAL RESPONSIBILITY

- Journalists shall help to promote national unity, universal principles of human rights, democracy, justice, equity, and peace.
- Journalists shall not publish or broadcast information promoting, supporting or encouraging violence, incitement or hatred against religious or ethnic minorities and the socially excluded, including persons with disabilities.

- Journalists serve democracy and the public interest by reporting the truth. Defending the public's interest includes promoting the free flow of information, exposing crime or wrongdoing, protecting public health and safety, and preventing the public from being misled. The public's need for information should be balanced against potential harm or discomfort.
- In collecting and disseminating information, journalists shall bear in mind their responsibility to the public at large and the various interests in society.
- Media owners, publishers, and media practitioners shall not suppress or distort information about which the public has a right to know because of pressure or influence from advertisers or others who may have a corporate, political or advocacy interest in the media institution concerned.
- Journalists shall serve the public interest, and put the needs of their audience – readers, listeners or viewers – at the forefront of their newsgathering decisions.

ARTICLE 3: TRANSPARENCY/ACCOUNTABILITY

- Journalists shall not conceal their identities, including when seeking information through social media.
- Journalists shall be accountable to the public for the fairness and reliability of their reporting.

ARTICLE 4: TRUTH AND FACTS

- Respect for truth and for the right of the public to truth is the first duty of the journalist.
- It is the primary duty of journalists to adhere to the truth, to report and interpret the news with scrupulous honesty.

- In pursuance of this duty, the journalist shall at all times defend and abide by the principles of freedom in the honest collection and publication of news, and of the right of fair comment and criticism.
- The duty of every journalist is to write and report the truth, bearing in mind his/her duty to serve the public.
- Journalists shall clearly distinguish between comments, opinions, conjecture and fact.

ARTICLE 5: ACCURACY, FAIRNESS AND BALANCE

- Factual, accurate, balanced and fair reporting shall be the ultimate objective of good journalism and the basis of earning public trust, confidence and respectability.
- Journalists shall be disciplined in their efforts to verify all facts and refrain from publishing inaccurate and misleading information.
- Journalists shall make adequate enquiries and crosscheck their facts before publication or broadcast.
- Journalists shall take responsibility for the accuracy of their work, and remember that neither speed nor format excuses inaccuracy.
- Journalists shall provide context, take special care not to misrepresent or oversimplify in promoting, previewing or summarizing a story.
- Journalists shall make sure they retain the original context of all quotations or clips, and strive to convey the original tone. The reporting and editing shall not change the meaning of a statement or exclude important qualifiers.

ARTICLE 6: RIGHT OF REPLY/ RETRACTION/ CORRECTION/ REJOINDER

- Journalists are bound to rectify willingly any news, which after further investigation may subsequently be found not to be authentic or accurate.
- When journalists make a mistake, whether in fact or in context, and regardless of the platform, they shall correct it promptly and in a transparent manner, acknowledging the nature of the error.
- When inaccurate information is inadvertently published, an opportunity to reply and prompt correction shall be made with due prominence.
- Journalists shall hold the right of reply as a cardinal rule of practice and an apology shall be published whenever appropriate.

ARTICLE 7: COPYRIGHT/PLAGIARISM

- Journalist shall not copy, wholesale or in part, other people's work without attribution and/or consent. To do so will constitute professional misconduct.
- Where a journalist reproduces a work, be it in print, broadcast, art work or design, proper acknowledgement shall be accorded the author in line with the provisions of Sierra Leone's Copyright Act of 2011.

ARTICLE 8: PRIVACY

- The public has a right to know about its institutions and the people who are elected or hired to serve its interests, but people also have a right to privacy. There are inevitable conflicts between the right to privacy, and the rights of all citizens to be informed about matters of public interest. Each situation shall be judged in light of common sense, humanity and relevance.
- As a general rule, a journalist shall respect the privacy of individuals and their families unless the public interest is at stake.

Publishing of such information about an individual as mentioned above shall

be deemed justifiable only if it is directed at:

- i. Exposing crime or serious misdemeanour;
 - ii. Exposing anti-social conduct;
 - iii. Protecting public health, morality and safety;
 - iv. Preventing the public from being misled by some statement or action of the individual concerned.
- Journalists shall report only information in which the public has a legitimate interest.
 - Journalists shall not intrude into anybody's private life, grief or distress unless justified by overriding consideration of the public interest.

ARTICLE 9: DEFAMATION

- Journalists shall regard defamation, blackmail, libel and false and groundless accusations as grave professional offences.
- Journalists shall guard against defamation, libel, slander and obscenity.

ARTICLE 10: DEALING WITH SOURCES

- Journalists shall normally identify sources of information. They may use unnamed sources when there is a clear and pressing reason to protect anonymity, the material gained from the confidential source is of strong public interest, and there is no other reasonable way to obtain the information. If that is done, journalists shall explain the need for anonymity.
- When unnamed sources are used, media houses shall identify them as accurately as possible by affiliation or status.

ARTICLE 11: CONFIDENTIALITY/ NON-DISCLOSURE

- It is against the ethics of the profession to divulge information received

in confidence no matter the consequences for refusing to do so.

- Journalists shall observe the principle of confidentiality, which is not to disclose the source of information obtained in confidence. They are bound to protect confidential sources of information. Journalists shall not breach an agreement with a source of information obtained as “off-the-record” or as “background information.”

ARTICLE 12: SUBTERFUGE

- Journalists shall avoid undercover or other surreptitious methods of gathering information unless traditional and open methods are not available or accessible, and the information is in the public interest.

ARTICLE 13: CONFLICT OF INTEREST, REWARD, GRATIFICATION AND PROFESSIONAL INTEGRITY

- It shall be a professional misconduct if during the course of his/her duty, a journalist corruptly demands and receives monetary or material reward for publishing, broadcasting or suppressing his/her news or views.
- As fair and impartial observers, journalists must be free to comment on the activities of any publicly elected body or special interest group. But they cannot do so without an apparent conflict of interest if they are active members of an organization (including political parties) they are covering, and that includes membership through social media.
- Journalists may lose their credibility as fair observers if they write opinion pieces about subjects they are also investigating and covering as reporters.
- Journalists shall avoid conflicts of interest, whether they are real or perceived.
- Journalists shall refuse gifts, favours, fees, free travel and special treatment, and avoid political and other outside activities that may compromise integrity or impartiality, or may damage credibility and

reputation.

- Journalists shall deny favoured treatment to advertisers, donors or any other special interests, and resist internal and external pressures to influence coverage.
- Journalists should distinguish news from advertising and shun hybrids that blur the lines between the two.
- Journalists shall prominently label sponsored content.
- Journalists shall neither solicit nor accept bribes, gratifications or patronage to suppress or publish information, or influence the performance of their professional duties in any way.

ARTICLE 14: DISCRIMINATION

- Journalists shall refrain from making pejorative reference to a person’s ethnic group, race, religion, sex, or to any physical or mental illness or disability.
- Journalists shall not publish or broadcast material, which encourages discrimination on the grounds of ethnicity, race, colour, creed, gender or sexual orientation.
- Journalists shall not produce material likely to lead to hatred or discrimination on the grounds of a person’s age, gender, race, colour, creed, legal status, disability, marital status, or sexual orientation.

ARTICLE 15: VICTIMS OF SEXUAL ASSAULT, CHILDREN AND MINORS

- Journalists shall avoid identifying victims of sexual assault.
- Journalists shall not identify, either by name or picture, or interview children under the age of 18 who are involved in cases concerning sexual

offences, crimes and rituals or alleged witchcraft either as victims, witnesses or defendants.

- In reporting or obtaining news or pictures, reporters or press photographers shall do nothing that will cause pain or humiliation to innocent (especially children, the aged) bereaved or otherwise distressed persons. Subterfuge must not be used in obtaining such information.
- Journalists shall protect the rights of minors in criminal and other cases; and secure the consent of parents or guardians or teachers, before interviewing or photographing them.

ARTICLE 16: PERSONAL GRIEF OR DISTRESS

- In cases of personal grief or distress, journalists should exercise tact, deference and diplomacy in seeking information and publishing. Exercising respect for the victims is paramount at all times.

ARTICLE 17: DECENCY/ GOOD BEHAVIOUR

- The journalism profession demands good appearance at all occasions. Therefore, journalists shall always be properly and decently dressed, comport themselves in a manner that conforms with public taste and professional standards.
- It shall be professional misconduct for journalists to behave or do anything that would bring discredit to SLAJ, the media or their profession.
- It is unethical for journalists to deprive indirectly or directly a professional colleague of his means of livelihood by unscrupulous method(s) or to seek promotion at the expense of another journalist.
- It shall be improper for journalists to ridicule or treat a fellow journalist with contempt, be he/she a superior or subordinate professional colleague.

- No bona fide journalist shall fraternize with fakes. Anyone who knows anyone to be fake and does not expose him/her, compromises his/her duty as a decent journalist and a good citizen and is guilty of professional misconduct.
- Journalists shall avoid the excessive consumption of alcohol in public; especially if it has the tendency to influence their behavior.
- Journalists should refrain from using offensive, abusive or vulgar language.

ARTICLE 18: DIGITAL MEDIA: SPECIAL ISSUES

- Ethical practice does not change with the medium. Journalists are bound by the above principles no matter where their stories are published or broadcast.
- Journalists shall consider all online content carefully, including blogging, and content posted on social media.
- Journalists shall not repost rumours on social media or online publications.
- Online content shall be reported as carefully as print content, and when possible, subjected to full editing.
- Journalists shall try to obtain permission whenever possible to use online photos and videos, and always credit the source of the material, by naming the author and where the photo or video was previously posted.
- Journalists shall keep in mind that any information gathered through online means must be confirmed, verified and properly sourced.
- Journalists are vicariously liable for legal action, even if the material published or broadcast was taken from an online portal. Therefore, infinite caution is advised at all times.

- Personal online activity, including emails and social networking, shall generally be regarded as public and not private. Such activity can impact the journalist's professional credibility. As such, journalists shall think carefully before they post, and take special caution in declaring their political leanings online.

ARTICLE 19: ENFORCEMENT OF THE CODE

- Complaints and Disciplinary Committee shall be responsible for interpreting the Code and recommending appropriate punishment for defaulting members to the Executive.

Sierra Leone Association of Journalists
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THE NATIONAL COMMUNICATIONS AUTHORITY ACT, 2022

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- (a) a person under the age of 18 engaged in sexually suggestive or explicit conduct;
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- (c) realistic images representing a person under the age of 18 or appearing to be under the age of 18 engaged in sexually suggestive or explicit conduct;

“class licence”

means the authorization granted by the Authority to any legal entity meeting the applicable terms and conditions, and which obliges the legal entity in question to obtain an explicit decision from the Authority before exercising rights deriving from the document, and to communicate information about the service concerned as necessary to ensure proper compliance with the applicable terms and conditions;

“closed user group service”

means a supplementary service or a service feature that allows users to form groups with restricted access;

“computer system”

means a device or a group of interconnected or related devices, one or more of which, pursuant to a program, performs the automatic processing of data;

“consultation”

means an engagement at which advice or views are exchanged.

“consumer”

means any individual or organisation who uses or requests a publicly available electronic communications service for purposes outside of his trade, business or profession;

“content”

means information in the form of speech or other sound, data, text or images, whether still or moving, except where transmitted in private communications;

ACT

Supplement to the Sierra Leone Gazette Extraordinary Vol. CXLXIII, No. 66

dated 16th September, 2022

SIGNED this 6th day of September, 2022.

DR. JULIUS MAADA BIO,
President.



No. 16



Sierra Leone

2022

THE NATIONAL COMMUNICATIONS AUTHORITY ACT, Short title.
2022.

Being an Act to establish the National Communications Authority and to provide for the licensing and regulation of electronic communications operators and other related matters.

[]

ENACTED by the President and Members of Parliament in this present Parliament assembled. Date of commencement.

PART I—PRELIMINARY

Interpretation. 1. In this Act, unless the context otherwise requires -

“access” means making available facilities or services of any licensee under defined conditions, on either an exclusive or non-exclusive basis, for the purpose of providing communications services, including access to-

- (a) network elements and associated facilities, which may involve the connection of equipment by fixed or non-fixed means, and includes access to the local loop and to facilities and services necessary to provide services over the local loop;
- (b) physical infrastructure, including buildings, cable engineering networks, ducts and masts and poles;
- (c) relevant software systems, including operational support systems;
- (d) number translation facilities, or to systems offering equivalent functionality;
- (e) fixed and mobile networks, in particular for roaming;
- (f) conditional access systems for digital television services; or
- (g) virtual network services.

“allocation” means the allocation of a given scarce resource for the purpose of its use by one or more communications services under given conditions;

“apparatus”	means equipment, an instrument, or any other object for use in the provision or the reception of communications services, and includes a fitting to or accessory of the equipment, instrument or object;
“Authority”	means the National Communications Authority established under section 2;
“Board”	means the Board of the National Communications Authority established under Sub-Section 1 of section 4;
“Board of Trustee”	means the Universal Access Development Fund Board of Trustees;
“broadcasting service”	means any service that consists of broadcasting and which is conveyed through an electronic communications network, but does not include: <ol style="list-style-type: none"> (a) a service that provides only data or text, with or without associated still images; (b) a service in which the provision of audio-visual material or audio material is incidental to the provision of that service; or (c) a service or a class of service that the Authority may prescribe as not falling within this definition.
“business purpose”	means an objective that supports or advances the business goals and missions of the company.
“Chairman”	means the Chairman of the Board of the National Communications Authority
“child pornography”	means any material that visually depicts images of-

“frequency spectrum service”	means a service involving the transmission, emission or reception of radio waves for specific communications purposes;
“Fund”	means the universal access Development Fund established under section 158 of this Act;
“Fund Administrator”	means the Fund Administrator appointed under section 162 sub-section 1;
“gateway”	any mechanism for providing a network access to another network;
“Gazette”	means the Sierra Leone Gazette;
“Government”	means the Government of Sierra Leone;
“gross income”	means the total income derived from all sources of a person before any deduction or allowance
“individual licence”	means the written authorization granted to a legal entity by the Authority and which grants that entity specific rights or imposes specific obligations in addition to the rights and obligations attached to class licences and which obliges the legal entity in question to obtain an explicit decision from the Authority before exercising rights deriving from such document and to communicate information about the service concerned;
interconnection”	the physical and virtual connection of separate telephone networks to allow users of those networks to communicate with each other. Interconnection ensures interoperability of services and increases end users’ choice of network operators and service providers;
“interconnection agreement”	means an agreement entered into, between licensees in relation to the interconnection of their services;

“content provider”	means any individual or legal entity broadcasting content accessible in Sierra Leone.
“country code top level domain”	means a top-level domain (ccTLD) name on the Internet that is reserved for a country or territory;
“coverage area”	means the area in which a communications service is intended to be received;
“data”	means the raw material of information that refers to, or represents, conditions, ideas or objects
“data controller”	means a person who, acting alone or in common with other persons, determines the purpose for which and the manner in which any personal data are, or are to be processed and thus, controls and is responsible for keeping and using personal data and collects, collates, processes or stores personal data;
“data subject”	means the person who is the subject of data collected by the data controller;
“data subject’s consent”	means any freely given specific and informed indication by which the data subject signifies his or her agreement to personal data relating to him or her being processed;
“designated population”	means individuals, households, groups, communities or institutions determined by the Authority from time to time to be the target beneficiaries of universal access and service;
“digital”	means any type of information that can be output, transmitted and interpreted as individual bits of binary information (the use of the numbers 0 and 1), using electrical or electromagnetic signals that can be modulated to convey specific content;

“digital certificate”	means a record issued by the Authority for the purpose of supporting an electronic signature that:
	(a) purports to confirm the identity or other significant characteristics of the person who holds a particular key pair;
	(b) names or identifies the person to whom it is issued;
	(c) contains the public key of the person to whom it is issued; and
	(d) is signed by a responsible officer of the Authority;
“Director General”	means the Director General appointed under Section 17;
“security forces”	includes the Armed Forces of the Republic of Sierra Leone, and the Police Force
“dispute resolution mechanism”	means a structured dispute mechanism that addresses disputes or grievances that arise between two or more parties engaged in business, legal or societal relationships;
“ECOWAS”	means the Economic Community of West African States;
“electronic commerce”	means any transaction that takes place online between buyer and seller.
“electronic communications”	means a service normally provided for remuneration which consists wholly or mainly in the conveyance of signs, signals, images, sounds, data or intelligence of any nature on electronic communications networks, including telecommunications services and transmission services in networks used for broadcasting;

“electronic message”	means any communications created, sent, received or stored by electronic means, such as (but not limited to) computerised data exchange system, electronic mail system, instant messaging;
“electronic records”	means records communicated and maintained by electronic means;
“electronic signature”	means data in electronic form affixed to or logically associated with other electronic data that may be used to identify the signatory in relation to the electronic message and to indicate the signatory’s approval of the information contained in the electronic message;
“end user”	means the individual or organization that originates or is the final recipient of information carried over a network (i.e. the consumer).
“financial services”	means any service of a financial nature, including all insurance and insurance-related services, and all banking and other financial services;
“frequency”	the rate at which electrical current alternates, usually measured in Hertz. It is also used to refer to a location on the radio-frequency spectrum, such as 800, 900 or 1800 MHz;
“frequency allocation”	means the reservation of one or more radio frequency bands for a particular use or for particular uses in a country ;
“frequency assignment”	means the reservation of one or more radio frequencies for use by a particular entity in accordance with the national frequency plan of a country;
“frequency spectrum licence”	radio communications authorization of a specified kind at a specified frequency, or in any specified frequency band or bands, and which may include spectrum assignments ;

“processing of personal data”	means any operation or set of operations performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, as well as blocking, erasure or destruction;
“public broadcasting service”	means any broadcasting service provided by Sierra Leone Broadcasting Corporation or another State-owned enterprise;
“public communications electronic ”	means any signs, signals, texts, images sounds or by messages of whatever nature that are not private correspondence, available to the public or to a certain category of public by electronic communications means;
“roll out”	means to manage and support the installation, commissioning, integration, and testing and acceptance of the network element component comprising a telecommunications network;
“service provider”	means person licensed under this Act;
“spectrum”	means the radio-frequency spectrum used as a transmission medium for cellular radio, radio paging, satellite communication, broadcasting and other services over the airwaves;
“station”	means a transmitter, receiver, a combination of transmitters and receivers, or any accessory thereto, which is used or intended to be used for radio communications;
“subscriber”	means any individual or entity who has entered into a contract with an authorised provider of a communications service in order to obtain any communications services;

“intermediary service providers”	means any person or entity that provides electronic communications services consisting of- <ul style="list-style-type: none"> (a) providing access to electronic communications networks, (b) storing or (c) transmitting information through electronic communications networks;
“international gateway”	means any facility through which electronic communications can be sent between the domestic networks of one country and another;
“Leones (Le)”	means Leones in the old currency;
“licence”	means a written authorization granted by the Authority under this Act;
“licence area”	means the geographical area specified in a licence;
“licensee	means the holder of a licence issued under this Act;
“local loop”	means the system used to connect the subscriber to the nearest switch. It generally consists of a pair of copper wires, but may also employ fibre-optic or wireless technologies;
“Member”	means a member of the Authority;
“Minister”	means the Minister responsible for Communications;
“Ministry”	means the Ministry of Information and Communications;
“multimedia”	means the presentation of more than one medium, typically images, sound and text in an interactive environment

“national frequency plan”	includes: (a) a table of frequency allocations for all bands below 3,000 GHz, taking into account the ITU table of allotments, in as far as such allotments have been adopted and agreed upon by a State, which may include designations of certain utilisations; and (b) a plan for the migration of systems and equipment of existing users within specific frequency bands, as applicable, including frequency bands for security services to various frequency bands;
“national numbering plan”	means the numbering plan prepared and managed by the Authority for use in connection with the supply of information and communications services in Sierra Leone;
“network unbundling”	providing access to, or making available, some or all of the disaggregated elements or functions of a network for interconnecting carriers to use in serving their own customers;
“new entrant”	means an operator that has been in operation for less than 1 (one) year and with license not more than 2 years.
“number”	means a series of digits indicating an electronic communications originating or termination point, comprising the information necessary in order to route calls from an originating source to a termination point;
“number portability”	means the ability of a customer to transfer an account from one service provider to another without requiring a change in number;
“online public communications”	means any transmission, upon individual request, of digital data, signs, signals, texts, images, sounds or messages of whatever nature that are not private correspondence, by electronic communications means that enable a reciprocal exchange of information between the issuer and the receiver;

“open standard”	means any protocol for communications, interconnection or exchange, and any format of interoperable data whose technical specifications are public and to which access is not restricted;
“operating principle”	means the codes, instruments or documents prescribed by the Board of Trustees for the implementation of specific universal access and service programs and projects;
“operator”	means any juridical person operating an electronic communications network that is open to the public, or providing an electronic communications service to the public;
“operator having significant market power”	means holding, either on its own or in conjunction with other legal entities, a position equivalent to a dominant position, example a company that has a significant capacity to act in a manner independent of its competitors, its customers and ultimately consumers;
“personal data”	means any information relating to an identified individual or who may be directly or indirectly identifiable by reference to an identification number or one or several elements related to his physical, physiological, genetic, psychological, cultural, social, or economic identity;
“predatory pricing”	means a deliberate strategy of driving competitors out of the market by setting very low prices or selling below the operator’s long run incremental costs of delivering the service;
“private network”	a network based on leased lines or other facilities, which are used to provide telecommunications services within an organization or within a closed user group as a complement or a substitute to the public network;

PART II-ESTABLISHMENT OF THE NATIONAL

COMMUNICATIONS AUTHORITY

Establishment
of National
Communications
Authority.

2. (1) There is hereby established a body to be known as the National Communications Authority. (NatCA)

(2) The Authority shall be a body corporate with perpetual succession and power to acquire, hold and dispose of property, whether movable or immovable, enter into contracts, sue and be sued in its corporate name and subject to this Act do all things which a body corporate may lawfully do .

Common
seal.

3. (1) The Authority shall have a common seal the affixing of which shall be authenticated by the signatures of –

- (a) the Chairman or other member of the Board generally or specifically authorised by the Board for that purpose; and
- (b) the Director-General or other officer authorised by him for that purpose.

(2) Every document purporting to be an instrument executed or issued by or on behalf of the Authority and to be sealed with the common seal of the Authority authenticated in the manner stated in subsection (1) shall be deemed to be so executed or issued without further proof unless the contrary is proved.

(3) In appropriate cases the seal may be affixed to documents outside Sierra Leone.

Board of
Directors

4. (1) The governing body of the Authority shall be a Board of Directors which shall exercise direction and supervision over the Authority. The Board shall consist of the following members-

- (a) a Chairman appointed by the President ,subject to the approval of Parliament and such person shall possess high integrity, extensive knowledge and practical experience in matters relevant to the functions of the Authority ;

“tariff”

means schedule of rates and regulations governing the provision of ICT services;

“telecommunications”

means a transmission, emission or reception of signs, signals, writing, images, sounds or intelligence of any nature by wire, radio, optical or other electro-magnetic systems, whether or not such signs, signals, writing, images, sounds or intelligence have been subjected to rearrangement, computation or other processes by any means in the course of their transmission, emission, or reception;

“telecommunications
network”

any installation or group of installations that means provides for the transmission or routing of telecommunications signals, and for the exchange, control and management of information relating thereto, between the network’s originating and termination points;

“telecommunications
service”

means a service, usually provided on fee- paying basis, that consists wholly or primarily of transmitting or routing signals over telecommunications networks, or a combination of those functions, including transmission services over networks used for broadcasting, but which excludes services consisting of providing content with the aid of telecommunications networks or services, or of exercising editorial responsibility with respect to such content;

“television
broadcasting
service”

means a broadcasting service consisting of the transmission of visual images or other visible signals, with or without accompanying sounds, where the visual images are such that their sequences are seen as moving pictures;

“traffic dumping”	means the practice by operators of selling products below costs or significantly below market prices and flooding the market with product prices that are very low and often considered unfair;
“type approval”	means an act granted to a product that meets a minimum set of regulatory, technical and safety requirements;
“unified licence”	means the written authorization granted to a legal entity by the Authority and which grants that entity specific rights or imposes specific obligations in addition to the rights and obligations attached to class licences and which obliges the legal entity in question to obtain an explicit decision from the Authority before exercising rights deriving from such document and to communicate information about the service concerned;
“Universal Access Development Fund”	means the Universal Access Development Fund established under Section 158;
“Universal Access”	means access of 100% by a designated population that can obtain, at the minimum, public access to quality and affordable communication systems and services;

“Universal Service”	means any service of a specified quality that the Government desired to be available, affordable and accessible throughout Sierra Leone, to an individual, household or institution, including the provision of - (a) public voice telephony; (b) internet access ;or (c) other services by which people can access efficient, affordable and modern communication systems and services
“Universal Service projects”	means the specific micro level implementation activities related to each universal service program;
“Un-Served Area”	means a geographic area where no designated level of universal access is currently available;
“value-added network services”	means telecommunication services provided over public or private networks which, in some way, add value to the basic carriage, usually through the application of computerized intelligence;
“vessel”	means any ship, boat, air-cushioned vehicle or floating rig or platform used in any form of operations at sea, or any other description of a vessel;

(10) The Board shall cause minutes of all its meetings to be taken and signed by the Chairman and Secretary to the Board and kept in a proper form.

(11) Subject to this Act the Board shall regulate its own proceedings.

Disclosure of Interest.

9. (1) A member of the Board who has any interest whether direct or indirect in any matter being considered by the Board shall disclose the nature of his interest to the Board and such disclosure shall be recorded in the minutes of the Board and such member shall not take part in any deliberation or decision of the Board relating to that matter.

(2) A member of the Board who contravenes this section is guilty of misconduct and shall be liable to be removed from the Board.

Immunity of Board Members.

10. (1) No action or other proceeding shall lie or be instituted against any member of the Board for or in respect of any act done in good faith in the exercise of his functions under this Act.

(2) No member of the Board shall be personally liable for any debt or obligation of the Authority emanating from transactions expressly done in good faith in the exercise of his functions under this Act.

PART III-FUNCTIONS OF THE AUTHORITY

Functions of the Authority.

11. (1) The object for which the Authority is established is to regulate and monitor communications services.

(2) Notwithstanding the generality of subsection (1) the Authority shall perform the following functions -

- (a) progressively foster the development of information and telecommunications technology;

(b) a representative of a consumer organization appointed by the President subject to the approval of Parliament ;

(c) a representative of a civil society organization appointed by the President subject to the approval of Parliament ;

(d) four other members at least two of whom shall be women appointed by the President and subject to the approval of Parliament and such members shall collectively possess knowledge, qualification and experience in the field of economics, telecommunications, information technology, accounting, engineering, law or business management;

(e) a representative of the Ministry not below the rank of Director who shall be an ex-officio member with no voting rights; and

(f) the Director-General who shall be the Secretary to the Board with no voting rights.

(2) A person who is appointed as a member of the Board shall be a citizen of Sierra Leone.

5. A person shall not be appointed as a member of the Board if that person – Disqualification of Board members.

(a) is a member of Parliament;

(b) is a mayor, chairman or councilor of a local council;

(c) is a minister or deputy minister;

(d) has any interest in an information and communications technology enterprise;

(e) has an interest in a licence issued under this Act ;

(f) has either direct or indirect financial interest in a licensee

Tenure of
Board
members

6. (1) The Chairman and members appointed under paragraphs (b), (c) and (d) of subsection (1) of section 4 shall hold office for a period of 4 years and shall be eligible for reappointment for not more than one term of 4 years only.

(2) A person shall cease to be a member of the Board on any of the following grounds-

(a) inability to perform the functions of office by reason of infirmity of mind or body;

(b) proven misconduct;

(c) convicted and sentenced for an offence involving fraud or dishonesty;

(d) being bankrupt or insolvent;

(e) failure to attend three consecutive meetings of the Board without reasonable excuse;

(f) resignation from office by submitting a written notice to the President.

(3) On the death, resignation or removal from office of the Chairman or any other member of the Board the President shall appoint another person to serve the remainder term of the Chairman or the other member.

Remuneration
and
Expenses.

7. The Chairman and other members of the Board shall be paid remuneration and allowances as are commensurate with those paid to members of statutory bodies as Parliament may determine.

8. (1) The Board shall meet for the dispatch of its business at least once every three months at a time and place determined by the Chairman; Meetings of the Board .

(2) The Chairman shall preside at every meeting of the Board if present and in his absence the members present shall appoint a member from among themselves to preside at the meeting.

(3) A majority of the members of the Board may by notice in writing signed by them request the Chairman to summon a special meeting of the Board for the purpose stated in the notice.

(4) The Chairman or in his absence the member appointed to act on his behalf shall summon a special meeting within 5 days of receipt of the notice referred to under subsection (3)

(5) The quorum at any meeting of the Board shall be 5.

(6) Any question which fails to be determined by the Board at any of its meetings shall be decided by a majority of the votes of the members present and voting

(7) The Chairman or other member presiding shall have a casting vote where there is an equality of votes.

(8) Any proposal circulated among all members and agreed to in writing by a two-thirds majority of members shall be of the same force or effect as a decision made at a duly constituted meeting of the Board and shall be incorporated in the minutes of the next succeeding meetings of the Board provided that if a member requires that such proposal be placed before a meeting of the Board, this subsection shall not apply to such proposal.

(9) The Board may co-opt any person to attend and participate in its deliberations on any matter but such person shall not be entitled to vote on any issue for decision by the Board.

- (b) invest the funds of the Authority that are not immediately required for the performance of its functions and ensure the judicious use of the funds;
- (c) publish information that is relevant to its functions and activities in a manner that it considers appropriate;
- (d) promote and where necessary, fund the training of persons in the communications industry;
- (e) undertake research and development work related to its functions;
- (f) impose a fine on a person who unlawfully possesses, installs, connects or operates any communications equipment or apparatus, or unlawfully provides or performs any communications services; and
- (g) classify communications services and licenses.

(2) The Authority may confiscate any apparatus which is possessed, installed, connected or operated unlawfully.

Independence
of the
Authority.

13. (1) Subject to this Act, the Authority shall exercise its functions independently of any person or body.

(2) Except as otherwise provided for in this Act the Authority shall not be subject to the direction or control of any entity or authority.

Committees
of the Board.

14. The Board may for the discharge of its functions appoint one or more committees consisting of members of the Board or non-members, or both, to perform such functions and to report thereon to the Board when the Board may determine

- (b) grant licences for the provision of ICT services and ensure compliance with the terms and conditions of the licences;
- (c) monitor and supervise the international communications gateways or appoint a third-party agent to monitor and manage all international communications gateways in Sierra Leone;
- (d) regulate and monitor the ICT sector in Sierra Leone;
- (e) establish the protection of data on computer files and their transmission and to safeguard the secrecy of electronic communications in collaboration with all operators and service providers;
- (f) coordinate the protection of essential ICT active and passive infrastructure facilities in Sierra Leone;
- (g) ensure fair competition amongst licensees, operators of communications networks and service providers of public communications;
- (h) investigate and resolve disputes-
 - (i) relating to harmful interference with radio frequency;
 - (ii) amongst operators and end-users relating to rates, billings, services provided and to facilitate relief where needed amongst the users and service providers or operators;
 - (iii) with respect to facilities sharing, interconnection, co-location of passive and active infrastructure; and

- (iv) in cases where further redress is lacking for disputing licensed operators or service providers of public communications service;
- (i) establish quality of service indicators and reporting requirements for service providers and operators;
- (j) establish the national numbering plan and assign numbers to operators of communications networks and service providers of public communications;
- (k) support the implementation of the Universal Access Policy;
- (l) ensure access, interconnection and interoperability of public communication networks;
- (m) maintain a register of operators;
- (n) maintain a database of subscribers;
- (o) ensure operators' obligations for the expansion of coverage of electronic communications services ;
- (p) issue general rules on the determination of applicable rates and charges;
- (q) ensure the safety and quality of all electronic communications services and goods, and for that purpose, determine technical standards for electronic communications networks and the connection of consumer equipment to electronic communications networks and health issues, such as the exposure to electromagnetic radiations;

- (r) maintain standards for electronic communication equipment and establish procedures for type approval regime in order to grant approval for equipment and to ensure that type approval procedures are adhered to;
- (s) develop and manage the national frequency allocation plan;
- (t) protect the interests of consumers, purchasers and other users of electronic communications services;
- (u) establish training standards for communications operators and service providers and monitor the implementation of the training standards;
- (v) ensure compliance with national and international communications standards and obligations laid down by international communications agreements and treaties to which Sierra Leone is a party, and issuing certificates of compliance in relation thereto; and
- (w) undertaking all necessary measures to perform the functions of the Authority specified in this Act.

12.
powers-

- (1) The Authority shall have the following
 - (a) enter into a contract for the supply of goods and services;

Powers of
the
Authority.

- (d) such money as is from time to time allocated to the Authority by Parliament;
- (e) the proceeds from the Authority selling any assets or equipment to which it has title;
- (f) loans obtained from reputable financial institutions.

(2) The Authority may charge fees in respect of publications, seminars, documents, and other services provided by the Authority.

(3) The money of the Authority that is not immediately required to perform its functions may be invested on deposit with any bank or financial institution in Sierra Leone.

(4) The money accruing to the Authority shall be divided as follows-

- (a) eighty eight percent (88%) for the financing of the activities of the Authority;
- (b) two percent (2%) to be allocated to the Universal Access Development Fund created under section (158) of this Act; and
- (c) ten percent (10%) to be paid into the Consolidated Fund for appropriation by Parliament.

Accounts and
Audit of
Authority.

23. (1) The Authority shall keep proper books of account and other records in relation to the activities properties and finances of the Authority in a form approved by the Auditor-General and shall prepare in respect of each financial year of the Authority a financial statement which shall include –

- (a) balance sheet accounts;
- (b) income and expenditure accounts;

15. The Authority shall be open and transparent in its Transparency operations and in this regard shall undertake the following -

- (a) inform the public through the print or electronic media of national circulation of any publication made under this Act within four weeks of the publication in the Gazette and the Authority's website;
- (b) publish on its website any approved report.

16. (1) Where the Authority intends to take a decision in accordance with this Act, the Authority may consult any interested party, and in this regard shall give the interested party an opportunity to comment on the proposed decision within a period specified by the Authority. Consultations

(2) The Authority shall publish its consultation procedures and shall establish a single information point through which all consultations can be accessed.

(3) The results of any consultation launched publicly by the Authority shall be made available by the Authority, through such means as the Authority considers appropriate in the circumstances, except in the case of information that the Authority considers to be confidential.

PART IV-STAFF OF THE AUTHORITY

17. (1) The Authority shall have a Director-General who shall be appointed by the President subject to the approval of Parliament. Appointment of Director-General

(2) A person shall not be appointed as a Director - General unless that person has relevant knowledge, qualification and at least 5 years experience in either telecommunications, information technology, economics, finance, law or administration

(3) The Director-General shall hold office for a period of five years and shall be eligible for re-appointment for another period of five years

Functions of
Director-
General.

18. The Director-General shall be the head of administration and shall be responsible for -

- (a) the day-to-day administration and management of the Authority;
- (b) the formulation and implementation of such operational policies, programmes and plans relating to the functions of the Authority as may be approved by the Board;
- (c) determining and providing the operational needs of the Authority, subject to the approval of the Board;
- (d) recording and keeping the minutes of the Authority in a book kept for that purpose;
- (e) supervising and disciplining staff of the Authority; and
- (f) performing such other duties as the Board may determine.

Deputy
Director
General.

19. (1) The Authority shall have a Deputy Director General who shall be appointed by the President.

(2) The qualification required for a Director – General under subsection (2) of section 17 shall apply to a Deputy Director -General

(3) The Deputy Director -General shall hold office for a period of five years and shall be eligible for re- appointment for another period of five years.

(4) The Deputy Director-General shall be the principal assistant to the Director -General and shall act in the absence of the Director-General and perform any other functions determined by the Board.

20. (1) The Authority may on terms and conditions as the Board ^{Other staff} may determine appoint other staff required for the efficient discharge of its functions under this Act.

(2) The Authority may engage the services of consultants and advisers as it considers necessary for the efficient discharge of its functions.

21. (1) Members of the Board, members of staff, consultants ^{Confidentiality}, advisers or subcontractors shall sign a confidentiality agreement before commencing any duty at the Authority.

(2) No person shall publish or disclose to any entity the contents of any documents, communications or information which has come to the person's knowledge while performing duties under this Act unless the person has written consent given by or on behalf of the Board

(3) Any person who contravenes this section commits an offence and is liable on conviction to a fine not less than Le25,000,000.00 or to a term of imprisonment not less than 2 years or to both the fine and imprisonment

(4) In addition to the fine and imprisonment imposed under subsection (3) the person who contravenes this section shall be liable to be dismissed or the contract awarded to him cancelled.

PART V- FINANCIAL PROVISIONS

22. (1) The activities of the Authority shall be financed ^{Funds of the Authority.} by a fund consisting of the following-

- (a) fees and other moneys payable to the Authority under this Act and regulations;
- (b) fines payable to the Authority in respect of breaches of licence terms, conditions and obligations;
- (c) grants or donations received by the Authority;

(2) The Authority shall determine the periods that are reasonably necessary for the fair and adequate presentation of the matter by the respective parties and the Authority may require those matters to be presented within respective periods so determined.

(3) The Authority may require evidence or arguments to be presented in writing, and may decide the matters upon which it will hear oral evidence or arguments.

(4) Each party to a matter shall be entitled to appear at the hearing and may be represented by a legal practitioner or any other individual who is competent to assist that party in the presentation of the matter.

30. After hearing complaints under this Act the Authority may make an order-

Orders of the
Authority.

- (a) requiring a party to supply goods or services within specified periods;
- (b) requiring a party to supply goods or services under specified terms and conditions;
- (c) requiring a party to pay the costs of the other party in the dispute;
- (d) requiring a party to pay the costs of an expert person appearing at the hearing, or for producing documents;
- (e) dismissing a complaint;
- (f) imposing financial sanctions;
- (g) for specific performance;
- (h) for refunds;
- (i) appointing trustees; or
- (j) for such other relief as may be deemed necessary and reasonable

(c) source and application of funds; and

(d) financial estimates, particularly of the amount of revenue to be collected in the ensuing year

(2) The accounts of the Authority kept under subsection (1) shall be audited by the Auditor General or any auditor appointed by him.

(3) For the purposes of subsection (2) the Auditor-General or the auditor appointed by him shall be entitled to have access to all books of account, vouchers and other financial records of the Authority and to require any information and explanation as he may think fit.

(4) The Authority shall provide the Auditor-General or the auditor appointed by him with all necessary and appropriate facilities for the examination of the accounts and records of the Authority.

(5) The Auditor-General or the auditor appointed by him shall submit to the Authority a report on the audited accounts and the financial statement referred to in subsection (1) and shall in his report draw attention to –

- (a) irregularities in the accounts;
- (b) matters that are likely to adversely affect the operations of the Authority; and
- (c) other matter which in his opinion ought to be brought to the notice of the Authority.

24. The financial year of the Authority shall be the same as the financial year of the Government.

Financial
year of
Authority.

Annual report.

25. (1) The Authority shall within 3 months after the end of each financial year submit to the Minister for approval an annual report of the activities, undertakings, properties and finances of the Authority for that year.

(2) An annual report shall include a copy of the audited accounts of the Authority together with the audit report.

(3) Not later than 3 months after the year to which the report relates, the Minister shall lay the approved report before Parliament.

PART VI-FUNCTIONS OF THE MINISTER

Functions of the Minister .

26. The Minister may issue to the Authority policy guidelines of a general nature relating to the provisions of this Act including the formulation of the general policy of the ICT sector in consultation with the Authority and other stakeholders in the sector as provided for in this Act.

PART VII-COMPLAINTS AND DISPUTE RESOLUTION

Complaints

27. (1) The Authority shall investigate any complaint referred to it if the complaint-

- (a) is a matter to which the Authority relates;
- (b) is not frivolous or vexatious.

(2) The Authority shall hear and determine the following matters-

- (a) disputes between licensees of communications services;
- (b) disputes between licensees and the public involving alleged breaches of the Act or regulations or rules or licences;

(c) complaints between licensees and consumers;

(d) objections to agreements between licensees; and

(e) claims by a licensee for a change in rates payable for any services.

(3) Where it appears to the Authority at any time during or after its investigation that the licensee has not considered the complaint, or has not considered it adequately, the Authority may revert the complaint to the licensee with the request that the licensee should consider or reconsider the complaint,

(4) The Authority may make representations to the licensee on behalf of the complainant, or to the complainant on behalf of the licensee, as the Authority sees fit.

(5) For the purposes of dealing with consumer complaints, the Authority shall establish a complaints unit that shall be responsible for receiving and making follow up on complaints from consumers.

(6) The Authority shall by statutory instrument make rules on handling complaints and applicable proceedings.

28. The Authority shall apply dispute resolution mechanism in resolving disputes under this part. Dispute resolution Mechanism.

29. (1) Where the Authority receives a complaint it shall within a period not exceeding 14 days after the receipt of the complaint commence investigation of the matter, hear, receive and consider statements, arguments and evidence made, presented or tendered Hearing of Matters.

- (a) exemption circumstances;
- (b) criteria of eligibility for exemption; and
- (c) the application process for issuing exemptions to the licence requirement.

(2) The requirement to hold a licence under section 36 shall not apply to the following –

- (a) the acquisition or operation by any person for his own use, of a telecommunications network in which all the network equipment is;
 - (i) situated on a single set of premises in a single occupation ;
 - (ii) in a vessel, aircraft or vehicle mechanically cooped together;
 - (iii) not connected to any public network within Sierra Leone
- (b) communications networks of the national armed forces, security services and other essential services, except that applications for the assignment of frequencies in shared bands shall be submitted to the Authority through the office of the President;
- (c) closed user group services; and
- (d) any telecommunications service that has been declared to be licence-free under the authorization or declaration regime.

(3) Notwithstanding the exemption granted under this section licensees shall comply with all other applicable provisions of this Act or statutory instruments made under the Act

31. The decision or direction of the Authority that is the subject matter of judicial review may be suspended until such a decision is upheld or expressly reversed in a final judgment or order of the High Court. Judicial Review.

32. Any person aggrieved by the decision of the Authority may appeal to the High Court. Appeal

PART VIII-COMPLIANCE ORDER AND ENFORCEMENT

- 33.** (1) Where the Authority is satisfied that an entity has Compliance Orders.
- (a) contravened any provision made under this Act or statutory instruments made under the Act;
 - (b) failed to comply with the terms and conditions of a licence

it may issue a compliance order on the entity

(2) A compliance order may require an entity to refrain from the conduct that is in contravention of this Act or any statutory instruments made under this Act or to take actions required to comply with this Act or statutory instruments.

(3) A compliance order shall -

- (a) be in a written form;
- (b) be served on the entity against whom it is made;
- (c) specify the grounds for making the order;
- (d) outline the conduct the entity should refrain from;
- (e) outline the actions the entity should comply with ;

- (f) be enforceable by the Authority or by an order of a court.

Sanctions.

34. (1) The Authority may take any appropriate action for any failure by the licensee to comply with.

- (a) this Act;
- (b) decisions taken to ensure the implementation of this Act; and
- (c) terms and conditions of a licence.

(2) Where there is no remedy within the time limit set in the compliance order the Authority in accordance with the gravity of the offence shall –

- (a) order that a complainant should be compensated where the compliance breach cause damage to another person ;
- (b) impose a penalty not exceeding 2% of the licence fees and 4% of the licence fees where the same offence is repeated.

(3) The decision of the Authority under subsection (2) shall be published.

(4) Where an entity has been convicted of an offence under this Act by a court anyone who suffers loss or damage as a result of the offence may be compensated by the entity for such loss or damage

PARTIX-LICENSING REGIME

Regulating

35. (1) The Authority shall regulate electronic

communications services.

communications networks and electronic communications services

(2) Conditions imposed by the Authority in regulating electronic communication networks and electronic communications services shall be non- discriminatory, relevant, transparent and justified in relation to the targeted network or service.

(3) The Authority shall create conditions for the effective competition in the communications sector and conditions to prevent abuse of market power by licensees.

(4) The Authority shall issue licence for the following reasons-

- (a) promoting the development of the communications sector ;
- (b) creating effective competition; and
- (c) removing barriers to the development of all market segments.

36. (1) Subject to this Act no entity or person shall -

Licence Requirement.

- (a) provide electronic communications services;
- (b) operate an electronic communications network;
- (c) operate a radio frequency

unless the entity or person holds a licence issued by the Authority under this Act.

(2) Any entity or person who contravenes subsection (1) commits an offence and is liable to a fine equivalent to the licence fees applicable to the type of service provided or a term of imprisonment not less than two (2) years, or to both a fine and imprisonment.

37. (1) The Authority shall by statutory instrument make rules or regulations dealing with- Exemption

(h) is the subject of any order made by a competent court or tribunal for its compulsory winding-up or dissolution;

(2) Where the Authority has grounds for the suspension or revocation of a licence, it shall give written notice to the affected licensee to show cause why the licence should not be suspended or revoked.

(3) The time limit for the affected licensee to respond to the written notice shall not be more than 14 days after receipt of the written notice under subsection (3)

(4) The affected licensee shall within the stipulated period make a written submission to the Authority

(5) The Authority after receipt of the written submission shall consider the submission and make its final determination on the suspension or revocation of the licensee.

(6) In determining whether to suspend or revoke a licence, the Authority shall consider the severity and persistence

of the offences committed and the extent to which any person other than the licensee is likely to sustain loss or damage as a result of the suspension or revocation.

(7) Where the licensee does not respond to the written notice or the Authority determines that the affected licensee failed to show cause why his licence should not be suspended or revoked the Authority shall proceed to suspend or revoke the licence.

(8) The suspension or revocation of a licence shall take effect from the date of the Authority's final determination under subsection (8)

(9) When the suspension or revocation of a licence takes effect the Authority shall as soon as practicable publish a notice on the suspension or revocation in at least one national daily newspaper

38. (1) The Authority shall be responsible for issuing and determining the types of services under this Act that require – Types of services

(a) declaration;

(b) authorization or

(c) licences

(2) The Authority shall issue the following forms of licence-

(a) individual licence;

(b) class licence;

(c) unified licence; and

(d) any other form

(3) Where a frequency spectrum is required the applicant shall comply with the requirement of an application for a frequency spectrum licence stipulated under this Act or regulations made under this Act.

39. (1) A licence issued by the Authority under this Act shall – General licence Conditions.

(a) be issued to the applicant after payment of the appropriate initial licence fees;

(b) contain the terms and conditions of the licence; and

(c) be valid for a period stipulated in the licence

(2) A licence issued under this Act shall take effect on the date the licence is issued.

(3) The terms and conditions of a licence may relate to the following –

- (a) specific requirements;
- (b) rights and obligations relating to interconnection , access and facility sharing, or;
- (c) any other matter the Authority deems necessary

(4) For the purpose of exercising the functions conferred upon it under this Act the Authority may require the operator to submit to it any document, accounts, estimates, returns or any other information in a stipulated manner and within a prescribed time which shall be reasonable.

Licence Fees.

40. (1) A licensee shall pay the fees prescribed by the Authority under this Act or statutory instruments made under this Act and such fees may include –

- (a) an initial licence fee payable before the licence is issued;
- (b) an annual fee in an amount specified in statutory instruments made under this Act;
- (c) a fee in respect of the assigned frequency where applicable;
- (d) a fee in respect of assigned numbering resources where applicable;
- (e) any other fees or levies, including but not limited to a contribution to the Universal Access Development Fund as may be required from time to time by any statutory instrument applicable to licensees.

Modification

41. (1) The conditions of any licence may be fixed at the time the licence is officially delivered.

(2) The Authority may modify the conditions of any licence in objectively justified cases.

(3) Where it becomes necessary to modify the conditions of any licence, the Authority shall give the licensee an advance notice of not less than six (6) months of any modifications before they are implemented.

42. A licence granted under this Act shall not be transferable unless the licensee obtains a written authorization from the Authority. Transfer of licence.

43. (1) Subject to this Act the Authority may suspend or revoke a licence where the licensee – Suspension or Revocation of licence.

- (a) fails to comply with the provisions of this Act or statutory instruments made under this Act;
- (b) fails to comply with the terms and conditions of the licence;
- (c) fails to comply with lawful orders given by the Authority
- (d) gives information to the Authority which is false or misleading;
- (e) enters into receivership or liquidation;
- (f) takes any action for its voluntary winding up or dissolution;
- (g) enters into any scheme of arrangement, other than for the purpose of reconstruction or amalgamation upon terms and within a period as may previously have been approved in writing by the Authority;

PART XI-INDIVIDUAL LICENCE

Scope of an Individual Licence.

- 51.** The following services shall require an individual licence-
- (a) operating a public electronic communications network or providing public electronic communications services requiring the use of radio network frequencies or numbering resources;
 - (b) providing public fixed line or mobile telephony services;
 - (c) operating or providing networks for the supply of national or international transmission capacities;
 - (d) deploying physical infrastructure to support wireless or fixed line telephony or broadband communications service;
 - (e) providing broadcasting services; and
 - (f) any other service the Authority stipulates in a notice published in the Gazette and its website to require a licence

Categorization of individual licence.

- 52.** (1) The Authority may issue various categories of individual licences which shall include the following –

- (a) Infrastructure-only licences, which permits licensees to build, own and operate extensive infrastructure to support all forms of electronic communications services, but precludes licensees from delivering communications services to unlicensed service providers or end-users;
- (b) Infrastructure-based licences, which permits the licensee to:-

(10) Any delay or failure to publish the notice of suspension or revocation shall not affect the validity of the suspension or revocation.

(11) The Authority may restore the licence when the licensee remedies the situation that gave cause for the suspension

44. (1) Where a licensee wishes to renew his licence he shall submit to the Authority an application for renewal in the prescribed form 6 months before the expiration of the current licence. ^{Renewal of a Licence.}

(2) The Authority may renew a licence on the following grounds-

- (a) the licensee continues to meet the eligibility criteria under this Act;
- (b) the licensee continues to be financially and technically capable of meeting the licensee's obligations under this Act, and any other related laws; and
- (c) the licensee has not, during the term of the licence, repeatedly and considerably breached the provisions of this Act, statutory instruments made under the Act and the terms and conditions of the licence

45. The Authority shall publish in the Gazette , its website and any other media the types of services that require ^{Publication of Licence.}

- (a) individual licence;
- (b) class licence;
- (c) authorization
- (d) declaration
- (e) unified licence

PART X-DECLARATION REGIME

Declaration

46. (1) An entity or person who wishes to resell on a small scale, electronic communications service, the commercial operation of the value-added services and provide internet services shall not be required to submit a declaration of the offer to the Authority.

(2) An entity or person who wishes to resell on a large scale electronic communications service, the commercial operation

of the value added services and provide internet services shall submit a declaration of the offer to the Authority.

(3) For the purpose of this section declaration means the act of registering an electronic communication activity with the Authority by an electronic communications network operator or electronic communication service provider who is not required to obtain a licence from the Authority but the Authority shall assess the technical feasibility of the business and assess any risks to customers.

Content of
Declaration .

47. (1) A declaration submitted to the Authority shall contain the following information –

- (a) the list and kind of services offered;
- (b) the arrangements for commencing the service;
- (c) the geographical coverage of services in the country;
- (d) the conditions of access by their customers;
- and
- (e) the rates or tariffs to be charged to users.

(2) For non-infrastructure-based resellers of existing

licensed services or value-added services, the Authority may also require a description of the services as well as a description of the ways in which resale will be carried out and the geographical area where the services will be resold in order to ensure consumer protection

48. (1) Within two months of acknowledging receipt of the declaration, the Authority shall ensure that the proposed services are in compliance with the existing regulatory framework. Registration.

(2) Where a declarant complies with the existing regulatory framework the Authority shall issue a certificate of registration to the declarant after payment of the declaration fees.

(3) Where a registration is refused, the Authority shall issue to the declarant a written notice stating the reasons for the refusal.

49. (1) Where a declarant intends to change the initial conditions of the declaration it shall notify the Authority of the proposed changes one month prior to the intended date of implementation of the changes. Modification of Initial conditions.

(2) Where the Authority is satisfied with the submission contained in the notification referred to under subsection (1) it shall authorize proposed changes and if it is not satisfied it shall reject the proposed changes.

50. (1) Where a declarant intends to transfer the services to another entity or person it shall notify the Authority of the proposed transfer. Transfer of the Services declared

(2) Where the Authority is satisfied with the submission contained in the notification referred to under subsection (1) it shall authorize the transfer and if it is not satisfied it shall reject the proposed transfer.

- (f) arrangements for the payment of the fee referred to in Section 59;
- (g) the duration of the licence and conditions for its renewal.

(4) The call for tender referred to under paragraph (a) of subsection (2) shall establish the conditions of access and interconnection to public electronic communications networks and the conditions for leasing components of those networks required for the establishment of the new network or for providing the services covered by the call for tender.

Application

for Individual
licence.

56. (1) An entity or person that wishes to operate any electronic communications network or facility or to offer electronic communications services or operate frequencies shall submit an application to the Authority or, upon invitation by the Authority through the organisation of a call for tenders, apply for an individual licence in the manner prescribed in the tender documents.

(2) The Authority shall publish the notice of the submission of application in the Gazette and its website and -

- (a) invite interested persons to apply and submit written representations in relation to the application within the period stipulated in the notice;
- (b) set out the proposed licence conditions that shall apply to the licence;
- (c) give interested persons an opportunity to submit written responses to any representations submitted under paragraph (a) by an applicant ;
- (d) may conduct a public hearing in relation to any application for an individual licence.

- (i) deliver all types of communications services to any segment of consumers in the market;
- (ii) build, own and operate a communications network infrastructure in any part of the country ;and
- (iii) secure rights to the full spectrum of dedicated frequencies needed exclusively or otherwise to provide its intended services

(c) Service-based licence which permits a licensee

to-

- (i) deliver all types of communications services to any segment of customers in the market;
- (ii) build, own and operate a limited scope of network infrastructure ;and
- (iii) secure rights to a limited spectrum of dedicated frequencies needed exclusively to provide their intended services.

(d) Infrastructure and service-based licence which permits licensee to build, own and operate electronic communications network system or facility for its own use in delivering services to its consumers or end-users ;

(2) The following information shall be stipulated under a licence –

- (a) the duration of the licence;
- (b) the frequency spectrum allocated to each licence;

- (c) the type and geographical coverage of permitted infrastructure for each licence

Technology neutrality.

53. (1) Subject to subsection (2) a service provider holding an individual licence shall deliver its range of services using any form of technology it deems suitable to improve the quality of services provided to its consumers and end-users,

(2) A service provider shall notify the Authority before introducing new technologies in the delivery of its services and if the Authority approves it shall issue a written approval to the service provider.

(3) The Authority shall by statutory instrument make regulations dealing with the notification and approval process referred to under subsection (2)

Limitation on number of Individual licence.

54. (1) The Authority may limit the number of individual licence for any category of electronic communications services, the establishment and operation of electronic communications infrastructure, only to the extent required to guarantee the efficient use of the scarce resources and minimise duplication of infrastructure.

(2) Where the Authority intends to limit the number of individual licences granted it shall

- (a) give due consideration to the need to maximise advantages for users and facilitate the development of competition;
- (b) give interested parties the opportunity to express their opinion on any planned limitation;
- (c) establish its decision to limit the number of individual licences, as well as the justification for that decision, in the Gazette and on its website

55. (1) The issuance of individual licence shall be based on Issuing individual Licence.

- (a) unsolicited expression of interest and application by a person or body; and
- (b) a public tender by the Authority.

(2) Where the Authority wishes to issue a new individual license subject to paragraph (b) of subsection (1), the Authority shall –

- (a) organise a call for tenders;
- (b) establish the terms of reference;
- (c) describe the process for evaluating and selecting the successful candidate

(3) The terms of reference referred to under paragraph (b) of subsection (2) shall at minimum include the following-

- (a) the types of networks required and conditions for establishing the network;
- (b) the types of services required and conditions for providing the service;
- (c) the coverage area of the service and the implementation schedule;
- (d) the radio frequencies and blocks of numbers allocated, along with the conditions of access to elevated points belonging to the public domain;
- (e) the minimum professional and technical qualifications along with the financial guarantees required of applicants; the conditions for operating the service, including those relating to the provision of universal and the principle of equality of treatment of users;

- (a) the licence fees set out under section 40; and
- (b) any other fees determined by the Authority

Standard terms and conditions of individual licence.

60. (1) The Authority shall ensure that an individual licence as far as practicable has standardized terms and conditions.

(2) Where there are differences in an individual licence the differences shall be for justifiable reasons and shall be included in the specific terms and conditions.

PART XII-CLASS LICENCE

Scope of a Class licence.

61. The following services shall require a class licence-

- (a) operating or providing independent networks through the public domain;
- (b) providing electronic communications services except for those subject to the regime of an individual licence or declaration;
- (c) any other service determined by the Authority published in the Gazette and its website

Application for a class Licence.

62. An applicant for a class licence shall submit the following information in order to show that it can fulfill the terms and conditions attached to the licence-

- (a) a certificate of incorporation or registration;
- (b) a statement of amount of the financial resources the applicant intends to invest over time, with indication of the sources of such funds;
- (c) proof of the technical ability of the applicant to operate such an electronic communications service;

(3) An applicant for an individual licence shall submit the following information in the form of a business plan for the proposed services –

- (a) a certificate of incorporation or registration;
- (b) a statement of registration as a corporate body;
- (c) a list and description of existing licences in which the applicant has at least 10 % participation;
- (d) legal confirmation of the compliance of existing operators' licences;
- (e) shareholding structure;
- (f) a technical proposal for the services, including coverage plans and indicators, planning and development of the system including connection, numbering and addressing issues and proposed quality of service;
- (g) proof of the applicant being financially capable, such as an audited list and description of financial statements, annual reports, or detailed description of financial backing;
- (h) proof of the applicant's electronic communications operating and management expertise; and
- (i) any other information as the Authority may require.

(4) Any applicant for an electronic communications licence using frequency bands that are competitive shall in addition to the requirements under subsection (3), submit the following information –

- (a) a network plan and configuration for deployment;
- (b) technical specifications and manuals of equipment to be used; and
- (c) a list and description of products and services to be offered.

(5) An applicant whose authorization or licence has been suspended or revoked within or outside Sierra Leone shall not apply for a licence

Procedure for
the grant of
individual
Licence.

57. (1) The Authority shall acknowledge receipt of the application within 7 days of receiving the application.

(2) The Authority may make its decision to grant or reject an application for a licence within 90 days of receipt of the application

(3) Where the Authority requires further details or information in respect of an application, it may within thirty (30) days of receiving the application request for further details or information

(4) The choice of the successful applicant shall be based on objective criteria made known to the applicants in advance.

(5) On completion of the evaluation process, the Authority shall in writing notify the successful or unsuccessful applicant of the results of the application

(6) Where an application is rejected the Authority shall in the notice referred to under sub-section (5) stipulate the reasons for rejecting the application

(7) Where the Authority refuses an application, it shall within ninety (90) days of receiving the application issue the applicant a written notice-

- (a) stating the reason for the refusal ; and
- (b) providing the applicant with an opportunity to correct and resubmit the application.

58. (1) An individual licence shall be granted on the basis of objective, non-discriminatory, transparent, proportionate and detailed selection criteria.

Issuance of a
Licence.

(2) During the selection process the Authority shall take into account the need to facilitate the development of competition and maximise advantages for users.

(3) In taking a decision under subsection (2), the Authority shall take into account whether-

- (a) the financial resources of the applicant are adequate;
- (b) the electronic communications network in relation to which the application is made is technically suitable for the service intended to be rendered;
- (c) the applicant is financially and technically capable of meeting the obligations and the terms and conditions of the licence;
- (d) the applicant and, if a company, any promoter, director or other officer thereof has not been convicted of any offence, involving fraud or dishonesty;
- (e) the application complies with the provisions of this Act; and
- (f) it is in the public interest to grant the licence.

59. The individual licence fees shall include -

Individual
licence Fee.

- (a) internet services,
- (b) internet Telephony;
- (c) internet protocol television (IPTV);
- (d) broadband services;
- (e) triple play; and
- (f) quad play

(5) A unified licensee shall provide its services on wireline or wireless media with full mobility, limited mobility, and fixed wireless access.

Technology
neutrality

70. A service provider holding a unified licence shall-

- (a) deliver its range of services using any form of technology it deems suitable to improve the quality of services provided to its consumers and end-users; and
- (b) notify the Authority before introducing new technologies in its delivery service.

Licence
Ownership

71. (1) A licensee shall not hold any other licence for services covered under the scope of a unified licence.

(2) Where the licensee obtains any other license by way of acquisition or merger, the licence so obtained shall be migrated and merged to the License free of charge.

- (d) a detailed listing and description of the proposed service(s) it intends to deliver in the market;
- (e) a technical project specifying the equipment to be used, network and technology systems design, including proof of type approval of own equipment to be used;
- (f) an indication and description of the infrastructure and network facilities proposed to be deployed for the services proposed to deliver ;
- (g) any other information that the Authority may require to enable comprehensive assessment of the application.

63. (1) An applicant for a class licence shall prior to undertaking an activity applied for, file with the Authority a completed version of the appropriate class licence registration form.

Registration
under a class
licence.

(2) The Authority shall by statutory instrument make rules or regulation determining the format of class licence registration forms .

(3) The Authority shall notify the applicant whether its application is successful or not within two (2) months after receipt of the application.

64. (1) The Authority may refuse an application for registration of a class licence if-

Refusal of
registration.

- (a) the applicant has failed to comply with the eligibility requirements or the terms and conditions of the licence;
- (b) the registration does not contain the information prescribed by the Authority;
- (c) the applicant is in contravention of this Act or any related legislation in relation to other licences that the applicant may hold; or
- (d) the registration contains false or misleading information, or misrepresentations of fact.

(2) Where a registration is refused, the Authority shall review the process and within thirty (30) calendar days of receipt of the application for registration notify the applicant in writing -

- (a) stating the reasons for the refusal; and
- (b) providing the applicant with an opportunity to correct and resubmit the registration.

Register

65. (1) The Authority shall maintain a register which shall be made available to the general public for inspection

(2) The Authority shall, at least once annually, and every time it grants a licence, update and publish the license register indicating-

- (a) the names and contact details of all registered licensees;
- (b) the scope of the services for which the licence is provided; and
- (c) the applicable licence terms and conditions.

66. The class licence fees shall include-

Class licence fees.

- (a) the licence fees set out under section 40; and
- (b) any other fees determined by the Authority

67. A class licence issued by the Authority shall include Standard terms and conditions of class licence.

68. (1) The Authority may at any time announce the New class establishment of a new class licence licence.

(2) The Authority shall after giving reasonable notice repeal an existing licence.

(3) The licence fees referred to under Section 66 shall apply to any new class licence.

PART XIII-UNIFIED LICENCE

69. (1) The Authority shall issue a unified licence to successful applicants operating any type of public electronic communications networks; Scope of unified licence.

(2) The unified licensee providing the service shall utilize any type of equipment and product that meet the relevant standards set by International standardization bodies recognised by the Authority.

(3) A unified licensee shall have the right to operate all services detailed under individual and class licences.

(4) A unified licensee shall in addition to the other services provide the following services-

- (g) proof of the applicant being financially capable, such as an audited list and description of financial statements, annual reports, or detailed description of financial backing;
- (h) proof of the applicant's electronic communications operating and management expertise; and
- (i) any other information as the Authority may require.

(4) Any applicant for a unified licence using frequency bands that are competitive shall in addition to the requirements under subsection (3), submit the following-

- (a) a network plan and configuration for deployment;
- (b) technical specifications and manuals of equipment to be used; and
- (c) a list and description of products and services to be offered.

(5) Applicants whose authorization or licence has been suspended or revoked in or outside Sierra Leone shall not apply for a licence.

Procedure for grant of licence. **75.** (1) The Authority shall acknowledge receipt of a grant of licence application within 7 days of receipt of the application.

(2) The Authority shall make a decision to either grant or reject an application for a licence within ninety (90) days of receiving the application.

(3) Within thirty (30) days of receiving the application, the Authority may request further details or information in respect of the application.

(3) All existing licences held by a licensee for the services covered under the scope of the unified license shall be merged to the unified license free of charge.

72. (1) The Authority may limit the number of unified licences it issues to the extent required to guarantee the efficient use of the scarce resources and minimise duplication of infrastructure.

(2) Where the Authority intends to limit the number of unified licences it issues the Authority shall-

- (a) give due consideration to the need to maximise advantages for users and facilitate the development of competition;
- (b) give interested parties the opportunity to express their opinion on any planned limitation; and
- (c) publish its decision to limit the number of unified licences, as well as the justification for that decision, in the Gazette and on the website

73. (1) The Authority shall issue a unified licence based on the following -

- (a) an unsolicited expression of interest and application by a person or body; and
- (b) a public tender by the Authority.

(2) Where the Authority wishes to issue a new unified licence, the Authority shall-

- (a) organise a call for tenders;
- (b) establish the terms of reference and describe the process for evaluating and selecting the successful candidate

(3) The call for tender referred to under paragraph (a) of subsection (2) shall establish the conditions for the following -

- (a) access and interconnection to public electronic communications networks;
- (b) leasing of components of network required for the establishment of the new network ;and
- (c) providing services covered by the call for tender.

Application
for a unified
licence.

74. (1) Any entity that wishes to -

- (a) operate any electronic communications network or facility;
- (b) offer electronic communications services ;or
- (c) operate frequencies

shall submit an application to the Authority or upon invitation by the Authority through the organisation of a call for tenders, apply for an individual licence in the manner prescribed in the tender documents.

(2) The Authority shall publish information on the availability of applications in the Gazette and its website and

- (a) invite interested persons to apply and submit written representations in relation to the application within the period specified in the notice;
- (b) set out the proposed licence conditions that will apply to the licence;
- (c) give interested persons an opportunity to submit written responses to any representations submitted by an applicant under paragraph (a); and
- (d) may conduct a public hearing in relation to any application for a unified licence.

(3) An applicant for a unified licence shall submit the following information in the form of a business plan for the proposed services—

- (a) a certificate of incorporation or registration;
- (b) a statement of registration as a corporate body;
- (c) a list and description of existing licences in which the applicant has at least 10 % participation;
- (d) legal confirmation of the compliance of existing operators' licences;
- (e) shareholding structure;
- (f) a technical proposal for the services, including coverage plans and indicators, planning and development of the system including connection, numbering and addressing issues and proposed quality of service;

(4) The Authority may, for the purposes of preserving confidentiality, restrict access to documents or information indicated as confidential that is requested by any person, except required by court order or legally competent person.

(5) Where the Authority receives any information designated as confidential and a member, employee or agent of the Authority discloses the contents of the confidential document to a person not authorised to receive such information, the member, employee or agent commits an offence.

PART XV-TRANSFER OF OWNERSHIP

Transfer of
control of
licence.

82. (1) A licensee shall not transfer the control of a licence to another entity or person within 3 years of issuance of the licence or before rolling out.

(2) A licensee shall give prior notification to the Authority of any future direct or indirect changes to its ownership or control.

(3) A licensee shall obtain the Authority's prior written approval for any-

- (a) transfer of ownership and control that would result in the direct or indirect ownership of 25% or more of the issued voting share capital of the licensee changing hands; and
- (b) change in ownership of the licensee's issued voting share capital that results in a change to the composition of one-quarter of the licensee's board of directors.

(4) On completion of the evaluation process, the Authority shall notify the successful or unsuccessful applicant of the results of the application in writing, giving reasons why the application was rejected.

76. (1) The Authority shall grant a unified licence on the basis of objective, non-discriminatory, transparent, proportionate and detailed selection criteria. Issuance of
licence.

(2) In any selection, the Authority shall take into account the need to facilitate the development of competition and maximise advantages for users.

(3) In taking a decision under subsection (2) of section 75, the Authority will take into account whether-

- (a) the financial resources of the applicant are adequate;
- (b) the electronic communications network in relation to which the application is made is technically suitable for the service intended to be rendered;
- (c) the applicant is financially and technically capable of meeting the obligations and the terms and conditions of the licence;
- (d) the applicant and, if a company, any promoter, director or other officer thereof has not been convicted of any offence, involving fraud or dishonesty;

(e) the application complies with the provisions of this Act; and

(f) it is in the public interest to grant the licence.

unified
licence fees

77. A unified licence fees shall include-

(a) the licence fees set out under section 40; and

(b) any other fees determined by the Authority as applicable to individual licence.

Standard
terms and
conditions of
unified
licence.

78. (1) Subject to subsection (2) the Authority shall ensure that unified licences have standardised terms and conditions.

(2) Any difference in a unified licence shall be for justifiable reasons and shall be included in the specific terms and conditions.

PART XIV-DUTIES OF A LICENSEE

Provision of
essential
service.

79. (1) A communications services licensee shall provide without discrimination-

(a) emergency service, with priority routing,

necessary as stipulated in this Act or in statutory instruments made under this Act and this essential service duty shall only be applicable to voice calls;

(b) customer care services, enabling any subscriber to obtain assistance regarding such things as accessing services, setting up calls and remedying faults; and

(c) other services as may be reasonably determined by the Authority and published in the Gazette and on the website.

(2) A licensee referred to under this section shall provide essential services in accordance with the terms and conditions of its licence.

(3) The following essential services shall be provided free-of-charge-

(a) emergency service calls; and

(b) customer care centres for remedying faults.

80. (1) A licensee shall not disclose a subscriber's information in its possession except on demand made by the Authority or by a court order. Protection of Subscriber information.

(2) The Authority shall by statutory instrument make regulations for the management of subscriber information and the terms and conditions for releasing a subscriber's information.

81. (1) A licensee shall submit to the Authority annual Reports and any other periodic report as may be required the Authority. Reports and restriction on access to documents.

(2) A licensee who fails to submit any document required under this section commits an offence and is liable to a fine equivalent to the licence fees applicable to the type of service provided and twice the fee where the incident is repeated.

(3) A licensee shall clearly mark as "confidential" documents and information submitted to the Authority which it deem to be of a confidential nature or contain trade secrets provided such information or documents are not available in the public domain

PART XVII—INTERCONNECTION

87. (1) At the written request of an electronic communications service licensee, another electronic communications service licensee

shall be obliged to interconnect and negotiate in good faith the terms of an agreement for interconnection with regard to electronic

communications networks for the purposes of enabling the provision of electronic communications services to consumers.

(2) Any interconnection request of an electronic communications service licensee made pursuant to subsection (1) shall include the following

- (a) the type of interconnection required;
- (b) the technical requirements based on the technical standard of interconnection provision;
- (c) the date for which interconnection is required; and
- (d) the estimate of the interconnection capacity required.

88. (1) The parties to an interconnection agreement shall negotiate the technical and commercial terms in a fair, transparent and balanced manner.

(2) The Authority shall by statutory instrument make rules or regulations regarding the interconnection process ensuring that interconnection is treated as a commercial transaction between the parties

(3) The interconnection agreement shall be in writing and shall set out the contractual terms and conditions agreed by the parties, including, but not limited to the—

PART XVI-ECONOMIC REGULATIONS

83. The Authority shall by statutory instrument make Regulation regulations on the implementation of access, interconnection, co- on

location and infrastructure sharing, interconnection agreements and Implementation of access etc. framed tariffs

84. Where an operator enters into any commercial agreement Non that involves providing services by one operator to another, the discrimination principle.

operator providing the services shall apply equivalent conditions in equivalent areas and shall provide services and information to other parties under the same conditions and with the same quality as for their own services or those of their own subsidiaries or affiliates.

85. (1) In the exercise of its powers under this part the Regulation Authority shall ensure fair competition. on Implementation.

(2) The operation of electronic communications networks shall be done under fair competition conditions, in accordance with the applicable legislation in Sierra Leone.

(3) The fair competition conditions referred to under subsection (2) shall prevent operators from adopting or maintaining anti-competitive practices such as –

- (a) cross subsidization , predatory pricing and traffic dumping;
- (b) the use of information acquired besides competitors for the purpose of unfair competition;
- (c) measures regarding networks' exploitation which can affect competitors' networks' quality of service; or

(d) abuse of dominant position.

Fair
competition

86. (1) The Authority shall conduct market analysis at least once every three years

(2) After conducting a market analysis under subsection (1) the Authority shall, not later than 31st December of that year publish in the Gazette and its website a list of the following-

- (a) all retail and wholesale electronic communications markets that in the Authority's opinion require prior regulatory control ; and
- (b) licensees deemed to hold a dominant position for each identified electronic communications market.

(3) The Authority shall deem a licensee to hold a dominant position in a given electronic communications market for a given year where in its opinion the licensee acting alone is able to profitably and materially restrain or reduce competition for the communications market.

(4) The Authority shall deem licensees to hold joint dominant position in a given electronic communications market for a given year where, in its opinion, the licensees together are able to adopt a common policy on the market because of factors giving rise to a connection between them and to act independently of their competitors and consumers to a considerable extent for the electronic communications market for the year concerned.

(5) The Authority may by notice published in the Gazette and its website, modify any list published under subsection (2) for the remainder of the calendar year concerned

(6) The Authority shall notify the public through the Gazette and its website about the modification under sub section 5 four weeks before modifying the list

(7) The Authority may by statutory instrument make rules or regulations of the following-

- (a) criteria to be used when determining a dominant position;
- (b) defining communications market; and
- (c) determining whether a licensee holds a dominant position

93. The Authority shall by statutory instrument make rules on the terminal rates to be applied by all licensees when negotiating an interconnection agreement using the long run incremental model or determined on international best practice models

94. Where a licensee goes into administration interconnect liabilities owed to other operators shall receive precedence over other liabilities

PART XVIII - ACCESS

95. (1) An Infrastructure-only based network licensee may install, maintain and operate electronic communications equipment and facilities for the purposes of operating that infrastructure, provided that any permits or licences required from the Authority to install, maintain and prepare such equipment and facilities have been obtained.

Determination of Interconnection terminal rates.

(2) The licensee shall submit to the Authority the list of network elements in the facility as and when demanded by the Authority.

(3) A licensee shall have the right to request and negotiate in good faith any commercial agreement for access or for the purposes of producing communications services to the public.

Interconnect liabilities.

Access agreement.

(a) interconnection location between the two networks;

(b) the interconnection costs;

(c) the interconnection terminal rates referred to under Section 94; and

(d) maintenance fees.

(4) Interconnection costs shall remain cost-oriented and transparent.

(5) The total period of negotiation shall not exceed ninety (90) days.

(6) In the event of a refusal, the interconnection provider shall notify the other party of its decision, and the reasonable and legitimate grounds for the decision.

(7) An electronic communications services licensee shall refuse an interconnection request on the following legitimate grounds—

(a) the interconnection request is unreasonable;

(b) the network or application services licensee would be prejudiced;

(c) the interconnection would cause irreparable damages to the property of the licensee;

(d) the requesting party is engaged in anti-competitive behaviour such as traffic dumping, predatory pricing and other anti-competitive practices or

(e) the Authority thinks granting such interconnection request is inapplicable.

(8) Where an electronic communications service licensee fails to reach an agreement within ninety (90) days, the matter may be referred by either of the licensees to the Authority for examination and determination, which may order the licensees to interconnect their electronic communications networks on such reasonable terms

as it may prescribe.

(9) The refusal of an interconnection request shall be approved by the Authority.

Registration
of
interconnection
agreement.

89. (1) The Authority shall maintain a register of all interconnection agreements entered into between electronic communications services and the Authority;

(2) The register referred to under sub-section (1) shall contain the following—

- (a) the names of the parties;
- (b) a general description of the matter governed by the agreement; and
- (c) the effective date and duration of the agreement.

(3) The terms and conditions of an agreement shall not be indicated in the register

(4) Interconnecting licensees shall submit to the Authority all interconnection agreements for registration within fourteen (14) days after the agreements are signed.

(5) The Authority may request modifications to the terms of the agreement and the final version shall be re-submitted to the Authority for registration.

(6) The Authority shall register an agreement reached under this section within fourteen (14) days after receipt of the agreement.

(7) The Authority may by statutory instrument make rules prescribing any matter considered necessary for inclusion in interconnection agreements.

90. (1) The Authority shall publish a clear and transparent Reference

procedure governing approval of the reference interconnect offer (RIO) of operators possessing significant market power. Interconnect Offer.

(2) Offers referred to under subsection (1) shall be as detailed as possible in order to facilitate smooth interconnection contract negotiations.

(3) The Authority may impose transparency obligations in line with international best practices.

91. The reference interconnection offer approved by the Public Authority shall be made available on the Authority's website reference Interconnection Offer.

92. (1) Where an interconnection negotiation period lapses and no agreement is concluded, or where a dispute arises with the electronic communications service licensees, an aggrieved party may file a petition to the Authority to address the disputes using the dispute resolution mechanism that the affected parties wish to adopt. Dispute on interconnection.

(2) The aggrieved party shall provide the Authority with all relevant documentation concerning the negotiation, relevant issues and draft interconnection agreements and within thirty (30) days from the petition date, the other party shall provide its response and additional documentation, if it deems it necessary.

(3) The parties shall submit any information that the Authority may request.

(4) Based on the information provided or collected, the Authority shall proceed to resolve the issue and pending negotiation within forty (40) days from receiving all the relevant documentation.

(5) Based on the information provided or collected, the Authority shall assist the parties in reaching an agreement within a reasonable period of time upon receiving all the relevant information.

(5) An appeal against the decision of the Authority shall be heard by the High Court

PART XIX CO-LOCATION AND INFRASTRUCTURE

Co-location. **97.** (1) An electronic communications Infrastructure-only network services licensee that intends to install facilities on, over or under public or private land, or to take advantage of such land, shall, upon written request with respect to access, co-location and infrastructure sharing of communications facilities, use its best reasonable endeavours to negotiate in good faith and enter into a co-location or sharing agreement.

(2) An infrastructure-only provider shall co-locate and share communications facilities on a first-come- first-served basis.

(3) The infrastructure-only provider shall share facilities and co-locates with others on principles of impartiality and non-discrimination.

Co-location and Infrastructure sharing request. **98.** (1) Upon request from a qualified licensee the infrastructure-only provider shall use its best reasonable endeavours to provide the requesting party with a co-location or infrastructure sharing offer, providing relevant details and substantial information to facilitate a feasibility study on its network to implement the infrastructure sharing.

(2) The infrastructure-only provider shall provide the requesting party with the information under subsection (1) within ninety (90) days from receiving a relevant request.

(3) An infrastructure-only provider may refuse the co-location or sharing of network facilities on the following legitimate grounds-

(4) When requested in writing by another licensee, every infrastructure-only based electronic communications network services licensee shall negotiate an agreement for the purposes of enabling the provision of communications services to the public.

(5) An electronic communications network services licensee may refuse an access request on the following legitimate grounds-

- (a) the access request being unreasonable;
- (b) the space available is insufficient to implement such access with respect to existing and planned installations in its strategy and business plan;
- (c) the electronic communications network services licensee would be prejudiced;
- (d) the access would cause irreparable damage to the property of the licensee; or
- (e) the electronic communications network services licensee is unable to agree to commercially satisfactory agreement with another licensee

(6) Any refusal of an access request shall be reported to the Authority.

(7) Where the parties fail to reach an agreement, either party may refer the matter to the Authority for mediation and determination within a reasonable period not exceeding 90 days

(8) The Authority may assist the parties in reaching a mutually acceptable agreement to allow access to its electronic communications networks on default terms and conditions as prescribed by the Authority from time to time.

(9) Any electronic communications network service licensee that has been deemed to hold a dominant position in a given electronic communications market for the year in question, shall offer access to requesting licensees, for the purposes of enabling the provision of communications services to the public.

(10) Any electronic communications network service licensee shall, for the purposes of enabling the provision of communications services to the public, offer access to requesting licensees-

- (a) on reasonable and non-discriminatory terms and conditions, in particular in respect of price;
- (b) of the same technical quality as the technical quality provided on its own electronic communications network or, as the case may be, for its own communications services.

(11) An access agreement between parties shall not be implemented unless filed with the Authority.

(12) The Authority may, from time to time, issue guidelines on any matter considered necessary for inclusion in access agreements.

(13) The Authority shall maintain a register of all access agreements, which shall contain-

- (a) the names of the parties to the agreement;
- (b) general description of the matter governed by the agreement ; and
- (c) the date of the agreement.

(14) The register referred to under subsection (13) shall –

- (a) not indicate the terms and conditions of any agreement;
- (b) be open to public inspection, subject to such procedures and fees as may be prescribed by the Authority.

(15) Any information obtained by either party to an access agreement as a result of negotiations, and which was previously unknown to the party obtaining it and not publicly available when obtained, may only be used for the purposes for which it was supplied for as long as the information remains publicly unavailable.

96. (1) In the event–

Dispute on access.

- (a) the access negotiation period exceeds sixty (60) days and no agreement is concluded;

- (b) dispute arises between the parties-

any party may make a request to the Authority to mediate the dispute using the dispute resolution mechanisms that the affected parties are willing to adopt.

(2) The petitioner shall provide the Authority with all relevant information concerning the negotiation, issues, and draft agreements.

(3) Within thirty (30) days from the date of the petition, the other party shall provide its response and any additional information it deems necessary.

(4) The Authority may request additional information from any of the parties, who shall submit such information to the Authority within seven (7) days from the request.

(2) The Authority shall impose changes on the reference offer for unbundled access to the local loop and related facilities, including price, where such changes are justified.

(3) The Authority may, where justified, intervene at its own initiative in order to ensure non-discrimination, fair competition, economic efficiency and maximum benefit for customers.

PART XX - OBLIGATION OF DOMINANT MARKET PLAYER

Obligation of
Dominant
Market
player.

103. (1) The Authority may impose obligations on any licensee found to be a dominant market player in accordance with section 87 and is engaging in any behaviour that the Authority reasonably deems to be anti-competitive.

(2) A dominant market player shall –

- (a) publicly make available information regarding interconnection , access and infrastructure sharing;
- (b) submit to the Authority its technical and price offers relating to interconnection , access and infrastructure sharing;
- (c) modify its offers to comply with this Act;
- (d) have a separate account for interconnection, access and infrastructure sharing costs , fees and any other business activities sufficiently detailed to allow the Authority to identify all the elements of revenue and costs, together with the basis for their calculation;
- (e) comply with any other obligation determined by the Authority.

- (a) the request of co-location or infrastructure sharing is unreasonable;
- (b) the space available is insufficient to implement such access with respect to existing and planned installations in its strategy and business plan;
- (c) the market strategy of the infrastructure provider would be prejudiced;
- (d) the infrastructure sharing would challenge the capacity provided through the infrastructure, leading to harmful interferences;
- (e) the infrastructure sharing would cause irreparable damage to the property or the interoperability of the infrastructure;
- (f) the infrastructure has been in operation for less than 3 (three) years.

(4) A refusal under subsection (3) shall be made in writing and shall state the reasons for the refusal.

99. (1) The co-location and infrastructure sharing agreement shall set out the contractual obligations and conditions agreed by the parties and shall be submitted to the Authority for registration. Co-location and infrastructure agreement.

(2) The agreement referred to in subsection (1) shall be in writing and shall include the following-

- (a) the scope and specification of the facilities to be provided;
- (b) the service level and maintenance facilities;
- (c) the charges for the facilities;

- (d) the technical specifications;
- (e) the financial conditions of payment;
- (f) the provision of co-location for facilities;
- (g) the duration, re-negotiation and review of the agreement;
- (h) disputes resolutions procedures; and
- (i) any other condition deemed necessary.

(3) The infrastructure-only provider shall treat any party requesting co-location or infrastructure sharing on a non-discriminatory basis, and with no less favourable conditions than the offer provided to similar infrastructure acquirers.

Dispute on access.

100. (1) In the event—

- (a) the co-location and infrastructure sharing negotiation period exceeds a reasonable period of time not exceeding 90 days and no agreement is concluded; or
- (b) a dispute arises between the parties

either of the parties may request the Authority to assist in the resolution of the dispute using the dispute resolution mechanisms that the affected parties are willing to adopt.

(2) The petitioner shall provide the Authority with all relevant documentation concerning the negotiation, issues, and drafts of the agreements.

(3) Within thirty (30) days from the date of the petition, the other party shall provide its response and any additional information it deems necessary.

(4) The Authority may request for additional information from any of the parties, who shall submit the information to the Authority within fourteen (14) days from receipt of the request

(5) Based on the information provided or collected, the Authority shall arbitrate the issue within forty (40) days from receiving all relevant information.

101. (1) Electronic communications infrastructure-only network services licensees shall publish and keep updated a reference offer for unbundled access to their local loops and related facilities. Unbundled access to local loop.

(2) The offer referred to in subsection (1) shall be sufficiently unbundled so that the beneficiary shall not have to pay for the network elements of facilities that are not necessary for the supply of its services, and shall contain a description of the components of the offer, associated terms and conditions, including charges.

(3) Electronic communications network services licensees shall endeavour to meet reasonable requests from other licensees to access their local loops and related facilities on transparent, fair and non-discriminatory conditions.

(4) Requests shall be refused on the basis of objective criteria, relating to technical feasibility, commercial feasibility or the need to maintain network integrity.

(5) Where access is refused, the aggrieved party may submit the case to the dispute resolution procedure referred to in section 101.

(6) Electronic communications network services licensees shall charge prices for unbundled access to the local loop and related facilities set on the basis of cost-orientation.

102. (1) The Authority shall ensure that charging for unbundled access to the local loop fosters fair and sustainable competition. Supervision by the Authority.

Access to facility.

109. (1) The Authority shall by a written request require a person in control of access to an essential facility to prepare and disclose the pertinent information regarding the operations, and the terms and conditions regarding any aspect of its operations which are duly licensed by the Authority.

(2) The Authority shall direct any person in control of access to an essential facility to submit the pertinent information referred to under subsection (1) within fourteen (14) days after receipt of the request from the Authority.

Dispute regarding access to facility.

110. Where a dispute arises regarding any obligation stipulated under this Part either of the parties may request the Authority to address the dispute.

Protection of

111. (1) No individual or licensee shall willfully or otherwise

communication infrastructure.

damage, destroy, impair or remove any communications facility or installation from its position without authorisation from the Authority

(2) Any individual or licensee that contravenes this section commits an offence and shall be liable on conviction to a fine to be determined by the Authority which shall exceed the value of the damaged installation or equipment

(3) The Authority shall by statutory instrument, after consultation with the Minister make regulations to give effect to this section

PARTXXII-ROAMING

National roaming .

112. (1) The Authority shall encourage operators to offer national roaming to new entrant, at commercially agreed rates for voice only service, whenever it is technically possible to do so.

(2) National roaming shall not replace the coverage obligations undertaken in the framework of mobile service licensing by new entrants

104. (1) If it appears to the Authority that a licensee is—

Competition rules.

- (a) taking or intends to take any action that may constitute abuse of a dominant position in relation to the provision of any communications service; or
- (b) unfairly placing another licensee engaged in communication activities at a competitive disadvantage in relation to that licensee

the Authority may order the licensee to cease or refrain from taking or continuing the action.

(2) Prior to making the order under subsection (1) the Authority shall give the licensee engaged in unfair competition activities an opportunity to make representations,

PART XXI-ESSENTIAL FACILITIES

105. (1) Fundamental characteristics of an essential facility shall be as follows-

Essential facility.

- (a) operators shall have access as it is essential for providing electronic communications services; or
- (b) it shall not be possible for new entrants to replicate.

106. (1) The following shall constitute a list of essential

Open access

facilities-

to Essential Facilities.

- (a) cable landing station;
- (b) earth station ;
- (c) international gateway;

- (d) terrestrial fibre optic cables;
- (e) main distribution frame;
- (f) undersea based fibre optic cables
- (g) public telecommunications towers

(2) The essential facility operator shall grant access on objective, transparent, non-discriminatory and efficient terms.

(3) Access to the essential facilities shall be set on the basis of cost-orientation plus, and subject to additional terms and conditions defined under regulations.

(4) Any refusal to grant access without providing justifiable reasons shall not be approved by the Authority.

(5) Refusal by an essential facility operator to grant access on transparent, objective, non-discriminatory and economically efficient terms where there is spare capacity shall be an abuse, unless the operator can demonstrate technical justification or provide that it prejudices its interests.

(6) Refusing to reserve capacity to potential new entrants without evidence that the capacity is required shall not be deemed to be an abuse.

General **107.** A person in control of access to an essential facility shall

conditions for —
essential
facility

- (a) provide fair and non-discriminatory access on terms that are transparent, objective and economically efficient;
- (b) negotiate in good faith any matter relating to access with a person who makes a written request;

- (c) not withdraw or impair the nature of access if the access has been granted;

- (d) apply the same conditions in similar circumstances to any person who requests access on the same conditions and the same quality it provides to itself, its subsidiaries, related parties or persons possessing financial interest

108. (1) An entity or person wishing to access an essential facility shall submit a letter requesting access to the person in control of access to the essential facility. Request to access Essential facility.

(2) An entity or person who submits a letter requesting access under subsection (1) shall at the same time of submitting the letter to the person in control of the essential facility submit a copy of the letter requesting access to the Authority.

(3) A person in control of access to an essential facility shall respond to a letter requesting access within ten (10) working days of receipt of the letter.

(4) The response referred to under subsection (3) shall stipulate the following—

- (a) the commencement date for access to the essential facility;
- (b) the terms and conditions of access;
- (c) associated facilities; and
- (d) any other related matter.

(5) The person in control of access to an essential facility shall submit a copy of the response letter to the Authority at the same time it submits the letter to the applicant.

PART XXIV -TARIFF

Tariff.

116. (1) The Authority shall set and regulate the tariffs payable for telecommunications services rendered by public telecommunications operators.

(2) A public telecommunications operator shall not offer services unless he submits a written proposal to the Authority stating the tariffs payable.

(3) The prices shall-

- (a) be transparent, based on objective criteria, and non-discriminatory;
- (b) guarantee equal treatment;
- (c) not contain discounts that unreasonably prejudice the competitive opportunities of other licensees providing applications services to the public;
- (d) be sufficiently clear to enable end-users to determine the description of the service, the details relating to the nature of the services and the applicable fees; and
- (e) be in accordance with any floor price that may be set by the Authority.

(4) The authority-

- (a) shall regulate national and international voice and data traffic, as well as short messaging service counts;
- (b) together with the bank of Sierra Leone may regulate communications value-added services including non-bank-led money services initiated and terminated on communications platforms and may prescribe in applicable instrument such as guidelines, levies or charges as may be determined from time to time

Authority to
Approve a
Tariff.

117. (1) The tariff proposals submitted to the Authority under subsection (2) of section 116 shall become effective 30 days after submission to the Authority unless the Authority issues notice of modification to the operator.

(3) The Authority shall ensure that the national roaming contract is freely negotiated between operators on a bilateral basis, and the operators provide consumers with relevant information about national roaming tariffs.

(4) The Authority shall ensure that national roaming offers are fair and non-discriminatory.

(5) The Authority shall publish specific national roaming guidelines to help establish tariff and technical conditions and provide information on national roaming contracts, in consultation with the market players.

113. The Authority shall-

International
roaming.

- (a) ensure that existing operators offer international roaming services at an affordable price, based on the ECOWAS Regional Roaming Regulations;
- (b) ensure the widest possible compatibility between mobile systems in terms of roaming, and shall take into consideration when awarding mobile licences in the region;
- (c) study roaming prices charged in the region;
- (d) consult with the players concerned with a view to arriving at reasonable tariffs to allow the greatest possible number of roaming users in the region to utilise the networks under the best price and quality conditions;
- (e) identify operators engaged in applying prohibitive prices;
- (f) consult with the national competition authority, if any;

- (g) allow prepaid subscribers to use roaming at reasonable tariffs;
- (h) ensure consumers are informed about roaming charges in a clear, detailed and transparent manner; and
- (i) draw the necessary conclusions from international best practice.

Dispute on
roaming.

114. (1) In the event -

- (a) the roaming negotiation period exceeds two months and no agreement is concluded; or
- (b) a dispute arises between the parties

either of the parties may request the Authority to address the dispute

(2) The petitioner shall submit to the Authority all relevant documents concerning the negotiation, issues, and drafts of agreements.

(3) Within twenty-one (21) days from the date of the petition, the other party shall provide its response and any additional information it deems necessary.

(4) The Authority may request for additional information from any of the parties, who shall submit the information to the Authority within seven (7) days of receipt of the request.

(5) Based on the information provided, the Authority shall arbitrate the issue within forty (40) days on receipt of all relevant information.

(6) The Authority may-

- (a) impose appropriate conditions on the implementation of the terms and conditions of the roaming agreement;
- (b) inspect whether the requirements and offer meet the legal requirements;
- (c) oblige the parties to agree on an arrangement and enter into the roaming agreement.

PART XXIII-EASEMENT

115. (1) A facility services licensee may for the purposes of enabling the provision of any communications service to the public shall subject to this Act and any other relevant law enter upon any public or private land to-

Access to
private land.

- (a) survey the land or any portion of it;
- (b) construct, erect, place, maintain, examine, alter or remove any line, pole or radio link installation;

(2) The facility services licensee shall apply to the relevant Authorities with jurisdiction over the private and public land or property to request that the Authority order the proposed entry or undertake the proposed acquisition under the applicable land laws.

(3) Payment for the use of land in the provinces shall cover all rates including property rates and other financial obligations imposed for the use of the land which shall be as follows-

- (a) 70% to the land owners;
- (b) 10% to the local council;
- (c) 20% to the Paramount Chiefs as custodians of the Land

- (b) prescribing fees for the use of the radio frequency spectrum;
- (c) governing harmful interference with other frequency spectrum users; and
- (d) developing and managing the national frequency allocation plan.

Spectrum
Committee.

124. (1) The Minister shall establish a committee to be known as the National Spectrum Committee.

(2) The National Spectrum Committee shall comprise the following members-

- (a) the Director General of the Authority who shall be the Chairman;
- (b) a representative from the Board of the Authority;
- (c) a representative from the Ministry responsible for aviation ;
- (d) a representative from the Ministry responsible for defence;
- (e) a representative from the Independent Media Commission; and
- (f) a representative from the Ministry responsible for Information and Communications.
- (g) director responsible for engineering and infrastructure at the Authority, who shall be Secretary to the Committee.

(3) The National Spectrum Committee shall be responsible for-

(2) The tariff proposals shall contain all relevant information concerning the costing for the rates or services, including deposits and other non-recurring charges, monthly charges and terms and conditions applicable to the provision of services including rights and remedies available to consumers in the event of unauthorised charges or other disputes or claims over billing or provision of services.

(3) Notice of the submission shall be published by the Authority in the Gazette and its website inviting consumers to comment on the reasonableness or otherwise of the tariffs.

(4) If, after thirty (30) days, the Authority has not issued a notice of modification to the operator, the Authority shall be deemed to have approved the proposals and shall publish them in the Gazette and its website as the tariffs chargeable by the operator.

(5) Where the Authority and the operator fail to reach an agreement on the proposed tariff and any modification proposed by the Authority the operator may appeal to a tribunal of three (3) persons appointed by the Chief Justice.

(6) The tribunal referred to under subsection (5) shall comprise.

- (a) a Judge of the High Court or any person qualified to be appointed as a Judge of the High Court who shall be the chairman of the tribunal;
- (b) an accountant; and
- (c) a telecommunications engineer

(7) The tribunal shall make its decision within thirty (30) days of the lodgment of the appeal.

(8) Any operator who fails to lodge an appeal within thirty (30) days after the date of the disagreement referred to under subsection (5) shall be deemed to have abandoned his tariff proposal and accepted modification proposed by the Authority and the Authority shall publish the modified tariff as the approved tariff.

(9) All tariff proposals approved under this Act shall become effective from the date of the approval.

(10) Every public telecommunications operator shall make the tariffs approved under this section available to the public.

Review of
tariffs and
charges.

118. (1) The Authority shall review the tariffs for public telecommunications services if such review is warranted by any rapid changes in the cost of living index and foreign exchange rates

(2) In reviewing the tariffs, the Authority shall take all relevant factors into consideration including-

- (a) a reasonable return on capital and accumulation of adequate reserves for expansion and up-gradation of services;
- (b) optimization of usage and growth of network;
- (c) usage by, value to, and capacity to pay off different classes of customers;
- (d) the need for cross-subsidization such as between different parts of the network, between urban and rural and between business and residential customers;
- (e) consumer price index and rate of foreign exchange; and
- (f) views of the public telecommunications operators and a cross section of customers.

119. (1) Every public Telecommunications Operator shall keep accurate records of all relevant information contained in the tariff proposals submitted under sub section (2) of section 117.

Accurate
records
relating
tariffs to be
kept.

(2) An operator shall not charge for services anything higher than the approved tariffs nor proposed for approval tariffs that are below the true cost of such services as determined in accordance with the accepted accounting guidelines or principles established for the industry.

PART XXV - COMPLIANCE

120. The Authority may on its own motion or following a complaint made by any party Investigate the tariffs set up by a licensee for the purposes of ensuring compliance.

Investigation
by the
Authority.

121. A person who contravenes any provision of this Act related to the tariff regulation commits an offence and is liable to a fine equivalent to the applicable license fees.

Offences
relating to a
tariff.

PART XXVI-MANAGEMENT OF RADIO FREQUENCY SPECTRUM, GEOSTATIONARY ORBIT AND RADIO TRANSMISSION

122. (1) The Authority shall manage the spectrum in an economically efficient manner.

Principle of
efficient
Spectrum
management.

(2) The Authority shall ensure that all class of users are encouraged to make optimum use of the spectrum they occupy.

123. (1) The Authority shall manage the frequency spectrum through the allocation and assignment of use of frequencies.

Powers of the
Authority on
Spectrum
Management.

(2) The Authority shall by statutory instrument make regulations and rules subject to applicable international treaties and agreements-

- (a) governing the allocation, assignment and use of frequencies;

strength of emissions from each station and from the equipment in it.

(13) Where applicable, any frequency spectrum assignment issued under this section shall be issued at the same time as any associated communications licence.

(14) A licensee shall not transfer any frequency.

(15) The Authority may reserve certain bands of radio-frequencies for exclusive use by the public for various communications and other non-business appliances of a purely private nature, working with a short range not exceeding 458 metres between terminal yards, without the need for a specific assignment.

(16) Spectrum frequency assignment for Government shall be exempted from the auction process.

(17) Assignment under subsection (16) shall be made by the Authority

127. The duration of an assignment shall be provided for under

Duration of
an
assignment.

the specific terms and conditions of the frequency spectrum assignment.

Assignment
fees.

128. (1) The Authority shall issue rules determining the applicable-

- (a) initial fees payable for filing individual assignment application forms; and
- (b) annual assignment fees.

(2) The assignment fees shall reflect the actual administrative costs involved for the Authority and shall be reviewed by the Authority from time to time.

129. The Authority shall renew a frequency spectrum

- (a) setting strategic direction for spectrum policy nationally and internationally;
- (b) overseeing the civil and defence spectrum and ensuring the optimal use of the radio spectrum in collaboration with the Authority;
- (c) making appropriate recommendations to the Authority or the Minister of Defence, as the case may be, on the issue of the defence spectrum respectively; and
- (d) deciding on the position that Sierra Leone takes in conferences related to international spectrum.

(4) The National Spectrum Committee shall in collaboration with the Authority determine and manage spectrum auction processes before an assignment is made.

125. (1) The Authority shall develop a national frequency National allocation plan which shall-

frequency
allocation
plan.

- (a) be divided into a number of frequency bands that the Authority deems appropriate for the purpose of regulating communications under this Act;
- (b) designate one or more bands to be used primarily by the Government for national security matters;
- (c) specify the general purpose for which any other band may be used;
- (d) include such other matters as the Authority deems necessary in order to give full effect to the national frequency allocation plan.

(2) The Authority may, with prior consultation with assignees, revise, amend, suspend or revoke the national frequency allocation plan, and shall issue a public notice to that effect.

Assignment.

126. (1) The Authority may designate the bands of the frequency spectrum to be used under a frequency spectrum assignment and the bands of frequency spectrum to be used without a frequency spectrum assignment.

(2) An entity shall not undertake activities requiring a frequency spectrum assignment without the appropriate assignment from the National Spectrum Committee in collaboration with the Authority, in the prescribed manner and form, and upon payment of the prescribed fee.

(3) All frequency spectrum shall be assigned following an auction process.

(4) A frequency shall be assigned individually by the National Spectrum Committee in collaboration with the Authority –

- (a) in accordance with the national frequency allocation plan;
- (b) in a transparent and non-discriminatory manner.

(5) Any person intending to undertake activities covered by a frequency spectrum assignment shall prior to undertaking such activities, apply to the Authority for such assignment.

(6) A frequency band shall be subject to a restricted granting auction process developed by the National Spectrum Committee in collaboration with the Authority

(7) The National Spectrum Committee in collaboration with the Authority shall allocate the frequency band in accordance with the restricted auction process referred to under sub-section (6)

(8) The National Spectrum Committee shall apply the principles of transparency, objectivity and impartiality during the assignment process.

(9) The National Spectrum Committee in collaboration with the Authority shall issue rules defining the standard assignment conditions of a frequency spectrum assignment

(10) The National Spectrum Committee in collaboration with the Authority shall determine and impose reasonable terms and conditions for any frequency spectrum assignment.

(11) When assigning frequencies, the National Spectrum Committee in collaboration with the Authority shall take into account-

- (a) the availability of frequencies;
- (b) the fair distribution of the available frequencies;
- (c) the technical characteristics of the equipment involved ;and
- (d) its capacity to interconnect with other communications equipment and networks

(12) The Authority shall in the public interest, have the power to-

- (a) classify radio stations; and
- (b) designate standards of equipment to be used with respect to the external sharpness or

- (b) seal the premises;
- (c) seize the equipment being used for illegal purposes; or
- (d) make any other order it deems necessary.

(4) The Authority may authorise, in writing, any other entity to carry out on its behalf the functions set out under subsection (1) or (2) of this section, provided that the conditions stipulated under subsections (1) and (2) are complied with.

(5) Nothing in this section shall give any entity a right to enter into a private residence for the purpose of inspecting apparatus or equipment not designed or adapted for the emission of frequencies.

Failure to
obtain
assignment.

133. (1) A person or entity that uses one or more frequencies

without having first obtained any relevant individual assignment, commits an offence and is liable on conviction to a fine not less than twenty-five million Leones and to a term of imprisonment not less than two (2) years or to both the fine and imprisonment.

(2) Anyone who uses frequencies without obtaining a relevant individual frequency spectrum assignment commits an offence and is liable on conviction to a fine not less than twenty-five million Leones and to a term of imprisonment not less than two (2) years.

(3) Notwithstanding subsections (1) and (2) a person who contravenes or fails to comply with the conditions imposed under an assignment granted under this Act in relation to the use of frequencies shall have the assignment revoked.

Radio
transmitters.

134. (1) No person or entity shall possess, establish or operate a radio transmitter, including a radio transceiver unless that person or entity has an individual specific assignment issued by the Authority.

assignment, if the assignee-

Assignment
Renewal.

- (a) continues to meet the eligibility requirements set out for communications licence applicants;
- (b) in the Authority's opinion, continues to be financially and technically capable of meeting its statutory and regulatory obligations, as well as the obligations to be set out in the assignment concerned; or
- (c) has not, during the current term of the assignment, committed a material breach of its provisions.

130. (1) The Authority may subject to this Act or any relevant law-

Modification
Suspension

- (a) amend the terms and conditions of a frequency spectrum assignment; and withdrawal.
- (b) suspend a frequency spectrum assignment; or
- (c) withdraw a frequency spectrum assignment.

(2) The Authority may exercise the powers conferred on it by subsection (1) where the holder of an assignment-

- (a) fails to make proper and efficient use of frequencies assigned to it; or
- (b) has failed to comply with the provisions of this Act or regulation or rules made under this Act, or the terms and conditions of its assignment.

(3) Before modifying, suspending or withdrawing any frequency spectrum assignment under this section, the Authority shall notify the assignee concerned in writing

- (a) stating that it proposes to act in the manner as specified in the notice and, as regards paragraph
- (b) of subsection (2) setting out any compensation payable for any damage caused thereby;
- (b) specifying the time, being not less than six (6) months from the date of serving notice on the assignee, within which written representations in respect of the proposed actions may be made.

(4) Upon receipt of any representation referred to under subsection (3), the Authority shall give due and proper consideration to the representation and may -:

- (a) reject the representation;
- (b) amend the proposed actions or compensation payable in accordance with the representation or otherwise;
- (c) issue a written direction to the assignee requiring that, within a time that the Authority may specify, the proposed actions specified in the notice be brought into effect, or to carry out such actions as subsequently amended by the Authority.

Frequency coordination.

131. (1) Frequency spectrum assignees shall in good faith co-ordinate their respective frequency usage with other assignees in order to:-

- (a) avoid harmful interference among frequency spectrum assignees;
- (b) ensure efficient use of any applicable frequency band;
- (c) allow the provision of cost-efficient services.

(2) Where frequency spectrum assignees are unable or unwilling to co-ordinate in good faith as stipulated under subsection (1), the Authority shall intervene and resolve the dispute.

(3) The Authority shall issue rules governing the co-ordination referred to under subsection (1), which may include a process for the resolution of disputes among frequency spectrum assignees on an expedited basis.

132. (1) The Authority may require anyone who it has reasonable cause to believe is an entity required to hold a frequency spectrum assignment under this Act to produce the assignment. Enforcement.

(2) Where the Authority is authorised by a warrant issued by a magistrate court, an authorised officer accompanied by a police officer, may, at any reasonable time, enter premises that are owned or occupied by an entity that the Authority has reasonable cause to believe is-

- (a) using frequencies in contravention of this Act;
- (b) causing harmful interference with other communications.

(3) Where an authorised officer has entered or searched the premises and has reasonable cause to believe that an offence under this Act has been committed, or is about to be committed, the Authority may-

- (a) suspend the operation of the illegal activity;

- i. the services and applications that use the numbering capacity;
 - ii. technical network elements and their relationship;
 - iii. routing principles to be implemented;
 - iv. future numbering capacity needs;
 - v. charging principles if the applicant considers it useful;
 - vi. principles that the applicant intends to follow in allocating the routing capacity obtained for end-users
- (c) the applicant shall demonstrate that it has no
- viable technical or commercial alternative to operate its services and applications without the requested number capacity;
- (d) changes overtime for the information relating to paragraph (b) of subsection (2);
- (e) the applicant shall demonstrate that it has complied with this Act

(3) The applicant shall be evaluated by the Authority on the basis of the following criteria-

- (a) sound management of numbering capacity;
- (b) the need for sufficient numbering capacity to meet future needs;
- (c) the work needed to achieve optimum compatibility between the numbering plans of different applicants;

(2) The Authority shall issue the assignment based on conditions and in consideration of any payment it deems fit except that-

- (a) very low power transmitters, including transceivers (up to a range of 458 metres), operating in the frequency band reserved for use by the public and meant for purely private communications, pleasure or non-business appliances shall not require an assignment;
- (b) radio transceivers forming part of customer terminals operating in conjunction with a subscription to a public radio telecommunications networked and operated by an operator under a licence under this Act, shall not require a separate assignment.

135. (1) Notwithstanding any provision of this Act to the contrary, a diplomatic mission in Sierra Leone which intends to operate a radio communications station may apply to the Authority through the ministry responsible for foreign affairs for the required facilities referred to in subsection (2). Diplomatic mission.

(2) The facilities referred to under subsection (1) shall be granted by the Authority on the following conditions-

- (a) the government of the diplomatic mission concerned provides reciprocal facilities to the Government of Sierra Leone where required; and
- (b) the power output of the transmitter is not higher than necessary for transmitting to the State to which the diplomatic mission belongs, and is in any case not more than 5 kilowatts.

(3) Subject to subsections (1) and (2), a station installed by a diplomatic mission shall operate in accordance with the appropriate rules of the International Telecommunications Union.

(4) The diplomatic mission shall communicate to the Authority through the ministry responsible for foreign affairs the date for the installation of the equipment.

(5) An inspection of any station installed by a diplomatic mission in Sierra Leone shall be carried out by the Authority subject to a reciprocal arrangement between the Government of Sierra Leone and the diplomatic mission concerned.

PART XXVII - MANAGEMENT OF NUMBERING RESOURCES

Regulating electronic communication.

136. The Authority shall regulate all electronic communications numbering and ensure efficient use by-

- (a) developing a national numbering plan, allocating numbers, and monitoring compliance; and
- (b) maintaining a national electronic communications numbering register for all assigned numbers.

National numbering plan.

137. (1) The Authority shall develop a national numbering plan for the efficient use and assignment of numbers.

(2) The national numbering plan shall consist of a scheme of identification to ensure that electronic communications are correctly and efficiently directed to the point of reception for which they are intended.

(3) The Authority shall maintain and manage a record of the status of all number ranges, codes and blocks of numbers comprising the national numbering plan in a central data numbering database system.

(4) The Authority may revise, vary or revoke the national numbering plan, and shall issue a public notice to that effect.

138. The numbers and blocks of numbers shall be assigned following reservation by the Authority for a limited duration of time, corresponding to the operational lifetime of the service or application. Assignment of numbers.

139. (1) The Authority shall examine all applications to reserve numbering capacities that meet the following conditions- Reservation.

- (a) the application shall be addressed to the Authority in written form, signed by, or on behalf of, the applicant wishing to operate the numbering capacity;
- (b) the applicant shall be a natural person or legal entity, and shall provide details of positions and credentials;
- (c) the application shall indicate the name and complete address of the applicant, along with a business address in Sierra Leone;
- (d) fees to cover the costs for processing the application shall be paid in advance;
- (e) the application shall contain all the information specified under subsection (2)

(2) To allow the Authority to process the application in accordance with the criteria set out under subsection (1), the applicant shall provide, free of charge, the following information, which shall be considered as confidential-

- (a) a clear list of the type and amount of numbering capacity desired;
- (b) a detailed description of-

(6) The restricted granting procedure referred to under subsection (5) shall be based, as far as possible, on an objective criteria.

(7) The Authority shall inform the applicant of the objective criteria before the start of the restricted granting procedure.

(8) The Authority may include standard assignment conditions for any assignments of numbers.

(9) In respect of any assignment of numbers, the Authority may determine and impose reasonable terms and conditions including, without limitation, as regards the area for which the assignment is valid.

(10) Where applicable, the Authority may make an assignment at the same time as any associated communications licence.

Conditions
for assigning
numbering
capacity.

144. (1) The Authority shall assign numbering capacity if during the reservation period numbering capacity is put into service for the declared purpose.

(2) The date on which numbering capacity is put into service shall be communicated to the Authority at least fourteen (14) days in advance.

(3) The assignment of numbering capacity shall remain valid if the following conditions are met-

- (a) the assigned numbering capacity is used exclusively for the purposes indicated in the initial application;
- (b) sub-assignment to end-users is controlled by the original applicant;
- (c) annual fees are paid;

(d) existing reservations;

(e) the potential for satisfying developments in the ECOWAS zone and internationally;

(f) the potential for satisfying the relevant international agreements, recommendations and standards;

(g) technical limitations and concrete implementation;

(h) the impact on the numbering plans of other applicants;

(i) fees, if any;

(j) routing questions;

(k) issues relating to tariffing principles;

(l) geographical issues;

(m) possible alternatives;

(n) end-user interests, including ease of use;

(o) specified needs of emergency services;

(p) commercial impact.

(4) The numbering capacity shall be reserved when the Authority approves an application.

(5) The numbering capacity shall be assigned to the initial applicant, and for the purposes specified in the application.

(6) The date on which the application becomes official shall be considered as the date of reservation.

numbering
capacity.

140. (1) Where two or more applicants request the same numbering capacity, the first to file a valid application shall have priority.

(2) Where more than one valid application is filed on a given day for the same numbering capacity, the Authority shall carry out mediation to allocate primary rights, secondary rights, and tertiary rights.

Renewal
reservation.

141. (1) A reservation may be renewed each year by submitting a valid new application at least one (1) month before the existing reservation expires.

(2) When the extension is accepted the original reservation date shall be maintained as the official reservation date.

Decision of
Authority on
reservation.

142. (1) The Authority shall notify a reservation applicant of its decision not later than two months after receiving the application.

(2) The two months deadline referred to under subsection (1) shall be extended by the length of time that the applicant needs to modify the application.

(3) The extension referred to under subsection (2) shall not exceed one month.

(4) If the applicant does not modify his application within the additional one month referred to under subsection (3) the Authority shall annul the application.

(5) Where the Authority considers that the application is incomplete, or wishes to have additional information or explanations, it shall inform the applicant to complete the application process or provide the additional information.

(6) Where the Authority refuses to grant a reservation, it shall provide reasons for the refusal.

(7) Where an application is refused the applicant shall not be entitled to any reimbursement.

143. (1) The Authority shall under objective, transparent and non-discriminatory conditions, assign prefixes and numbers or number blocks to an operator who has submitted his application and has paid the required fee to cover the cost of managing the numbering plan and controlling its utilization.

(2) The Authority shall assign assigned numbers individually-

(a) in accordance with the national numbering plan;

(b) in a transparent and non-discriminatory manner.

(3) Any person intending to undertake activities covered by an assignment shall apply for the assignment prior to undertaking such activities.

(4) The Authority shall issue assignments to a person or entity that fulfils the eligibility requirements under this Act, and who, in the Authority's opinion, is financially and technically capable of meeting its legislative and regulatory obligations and the obligations to be set out in the individual assignment concerned.

(5) Where the Authority considers that a number or block of numbers should be subject to a restricted granting procedure, the Authority shall not assign that number or block of numbers, except in accordance with a restricted granting procedure to be set out by the Authority,

(6) A resource for which revocation or withdrawal has been pronounced shall become free but it may not be reassigned until the expiration of one month unless it is requested by the former assignment holder.

(7) Where the resource is withdrawn for reason of unsatisfactory utilisation, pursuant to subsection (6), the resource may not be assigned again until at least the expiration of one month, regardless of the applicant.

PART XXVIII-STANDARD OF ELECTRONIC COMMUNICATION EQUIPMENT

Technical and Performance

standards.

149. (1) The Authority shall establish and publish technical and performance standards relating to electronic communications

equipment appliances and devices in regard to the manufacture, import, sale, shipment and use of such equipment, appliances or devices to be used for connection to an electronic communications network in Sierra Leone.

(2) In establishing the standards, the Authority shall

- (a) where appropriate, seek submissions from other interested parties, in particular those entities likely to be most affected by the publication of such standards; and
- (b) take due account of any relevant standards prescribed by international organisations of which Sierra Leone is a member.

(3) The Authority shall by statutory instrument make rules relating to technical standards for equipment connected to an electronic communications network.

Approval of equipment connected to network.

150. (1) Subject to subsection (2) a licensee shall not use any equipment for connection to any electronic communications network unless the Authority approves the type of equipment.

(d) the applicant maintains statistics on the percentage of assigned capacity that is being used, and periodically provides them to the Authority in accordance with rules which it has established.

(4) Applications for numbering capacity for six (6) months or less may be treated as having lower priority, and may not be extended.

(5) Numbers assigned numbers on a long-term basis, may be changed or withdrawn for operational reasons.

145. (1) The Authority shall determine the level of processing fees charged for the reservation of numbering capacity, depending and

on the type of numbering requested.

Reservation and assignment fees.

(2) Fees shall be determined in a transparent and non-discriminatory manner, according to objective and published criteria.

(3) The Authority shall determine the annual fees for the assignment of numbering capacity, depending on the type of numbering requested.

(4) Fees shall be determined in a transparent and non-discriminatory manner, in accordance with objective and published criteria.

(5) Where the numbering capacity is assigned in portions, the annual fee shall be reduced proportionately.

(6) The Authority shall set a deadline for the payment of the fees referred to under subsection (3) in the year for which they are due.

(7) For the year in which the numbering capacity is assigned, fees shall be reduced proportionally to the number of complete months that remain in the calendar year on the date the

assignment is made, and the fees shall be paid within fourteen (14) days of that date.

(8) The Authority shall fix the penalty charged for overdue fees.

(9) The level of penalty shall be calculated on the basis of the number of days by which payment is overdue.

(10) The withdrawal of numbering capacity that was previously reserved or assigned shall not entail any entitlement to any indemnity or reimbursement of some or all of the fees referred to under this Act.

Delegation to outside operators. **146.** (1) The holder of a numbering resource may entrust an outside operator with the distribution of that resource to the final consumers.

(2) A distinction shall be made between the operator holding the assignment for the resource and the delegated outside operator who distributes the resource to final consumers.

(3) An outside operator shall be involved if the following conditions are met-

- (a) the delegated operator shall have declared to the Authority the activity that is necessary for the operation of the resource in question; and
- (b) the operator holding the assignment shall have notified the Authority in writing, about the resource or resources to be put at the disposal of the delegated operator, along with a description of the service that is to be provided via the resource or resources.

(4) The notification referred to under paragraph (b) of subsection (3) shall have been made before any legal provisions on delegation come into force between the operator holding the assignment and the delegated operator

(5) In the case of resources assigned by block, delegation may involve the entire resource or an entire portion.

(6) The operator holding the assignment shall remain responsible for compliance with all obligations associated with the assignment of the resource.

(7) The operators involved in delegation shall guarantee portability for end-users.

147. An application for an allocated resource to be transferred shall be submitted to the Authority by the new beneficiary of allocation and accompanied by a signed consent of the original operator holding the resources that is the subject of transfer. Transfer of resources.

148. (1) An assignment may be revoked or withdrawn in any manner stipulated under this section. Revocation and Withdrawal.

(2) Where revocation takes place at the request of the holder he shall inform the Authority in writing by registered letter accompanied by a copy of the request for cancellation letter.

(3) The resource shall stop being subject to fees as of the day the letter is received.

(4) The holder shall be notified of the revocation of the decision to assign the resource in question.

(5) Where resources are not used in a manner that conforms to the conditions of their assignment and utilisation, or if a significant part of the resource remains unused, the Authority may withdraw the numbers.

- (g) privacy of communications;
- (h) the right to complain and to be heard about quality, delay, quantity and tariff with regard to the nature of the electronic service provided;
- (i) compensation equivalent to the exact loss suffered in case service is denied or interrupted due to an act or omission of the service provider, unless during force majeure and not consequential or future loss;
- (j) a regular statement of charges payable for the service received;
- (k) access to consumer protection associations in Sierra Leone to the Authority for redress of his grievances, if he fails to get satisfaction from the operator.

Protection of **155.** (1) A licensee or any authorized business providing
Personal data. communications services may collect, store or use personal data for a purpose which is lawful, specific and explicitly defined.

(2) Any licensee, person or entity that is involved in the collection, storing or processing of personal data shall not process personal data, unless-

- (a) the individual whose personal data is being collected, consents to the processing for one or more specified purposes;
- (b) the processing is necessary for the following-
 - (i) the performance of a contract to which the data subject is a party or in order to take steps at the request of the data subject before entering into a contract;

(2) The Authority shall determine the type of equipment that does not require approval.

(3) Subject to applicable procedures and fees, the Authority shall, at the request of any licensee, equipment manufacturer or equipment supplier, conduct type approval tests and issue type approval certificates in respect of electronic communications equipment intended for use in Sierra Leone.

(4) Where the equipment has been approved for use by any other recognised international competent body, the documents issued by that international body shall be submitted to the Authority for proof of such prior approval.

(5) Where the equipment or operations of postal services relate to electronic or technological advancement, the general provisions of this Act shall apply

PART XXIX-CONSUMER PROTECTION

151. (1) For the purpose of this Act the Authority shall protect the interest of consumers, purchasers and other users of Protection of Consumers.

communications services in respect of the-

- (a) price charges;
- (b) quality and variety of services provided;
- (c) terminal equipment supplied;
- (d) awareness;
- (e) complaint handling; and
- (f) quality of service.

(2) The Authority may by statutory instrument make regulations dealing with protection of consumers

Obligation of licensee.

152. (1) In respect of their specific service and provisions contained in this Act or statutory instruments made under this Act a licensee shall-

- (a) enter into a service contract with consumers at the commencement of providing the service stipulating the services to be provided, the rights and obligations of the parties and the applicable remedies available to the customer and both parties shall attest to the agreement
- (b) meet the standards of quality of service as the Authority may specify;
- (c) establish corresponding service level agreements applicable to each service it offers to the public and the contract should be submitted to the Authority for its approval;
- (d) honour all terms under its service level agreements
- (e) address consumer complaints satisfactorily with the utmost priority

(2) Mobile network services shall be deemed to have complied with paragraph (b) of subsection (1) by publishing the terms and conditions on its website and as much as possible, on sales materials.

(3) Where a dispute arises between a consumer and a licensee on the interpretation of a service level agreement that has not been submitted to the Authority for approval prior to the dispute or complaint and the dispute is submitted to the Authority for resolution, the decision of the Authority shall prevail over the provisions in the service contract.

(2) A licensee that contravenes this Section is liable to a fine to be determined by the Authority.

153. (1) Where a licensee for the purpose of running promotions to increase access or usage of its services seeks to offer preferential or differential tariffs, subject to complying with the floor price, the Authority shall grant permission subject to-

Preferential or differential tariffs.

- (a) clearly stating the objective of the promotion;
- (b) the tariff differentials that shall apply from the normal market conditions; and
- (c) the duration of the promotion

(2) On demand by a consumer a licensee shall provide the consumer with a detailed invoice regarding the communications services provided.

154. A consumer shall be entitled to the following-

Rights of consumers.

- (a) a statement of his rights and obligations;
- (b) a prior notice, individual or public, with regard to any change in tariffs;
- (c) the right to be notified about planned interruption or termination of services;
- (d) a copy of a periodically updated directory where applicable;
- (e) the right to opt out of unsolicited electronic messages;
- (f) instructions for the use of the service and a statement of his rights and obligations;

- (c) the absence of infrastructure coverage;
- (d) any barriers to the use of available services;
- (e) the commercial viability of network facilities of communications services in particular areas or communities.

(3) The Authority shall ensure the implementation of universal service as the minimum set of services of specified quality to which end-users have access at an affordable price in light of specific national conditions in Sierra Leone.

(4) The Authority shall indicate to the Minister the remote communities that are not served or are under-served.

PART XXXI-UNIVERSAL ACCESS DEVELOPMENT FUND

Universal
Access
Development
Fund.

158. (1) There is hereby established a fund to be known as the Universal Access Development Fund.

(2) The sources of financing the Universal Access Development Fund shall come from the following—

- (a) a service levy, set by the UADF on all licensed service providers and shall be calculated on the licensee's annual gross income as declared for tax purposes not later than 31st March;
- (b) money allocated by Parliament;
- (c) grants, subsidies, donations;
- (d) gifts and subscriptions from the Government or any entity;
- (e) competitive minimum subsidy auctions;

- (ii) compliance with any legal obligation to which the controller is subject;
- (iii) to protect the vital interests of the data subject or another person;
- (iv) the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;
- (v) the performance of any task carried out by a public authority;
- vi. the exercise, by any person in the public interest, of any other functions of a public nature;
- (vii) the legitimate interests pursued by the data controller or data processor by a third party to whom the data is disclosed, except if the processing is unwarranted in any particular case having regard to the harm and prejudice to the rights and freedoms or legitimate interests of the data subject; or
- (viii) the purpose of historical, statistical or scientific research.

(3) Any person or business that is involved in the collection, storing or processing of personal data shall ensure that personal data is-

- (a) processed in accordance with the right of privacy of the data subject;

- (b) processed lawfully, fairly and in a transparent manner in relation to any data subject;
- (c) collected for explicit, specified and legitimate purposes and not further processed in a manner incompatible with those purposes;
- (d) adequate, relevant, limited to what is necessary in relation to the purposes for which it is processed;
- (e) accurate and, where necessary, kept up to date, with every reasonable step being taken to ensure that any inaccurate personal data are erased or rectified without delay;
- (f) kept in a form which identifies the data subjects for no longer than is necessary for the purposes which it was collected;
- (g) only released to a third party only with the consent of the data subject; and
- (h) not transferred outside Sierra Leone, unless there is adequate proof of adequate data protection laws by the recipient jurisdiction.

(4) The Authority shall by statutory instrument after consultations with the Ministry and other relevant stakeholders make regulations in order to give effect to this section.

PART XXX-UNIVERSAL ACCESS AND SERVICE

Scope of Universal access and service.

156. (1) Universal service shall include access to communications services in accordance with the quality **access** offered to the population of Sierra Leone despite its geographic location and based

on affordable tariffs, conditions and without the distortion of competition.

(2) Universal service shall consist of the following—

- (a) access to the public fixed line or mobile telephone network services;
- (b) access to mobile or fixed wireless or fixed line internet services;
- (c) access to emergency communications remaining accessible on a free basis;
- (d) any other services relating to ICT that the Ministry may include, in consultation with the Universal Access Development Fund established under section 158.
- (e) facilitating access to digital services in economically non-viable areas.

(3) The Authority shall establish the obligations to be respected in terms of implementing universal services.

157. (1) The Authority shall define for the attention of UADF the expected components of universal services and the remote community area that are not served or are under-served, Components of universal services.

(2) In determining these components and areas referred to under sub-section (1), the Authority in collaboration with UADF shall consider the following—

- (a) the level of competition in particular areas or communities;
- (b) the availability of services in particular areas or communities;

- (f) formulate the annual operating principles of the Fund;
- (g) prepare and submit annual report to be submitted to the Board of Trustees and the Minister under regulation 8; and
- (h) perform any other functions necessary for the attainment of the object of the Fund.

165. (1) There shall be charged on a service provider, in accordance with section 158 sub-section (3) of the Act, a universal access and service levy on his annual gross income as declared for tax purposes at any rate not later than 31st March.

Universal
Access and
Service Levy.

(2) A universal access and service levy under sub-section (1) shall be paid annually, on the 31st day of March, at the commencement of the financial year of Government.

(3) A licensee who fails to pay a universal access and service levy under sub-section (1)-

- (a) commits an offence and is liable to a penalty not less than 25% of the levy; and
- (b) shall be ineligible for the renewal of his licence under section 44 of the Act.

166. (1) The Universal Access Fund shall manage and administer the Universal Access Fund that shall be used to fund universal access and service.

Powers of the
Fund.

(2) The Universal Access Development Fund shall be in charge of the following-

- (f) public access projects designed to generate income for long-term financial self-sustainability;
- (g) funds allocated to the Universal Access Development Fund under section 22 sub section 4 (b).

(3) Notwithstanding the generality of subsection (2), the Universal Access Development Fund shall mainly be supported by a service levy.

159. (1) The Governing Body of the Fund shall be a Board, to be known as the Board of Trustees which shall comprise of the following-

- (a) the Director-General National Communications Authority who shall be Chairman;
- (b) one representative from Mobile Network Operators (MNOs);
- (c) one representative from the Internet Service Provider, representing Service Providers;
- (d) the Permanent Secretary, Ministry of Information and Communication;
- (e) the Financial Secretary;
- (f) one member representing consumer interests;
- (g) one member of a civil society organisation specializing in information and telecommunication; and
- (h) the Fund Administrator, Secretary to the Board with no voting rights.

(2) The quorum at any meeting of the Board shall be five

Duration of
membership.

160. The members specified in paragraphs (a), (c), (f) and (d) of section 159 shall each hold office for a period of three years and shall be eligible for re-appointment for another term of three years only.

Functions of
the Board.

161. (1) The Board shall, subject to this Act, have control and supervision of the Fund, provide policy guidelines and advice that will secure the efficient implementation of the object of the Fund.

(2) Notwithstanding the generality of sub section one,, the Board shall be responsible to-

- (a) provide strategic policy guidance for the implementation of the Fund;
- (b) Oversee and provide broad policy directions for the management of the Fund and universal service programs;
- (c) approve the disbursement of funds from the Fund;
- (d) establish and ensure compliance with procedures for disbursement of funds from the Fund;
- (e) monitor and evaluate the Fund projects; and
- (f) perform any other function incidental to the object of the Fund.

Fund

162. (1) The Fund shall have a Fund Administrator to be known as the Chief Executive Officer who shall be appointed by the

Administrator, other technical and administrative staff, as may be required for the efficient performance of the functions of the Fund.

(3) An officer or employee of the Fund or any person acting on the directions of an officer or employee of the Fund shall not be liable in respect of any matter or thing done by him in good faith under this Act.

163. No action or other proceeding shall lie or be instituted against any member of the Fund for or in respect of any act done in

Innunity of

good faith in the exercise of his functions under this Act.

members of
the Fund.

164. (1) The Fund Administrator shall be responsible for the collection and disbursement of the funds in accordance with these regulations and to provide overall leadership in the conduct and

Functions of
Fund

management of the day to day business or activities of the Fund.

Administration.

(2) Notwithstanding the generality of sub section (1), the Fund Administrator shall be responsible to-

- (a) establish administrative mechanisms, systems and structures for proper management of the Fund;
- (b) develop specific indicators of communications access;
- (c) apply a competitive selection process for identifying of projects to be funded;
- (d) develop appropriate socio-economic criteria for identifying the geographical areas, population groups, institutions and organizations that may be eligible to benefit from the Fund;

Administration. President from amongst persons with proven knowledge, qualification and at least five years experience in either Telecommunications, Information Technology, Economics, Finance, Law or Administration.

(2) The Fund shall have, in addition to the Fund

(e) develop criteria for evaluating project proposals for funding;

PART XXXIII-OBLIGATION OF UNIVERSAL SERVICE LICENSEE

Accounting obligation.

173. A licensee duly selected and benefiting from the Universal Access Development Fund shall keep books and accounts, and maintain proper records of its operations in accordance with accepted accounting standards.

Reporting.

174. (1) A duly selected licensee shall provide, on an annual basis within six (6) months after the end of the government financial year, a report on the accounts and targets reached as stated in the terms and conditions of the licence, and shall provide in particular:

- (a) a copy of the report to the Universal Access Development Fund on the performance audit carried out during the year up to the provision of the report; and
- (b) information on the implementation of the universal services.

(2) At the request of the Universal Access Development Fund, accounts shall be audited annually by an entity registered as an independent auditor.

Failure to comply with obligations.

175. A failure by the selected licensee to comply with its obligations in terms of universal service implementation shall be an offence and the selected licensee shall be liable to a fine not less than the subsidy received from the Fund.

PART XXXIV-ENFORCEMENT AND OFFENCES

Monitoring and enforcement

176. (1) The Authority shall monitor and enforce the licensee's compliance with this Act, statutory instruments made under this Act and the terms and conditions of the licence.

- (a) setting out the operations to be undertaken to ensure universal services;
- (b) defining annual and multi-annual universal access programmes and budgets, as well as activity plans to be submitted;
- (c) defining, planning and coordinating the implementation and monitoring of the universal access and universal service;
- (d) designating one or more licensees to be in charge of the universal service or components of the universal service;
- (e) promoting and supporting digital literacy and skills development programmes;
- (f) identifying, approving, scheduling and financing private sector and local community investments in universal service provision projects; and
- (g) conduct of research and other relevant studies in information technologies.

PART XXXII-IMPLEMENTATION OF UNIVERSAL SERVICE

167. The Fund Administrator shall, for the purpose of identifying the projects to be funded by the Fund, give priority to-

- (a) efficient, self-sustaining projects, that will expand access to communication systems and services on their own initiative and with minimal funding; ^{Identification of projects to Fund.}
- (b) projects that are not economically feasible without support of the Fund; and

- (c) projects necessary to create adequate economic incentives for investors.

168. (1) The Universal Access Development Fund shall select and designate one or more licensees to be in charge of providing universal services components in order to have a satisfactory coverage area in Sierra Leone.

Selection of
universal
licence
licensee.

(2) The Universal Access Development Fund shall select a licensee after a tender based on technical and financial conditions, and if applicable, the net cost of service provision based on the principle of fair and equitable selection process.

(3) The Universal Access Development Fund shall be in charge of drafting and launching the appropriate tender to ensure universal service in Sierra Leone.

(4) Notwithstanding subsection (2), where the Universal Access Development Fund fails after a tender to select a licensee, it shall designate subject to the approval of the Board of Trustees that one or more licensees shall ensure the implementation of universal services.

169. (1) Where the licensee holds a licence the Universal Access Development Fund shall set out in the specific terms and conditions the obligations relating to the provisions of the components of the universal service that needs to be undertaken.

Terms and
conditions.

(2) The licence and specific conditions of the selected licensee shall state financial estimates and figures with regards to the implementation of the universal service, the targets to be met and it shall-

- (a) specify appropriate equipment, goods or services to be supplied;
- (b) deal with how the provider fulfils its universal service obligations;

- (c) set out appropriate conditions for supplying universal services in various selected areas.

(3) The implementation of the conditions referred to under subsection (2) shall remain transparent, non-discriminatory and public.

170. The Authority shall ensure that providing the universal services shall be made on affordable tariffs that are accessible to all.

171. A failure by a licensee to pay a levy imposed on him shall be an offence and the licensee shall be held liable to pay a fine of 25% of the levy.

172. The proceeds of the Universal Access Development Fund shall be used to-

Non-payment
of levy.

- (a) offer subsidies on a competitive basis to licensees in order to provide them with an incentive to provide universal access in areas that are uneconomic or only marginally viable without subsidies; Use of proceeds of the Fund.
- (b) provide other financial incentives and assistance;
- (c) meet administrative expenses associated with the execution of the duties, functions and responsibilities, management, publication and independent audit costs of annual reports of the Universal Access Development Fund and these expenses shall not exceed a certain amount, to be determined in regulations; and
- (d) conduct research and consultancy assignments related to universal access.

(6) Unless otherwise ordered by the High Court, the decision of the Authority shall remain in force-

- (a) during the period referred to under subsection (4); or
- (b) while the appeal of the licensee is under consideration by the High Court.

Penalty for breaching terms and conditions.

181. Where after due inquiry, the Authority is satisfied that the licensee has breached a term or condition of its licence, which requires a fine as specified under 176 sub-section 4 (d) the licensee shall be liable to a fine not exceeding 2% of the license fees and 4% of the license fees where the same offence is repeated.

PART XXXV-OFFENCES RELATING TO ELECTRONIC COMMUNICATION

Operating without licence.

182. (1) Any person who constructs, own, makes available or operates an electronic communications network without a relevant licence, commits an offence and shall be liable on conviction to a fine equivalent to double the license fee and to a term of imprisonment not exceeding 4 years or to both the fine and imprisonment..

(2) Any person who provides a communications service without having first obtained a relevant licence, and any person who connects to an unapproved terminal equipment, commits an offence and is liable on conviction to a fine equivalent to double the license fee and to a term of imprisonment not exceeding 4 years or to both the fine and imprisonment

(2) In carrying out its monitoring and enforcement mandate under subsection (1), the Authority shall, at its own initiative, or pursuant to any inquiry made under this Act-

- (a) carry out investigations;
- (b) carry out inspections;
- (c) request information from the licensees, including reports;
- (d) carry out technical audits;
- (e) take any other action deemed necessary for the purposes of this provision.

(3) The Authority shall give the licensee thirty (30) days to respond to an inquiry regarding an alleged contravention.

(4) Where, after due inquiry, the Authority is satisfied that the licensee has breached a provision of this Act, statutory instruments made under this Act or a term or condition of its licence, it shall take any appropriate sanction under Section 181, inform the licensee of its decision, in writing, and may-

- (a) require the licensee to remedy the breach;
- (b) order the licensee to pay compensation;
- (c) order the licensee to account for the profits made out of the breach;
- (d) order the licensee to pay a fine;
- (e) suspend the licensee's licence;
- (f) revoke the licensee's licence;

- (g) make any other order the Authority may deem appropriate.

Regulatory sanctions. **177.** Notwithstanding any criminal sanctions provided under this Act, the Authority may impose regulatory sanctions for any contravention of this Act or statutory instruments made under this Act.

Appeal. **178.** (1) A licensee aggrieved by a decision of the Authority may within 30 days of receiving the order appeal to the High Court,

(2) Unless the decision of the Authority is suspended by an order of the high court, such a decision shall remain in force-

- (a) during the period referred to in subsection (1); or
- (b) while the appeal of the licensee is under consideration by the High Court.

Quality of service. **179.** (1) The Authority shall receive periodic reports on the quality of service as may be specified by the Authority, stating the level of service quality it achieved in the previous quarter.

(2) The reports referred to under subsection (1) may be merged with other reports provided under this Act.

(3) The Authority shall by statutory instrument make rules on the following-

- (a) the regulation of quality of service of the licensee in line with ITU standards;
- (b) the necessary quality of service parameters and acceptable service levels;
- (c) monitor compliance with the prescribed quality of service parameters; and

- (d) auditing the quality of service reports submitted by licensees.

(4) The Authority shall issue guidelines to licensees, which shall contain the following-

- (a) quality of service parameters;
- (b) details of monitoring of the quality of service compliance;
- (c) reporting requirements;
- (d) any other information deemed necessary by the Authority.

180. (1) The Authority may investigate any complaint made to it concerning activities undertaken under a licence, or appoint an independent entity to carry out an investigation into the complaint. Investigation and inquiry.

(2) Pursuant to its monitoring power, the Authority may investigate, at its own motion, any suspicion of a breach by any licensee of its obligations under this Act, or the applicable rules and regulations.

(3) In all enquiries under this Section, the Authority shall give the licensee fourteen (14) days in which to respond to an allegation levelled against it.

(4) Where, after due inquiry, the Authority is satisfied that the licensee has breached a term or condition of its licence, it shall notify the licensee of the fact, in writing, and may order any regulatory sanctions.

(5) Any licensee aggrieved by the decision of the Authority made under subsection (4) may appeal to the High Court within thirty (30) days of receiving the order.

- (a) a member of the Authority, an employee of the Authority or authorised by the Authority; or
- (b) a licensee, an employee of a licensee or authorised by a licensee-

commits an offence and is liable on conviction to a fine not less than SLL 50 Million or to a term of imprisonment not less than three (3) years.

(2) Any licensee who-

- (a) fails to comply with an order, directive or public notice issued by the Authority in the exercise of its functions under this Act;
- (b) refuses, delays or fails to produce any documents or other information relating to electronic communications services and networks and statements of audited accounts which may be required to be produced under this Act;
- (c) knowingly or without reasonable grounds for believing the same to be true, furnishes a document or other information that is false or misleading in any material aspect, whether upon demand or otherwise;

183. Any person who intentionally uses an electronic communications service of a licensee without paying any applicable charge commits an offence and is liable on conviction to a fine not less than SLL 150 Million and to a term of imprisonment not less than five (5) years.

Failure to pay.

184. (1) A licensee operating an electronic communications network or providing an electronic communications service, who intentionally intercepts, interferes with the contents of, or modifies any message sent as part of the electronic communications service, commits an offence and is liable on conviction to a fine not less than SLL 1 billion and to a term of imprisonment not less than five (5) years or to both a fine and imprisonment.

Unlawful intercept

185. A licensee, its employees, or agents who discloses other than in accordance with this Act the content of a message as part of an electronic communications service or information about a user, or who misuses an electronic communications service, commits an offence and is liable on conviction to a fine not less than SLL 1 billion Leones or a term of imprisonment not less than five (5) years or to both a fine and imprisonment.

Disclosure of content.

186. (1) Any person who sabotages or steals any infrastructure equipment commits an offence and is liable on conviction to a fine not less than two (2) times and not more than four (4) times the cost of the equipment and to a term of imprisonment not less than three (3) years.

Sabotage and Theft.

(2) Any person who is found in possession of stolen infrastructure commits an offence and is liable on conviction to a fine not less than two (2) times and not more than four (4) times the cost of the equipment and to a term of imprisonment not less than three (3) years.

(3) Any person who unlawfully destroys or damages electronic communications infrastructure equipment commits an offence and is liable on conviction to a fine not less than two (2) times and not more than four (4) times the cost of the equipment and to a term of imprisonment not less than three (3) years.

Interference
of transmi-
ssion.

187. (1) Any person who willfully causes, interferes with or obstructs the transmission or reception of any electronic communications commits an offence and is liable on conviction to a fine not less than SLL 50 Million and to a term of imprisonment not less than three (3) years.

(2) In addition to the criminal sanctions provided under subsection (1), the Court may order forfeiture to the Authority of any electronic communications equipment or other material in relation to or in connection with the means by which the offence was committed.

PART XXXVI-OFFENCES RELATING TO BROADCASTING USING SPECTRUM FREQUENCY

188. Any person who provides broadcasting services without authorization of the spectrum frequency commits an offence and is liable on conviction to a fine up not less than SLL 50 Million or to a term of imprisonment not less than three (3) years.

Unauthorized
use of
broadcast
spectrum.

189. Any person who provides broadcasting services and who has not paid the prescribed fees commits an offence and is liable on conviction to a fine not less than SLL 50 Million or to a term of imprisonment not less than (3) years

Failure to pay
Broadcast
Fees .

PART XXXVII-GENERAL OFFENCES

190. (1) Any Unauthorised collection, storage, use or transmission by a communications entity or licensee of subscriber information or such personal records shall be an offence under this Act and shall be liable on conviction to a fine not less than 50 million Leones or to a term of imprisonment not less than 3 years or both the fine and imprisonment.

Unauthorized
use of data.

(2) The Ministry shall, in consultation with the Authority in public safety and national security, develop regulations for the purpose of giving effect to this section

191. (1) Any person who falsely holds himself out to be-

General
offences.

(2) Any agreement, contract, document, licence, or permission made, granted or approved under applicable legislation prior to the commencement of this Act, may be reviewed by the Authority, within six (6) months of such commencement, in order to be in compliance with this Act.

(3) Any frequency assignment made under any applicable law prior to the commencement of this Act shall continue in force as if made under this Act, provided that:

- (a) the information relating to frequency assignment shall be made available to the Authority; and
- (b) any conditions generally contained in a frequency licence applicable to such an assignment, if made under this Act, shall be complied with.

(4) Any equipment approval duly given under applicable legislation prior to the commencement of this Act shall continue in force as if given under this Act.

(5) Any person who, immediately before the commencement of this Act, engaged in electronic communications services without a licence and wishes to continue such operations, shall apply for a licence under this Act within three (3) months of such commencement, and, if he has not secured a licence, shall cease operations within six (6) months of such commencement.

- (d) publishes or otherwise discloses any information in contravention of any provision of this Act;
- (e) hinders the Authority from carrying out any of its mandates;
- (f) resists, hinders or obstructs an officer of the Authority or any other entity who acts in compliance with the provisions of this Act to enter or inspect any premises or to stop and search any vehicle or to examine any books, accounts or other records or to otherwise comply with his or her duties and rights under this Act; or
- (g) refuses, delays or fails to comply with any order, prohibition, direction, demand, requirement or notice lawfully made, served, published or otherwise given under this Act-

commits an offence and is liable on conviction to a fine not less than the license fee or to a term of imprisonment not less than five (5) years or to both such fine and imprisonment.

(3) Subject to the specific penalties set out elsewhere in this Act, any person who contravenes or fails to comply with a provision of this Act commits an offence and is liable to a fine not less than SLL50 Million and to a term of imprisonment not less than three (3) years.

(4) Anyone who, without lawful excuse, contravenes or fails to comply with any term or condition expressed in an individual licence or assignment that the entity holds, or a class licence or assignment that the entity is acting under, including, without limitation, in respect of due dates for fee payments, commits an offence and is liable on conviction for each breach, to a fine up to not less than the license fee.

Initiation of
court action.

192. Any consumer of communications services and products, any recognised consumer organisation, or any aggrieved entity may initiate court action against any licensee for offences against genuine grievances committed against them, provided that the consumer or consumer organisation has previously filed a complaint with the Authority, and is not satisfied with the decision of the Authority.

Abetting or
attempting to
commit an
offence.

193. Any person who abets the commission of an offence punishable under this Act or attempts to commit any offence, commits an offence and shall be liable on conviction to a fine not less than 50 million leones or to a term of imprisonment not less than 3 years or to both the fine and imprisonment.

PART XXXVIII-MISCELLANEOUS PROVISIONS

194. (1) The Authority may after consultations with the Regulations. Minister make regulations to implement the provision of this Act

(2) Notwithstanding subsection (1) the regulations may provide for the following-

- (a) any matter that under this Act is required or permitted to be prescribed;
- (b) the content of service level agreements;
- (c) the protection of consumers of the services provided under this Act;
- (d) the manner in which the Authority may exercise any power to perform any duty or function under this Act;
- (e) any other matter that the Minister considers necessary or expedient to give effect to the objects of this Act

195. (1) All existing licensees issued under the National Telecommunications Act 2006 Act shall, unless otherwise expressly provided in this Act or in any other written law, continue and be deemed to have been made, granted or approved by the Authority under the provisions of this Act. Transitional provision.

when that agreement or arrangement was entered into, and shall be deemed to have complied with this Act;

- (d) employees of the National Telecommunications Commission shall be transferred to the Authority.
- (e) employees of the Universal Access Development Fund as provided for in the Telecommunications Act, 2006 shall continue to be employees of the Universal Access Development Fund as provided for in this Act.

Passed in Parliament this 22nd day of June, in the year of our Lord two thousand and twenty two.

PARAN UMAR TARAWALLY

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 correct printed copy of the said Bill.

PARAN UMAR TARAWALLY

Clerk of Parliament.

(6) Any person who contravenes this section commits an offence and is liable to a fine not less than the license fee for the type of services provided or to imprisonment for a term not less than one year.

196. (1) Subject to subsection (2) the Telecommunications Act 2006 is hereby repealed. Repeal and savings.

(2) Notwithstanding the repeal of the Telecommunications Act 2006 any order, proclamation or regulations made under the National Telecommunications Act and in existence at the commencement of this Act shall continue in existence unless revoked

(3) On the commencement of this Act—

- (a) all property, assets, rights and interests of the National Telecommunications Commission shall be the property, assets, rights and interests of the Authority;
- (b) all obligations and liabilities subsisting against the National Telecommunication Commission shall continue to subsist against the Authority;
- (c) any agreement on investment entered into by the National Telecommunication Commission shall have effect as if this Act was in operation

STATUTORY INSTRUMENT

Supplement to the Sierra Leone Gazette Vol. CXLXIII, No. 89

dated 22nd December, 2022

THE INDEPENDENT MEDIA COMMISSION ELECTIONS (COVERAGE AND REPORTING) REGULATIONS, 2022

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STATUTORY INSTRUMENT No. 17 of 2022

Published 22nd December, 2022

The Independent Media Commission Act, 2020
(ACT No. 5 OF 2020)

Short title

**THE INDEPENDENT MEDIA COMMISSION
ELECTIONS (COVERAGE AND REPORTING)
REGULATIONS, 2022**

In exercise of the powers conferred upon him by section 43 of the Independent Media Commission Act, 2020, the Minister, after consultation with the Commission and the Sierra Leone Association of Journalists, hereby makes the following Regulations -

Interpretation

PART I—PRELIMINARY

1. In these Rules, unless the context otherwise requires-

“advertorial” means an advertisement or placement of sponsored promotional message in paid media;

“conduit journalism” means the passage of news without filtration, refinement or editing of any kind generally gleaned from press releases or official statements;

“Government” means the government of Sierra Leone;

“incumbent” means an official or regime currently holding office;

“opinion poll” means a formal or informal assessment of public opinion obtained by questioning a representative sample via interviews, surveys or questionnaires;

“political party reporter “ means a reporter assigned to a political party or independent candidate;

“propaganda” means information usually of a biased nature used to promote or publicise a particular political cause or point of view.

Application principles.

2. These Regulations apply to media practitioners and media institutions in Sierra Leone.

Guiding principles.

3. The activities of a media practitioner or media institution in Sierra Leone shall be guided by the following principles-

- (a) democratisation;
- (b) freedom of expression;
- (c) equality in access to information and communication;
- (d) professionalism and responsibility; and
- (e) pluralism and diversity.

Object of elections media coverage and reporting.

4. The object of elections media coverage and reporting in Sierra Leone shall be, to -

- (a) promote democracy, peace and good governance;
- (b) provide fair, adequate and equitable media coverage and reporting of the activities of political parties in Sierra Leone;
- (c) offer equal opportunity and access to all political parties and candidates in presenting their manifestoes to the public;

- (d) provide guide for media coverage and reporting of political activities, election campaigns, elections and post-elections activities in Sierra Leone;

PART II – ELECTIONS MEDIA COVERAGE AND REPORTING.

- 5.** (1) A media practitioner or media institution shall, in the General coverage and reporting of elections -
- guidelines for elections media coverage and reporting.
- (a) refrain from publishing or broadcasting any matter with the potential for, or likelihood to -
 - (i) promote or incite racial, ethnic or regional hatred, bias or contempt; or
 - (ii) promote or cause public disorder, or become a threat to the security of society or the state;
 - (b) refrain from ridiculing, stigmatising or demonising persons on the basis of gender, race, class, ethnicity, language, sexual orientation and physical or mental ability;
 - (c) maintain professional independence, free of control and direction, of-
 - (i) government or political opposition;
 - (ii) political parties registered to contest the elections;
 - (iii) any individual, group, or organisation representing or promoting the special interests of a political party registered to contest the elections;
 - (d) endeavour, in the exercise of the constitutional right of free expression and in recognition of basic social responsibility, to

- (i) provide truthful, comprehensive, accurate, balanced and fair account of events in a context which gives them meaning;
 - (ii) serve as a forum for the exchange of public comment, opinion, discussion and criticism in a balanced and reasonable manner;
 - (iii) offer an accurate picture of the constituent groups, organisations and parties contesting the elections, elections management bodies and of society in general;
 - (iv) present and clarify as far as possible, the goals and values of the constituent groups, organisations and parties contesting the elections and of society in general.
- (e) recognise, on the principle of “fair and balanced” reporting, that a story is not fair, if it-
- (i) omits facts of major importance or significance and is incomplete;
 - (ii) includes irrelevant information, rumour or unsubstantiated statements at the expense of significant facts;
 - (iii) consciously misleads or even deceives the reader, listener or viewer.
- (f) acknowledge that the omission of relevant facts and points of view from the reporting of major issues of public interest inevitably distorts the view of reality, misleads and misinforms the public.
- (g) undertake to –

- (i) deal responsibly with complaints received in respect of reports published or broadcast, containing errors of fact;
- (ii) where, complaints are justified, publish or broadcast appropriate corrections; or
- (iii) comply with such order or directive as may be issued by the Independent Media Commission.

6. (1) A media practitioner or institution shall, in the coverage and reporting of political activities -

Coverage and reporting of political activities.

- (a) collect and disseminate truthful, comprehensive, fair, accurate, impartial, unbiased, objective information on the activities of political parties and candidates;
- (b) give political parties, candidates and members of the public an opportunity to express their views;
- (c) ensure that statements, press releases and other forms of communications for publication from a political party is –
 - (i) on the official letterhead of the political party; and
 - (ii) dated and signed by a recognised and identified official of the political party;
- (d) ensure there is, at least, 48 hours’ notice given by the political party of the political activity in order to provide for adequate logistical arrangement;

- (e) ensure that all public statements are acceptable consistent with the Independent Media Commission Act and these Regulations;
- (f) ensure that statements and releases are devoid of insulting language and provocative statements that may occasion public unrest or breach of peace;
- (g) establish a clearly defined public or media relations department from where the media may access necessary information without difficulty;
- (h) ensure that press conferences during elections period are restricted to media practitioners, media institution and elections officials who have been formerly accredited by the Electoral Commission of Sierra Leone or the Independent Media Commission;
- (i) not be influenced by the offer of money, bribes, gifts, transport allowances or any other inducement by a political party or candidate.

Coverage and reporting of elections process.

7. (1) A media practitioner or media institution shall, in his coverage and reporting of political personalities and events, -

- (a) give the electorate an opportunity to discuss and understand the issue on which he intends to report;
- (b) extend media coverage and reporting to encompass all phases of the election process, including official campaign periods, election days and post- election periods as may be specified by the Electoral Commission of Sierra Leone and the Political Parties Regulation Commission.

8. (1) A media practitioner or media institution shall, in the coverage and reporting of political manifestos, -

- (a) give equal editorial space to all candidates and their manifestoes;
- (b) encourage candidates to use their manifestoes as the basis for discussions or any other issues pertinent to their campaign or in the public interest.

Coverage and reporting of political manifestos.

9. (1) A media practitioner or media institution shall, in the coverage and reporting of political advertising, -

- (a) adopt, in consultation with the Electoral Commission of Sierra Leone and the Political Parties Regulation Commission, rules on political advertising for fair and equitable coverage of political parties.
- (b) offer equal opportunity to all political parties without discrimination, to -
 - (i) access media services;
 - (ii) purchase advertising and promotion space in newspapers and electronic media;
- (c) provide guidelines and advertising rates to public relations firms, advertising agencies and communications companies.
- (d) clearly identify political advertisements in newspapers and electronic media as distinct from other content.
- (e) ensure that the content of political advertising is not offensive.

Coverage and reporting of political advertising.

Coverage and reporting of elections campaigns.

10. (1) A media practitioner or media institution shall, in the coverage and reporting of election campaigns, -

- (a) ensure accurate balanced and credible reporting;
- (b) desist from the publication or broadcast of inaccurate, misleading or distorted information and materials including pictures;
- (c) make all reasonable efforts to check and cross-check the accuracy of stories prior to publication or broadcast;
- (d) ensure balanced reporting by obtaining views and opinion from all sides before publication or broadcast;
- (e) ensure that materials submitted by political parties or their agents, for either free or paid publication or broadcast is not censored or edited by the media practitioner or media institution;
- (f) exercise proper editorial judgement in favor of good taste and respect for public safety, security and morality refuse the publication or broadcast of materials that are hateful, ethnically offensive and likely to provoke public disorder or threaten the security of the state.

(2) Where a media practitioner or media institution refuses the publication or broadcast of materials under paragraph (f) of sub-regulation (1), the concerned political party or its agent shall be given an opportunity to modify the rejected material in order to conform to acceptable standards.

Coverage and reporting of political Opinion polls.

11. A media practitioner or media institution shall, in the coverage and reporting of political opinion polls, avoid bias or manipulation.

- a) make available an equal amount of free space day and time for all political parties that have met the legal criteria for contesting the elections;
- b) make available technical facilities such as, layout and printing, basic studio, audio and video recordings for the production and presentation of articles and programmes.

(2) A media practitioner or media institution shall not cover an opinion poll unless it includes –

- (a) the name of the person or organisation that conducted, commissioned or sponsored the poll;
- (b) the exact questions, explanations and information given to respondents;
- (c) a description of the population under study;
- (d) a description of the sampling procedures, size and gender; and
- (e) the place or location where the poll was conducted and period of time covered by the poll.

12. (1) A media practitioner or media institution shall, in the coverage and reporting of an incumbent, -

- a. distinguish between activities of the Government and the activities of the ruling political party and individual candidates
- b. ensure that the incumbent does not gain an unfair access to the media.

Coverage and reporting of incumbent

Coverage and reporting on nomination day

13. A media practitioner or media institution shall, in the coverage and reporting on nomination day,-

- (a) make available an equal amount of free space day and time for all political parties that have met the legal criteria for contesting the elections;
- (b) make available technical facilities such as, layout and printing, basic studio, audio and video recordings for the production and presentation of articles and programmes.

Coverage and reporting on elections day.

14. (1) A media practitioner or media institution shall, in the coverage and reporting on elections day, -

- (a) encourage people to vote throughout election day, stating the voting locations, how to vote, time of closure of polling stations, etc.
- (b) not publish or broadcast interviews or statements from candidates, political parties or political representatives, 24 hours prior to elections day, except for the promotion of public peace and public safety;
- (c) not include -
 - (i) interviews or statements from;
 - (ii) activities by, political candidates or political party representatives within the period of 24 hours prior to the opening of polling station to the close of polling stations;
- (d) not make statements that may incite the members or supporters of political parties and result in chaos and break down of law and order;
- (e) not publish or broadcast political campaigns 24 hours prior to the opening of polling stations.

(2) Notwithstanding subsection (1), news coverage and reporting by a media practitioner or media institution on elections day may include interviews from affected citizens, non-political community elders or leaders, eyewitnesses, police or security personnel, independent observers, non-governmental organisations, civil society groups, etc.

Coverage and reporting of post-elections period.

15. (1) A media practitioner or media institution shall, in the coverage and reporting of any period of time following an election, especially during vote counting periods and run-off elections -

- (f) avoid giving the impression of one-sidedness or favouring one particular party over another;
- (g) refrain from expressing personal political views;
- (h) not wear or exhibit symbols or colours associated with a political party or candidate;
- (i) clearly label as 'Provisional Result', results released from polling stations immediately after vote counting;
- (j) exercise caution and respect when interviewing candidates and base interviews on evidence and facts.

PART III-GENERAL ELECTION MEDIA COVERAGE AND REPORTING GUIDELINES

16. A media practitioner or media institution shall not, for the purpose of maintaining their credibility and integrity, endorse a political candidate.

Endorsement of political candidates prohibited

17. A media practitioner or media institution shall not publish a party release which-

Publication of incredible party releases prohibited.

- (a) is clearly not credible; and
- (b) has not been properly checked and cross checked with the party.

Conflict of interest

18. (1) A media practitioner or media institution shall –

- (a) avoid actual or apparent conflict of interest including -
 - (i) activities, public comment or writing that calls into question a journalist's ability to report fairly on a subject matter;
 - (ii) activities that may compromise a journalist's integrity or credibility, including wearing of party design, pins, badges, etc.;
- (b) ensure that there is no conflict of interest between the reporter and the news;
- (c) decide which reporter, if any, to assign to particular story or event and do not allow a political party to dictate which journalist should cover a story or event.

(2) A media practitioner or media institution shall, irrespective of political party affiliations and beliefs, remain impartial in their dealing with political parties and in particular, shall be guided by the Code of Ethics of the Independent Media Commission.

Identification
requirement.

19. A media practitioner or media institution shall at a political event or party activity, identify himself as a member of the media by wearing or displaying the official Elections Commission of Sierra Leone identification or accreditation card and carry his media house identification and accreditation at all media functions.

Use of
quotations,
jargons, etc.

20. (1) Quotations are regarded as media content and are subject to Independent Media Commission Regulations and shall be properly attributed, especially when they are politically sensitive.

(2) Jargons, technical abbreviations, acronyms and political euphemism not clearly or easily understandable shall be verified and fully explained.

(3) A media practitioner or media institution shall, in the coverage and reporting of elections, avoid offensive references to political opponents or other candidates including ridiculing, stigmatising or demonising persons on the basis of gender, race, class, ethnicity, language, sexual orientation and physical or mental ability.

21. (1) A media practitioner or media institution shall, in order to maintain law and order and ensure good reporting -

Duty to obey
security order.

- (a) show mutual respect, understanding and effective communication between journalists, police and other state security personnel;
- (b) respect legitimate police order such as to move away from a particular scene or to remain within a designated area.

22. (1) A media practitioner or media institution shall –

Equal Access
to paid
political
advertising.

- (a) give equal access and opportunity to all political parties, without discrimination, to purchase space in newspapers and prime time on radio and television stations to promote their respective political views during the elections period;
- (b) make available to contesting political parties, -
 - (i) full information about the availability of space and air time for advertising; and
 - (ii) published advertising rates available to all public relations firms, advertising agencies, political parties and candidates.

PART IV -COMPLAINT AND ENFORCEMENT PROCEDURES

Complaints
Committee.

- 23.** (1) The Complaints Committee appointed under paragraph (b) of subsection (1) of section 19 of the Independent Media Commission Act shall determine complaints referred to it by the Commission within one month unless it requires further investigation.
- (2) Complaints under sub-regulation (1), include complaints against media practitioners or media institutions for-
- (a) publications that are in contravention of these Regulations;
 - (b) breach of conditions attached to licence or registration of a media practitioner or media institution;
 - (c) breach of the Act.
- (3) The Complaints Committee shall receive complaint referred to it by the Commission, inquire into the complaint and make recommendations to the Commission.
- (4) Hearings of the Complaint Committee shall be conducted in public.
- (5) A complaint to the Commission shall be-
- (a) filed to the Commission in such form as may be specified by the Commission;
 - (b) accompanied by an affidavit setting out the facts on which the complaint is based; and
 - (c) lodged within 6 months of the offending publication or broadcast.
- (6) Complaints shall be arbitrated between the complainant and the media practitioner or media institution against whom a complaint is made, in the presence of their legal representative who may only be heard on matters of law and editorial issues.

(7) A media practitioner or media institution that refuses to respond to an invitation or subpoena of the Complaints Committee without a valid reason or refuses to send a representative to the Complaints Committee, is liable to -

- (a) a fine not exceeding 1,000.00 Leones for each sitting in which he is absent; and
- (b) suspension of his licence if he is absent for 3 consecutive sittings.

(8) Where a media practitioner or media institution fails to appear before the Complaint Committee, the Committee shall, after an affidavit of service has been filed, proceed to hear the complaint as if the media practitioner or media institution is in attendance.

(9) Witnesses and evidence are only allowed at the discretion of the Complaints Committee.

(10) The Complaint Committee shall, at the determination of a complaint, submit a report containing its recommendations to the Commission.

(11) The Commission shall, on receipt of the recommendations of the Complaint Committee under sub-regulation (10), -

- (a) issue a warning to the media practitioner or media institution concerned;
- (b) order the media practitioner or media institution concerned to publish or broadcast an apology or a retraction;
- (c) reprimand the media practitioner or institution concerned; or
- (d) impose such fine as prescribed in these Regulations.

(12) Where a media practitioner or media institution fails to pay a fine imposed by the Commission under paragraph (d) of sub-regulation 11, the Commission shall suspend the registration and licence of the media practitioner or media institution concerned until the order is complied with.

- (13) A media practitioner or media institution aggrieved with the decision of the Commission under sub-regulation (12), shall appeal to the High Court within 30 days provided that such appeal shall not act as a stay of the decision of the Commission.

PART V - OFFENCES

Violation of media coverage and reporting guidelines prohibited

24. A media practitioner or media institution that contravenes the guidelines for coverage and reporting of elections in Part II shall be liable to a fine not below 5,000 Leones and not above 20,000 Leones.

Broadcast of untrue or inaccurate information.

25. (1) A media practitioner or media institution that publishes or broadcasts information that is untrue or inaccurate and fails, within a reasonable time, when called upon to do so or when ordered by the Commission, to-
- (a) accord an opportunity to the offended party to reply immediately or in the next publication or broadcast; or
 - (b) make a retraction in equal measure as the offending publication or broadcast, is liable to a fine not exceeding 5,000.00 Leones and suspension from practice or operation if fine is not paid within 30 days, until such fine is paid.

(2) The Commission shall, where a media practitioner or media institution publishes or broadcasts information that is untrue or inaccurate, order the media practitioner or media institution to make an immediate retraction of the offending publication or broadcast.

26. (1) A media practitioner or institution that publishes material culled from another publication or broadcast without - Copyright infringement prohibited.

- (c) the written permission or consent of the original publisher;
- (d) acknowledging or crediting the original publisher,

is liable to a fine of 5,000.00 Leones and suspension from practice or operation, if fine is not paid within 30 days, until such fine is paid.

(2) Notwithstanding sub-regulation (1), a copyright infringement shall be subjected to the penalties imposed under the Copyright Act, 2011 (Act No.8 of 2011).

27. (1) A media practitioner or institution that publishes information which - Protection of privacy.
- (a) constitutes an unwarranted intrusion into a person's private life; or
 - (b) unjustifiably discloses the location of a person's home or family, is liable to a fine not exceeding 10,000.00 Leones and suspension from practice, if fine is not paid within 30 days, until such fine is paid.

(2) Sub-regulation (1) shall not apply where a media practitioner or media institution-

- (a) publishes with the consent of that person;
or
- (b) can justify that the publication is warranted
in the public interest.

Harassment
and
intimidation
prohibited.

28. A media practitioner or media institution that obtains or seeks to obtain information including pictures through harassment or intimidation is liable to a fine not exceeding 5,000.00 Leones and suspension from practice or operation, if fine is not paid within 30 days, until such fine is paid.

Publication
of gruesome
images
prohibited.

29. A media practitioner or media institution that publishes gruesome images of victims involved in accidents, injuries, mutilations, disfigurements or those involving grief or shock, unless with the expressed authority of the victim or his family, is liable to a fine not exceeding 5,000.00 Leones and suspension from practice or operation, if fine is not paid within 30 days, until such fine is paid.

Identification
and
permission
required for
hospitals, etc.

30. A media practitioner or institution that makes enquiries at hospitals or similar institutions without identifying themselves and obtaining permission from the hospital or similar institution, is liable to a fine not exceeding 3,000.00 Leones and suspension from practice or operation, if fine is not paid within 30 days, until such fine is paid.

Identity of
relatives or
friends not to
be disclosed.

31. A media practitioners or media institution that identifies relatives or friends of persons convicted or accused of crimes without their consent, is liable to a fine not exceeding 3, 000 .00 Leones and suspension from practice or operation, if fine is not paid within 30 days, until such fine is paid.

32. A media practitioner or media institution that obtains or seeks to obtain information or material by pretending to be someone else and making a misrepresentation, unless there is real public interest, is liable to a fine not exceeding 5,000.00 Leones and suspension from practice or operation, if fine is not paid within 30 days, until such fine is paid.

33. A media practitioner or media institution that publishes nude or pornographic materials including nude pictures and video images is liable to a fine not exceeding 10,000.00 Leones and suspension from practice or operation, if fine is not paid within 30 days, until such fine is paid.

34. A media practitioner or media institution that identifies a victim of sexual assault or publish or broadcast materials likely to contribute to such identification is liable to a fine not exceeding 10,000.00 Leones and suspension from practice or operation if fine is not paid within 30 days.

35. (1) A media practitioner or media institution that makes prejudicial or prerogative reference to a person's colour, ethnicity, religion, sex, political affiliation or individual lifestyle, or to any physical or mental illness of disability, unless these are directly relevant to the story, is liable to a fine not exceeding 3,000.00 Leones and suspension from practice or operation, if fine is not paid within 30 days, until such fine is paid.

Publication
or broadcast
of smear
campaign

36. A media practitioner or media institution that publishes or broadcasts stories containing personal attack, smear campaign

stories
prohibited.

and unjustified harming of a person's or institution's good name and also includes the use of language, picture cartoons, commentaries, analysis, editorials, depictions or new stories that can damage someone's reputation, is liable to a fine not exceeding 20,000.00 Leones and suspension from practice or operation, if fine is not paid within 30 days, until such fine is paid.

Threats,
abuse and
indecent
prohibited.

37. A media practitioner or media institution that uses-

- (a) threatening and insulting details that are not essential to the story reported;
- (b) abusive language or statement that is likely to cause ethnic and religious dissatisfaction, is liable to a fine not exceeding 10,000.00 Leones and suspension from practice or operation, if fine is not paid within 30 days, until such fine is paid.

Disclosure of
confidential
source of
information
prohibited.

38. A media practitioner or media institution that discloses the confidential source of his information under any circumstance except when ordered to do so by a court of law, is liable to a fine not exceeding 10,000.00 Leones and suspension from practice or operation, if fine is not paid within 30 days, until such fine is paid.

39. A media practitioner or media institution that refuses to -

Refusal to
ensure
gender
sensitive

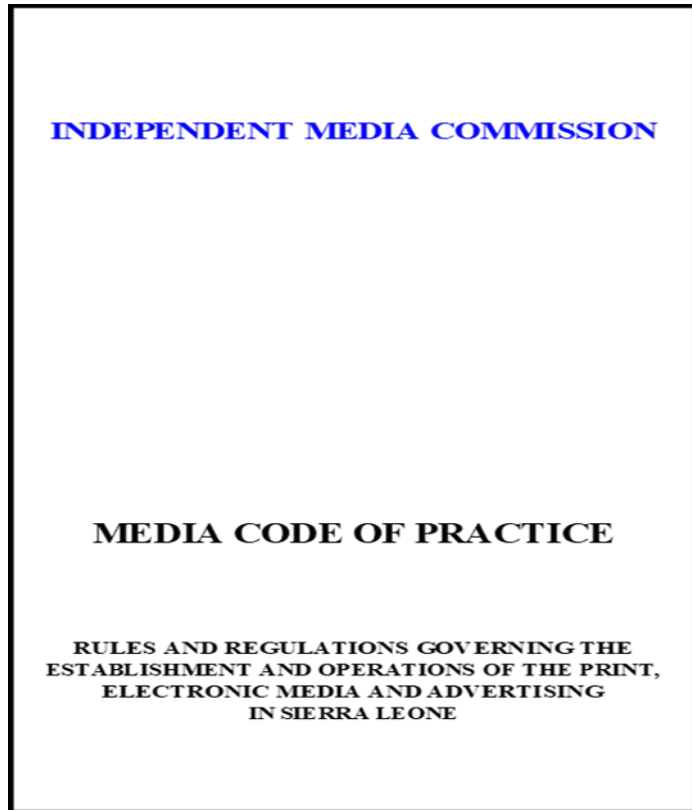
- (a) diversify news sources in stories; prohibited.
- (b) include female sources in news, in order to ensure gender sensitive reporting, is liable to a fine not exceeding 10,000.00 Leones and suspension from practice or operation, if fine is not paid within 30 days, until such fine is paid

MADE this day of ,2022.

MOHAMED RAHMAN SWARAY
*Minister of Information and
Communications*

**FREETOWN,
SIERRALEONE**

OTHER STATUTES RELATING TO MEDIA REGULATION TO MEDIA REGULATION



SECTION 4: ADVERTISING

Introduction

Recognizing the central role that advertising plays in the economic, social and political development of Sierra Leone and even in the sustainability of the country's media, the industry has assumed an important posture in the media.

Policy Objectives for Advertising

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All advertisements shall:

- i. be truthful, honest, decent, legal and culturally acceptable as stipulated by the Advertising Code of Practice
- ii. contain no misleading statements about the products or services advertised.
- iii. reflect the country's cultural heritage and values
- iv. be produced by well-trained professionals, preferably Sierra Leoneans

Implementation Strategies:

The IMC shall implement the Code of Practice by:

- i. imposing sanctions for misleading or deceptive advertisement;
- ii. compelling any media house/institution accepting any advertisement to take reasonable steps to verify the authenticity and truth of the advertisement;
- iii. requiring sponsors of misleading or deceptive acts to run corrective ads using the same media and the same amount of space or time;
- iv. requiring that advertisements are indigenous in content, style and character;
- v. stipulating the standards of training to be attained by those who wish to engage in advertising practice;
- vi. ensuring prompt payment for all advertisements;

SECTION 1 – APPLICABILITY AND DEFINITIONS

1. This Code applies to:

- (a) advertisements in newspapers, magazines, brochures, leaflets, circulars, mailings, e-mails, text transmissions, fax transmissions, catalogues, follow-up literature and other electronic and printed material

- (b) posters and other promotional media in public places, including moving images
- (c) cinema and video commercials
- (d) advertisements in non-broadcast electronic media, including online advertisements in paid-for space (e.g. banner and pop-up advertisements)
- (e) sales promotions
- (f) advertisement promotions
- (g) broadcast commercials

2. It does not apply to:

- (a) marketing communications in foreign media. Direct marketing that originates outside Sierra Leone but is targeted at Sierra Leone consumers will be subject to the jurisdiction of the relevant authority in the country where it originates so long as that authority operates a suitable cross-border complaint system. If it does not, the IMC will take what action it can.
- (b) Health-related claims in marketing communications addressed only to the medical, dental, veterinary and allied professions
- (c) classified private advertisements, including those appearing online
- (d) statutory, public, police and other official notices/ information, as opposed to marketing communications, produced by public authorities and the like

- (e) works of art exhibited in public or private
- (f) private correspondence, including correspondence between companies and their customers about existing relationships or past purchases
- (g) live oral communications, including telephone calls
- (h) press releases and other public relations material, so long as they do not fall under 1 above
- (i) editorial content, for example of the media and of books
- (j) regular competitions such as crosswords
- (k) packages, wrappers, labels, tickets, timetables and price lists unless they advertise another product, a sales promotion or are visible in a marketing communication
- (l) point of sale displays,
- (m) election advertisements,
- (n) website content, except sales promotions and advertisements in paid-for space
- (o) sponsorship; marketing communications that refer to sponsorship are covered by the Code
- (p) customer charters and codes of practice.

3. These definitions apply to the Code:

(a) a product encompasses goods, services, ideas, causes, opportunities, prizes or gifts

(b) a consumer is anyone who is likely to see, hear or read a given marketing communication, whether in the course of business

(c) a claim can be implied or direct, written, spoken or visual

(d) a marketing communication includes all forms of communication listed in 1.

(e) a marketer includes an advertiser, promoter or direct marketer

(f) a supplier is anyone who supplies products that are sold by distance selling marketing communications (and may also be the marketer)

(g) a child is anyone under 18.

(h) corporate subscriber includes corporate bodies such as limited companies, or any partnerships. It also includes schools, hospitals, Government departments or agencies and other public bodies. It does not include sole proprietors.

4. These criteria apply to the Code:

(a) the IMC's interpretation of the Code is final. Aggrieved parties may seek redress in the courts if they so wish.

(b) conformity with the Code is assessed according to the marketing communication's probable impact when taken as a whole and in context. This will depend on the medium in which the marketing communication appeared, the audience and its likely response, the nature of the product and any additional material distributed to consumers

(c) the Code is indivisible; marketers must conform with all appropriate rules

(d) the Code is primarily concerned with the content of advertisements, promotions and direct marketing communications and not with terms of business or products themselves. Some rules, however, go beyond the content, for example those that cover the administration of sales promotions, the suitability of promotional items, the delivery of products ordered through an advertisement and the use of personal information in direct marketing. Editorial content is specifically excluded from the remit of the Code (see 1.2i), although it might be a factor in determining the context in which marketing communications are judged (see 1.4b)

(e) the rules make due allowance for public sensitivities but will not be used by the IMC to diminish freedom of speech unjustifiably

SECTION 2— GENERAL RULES

Principles

5.1 All marketing communications should be legal, decent, honest and truthful.

5.2 All marketing communications should be prepared with a sense of responsibility to consumers and to society.

5.3. All marketing communications should respect the principles of fair competition generally accepted in business.

5.4. No marketing communication should bring advertising into disrepute.

5.5 Marketing communications must conform with the Code. Primary responsibility for observing the Code falls on marketers. Others involved

in preparing and publishing marketing communications such as agencies, publishers and other service suppliers are also obligated to abide by the Code.

5.6. Any unreasonable delay in responding to the IMC's enquiries may be considered a breach of the Code.

5.7. The IMC will on request treat in confidence any genuinely private or secret material supplied unless the Courts or officials acting within their statutory powers compel its disclosure.

5.8. The Code is applied in the spirit as well as in the letter.

6. Substantiation

6.1. Before distributing or submitting a marketing communication for publication, marketers must hold documentary evidence to prove all claims, whether direct or implied, that are capable of objective substantiation. Relevant evidence should be sent without delay if requested by the IMC. The adequacy of evidence will be judged on whether it supports both the detailed claims and the overall impression created by the marketing communication.

The full name and geographical business address of markers should be provided without delay if requested by the IMC.

6.2. If there is a significant division of informed opinion about any claims made in a marketing communication they should not be portrayed as generally agreed.

6.3. Claims for the content of non-fiction books, tapes, videos and the like that have not been independently substantiated should not exaggerate the value, accuracy, scientific validity or practical usefulness of the product.

7. Legality

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7.1. Marketers have primary responsibility for ensuring that their marketing communications are legal. Marketing communications should comply with the law and should not incite anyone to break it.

8. Decency (i.e. avoiding causing serious or widespread offence)

8.1. Marketing communications should contain nothing that is likely to cause serious or widespread offence. Particular care should be taken to avoid causing offence on the grounds of race, religion, sex, ethnicity or disability. Compliance with the Code will be judged on the context, medium, audience, product and prevailing standards of decency.

8.2. Marketing communications may be distasteful without necessarily conflicting with 8.1 above. Marketers are urged to consider public sensitivities before using potentially offensive material.

8.3. The fact that a particular product is offensive to some people is not sufficient grounds for objecting to a marketing communication for it.

9. Honesty

9.1. Marketers should not exploit the credulity, lack of knowledge or inexperience of consumers.

10. Truthfulness

No marketing communication should mislead, or be likely to mislead, by inaccuracy, ambiguity, exaggeration, omission or otherwise.

11. Matters of Opinion

11.1 Marketers may give a view about any matter, including the qualities or desirability of their products, provided it is clear that they are expressing

their own opinion rather than stating a fact. Assertions that go beyond subjective opinions are subject to 6.1 above (also see 12.1 below).

12. Fear and distress

12.1 No marketing communication should cause fear or distress without good reason. Marketers should not use shocking claims or images merely to attract attention.

12.2 Marketers may use an appeal of fear to encourage prudent behaviour or to discourage dangerous or ill-advised actions; the fear likely to be aroused should not be disproportionate to the risk.

13. Safety

13.1 Marketing communications should not condone or encourage unsafe practices. Particular care should be taken with marketing communications addressed to or depicting children.

13.2 Consumers should not be encouraged to drink or use mobile phones whilst driving. Marketing communications should, where appropriate, include a prominent warning on the dangers of drinking and driving or using a mobile phone while driving and should not suggest that the effects of drinking alcohol can be masked.

14. Violence and anti-social behaviour

14.1 Marketing communications should contain nothing that condones or is likely to provoke violence or anti-social behaviour.

15. Political advertising

15.1 Any advertisement or direct marketing communication, whenever published or distributed, whose principal function is to

influence voters in local, regional, national or international elections or referendums is exempt from the Code.

15.2 There is a formal distinction between Government policy and that of political parties. Marketing communications by central or local government, as distinct from those concerning party policy, are subject to the Code.

16. Protection of privacy

16.1 Marketers should not unfairly portray or refer to people in an adverse or offensive way. Marketers are urged to obtain written permission before referring to or portraying members of the public or their identifiable possessions; the use of crowd scenes or general public locations may be acceptable with permission from the persons involved.

16.2 Referring to people with a public profile; references that accurately reflect the contents of books, articles or films may be acceptable without permission

16.3 While implying any personal approval of the advertised product; marketers should recognise that those who do not wish to be associated with the product may have a legal claim.

16.4 Prior permission may not be needed when the marketing communication contains nothing that is inconsistent with the position or views of the person featured.

16.5 References to anyone who is deceased should be handled with particular care to avoid causing offence or distress.

16.6. The National Arms and Emblems should be used only with the prior permission of the President's office.

17. Testimonials and endorsements

17.1 Marketers should hold signed and dated proof, including a contact address, for any testimonial they use. Unless they are genuine opinions taken from a published source, testimonials should be used only with the written permission of those giving them.

17.2 Testimonials should relate to the product being advertised.

17.3 Testimonials alone do not constitute substantiation and the opinions expressed in them must be supported, where necessary, with independent evidence of their accuracy. Any claims based on a testimonial must conform with the Code.

17.4. Fictitious testimonials should not be presented as though they are genuine.

17.5 Unless they are genuine statements taken from a published source, references to tests, trials, professional endorsements, research facilities and professional journals should be used only with the permission of those concerned.

17.6 Marketers should not refer in marketing communications to advice received from the IMC or imply any endorsement by the IMC.

18. Prices

18.1 Any stated price should be clear and should relate to the product advertised. Marketers should ensure that prices match the products illustrated.

18.2 Prices quoted in marketing communications addressed to the public should include all taxes and duties imposed on all buyers.

18.3 If the price of one product is dependent on the purchase of another, the extent of any commitment by consumers must be made clear.

18.4. Price claims such as 'up to' and 'from' should not exaggerate the availability of benefits likely to be obtained by consumers.

18.5. A recommended retail price (RRP), or similar, used as a basis of comparison should be genuine; it should not differ significantly from the price at which the product is generally sold.

19. Availability of products

19.1 Marketers must make it clear if stocks are limited. Products must not be advertised unless marketers can demonstrate that they have reasonable grounds for believing that they can satisfy demand. If a product becomes unavailable, marketers will be required to show evidence of stock monitoring, communications with outlets and swift withdrawal of marketing communications whenever possible.

19.2 Products which cannot be supplied should not normally be advertised as a way of assessing potential demand unless it is clear that this is the purpose of the marketing communication

19.3 Marketers must not use the technique of switch selling, where their sales staff criticise the advertised product or suggest that it is not available and recommend the purchase of a more expensive alternative. They should not place obstacles in the way of purchasing the product or delivering it promptly.

20. Guarantees

20.1 Guarantees may be legally binding on those offering them. The word 'guarantee' should not be used in a way that could cause confusion about consumers' legal rights. Substantial limitations on the guarantee should be spelled out in the marketing communication. Before

commitment, consumers should be able to obtain the full terms of the guarantee from marketers.

20.2 Marketers should inform consumers about the nature and extent of any additional rights provided by the guarantee, over and above those given to them by law, and should make clear how to obtain redress.

20.3 Marketers should provide a cash refund, postal order or personal cheque promptly to those claiming redress under a money-back guarantee.

21. Comparisons with identified competitors and/or their products

21.1 Comparative claims are permitted in the interests of vigorous competition and public information. They should neither mislead nor be likely to mislead.

21.2 They should compare products meeting the same needs or intended for the same purpose.

21.3 They should objectively compare one or more material, relevant, verifiable and representative features of those products, which may include price.

21.4 They should not create confusion between marketers and competitors or between marketers' products, trademarks, trade names or other distinguishing marks and those of competitors.

22. Other comparisons

22.1 Other comparisons, for example those with marketers' own products, those with products of others who are not competitors or those that do not identify competitors or their products explicitly or by

implication, should be clear and fair. They should neither mislead nor be likely to mislead. The elements of comparisons should not be selected in a way that gives the marketers an artificial advantage.

23. Denigration and unfair advantage

23.1 Although comparative claims are permitted, marketing communications that include comparisons with identifiable competitors and/or their products should not discredit or denigrate the products, trademarks, trade names, other distinguishing marks, activities or circumstances of competitors. Other marketing communications should not unfairly attack or discredit businesses or their products.

23.2 Marketers should not take unfair advantage of the reputation of trademarks, trade names or other distinguishing marks of organisations or of the designation of origin of competing products.

24. Imitation

24.1 No marketing communication should so closely resemble any other that it misleads, is likely to mislead or causes confusion.

24.2 Marketers making comparisons with identifiable competitors and/or their products should not present products as imitations or replicas of products bearing a protected trade mark or trade name.

25. Recognising marketing communications and identifying marketers

25.1 Marketers, publishers and owners of other media should ensure that marketing communications are designed and presented in such a way that it is clear that they are marketing communications. Unsolicited e-mail marketing communications should be clearly identifiable as marketing communications without the need to open them.

25.2 Distance-selling marketing communications should contain the full name of the marketers (and the suppliers if different). Distance-selling marketing communications that require payment before products are received and have written response mechanisms should also contain the geographical address of response mechanism only may contain the marketers' telephone number instead.

25.3 E-mail and mobile marketing communications should contain the full name and a valid address (e.g. an e-mail address) of the marketers to which recipients can send opt-out requests.

25.4 Fax and non-live-sound automated-call marketing communications should contain the full name and a valid address or phone number of the marketers to which recipients can send opt-out requests.

25.5 Sales promotions and marketing communications for one-day sales, homework schemes, business opportunities and the like should contain the full name and geographical address of the marketers.

25.6 Marketing communications for employment agencies should contain the full name and contact details of the marketers.

25.7 The law may require marketers to identify themselves in some other marketing communications. Marketers should take legal advice.

26. Advertisement features

26.1 Advertisement features, announcements or promotions, sometimes referred to as "advertorials", that are disseminated in exchange for a payment or other reciprocal arrangement should comply with the Code if their content is controlled by the marketers rather than the publishers.

26.2 Marketers and publishers should make clear that advertisement

features are advertisements, for example by heading them "advertisement feature".

SECTION 3

27. Other Specific Rules

27.1.1. Alcoholic drinks

For the purposes of the Code, alcoholic drinks are those that exceed 1.2% alcohol by volume.

27.1.2 The drinks industry and the advertising business accept responsibility for ensuring that marketing communications contain nothing that is likely to lead people to adopt styles of drinking that are unwise. Marketing communications may be humorous but must still conform with the intention of the rules.

27.1.3 Marketing communications should be socially responsible and should neither encourage excessive drinking nor suggest that drinking can overcome boredom, loneliness or other problems. Care should be taken not to exploit minors or those who are mentally or socially vulnerable.

27.1.4 Marketing communications should not be directed at people under 18 through the selection of media, style of presentation, content or context in which they appear. No medium should be used to advertise alcoholic drinks if more than 25% of its audience is under 18 years of age.

27.1.5 People shown drinking should not be, nor should they look, under 18. Younger models may be shown in marketing communications, for example in the context of family celebrations, but it should be obvious that they are not drinking.

27.1.6 Marketing communications should not feature or portray real or fictitious characters that are likely to appeal particularly to people under 18 in a way that might encourage them to drink.

27.1.7 Marketing communications should not suggest that any alcoholic

drink has therapeutic qualities or can enhance mental, physical or sexual capabilities, popularity, attractiveness, masculinity, femininity or sporting achievements.

27.1.8. Marketing communications may give factual information about the alcoholic strength of a drink or its relatively high alcohol content but this should not be the dominant theme of any marketing communication. Alcoholic drinks should not be presented as preferable because of their high alcohol content or intoxicating effect.

27.1.9. Marketing communications should not portray drinking alcohol as the main reason for the success of any personal relationship or social event. A brand preference may be promoted as a mark of the drinker's good taste and discernment.

27.1.10 Drinking alcohol should not be portrayed as a challenge, nor should it be suggested that people who drink are brave, tough or daring for doing so.

27.1.11 Particular care should be taken to ensure that marketing communications for sales promotions requiring multiple purchases do not actively encourage excessive consumption.

27.1.12 Marketing communications should not depict activities or locations where drinking alcohol would be unsafe or unwise. In particular, marketing communications should not associate the consumption of alcohol with operating machinery, driving, any activity relating to water or heights, or any other occupation that requires concentration in order to be done safely.

27.2. Low alcohol drinks

27.2.1 Low alcohol drinks are those that contain between 0.5% - 1.2% alcohol by volume. Marketers should ensure that low alcohol drinks are not promoted in a way that encourages their inappropriate consumption

and should not depict activities that require complete sobriety.

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27.3 Children

27.3.1 For the purposes of the Code, a child is someone under 18. The way in which children perceive and react to marketing communications is influenced by their age, experience and the context in which the message is delivered; marketing communications that are acceptable for young teenagers will not necessarily be acceptable for young children. The IMC will take these factors into account when assessing marketing communications.

27.3.2. Marketing communications addressed to, targeted at or featuring children should contain nothing that is likely to result in their physical, mental or moral harm:

27.3.2.1 They should not be encouraged to enter strange places or talk to strangers.

27.3.2.2 Care is needed when they are asked to make collections, enter schemes or gather labels, wrappers, coupons and the like

27.3.2.3 They should not be shown in hazardous situations or behaving dangerously in the home or outside except to promote safety. Children should not be shown unattended in street scenes unless they are above 18 and old enough to take responsibility for their own safety. Pedestrians and cyclists should be seen to observe the Highway Code

27.3.2.4 They should not be shown using or in close proximity to dangerous substances or equipment without direct adult supervision. Examples include matches, petrol, certain medicines and household substances as well as certain electrical appliances and machinery, including agricultural equipment.

27.3.2.5 They should not be encouraged to copy any practice that might

be unsafe for a child.

27.3.3 Marketing communications addressed to, targeted at or featuring children should not exploit their credulity, loyalty, vulnerability or lack of experience.

27.3.3.1 they should not be made to feel inferior or unpopular for not buying the advertised product

27.3.2.2 they should not be made to feel that they are lacking in courage, duty or loyalty if they do not buy or do not encourage others to buy a particular product

27.3.3.3 it should be made easy for them to judge the size, characteristics and performance of any product advertised and to distinguish between real-life situations and fantasy

27.3.3.4 adult permission should be obtained before they are committed to purchasing complex and costly products.

27.3.4 Marketing communications addressed to or targeted at children should not:

27.3.4.1 actively encourage them to make a nuisance of themselves to parents or others and should not undermine parental authority

27.3.4.2 make a direct appeal to purchase unless the product is one that would be likely to interest children and that they could reasonably afford.

27.3.4.3. Distance selling marketers should take care when using youth media not to promote products that are unsuitable for children

27.3.4.4 exaggerate what is attainable by an ordinary child using the

product being marketed

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27.3.4. actively encourage them to eat or drink at or near bedtime, to eat frequently throughout the day or to replace main meals with confectionery or snack foods

27.3.4.6 exploit their susceptibility to charitable appeals and should explain the extent to which their participation will help in any charity-linked promotions.

27.3.5 Promotions addressed to or targeted at children:

27.3.5.1. should not encourage excessive purchases in order to participate

27.3.5.2. should make clear that adult permission is required if prizes and incentives might cause conflict. Examples include animals, bicycles, tickets for outings, concerts and holidays

27.3.5.3. should clearly explain the number and type of any additional proofs of purchase needed to participate

27.3.5.4 should contain a prominent closing date

27.3.5.5. should not exaggerate the value of prizes or the chances of winning them.

27.4. MOTORING

27.4.1 Marketing communications for motor vehicles, fuel or accessories should avoid portraying or referring to practices that encourage or condone anti-social behaviour.

27.4.2 Marketers should not make speed or acceleration claims the predominant message of their marketing communications. However it is

legitimate to give general information about a vehicle's performance such as acceleration and mid-range statistics, braking power, road-holding and top speed

27.4.3 Marketers should not portray speed in a way that might encourage motorists to drive irresponsibly or to break the law and should not condone irresponsible driving.

27.4.4 Vehicles should not be depicted in dangerous or unwise situations in a way that might encourage or condone irresponsible driving. Their capacities may be demonstrated on a track or circuit provided it is clearly not in use as a public high-way.

27.4.5 Care should be taken in cinema commercials and those in electronic media where the moving image may give the impression of excessive speed. In all cases where vehicles are shown in normal driving circumstances on public roads they should be seen not to exceed Sierra Leone speed limits.

27.4.6 When making environmental claims for their products, marketers should conform with the rules on Environmental Claims.

27.4.7 Prices quoted should correspond to the vehicles illustrated. For example, it is not acceptable to feature only a top-of-the-range model alongside the starting price for that range.

27.4.8 Safety claims should not exaggerate the benefit to consumers. Marketers should not make absolute claims about safety unless they hold evidence to support them.

27.5. ENVIRONMENTAL CLAIMS

27.5.1 The basis of any claim should be explained clearly and should be qualified where necessary. Unqualified claims can mislead if they

omit significant information.

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27.5.2 Claims such as 'environmentally friendly' or 'wholly biodegradable' should not be used without qualification unless marketers can provide convincing evidence that their product will cause no environmental damage when taking into account the full life cycle of the product. Qualified claims and comparisons such as 'greener' or 'friendlier' may be acceptable if marketers can substantiate that their product provides an overall improvement in environmental terms either against their competitors' or their own previous products.

27.5.3 Where there is a significant division of scientific opinion or where evidence is inconclusive this should be reflected in any statements made in the marketing communication. Marketers should not suggest that their claims command universal acceptance if that is not the case.

27.5.4 If a product has never had a demonstrably adverse effect on the environment, marketing communications should not imply that the formulation has changed to make it safe. It is legitimate, however, to make claims about a product whose composition has changed or has always been designed in a way that omits chemicals known to cause damage to the environment.

27.5.5 The use of highfaluting language should be avoided, as should bogus and confusing scientific terms. If it is necessary to use a scientific expression, its meaning should be clear.

27.6 HEALTH & BEAUTY PRODUCTS AND THERAPIES

27.6.1 General

27.6.1.1. Medical and scientific claims made about beauty and health-related products should be backed by evidence, where appropriate consisting of trials conducted on people. Where relevant, the rules will

also relate to claims for products for animals. Substantiation will be assessed by the IMC on the basis of the available scientific knowledge

27.6.1.2. Marketers inviting consumers to diagnose their own minor ailments should not make claims that might lead to a mistaken diagnosis.

27.6.1.3 Marketers should not discourage essential treatment. They should not offer specific advice on, diagnosis of or treatment for serious or prolonged conditions unless it is conducted under the supervision of a doctor or other suitably qualified health professional (e.g. one subject to regulation by a statutory or recognised medical or health professional body). Accurate and responsible general information about such conditions may, however, be offered.

27.6.1.4 Consumers should not be encouraged to use products to excess and marketers should hold proof before suggesting their products or therapies are guaranteed to work, absolutely safe or without side-effects.

27.6.1.5 Marketing communications should not suggest that any product is safe or effective merely because it is 'natural' or that it is generally safer because it omits an ingredient in common use.

27.6.1.6 Marketers offering individual treatments, particularly those that are physically invasive, may be asked by the media and the IMC to provide full details together with information about those who will supervise and administer them. Where appropriate, practitioners should have relevant and recognised qualifications. Marketers should encourage consumers to take independent medical advice before committing themselves to significant treatments, including those that are physically invasive.

27.6.1.7 References to the relief of symptoms or the superficial signs of ageing are acceptable if they can be substantiated. Unqualified claims such as 'cure' and 'rejuvenation' are not generally acceptable.

27.6.1.8. Marketers should hold proof before claiming or implying that minor addictions and bad habits can be treated without effort from those suffering.

27.6.1.9 Marketers should not use unfamiliar scientific words for common conditions.

27.7 Medicines

27.7.1 Medicines must have a marketing authorisation from the Pharmacy Board before they are marketed and any claims made for products must conform with the authorisation. Medicinal claims should not be made for unauthorised products. Marketing communications should refer to the IMC, the authorisation or the Pharmacy Board only if required to do so by the IMC.

27.7.2 Prescription-only medicines may not be advertised to the public. Health-related claims in marketing communications addressed only to the medical, dental, veterinary and allied professions are exempt from the Code.

27.7.3. Marketing communications should include the name of the product, an indication of what it is for, text such as 'Always read the label' and the common name of the active ingredient if there is only one. There should be no suggestion that any medicine is either a food or a cosmetic.

27.7.4 Marketers must not use fear or anxiety to promote medicines or recovery from illness and should not suggest that using or avoiding a product can affect normal good health.

27.7.5 Illustrations of the effect or action of any product should be accurate.

27.7.6 Marketing communications for medicines should not be addressed

to children.

27.7.7 Marketers should not use health professionals or celebrities to endorse medicines.

27.7.8 Marketing communications for any medicine should not claim that its effects are as good as or better than those of another identifiable product.

27.7.9 Homeopathic medicinal products must be registered in Sierra Leone. Any product information given in the marketing communication should be confined to what appears on the label. Marketing communications should include a warning to consult a doctor if symptoms persist. Marketing communications for unauthorised products should not make any medicinal or therapeutic claims or refer to any ailment.

27.8. Vitamins, minerals and other food supplements

27.8.1 Marketers should hold scientific evidence for any claim that their vitamin or mineral product or other food supplement is beneficial to health. In assessing claims the IMC will bear in mind recommendations made by bodies such as the Ministry of Health, the Medical and Dental Association and the Pharmacy Board.

27.8.2 A well-balanced diet should provide the vitamins and minerals needed each day by a normal, healthy individual. Marketers may offer vitamin and mineral supplements to certain groups as a safeguard to help maintain good health but should not imply that they can be used to prevent or treat illness, elevate mood or enhance normal performance. Without well-established proof, no marketing communication should suggest that there is widespread vitamin or mineral deficiency or that it is necessary or therapeutic to augment a well-balanced diet. Individuals should not be encouraged to swap a healthy diet for supplementation.

27.8.3 People who are potentially at risk of deficiency may be safeguarded by vitamin and mineral supplementation. Products must be appropriate and marketing communications should specify the group they are addressing when claiming or implying that health may be maintained. Indicative groups include:

- people who eat nutritionally inadequate meals
- the elderly
- children and adolescents
- convalescents
- athletes in training or others who are physically very active
- women of child-bearing age
- lactating and pregnant women
- people on restricted food or energy diets
- people who smoke.

27.8.4 Serious vitamin and mineral depletion caused by illness should be diagnosed and treated by a doctor. Self-medication should not be promoted that it will influence the speed or extent of recovery.

27.9. Cosmetics

27.9.1. Claims made about the action that a cosmetic has on or in the skin should distinguish between the composition of the product and any effects brought about by the way in which it is applied, such as massage. Scientific evidence should also make this distinction.

27.9.2. Some cosmetics have an effect on the kind of skin changes that are caused by environmental factors. Marketing communications for them can therefore refer to temporarily preventing, delaying or masking premature ageing.

27.9.3. Marketers should not advertise products that are harmful to the skin.”

27.10 Hair and scalp

27.10.1 Marketers should be able to provide scientific evidence, where appropriate in the form of trials conducted on people, for any claim that their product or therapy can prevent baldness or slow it down, arrest or reverse hair loss, stimulate or improve hair growth, nourish hair roots, strengthen the hair or improve its health as distinct from its appearance.

27.11. WEIGHT CONTROL

27.11.1 A weight reduction regime in which the intake of energy is lower than its output is the most Common self- treatment for achieving weight reduction. Any claims made for the effectiveness or action of a weight reduction method or product should be backed if appropriate by rigorous trials on people; testimonials that are not supported by trials do not constitute substantiation

27.11.2 Obesity in adults is defined by a Body Mass Index (BMI) of more than 30 kg/m². Obesity is frequently associated with medical conditions and treatments for it should not be advertised to the public unless they are to be used under suitably qualified supervision.

27.11.3 Marketing communications for any weight reduction regime or establishment should neither be directed at, nor contain anything that will appeal particularly to, people who are under 18 or those in whom weight reduction would produce a potentially harmful body weight (BMI of less than 18.5 kg/m²). Marketing communications should not suggest that it is desirable to be underweight.

27.11.4 Marketers must show that weight reduction is achieved by loss of body fat before claims are made for a weight reduction aid or regimen. Combining a diet with an unproven weight reduction method does not justify making weight reduction claims for that method.

27.11.5 Marketers should be able to show that their diet plans are nutritionally well-balanced (except for producing a deficit of energy) and this should be assessed in relation to the kind of person who would be using them.

27.11.6 Vitamins and minerals do not contribute to weight reduction but may be offered to slimmer as a safeguard against any shortfall when dieting.

27.11.7 Marketers promoting Very Low Calorie Diets and other diets that fall below 800 calories a day should do so only for short term use and should encourage users to take medical advice before embarking on them.

27.11.8 Marketing communications for diet aids should make clear how they work. Prominence must be given to the role of the diet and marketing communications should not give the impression that dieters cannot fail or can eat as much as they like and still lose weight.

27.11.9 Marketing communications should not contain claims that people can lose precise amounts of weight within a stated period or that weight or fat can be lost from specific parts of the body.

27.11.10 Claims that individuals have lost exact amounts of weight should be compatible with good medical and nutritional practice, should state the period involved and should not be based on unrepresentative experiences. For those who are normally overweight, a rate of weight loss greater than 2 lbs (just under 1 kg) per week is unlikely to be compatible with good medical and nutritional practice. For those who are obese, a rate of weight loss greater than 2 lbs per week in the early stages of dieting may be compatible with good medical and nutritional practice.

27.11.11 Resistance and aerobic exercise can improve muscular condition and tone; this can improve body shape and posture. Marketers should be able to substantiate any claims that such methods used alone or in conjunction with a diet plan can lead to weight or inch reduction. Marketing communications for intensive exercise programmes should

encourage users to check with a doctor before starting.

27.11.12 Short-term loss of girth may be achieved by wearing a tight-fitting garment. This should not be portrayed as permanent, nor should it be confused with weight or fat reduction.

27.12 **BETTING AND GAMING**

27.12.1 The gaming industry and the advertising business accept responsibility for ensuring that marketing communications contain nothing that is likely to lead people to adopt styles of gambling that are unwise.

27.12.2. Marketing communications should be socially responsible and should not encourage excessive gambling.

27.12.3 Care should be taken not to exploit the young, the immature or those who are mentally or socially vulnerable.

27.12.4 Marketing communications should not be directed at people under 18 through the selection of media, style of presentation, content or context in which they appear. No medium should be used to advertise betting and gaming if more than 25% of its audience is under 18 years of age.

27.12.5 People shown gambling should not be, nor should they look under

27.12.6 Licensed casinos can only use classified advertisement to advertise to the public. Such advertisement should be restricted to the name, logo, address, telephone and fax numbers of the premises, factual information about ownership, the facilities provided, those who may be admitted and how to apply for membership

27.12.7 Marketing material other than classified may be sent only to the members of such casinos.

27.13 **TOBACCO, ROLLING PAPERS AND FILTERS**

27.13.1 For the purpose of these rules, claims encompass statements and visual presentations and can be direct or indirect. Claims which the IMC regards as eroding or diminishing the effectiveness of the rules will be judged contrary to the spirit of the rules. Humour is acceptable provided it is used with care and is not likely to have a particular appeal to the young.

27.13.2 The IMC is the final arbiter of the meaning of the rules. Marketers are urged to check their marketing communications with the IMC before publishing them. Point of sale material featuring executions, themes or elements already checked for other marketing communications should normally need no additional checking by the IMC.

27.13.3 When interpreting the rules, the IMC will make due allowance for the medium in which the marketing communication is to appear, the audience and its likely response.

27.13.4 **RULES**

27.13.4.1 No marketing communications should depict anyone smoking.

27.13.4.2 Marketing communications should not encourage people to start smoking.

27.13.4.3 Marketing communications should not encourage smokers to increase their consumption or smoke to excess.

27.13.4.4. Marketing communications should not be targeted at, or be likely to appeal to, people under 18. Anyone depicted in marketing communications should always be, and clearly be seen to be over 18. No medium should be used to market cigarettes, tobacco, rolling papers or filters if more than 25% of its audience is under 18 or women under 24.

27.13.4.5. Marketing communications should not play on the susceptibilities of those who are physically or emotionally vulnerable, particularly the young or immature.

27.13.4.6 Marketing communications should not encourage or condone the use of illegal drugs. Save in exceptional circumstances, for example in the context of an anti-drug message, any reference to illegal drugs will be regarded as condoning their use.

27.13.4.7 Marketing communications should not be sexually titillating.

27.13.4.8. Marketing communications should not imply that smoking is glamorous or aspirational or that it enhances people's femininity, masculinity or appearance. Nor should they imply that smoking leads to social, sexual, romantic or business success. In particular, marketing communications should not link smoking with people who are evidently well-known, wealthy, fashionable, sophisticated or successful or who possess other attributes or qualities that may reasonably be expected to command admiration or encourage emulation.

27.13.4.9 Marketing communications should not appeal to the adventurous or rebellious, imply that it is daring to smoke or imply that smoking enhances people's independence.

27.13.4.10 Marketing communications should not imply that smoking is safe, healthy, natural, popular or appropriate in all circumstances. Marketing communications should not suggest that

smoking promotes relaxation or concentration, through references to people smoking when they are relaxing or concentrating may be acceptable. Marketing communications should avoid any suggestion of a healthy or wholesome lifestyle and should not associate smoking with healthy eating and drinking, sport or active/outdoor games.

SECTION 4

28. SANCTIONS

28.1. The IMC shall establish an Advertising Advisory Committee made up of members of the IMC and representatives of stakeholders in the advertising business, including consumer protection bodies, children and women's rights organisations, the legal profession, media houses, etc. This body shall be responsible for adjudicating complaints and advising the IMC on compliance by marketers with the rules outlined above.

28.2 All those involved in the business of advertising shall be expected to voluntarily comply with these rules, failing which the IMC shall enforce them.

28.3. By providing advice, guidance and, in some cases, pressure, media owners, agencies and other intermediaries play a crucial role in ensuring compliance. If marketing communications break the Code, the marketers responsible will be asked by the IMC to amend or withdraw them. If they do not, sanctions will be applied.

28.4. The IMC will not adopt a legalistic attitude towards sanctions and will ensure that sanctions are proportionate to the nature of the breach. The sanctions will focus on ensuring that non-compliant marketing communications are amended, withdrawn or stopped as quickly as possible.

28.5. The IMC will not be restricted to applying sanctions only against marketers who have been subject to a formal investigation based on

complaints. If marketing communications are obviously misleading or offensive, the IMC may take compliance action in the absence of complaints or while an investigation proceeds.

28.6. Sanctions against an offending marketer will include but will not be limited to the following:

28.6.1. Publicising the IMC's rulings. This will be essential to sustaining wide acceptance of the system's integrity. Thus the first level of sanctions available to the IMC will be the unwelcome publicity that may result from the publication of its rulings. Adverse publicity is damaging to most marketers and serves to warn the public. The IMC will therefore publish its rulings in the print and electronic media on a regular basis.

28.6.2. The IMC may issue Ad Alerts to all media houses, advising them to withhold their services from non-compliant marketers or deny the latter access to advertising space. Ad Alerts will be issued at short notice and be carefully targeted for greatest impact. They will contain the name and contact details of the non-compliant marketer, a description of the compliance problem and, if possible, an image/ copy of the marketing communication in question.

28.6.3. When instructed by the IMC, media houses will refrain from publishing any marketing communication that the IMC deems to be in violation of the rules. Failure to comply may result in a fine not exceeding five million Leones being imposed on the offending media house.

28.6.4 Any media house that repeatedly violates the rules may have its licence or registration suspended or revoked by the IMC.

28.6.5 Where the offending marketing communication falls under the category of direct marketing, the marketer will be informed in writing of the IMC's ruling and be given a time frame within which to amend the offending marketing communication.

28.6.6 If a marketer fails to comply with rulings of the IMC, the IMC may seek an injunction in the courts to force the marketer to comply. Failure to abide by the court's ruling will be considered contempt of court and punished accordingly.

28.7 Pre-publication vetting

28.7.1. The IMC may require offenders to have some or all of their marketing communications vetted by the IMC's Advertising Advisory Committee until the IMC is satisfied that future communications will comply with the Code.

**THE INDEPENDENT MEDIA COMMISSION (PRINT AND
ELECTRONIC MEDIA) REGULATIONS, 2022**

ARRANGEMENT OF SECTIONS

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16. Nude and pornographic images prohibited.
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STATUTORY INSTRUMENT NO. 11 OF 2022

Published 20th October, 2022

**THE INDEPENDENT MEDIA COMMISSION ACT, 2020
(ACT NO. 5 OF 2020)**

Short title

**The Independent Media Commission (Print and
Electronic Media) Regulations, 2022**

In exercise of the powers conferred upon him by section 43 of the Independent Media Commission Act, 2020, the Minister, after consultation with the Commission and the Sierra Leone Association of Journalists, hereby makes the following Regulations—

PART I—PRELIMINARY

1. In these Regulations unless the context otherwise Interpretation.
requires -

"Act" means the Independent Media Commission Act, 2020 (Act No. 5 of 2020);

"commercial radio or television station" means a commercial radio or television station that is in the business of broadcasting for profit but is not exempt from public service responsibility under the Act and these regulations;

"community radio or television station" means a community radio or television station which is for and about the community, whose ownership, governance and management is representative of the community, follows social development agenda and is not for profit;

"direct to home broadcast service" means a broadcast service that is a registered business entity in Sierra Leone providing direct to home broadcast services;

"electronic media" includes radio, television and direct to home;

"magazine" means a registered institution that is responsible for producing a particular publication, publishes at least one publication per quarter, has a single point of editorial control and is aimed at a general audience, regardless of whether it covers a wide range of subject matter including news and comment or more specialised interest;

"media institution" means an institution licensed or registered by the Independent Media Commission to offer newspaper, magazine, on-line, on-demand and broadcast services to the public;

"newspaper" means a publication by a registered institution that meets the following criteria -

- (a) regular publication for at least once a week;
- (b) a single point of editorial control;
- (c) covering a wide range of subject matter including news, articles, editorials and commentaries aimed at a general audience;

"on-demand services" means a service that is free-to-air or supported by subscription or other sources of public or commercial funding, offered by a media institution which makes audio-visual content available via the internet at a time and on a device of a recipient's choice;

"on-line service" means a website and related content services distributed via the internet which fall under the editorial control of a media institution, containing material created by the media institution that is also distributed via third-party aggregators or social media, including material specifically created for a third party that is under the editorial control of the media institution, but does not include material made and distributed by journalists or other individuals in a purely personal capacity expressing their personal opinions such as personal blogs, social media posts etc., unless they are directed or under the control of the media institution;

"public service broadcast radio or television station" means a public radio or television station with nationwide coverage set up by legislation, accountable to the public through an independent board, protected against interference of a political or economic nature, with editorial independence and adequately funded in a manner that ensures objective and balanced reporting and protects it from arbitrary interference;

"print media" means communication based on printed materials that have a physical presence such as newspapers and magazines;

"reasonable steps" mean steps taken by a media practitioner or institution to inform the subjects of its investigations to seek consent, arrange interviews or give advance warning of publication;

"rebroadcast station" means a rebroadcast radio or television station that is set up by international radio and television stations or national, public broadcasting service to rebroadcast their programmes in Sierra Leone;

"religious radio or television station" means a religious broadcasting or television station that is set up purposely for religious broadcast, not exempted from public service responsibility under the Independent Media Commission Act, 2020 and is not-for-profit and is not-for-profit;

"teaching radio or television station" means a teaching radio or television station that is set up by the Ministry in charge of education and an accredited academic institution, for training purposes, not exempted from public service responsibility under the Independent Media Commission Act, 2020 and is not-for-profit and is not-for-profit;

Application.

2. These Regulations apply to media practitioners and institutions in Sierra Leone.

Guiding principles.

3. The activities of a media practitioner or institution in Sierra Leone shall be guided by the following principles-

- (a) democratisation;
- (b) freedom of expression;
- (c) equality in access to information and communication;
- (d) professionalism and responsibility;
- (e) pluralism and diversity; and
- (f) cultural preservation and promotion.

Object.

4. The object of a media practitioner or institution in Sierra Leone shall be to -

- (a) support national development initiatives and programmes to improve the quality of life of Sierra Leoneans through systemic and effective use and coordination of mass communication strategies and activities;
- (b) promote national dialogue by the citizenry that is consistent with democratic culture and constitutionalism;
- (c) facilitate access to information and communication infrastructure and technology in rural areas;
- (d) promote national cultural heritage and identity;
- (e) support timely, orderly and effective growth of information and communication institutions and professions;
- (f) promote regional and national cohesion and international cooperation.

PART II - REGULATION OF PRINT AND ELECTRONIC MEDIA

5. (1) A media practitioner or institution shall -

- (a) take reasonable steps provide accurate, balance and credible information to the general public;
- (b) not air live phone-in programmes unless he has call delay equipment to screen in-coming calls before putting the caller on air.

Responsibility to provide accurate, balanced and credible information.

(2) A person who contravenes sub-regulation (1) is liable to a fine of 5,000.00 Leones and suspension from practice if fine is not paid within 30 days, until such fine is paid.

Broadcast of untrue information.

6. (1) The Commission shall, where a media practitioner or institution publishes or broadcasts information that is untrue or affects peace and national security, order an immediate retraction.

(2) A media practitioner or institution that publishes or broadcasts information that is untrue shall, within a reasonable time or when called upon to do so or when ordered by the Commission -

- (a) accord an opportunity to offended party to reply immediately or in the next publication or broadcast; or
- (b) make a retraction in equal measure as the offending publication or broadcast.

(3) A person who contravenes sub-regulation (1) is liable to a fine not exceeding 5,000.00 Leones and suspension from practice if fine is not paid within 30 days, until such fine is paid.

Copyright infringement prohibited.

7. (1) A media practitioner or institution shall not publish material culled from another publication or broadcast unless -

- (a) on the written permission or consent of the original publisher;
- (b) the original publisher is acknowledged or credited.

(2) A person who contravenes sub-regulation (1) is liable to a fine of 5,000.00 Leones and suspension from practice, if fine is not paid within 30 days, until such fine is paid.

(2) A person who contravenes sub-regulation (1) is liable to a fine not exceeding 5,000.00 Leones and suspension from practice, if fine is not paid within 30 days, until such fine is paid.

(3) Notwithstanding sub-regulation (2), a copyright infringement shall be subjected to the penalties imposed under the Copyright Act, 2011 (Act No.8 of 2011).

8. (1) A media practitioner or institution shall not publish information which -

- (a) constitutes an intrusion into a person's private life; or
- (b) discloses the location of a person's home or family.

(2) Sub-regulation (1) shall not apply where a media institution -

- (a) publishes with the consent of that person; or
- (b) can justify that the publication is warranted in the public interest.

(3) A person who contravenes sub-regulation (1) is liable to a fine not exceeding 10,000.00 Leones and suspension from practice, if fine is not paid within 30 days, until such fine is paid.

9. (1) A media practitioner or institution shall not obtain or seek to obtain information including pictures through harassment or

Harassment and intimidation prohibited.

10. (1) A media practitioner or institution shall not publish gruesome images of victims involved in accidents, injuries, mutilations, disfigurements or those involving grief or shock unless with the expressed authority of the victim or his family.

Publication of gruesome images prohibited.

(2) A media practitioner or institution shall, in cases involving grief or shock, approach the victim or his family or make enquiries with empathy and discretion.

(3) A person who contravenes sub-regulation (1) or (2), is liable to a fine not exceeding 5,000.00 Leones and suspension from practice, if fine is not paid within 30 days, until such fine is paid.

Consent of parent, guardian, etc. required.

11. (1) A print media practitioner or institution shall not interview, film or photograph a child without the consent of his parent, guardian or institution in charge of the child.

(2) A person who contravenes sub-regulation (1) is liable to a fine not exceeding 5,000.00 Leones and suspension from practice, if fine is not paid within 30 days, until such fine is paid.

Identity of children in sexual or criminal cases not to be disclosed.

12. (1) A media practitioner or institution shall not identify children under the age of 18 who are involved in cases concerning sex or criminal offences whether as victim, witness or perpetrator.

(2) A person who contravenes sub-regulation (1) and is liable to a fine not exceeding 10,000.00 Leones and suspension from practice, if fine is not paid within 30 days, until such fine is paid.

Identification

13. (1) A media practitioner or institution shall not make

and permission required for hospitals, etc.

enquiries at hospitals or similar institutions without identifying themselves and obtaining permission from the hospital or similar institution.

(2) A person who contravenes sub-regulation (1) is liable to a fine not exceeding 3,000.00 Leones and suspension from practice, if fine is not paid within 30 days, until such fine is paid.

14. (1). It is an offence for media practitioners or institution to identify relatives or friends of persons convicted or accused of crimes without their consent and this extends to children.

Identify of relatives or friends not to be disclosed.

(2) A person who contravenes sub-regulation (1) liable to a fine not exceeding 3,000.00 Leones and suspension from practice, if fine is not paid within 30 days, until such fine is paid

15. (1) A media practitioner or institution shall not obtain or seek information or material by pretending to be someone else and misrepresenting themselves unless there is real public interest.

Obtaining information by pretence or misrepresentation

(2) A breach under sub-regulation (1) will result to a fine not exceeding 5,000.00 Leones and suspension from practice, if fine is not paid within 30 days, until such fine is paid.

16. (1) A media practitioner or institution shall not share nude or pornographic materials including nude pictures and video images

Nude and pornographic images prohibited.

(2) A person who contravenes sub-regulation (1) is liable to a fine not exceeding 10,000.00 Leones and suspension from practice, if fine is not paid within 30 days, until such fine is paid.

17. (1) A media practitioner or institution shall not identify victims of sexual assault or publish or broadcast materials likely to

Identification of victims of sexual

contribute to such identification.

assault prohibited.

(2) A person who contravenes sub-regulation (1) is liable to a fine not exceeding 10,000.00 Leones and suspension from practice if fine is not paid within 30 days.

Prejudicial or prerogative reference to a person prohibited.

18. (1) A media practitioner or institution shall not make prejudicial or prerogative a person's colour, ethnicity, religion, sex, political reference to affiliation or individual lifestyle, or to any physical or mental illness of disability, unless these are directly relevant to the story.

(2) A person who contravenes sub-regulation (1) is liable to a fine not exceeding 3,000.00 Leones and suspension from practice,

if fine is not paid within 30 days, until such fine is paid.

Publication or broadcast of smear campaign stories prohibited.

19. (1) A media practitioner or institution shall not publish or broadcast stories containing personal attack, smear and unjustified harming of a person's or institution's good name and also campaign includes the use of language, picture cartoons, commentaries, analysis, stories editorials, depictions or new that can damage someone's reputation.

(2) A person who contravenes sub-regulation (1) is liable to a fine not exceeding 20,000.00 Leones and suspension from practice, if fine is not paid within 30 days, until such fine is paid.

Threats, abuse and indecency prohibited.

20. (1) It is an offence for a media practitioner or institution to -

- (a) use bad taste, threatening and insulting details that are not essential to the story reported;
- (b) use abusive language and statements that is likely to cause ethnic and religious dissatisfaction.

(2) A person who contravenes sub-regulation (1) is liable to a fine not exceeding 10,000.00 Leones and suspension from practice, if fine is not paid within 30 days, until such fine is paid.

21. A media practitioner or institution shall not disclose the confidential source of his information under any circumstance except when ordered to do so by a court of law.

Disclosure of confidential source of information prohibited.

22. (1) A media practitioner or institution shall not refuse to diversify news sources in stories and refuse to include female sources in the news to ensure gender sensitive reporting.

Refusal to ensure gender sensitive reporting prohibited.

(2) A person who contravenes sub-regulation (1) and is liable to a fine not exceeding 10,000.00 Leones and suspension from practice, if fine is not paid within 30 days, until such fine is paid

23. (1) A media practitioner or institution shall issue an employee a letter of appointment stating the conditions of service with a salary not less than the minimum wage and other allowances.

Statement of employee conditions to be issued.

(2) A person who contravenes sub-regulation (1) is liable to such penalty as may be imposed under the National Social Security and Insurance Trust Act, 2001 (Act No. 5 of 2001).

24. (1) A media practitioner or institution shall take particular care when gathering material in potentially sensitive situations such as emergencies, accidents, ambulances, people in a state of distress, hospitals, schools, prisons, police stations

Care to be taken in potentially sensitive situations.

PART III - REGISTRATION OF PRINT MEDIA AND ELECTRONIC MEDIA

25. (1) A person shall not establish or operate a print media institution in Sierra Leone unless that print media institution -

Registration of print media.

- (a) is registered with the Commission in accordance with the Act; and
- (b) has paid such annual registration or renewal fee, as may be determined by the Commission.

(2) A print media institution registered under subsection (1), shall, in the execution of its functions-

- (a) ensure protection of the exchange of ideas and information to facilitate accurate and balanced reporting;
- (b) uphold the principle of plurality of ownership and control of print media resources and infrastructure in Sierra Leone;
- (c) promote African perspectives by reflecting national and African concerns, aspirations, values and cultural traditions in their coverage and content;
- (d) promote the development of the quality, accessibility and viability of the print media in Sierra Leone.

Responsibilities of Commission to print media institutions.

26. (1) The Commission shall, in the implementation of laws that promote free and balanced flow of information, -

- (a) support initiatives for the development of community and indigenous languages in print media;

- (b) advocate for the reduction of import and excise duties on print media equipment and materials; and
- (c) encourage the practice of self-regulation; and
- (d) publish an annual report of the state of print media in Sierra Leone.

27. (1) An electronic media institution shall not operate in Sierra Leone unless it is licensed with the Commission.

Registration of electronic media institutions.

(2) An electronic media institution registered under sub-regulation (1), shall, in the execution of its functions -

- (a) ensure that radio, television and direct to home broadcast service be made accessible and affordable to Sierra Leoneans based on the availability of spectrum;
- (b) promote professional ethics;
- (c) preserve and promote Sierra Leone's culture and values;
- (d) observe professional practice regarding news and news related programmes as non-commercial items;
- (e) enhance national capacity for producing high quality indigenous broadcast programmes;

- (f) encourage an environment conducive to growth, profit and service delivery;
- (g) promote development of public and private broadcasting;
- (h) promote convergence and consolidation of broadcasting and other communication services; and
- (i) promote and project Sierra Leone's domestic and foreign policies internationally, with a view to attract goodwill, development and inflow of investment in the country.

(3) Electronic media institutions required to be licensed under sub-regulation (1) include -

- (a) community radio or television stations;
- (b) commercial radio or television stations;
- (c) public radio or television stations;
- (d) religious radio or television stations;
- (e) teaching radio or television stations;
- (f) rebroadcast radio or television stations and any other category approved by the Commission.

(4) The electronic media shall practice self-regulation based on these regulations and Sierra Leone Association of Journalists Code of Ethics.

28. (1) The Commission shall, in the implementation of laws Responsibilities
of Commission

that promote free and balanced flow of information, ensure -

to electronic
media
institutions.

- (a) that broadcast programmes reflect the various shades of opinion and interests in the society;
- (b) the promotion and development of community broadcasting;
- (c) the allocation of specified percentage by broadcast stations of their airtime to local production.

(2) For the purposes in enforcing its responsibilities under sub-regulation (1), the Commission shall establish, -

- (a) a point-based system showing the number of electronic media institutions that an individual or institution can own;
- (b) content regulation policies that accommodate the country's cultural diversity to promote national unity and cohesion;
- (c) minimum standards for broadcast equipment specifications, installation and operational environment.

Specific

responsibilities
for radio,
television
and direct
to home
services.

29. (1) A radio, television or direct to home broadcast service shall -

- (a) maintain and publish a quarterly schedule of their programmes and submit, at least 2 copies, to the Commission.
- (b) promote Sierra Leonean arts and culture as a means of sustaining national cohesion and unity in diversity.
- (c) devote at least 10 hours a week to public service broadcasting which shall include national, regional and local issues, including programmes on central and local governance, education, health and human rights issues, persons with disabilities among others.
- (d) not broadcast -
 - (i) programmes that are violent, porno-graphic or obscene in character or will tend to lead children to crime and anti-social behavior or portray smoking, drinking or illegal drug-taking;
 - (ii) before the watershed period, materials depicting strong sexual nature or sexual stimulation;
 - (iii) materials depicting but not limited to offensive language, violence, sex, sexual violence, humiliation, distress, violation of human dignity, discriminatory language or treatment;

- (e) include parental guidance, age limits, warning about strong content and strictly adhere to the watershed time.

(2) The Commission shall, in determining whether a content is justified before broadcast, take the following factors into consideration-

- (a) the editorial content of the programme;
- (b) the service on which it is carried including the existence of subscription or other means of selecting the audience;
- (c) the time of broadcast and the nature of other programmes or content adjacent to it;
- (d) the likely composition and expectations of the audience;
- (e) the degree of harm or offence likely to be caused.

(3) A person who contravenes sub-regulation (1) is liable to a fine not exceeding 10,000.00 Leones and suspension from practice, if fine is not paid within 30 days, until such fine is paid

30. Television programmes shall be categorised into- of television

- (a) G- general audience;
- (b) GP- general, but parental guidance needed because of violence and nudity;

Categories
of television
programmes.

- (c) RV - restricted viewing, not suitable for viewers under the age of 18.

Live and phone-in programmes.

31. (1) Live radio, television or direct to home broadcast programmes, including phone-in programmes shall –

- (a) be managed in such a way as not to incite violence, instability and public disorder.
- (b) not be conducted unless the broadcaster has the capacity for delayed broadcast and to screen in-coming calls before putting a caller on air.

(2) A person who contravenes sub-regulation (1) is liable to a fine not exceeding 10,000.00 Leones and suspension from practice, if fine is not paid within 30 days, until such fine is paid.

Obligation to record programmes.

32. (1) Radio, television or direct to home broadcast programmes shall be recorded, archived and made available on demand to the Commission.

(2) A person who contravenes sub-regulation (1) is liable to a fine not exceeding 5,000 .00 Leones and suspension from practice, if fine is not paid within 30 days, until such fine is paid.

PART IV – COMPLAINTS POLICY AND PROCEDURES

Complaints procedure.

33. (1) The Complaints Committee appointed under paragraph (b) of subsection (1) of section 19 of the Act shall determine complaints referred to it by the Commission within 1 month unless it requires further investigation.

(2) Complaints under sub-regulation (1), include complaints

-

- (a) against media institutions for publications by newspapers or broadcasts by radio or television stations;

- (b) against persons engaged in media services for breach of these Regulations;

- (c) for breach of conditions attached to licence or registration of media institutions;

- (d) for breach of the Act.

(3) The Complaints Committee shall receive complaint referred to it by the Commission, inquire into the complaint and make recommendations to the Commission.

(4) Hearings of the Complaint Committee shall be conducted in public.

34. (1) Complaint to the Commission shall be -

Complaints Committee.

- (a) filed to the Commission in such form as may be specified by the Commission;
- (b) accompanied by an affidavit setting out the facts on which the complaint is based; and
- (c) lodged within 6 months of the offending publication or broadcast.

(2) Complaints shall be arbitrated between the complainant and the person against whom a complaint is made, in the presence of their legal representative who may only be heard on matters of law and editorial issues.

(3) A media practitioner or institution that refuses to respond to the subpoena of the Complaint Committee without a valid reason and refuses to send a representative to the Complaint Committee, is liable to -

- (a) a fine not exceeding 1,000.00 Leones for each sitting in which he is absent; and
- (b) suspension of his licence if he is absent for 3 consecutive sittings.

(4) Where a media practitioner or institution fails to appear before the Complaint Committee, the Committee shall, after an affidavit of service has been filed, proceed to hear the complaint as if the media practitioner or institution is in attendance.

(5) Witnesses and evidence are only allowed at the discretion of the Complaint Committee.

(6) The Complaint Committee shall, at the determination of the complaint, submit a report containing its recommendations to the Commission.

(7) The Commission shall, on receipt of the recommendations of the Complaint Committee under sub-regulation (6), -

- (a) issue a warning;
- (b) order media practitioner or institution concerned to publish or broadcast an apology, a retraction;
- (c) reprimand the media practitioner or institution concerned; or
- (d) impose such fine as prescribed in these Regulations.

(8) Where a party fails to pay a fine imposed by the Commission, the Commission shall suspend the registration and licence of the person or media institution concerned until they comply with the order.

(9) A media practitioner or institution aggrieved with the decision of the Commission under sub-regulation (7), shall appeal to the High Court within 30 days provided that such appeal shall not act as a stay of the decision of the Commission.

MADE THIS *4th day of October, 2022.*

MOHAMED SWARAY
Minister of Information and Communications,

FREETOWN,
SIERRA LEONE,

(3) For the purposes of subsection (2), a disclosure which is made to the police or to an appropriate public authority shall be deemed to be made in the public interest.

(4) For the purposes of this section, a person is penalized if the person is dismissed, discriminated against, made the subject of any reprisal or other form of adverse treatment or is denied any appointment, promotion or advantage that otherwise would have been provided; and the imposition of any penalty in contravention of this section shall be actionable in tort.

(5) Any term of a settlement arising from a claim under this section, in-so-far as it purports to impose an obligation of confidentiality on any party to the settlement in respect of information which is not inaccurate and which was or was proposed to be disclosed, shall be unenforceable.

(6) In any proceedings for an offence for contravention of any statutory prohibition or restriction on the disclosure of information it shall be a defence to show that in the circumstances the disclosure was in the public interest, and where the offence is alleged to have been committed by an official or Government contractor and involves the disclosure of information obtained by the person in the person's position as such, that the defendant had before making the disclosure, complied with subsection (2).

Protection of
bona fide
actions.

51. No suit, prosecution or other legal proceeding shall lie against any person for anything which is done in good faith or intended to be done under or pursuant to this Act.

Passed in Parliament this *29th day of October*, in the year of our Lord two thousand and thirteen.

IBRAHIM S. SESAY,
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 correct printed copy of the said Bill.

IBRAHIM S. SESAY,
Clerk of Parliament.

THE RIGHT TO ACCESS INFORMATION ACT, 2013

ARRANGEMENT OF SECTIONS

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SIGNED this 31st day of October, 2013.

DR. ERNEST BAI KOROMA,
President.



No. 2



2013

Sierra Leone

Short title. **The Right to Access Information Act, 2013.**

**Being an Act to provide for the disclosure of information
held by public authorities or by persons providing services for them
and to provide for other related matters.**

[]

**ENACTED by the President and Members of
Parliament in this present Parliament assembled**

Date of com-
mencement.

PART I—PRELIMINARY

Interpretation.

1. In this Act, unless the context otherwise requires—

“Commission” means the Information Commission established by section 30;

“fees notice” means a notice in writing stating that a fee of an amount specified in the notice is to be

charged by the public authority for complying with section 2.

“historical record” means a record which was created twenty or more years before the coming into operation of this Act;

“information” includes any material regardless of its physical form or characteristics, such as a book, plan, map, drawing, film, microfiche, diagram, pictorial or graphic work, data, photograph, recording, audio

or video-tape, machine-readable material or any other information held in electronic form, and also includes any sample, work, model or copy thereof;

“Minister” means the Minister responsible for information;

official” means any person employed by a public

authority, whether permanently or temporarily and whether part-time or full-time, and includes consultants working directly as individuals for the authority;

“personal information” means information about an identifiable individual which contains intimate details in respect of which that individual has a reasonable expectation of privacy;

“private body” means a natural person who carries on a trade, business or profession, but only in such capacity or a partnership or juristic person which carries on a trade, business or profession, but does not include a public authority;

“public information officer” means a person appointed under section 28-

“public authority” includes any body—

- Act No. 6 of 1991.
- (a) established by or under the Constitution of Sierra Leone 1991;
 - (b) established by statute;
 - (c) which forms part of any level or branch of Government;
 - (d) owned, controlled or substantially financed by funds provided by Government;
 - (e) carrying out a statutory or public function; or
 - (f) a body or organisation that receives monies on behalf of the people of Sierra Leone;

“publish” means to make available in a form generally accessible to members of the public and includes print, broadcast and electronic forms of information dissemination;

PART II—THE RIGHTS TO INFORMATION

2. (1) Every person has the right to access information held by or is under the control of a public authority. Access to information.

(2) Every person has the right to access information held by or is under the control of a private body where that information is necessary for the enforcement or protection of any right.

(3) Nothing in this Act limits or otherwise restricts the disclosure of or the right to access, information pursuant to any other enactment, policy or practice.

(4) Any person making a request for information to a public authority shall be entitled—

- (a) to have the public authority confirm or deny whether it holds information of the description specified in the request; and
- (b) where the public authority holds information of the description specified in the request, to have the information communicated to that person

(5) A public authority shall be deemed to have complied with subsection (4) if it has communicated the information to the applicant.

(6) In this Act, the duty of a public authority to comply with paragraph (a) of subsection (4) shall be referred to as “the duty to confirm or deny”.

Submission
and form of
request.

3. (1) A request for information under section 2 shall—

- (a) be made in writing;
- (b) describe the information requested; and
- (c) provide an address, which may be an email, for purposes of correspondence.

(2) For the purposes of paragraph (a) of subsection (1), a request shall be deemed to be made in writing where the text of the request—

- (a) is transmitted by electronic means;
- (b) is received in legible form; and
- (c) is capable of being used for subsequent reference.

(3) An application to access information shall be made in English or *Krio* by email, fax, post, telephone or by any other medium provided that the applicant provides—

- (a) contact details; and
- (b) sufficient particulars for the public information officer or any other official to understand what information is being requested.

(4) A public information officer who receives an oral request shall reduce the request to writing, including the public information officer’s name and designation and shall give a copy thereof to the applicant.

(5) Notwithstanding subsection (3), an application may, if the applicant is unable to communicate in English, be made in any other local language in use in Sierra Leone: and in that event the public information officer to whom the application is made shall arrange for a translation of the application into English.

(6) Where a request for information does not comply with subsection (3), the public information officer who receives the request shall render such reasonable assistance, free of charge, as may be necessary to enable the request to comply with that subsection.

(7) A request referred to in subsection (6) shall not be deemed to have been rejected while assistance is being rendered.

(8) A public authority may determine the form for requests for information, but the form shall not be such as to unreasonably delay requests or place an undue burden upon applicants; and no application may be rejected on the ground only that the applicant has not used the prescribed form.

(9) A public authority which receives a request for information shall provide the applicant with a receipt documenting the request.

(10) A public authority shall record and maintain records of all requests for information and all public transactions in a manner that facilitates the right to information.

Time limit
for com-
pliance.

4. (1) Subject to subsection (2), section 2 shall be complied with as soon as possible, and in any event within fifteen working days of receipt of the application.

(2) Where the information sought concerns the life or liberty of a person, section 2 shall be complied with within forty-eight hours of receipt of the application.

(3) Where an application is especially complex or relates to a large volume of information, the public authority may request the Commission for an extension of not more than fifteen working days.

(4) Any failure to conform to the timelines set out in this section shall be deemed a refusal of the request, for purposes of complaints and appeals.

Transfer of
application.

5. (1) Where a public authority does not hold information which is responsive to a request or part of a request, that request or any relevant part of it may, not later than three days from the date of its receipt, be transferred to another public authority if the information requested is held by that other public authority.

(2) Where an application is transferred under subsection (1), the applicant shall be informed of the transfer immediately, and in any event not later than three working days from the date of the transfer.

(3) A public authority to which an application is transferred under subsection (1) shall decide the request in accordance with the timelines set out in section 4, to run from the day upon which the public authority receives the transferred request.

Fees.

6. (1) A public authority to which a request for information is made may, within the time limit for compliance specified in section 5, give the applicant a fees notice, stating that a fee of an amount specified in the notice is to be charged by the public authority for complying with section 2.

(2) Where a fees notice has been given to the applicant, the public authority shall not be obliged to comply with section 2 unless the fee is paid within the period of three months beginning on the day on which the fees notice is given to the applicant.

(3) Subject to subsection (5), any fee under this section shall not exceed the reasonable, cost-based amount for reproducing and sending the information to the applicant, and shall be in accordance with any Regulations made by the Minister under this Act.

(4) Regulations made by the Minister under subsection (3) may, in particular, provide that no fee shall be payable under this section in the following cases:—

- (a) where the applicant falls below a certain income level;
- (b) where the request is for personal information relating to the applicant; or
- (c) where the request is in the public interest, for example because the applicant intends to make the information public.

(5) Subsection (3) shall not apply where provision is made in any enactment as to the fee that may be charged by the public authority for the disclosure of the information.

7. (1) Where, on making a request for information, the applicant expresses a preference for communication by any one or more of the following means:—

Communica-
tion of
request.

- (a) providing the applicant with a copy, certified or otherwise, of the information in permanent form or in another form acceptable to the applicant, such as an electronic form;

- (b) giving the applicant a reasonable opportunity to inspect a record containing the information;
- (c) providing the applicant with a digest or summary of the information in permanent form or in another form acceptable to the applicant; or
- (d) allowing the applicant to take notes, extracts and samples of any materials,

the public authority shall so far as is reasonable, give effect to that preference.

(2) A public authority shall not be required to comply with subsection (1) where to do so would—

- (a) be detrimental to the preservation of the record;
- (b) unduly divert the resources of the public authority; or
- (c) breach a copyright not held by the public authority.

(3) Where a public authority does not, pursuant to subsection (2), comply with any preference expressed by the applicant in communicating the information, it shall—

- (a) notify the applicant of the reasons for this; and
- (b) communicate the information to the applicant by any means reasonable in the circumstances.

Proactive
publication.

8. (1) The following classes of information form the core proactive publication obligations for every public authority:—

- (a) the particulars of its organization, functions and duties;
- (b) the powers and duties of its officers and employees;
- (c) the procedure followed in the decision making process, including channels of supervision and accountability;
- (d) the norms set by it for the discharge of its functions;
- (e) any guidance used by the authority in relation to its dealings with the public or with corporate bodies, including the rules, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
- (f) a guide sufficient to enable any person wishing to apply for information under this Act to identify the classes of information held by it, the subjects to which they relate or the location of any indexes to be consulted by any person;
- (g) the particulars of any arrangement that exists for consultation with or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
- (h) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of advising it with information as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of the meetings are accessible to the public;

- (i) a directory of its officers and employees;
- (j) the monthly remuneration received by each of its officers and employees, including the system of compensation;
- (k) the budget allocated to each of its agencies, including the particulars of all plans, proposed expenditures and reports on disbursements made;
- (l) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
- (m) particulars of concessions, permits or authorizations granted by it;
- (n) details in respect of the information available to or held by it, in an electronic form;
- (o) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
- (p) the names, designation, contact details of its public information officers, appellate authorities and the particulars and contact details of the Commission;
- (q) a list of all applications under this Act received by the public authority, including an indexed register containing copies of records released in response to requests made under this Act other than records relating to the personal affairs of the applicant.

(2) Every public authority shall adopt and disseminate widely, including on its website, a publication scheme which has been approved by the Commission, within six months of the coming into operation of this Act or its approval, whichever comes later.

(3) The publication scheme shall set out—

- (a) the classes of records that the authority will publish on a proactive basis; and
- (b) the manner in which it will publish these records.

(4) In adopting a publication scheme, a public authority shall have regard to the public interest—

- (a) in allowing access to the information it holds; and
- (b) in making information available proactively so as to minimise the need for individuals to make requests for information.

(5) Every public authority shall publish information in accordance with its publication scheme.

(6) Every publication scheme shall, within seven years of the adoption of the first publication scheme by a public authority, cover all of the core proactive publication obligations set out in subsection (1).

(7) Any person may institute proceedings in a court to compel the head of a public authority, to comply with this section.

9. (1) When approving a publication scheme, the Commission may provide that the approval will expire at a certain time.

Approval of
publication
schemes.

(2) When refusing to approve a publication scheme, the Commission shall give reasons and provide reasonable direction to the public authority as to how it may amend the scheme so as to obtain approval.

(3) The Commission may, upon giving six months notice with reasons, withdraw its approval of any publication scheme.

Model
publication
schemes.

10. (1) The Commission may adopt or approve model publication schemes for different classes of public authorities.

(2) Where a public authority in a certain class adopts a model publication scheme which applies to that class of public authorities, it shall not require further approval from the Commission, but it shall inform the Commission that it is applying that model publication scheme.

(3) The Commission may put a time limit on the validity of a model publication scheme or, upon giving six months notice to all public authorities using it, terminate the validity of any publication scheme.

Other
proactive
obligations.

11. (1) In addition to the items listed in its publication scheme, a public authority shall also—

- (a) publish all relevant facts while formulating important policies or announcing the decisions which affect the public;
- (b) provide to any person the reasons for any decision taken by it in relation to that person;
- (c) before initiating any project or formulating any policy, scheme, programme or law, publish or communicate to the public in general or to the persons likely to be affected by it in particular, the facts available to it or to which it has reasonable access which in its opinion should be known to them in the best interests of natural justice and promotion of democratic principles;

(d) unless there are good reasons to the contrary, allow members of the public to attend its meetings at which decisions affecting them are made and shall give adequate notice of the meetings;

(e) upon signing a contract shall publish it in the *Gazette*, detailing at a minimum for each contract—

(i) the public works, goods acquired or rented, and the contracted service, including any sketches, scopes of service and terms of reference;

(ii) the contract sum;

(iii) the name of the provider, contractor or individual to whom the contract has been granted;

(iv) the periods within which the contract shall be completed.

(2) It is the duty of every public authority to take steps in accordance with its publication scheme and the requirements of subsection (1) to provide information proactively to the public at regular intervals through various media of communication.

(3) All materials shall be disseminated taking into consideration the need to reach persons with disability, the cost, local language and the most effective method of communication in that local area; and the information should be easily accessible and be available free or at cost, taking into account the medium used.

(4) At a minimum, the material referred to in subsection (1) shall be made available—

- (a) for inspection by any person without charge;
- (b) by supplying a copy to any person on request for which a reasonable charge to cover the costs of copying and supplying them may be made; and
- (c) on the internet, provided that the materials are held by the authority in electronic format.

PART III—EXEMPT INFORMATION

Exempt information. **12.** (1) Information is exempt information if its disclosure by a public authority is exempted under this Act.

(2) Notwithstanding subsection (1), information shall not be exempt where the public interest in accessing the information outweighs the harm which the exemption in subsection (1) seeks to prevent.

Refusal of request. **13.** A public authority which, in relation to any request for information, is to any extent relying on a claim that information is exempt information shall, within the time limits for complying with section 2, notify the applicant in writing stating—

- (a) that the information is exempt;
- (b) the specific exemption in question; and
- (c) why the exemption applies.

Information accessible by other means. **14.** (1) The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would involve the disclosure of any information which is reasonably accessible to the applicant.

(2) For the purposes of subsection (1)—

- (a) information is reasonably accessible even though it is accessible only on payment, as long as the payment does not exceed the fees that would be applicable under this Act;

- (b) information is reasonably accessible if it is information which the public authority or any other person is bound by law to communicate;
- (c) information which is held by a public authority shall not be regarded as reasonably accessible merely because the information is available from the public authority itself on request, unless the information is made available in accordance with the publication scheme referred to in section 8.

15. The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would or could reasonably be expected to seriously prejudice national security and the defence of Sierra Leone. National security and defence.

16. The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would, or could reasonably be expected to seriously prejudice relations between Sierra Leone and any other state or inter-governmental body. International relations.

17. The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would, or could reasonably be expected to seriously prejudice the ability of the Government to manage the economy. Economic interests.

18. The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would, or could reasonably Investigations and law

be expected to cause serious prejudice to— e

- (a) the prevention and detection of crime;
- (b) the apprehension and prosecution of offenders; or
- (c) matters that are *subjudice*.

Third party

information.

19. The duty to disclose information shall not apply if, or to

the extent that, compliance with section 2 would, in relation to information obtained by the public authority from a third party, would or could reasonably be expected to constitute a breach of confidence actionable by that third party.

Client
professional
privilege.

20. The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would involve a breach of the rules governing legally privileged information.

Personal
matters.

21. (1) The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would involve the unreasonable disclosure of personal information concerning an individual.

(2) For the purposes of this section disclosure is not unreasonable if—

- (a) the individual to whom the information relates gives prior consent;
- (b) the disclosure is required to promote public health or public safety;
- (c) the disclosure is necessary in order to subject public authorities and private bodies to public scrutiny;
- (d) the disclosure is made to the individual to whom the information relates;

the disclosure can reasonably be expected not to have an adverse effect on the affairs of any person or prejudice the future supply of the information;

that will or might be made available to the

(e) the information is already available to the public;

(f) the individual to whom the information relates was informed or made aware prior to supplying the information that the information belongs to a class of information;

(h) in the case of a deceased person, the applicant is the next-of-kin or represents the

Next-of-kin of the deceased;

(i) the third party has been deceased for more than twenty years.

22. The duty to disclose information shall not apply if, or to the extent that, in relation to information obtained by the public authority from a third party, compliance with section 2 would divulge a trade secret or would or could really be expected to seriously prejudice the commercial interests of that third party.

Commercial
interest.

23. The duty to disclose information shall not apply if, or to the extent that, compliance with section 2 would or could reasonably be expected to seriously prejudice the commercial interests of a public authority.

Public
Interest
economic

24. (1) Access to a historical record shall not be denied under this Part unless the Commission certifies that there is an ongoing need for it to be kept confidential.

Historical
records.

25. The duty to disclose information shall not apply if the information requested relates to any matter concerning the traditional rites or customary usages of a group of people in Sierra Leone.

Customary
usages.

25. 26. If a request for information relates to a record containing information which falls within the scope of an exception in this Part, any information in the record which is not subject to an exception shall, to the extent it may reasonably be severed from the rest of the information, be provided to the applicant.

PART IV—MEASURES TO PROMOTE OPENNESS

27. 27. (1) Every public authority shall record and maintain records of its activities in a manner that facilitates the right to information, as provided for in this Act, and in accordance with the Code of Practice referred to in subsection (2).

(2) The Commission shall, after consultation with interested parties, issue and from time to time update a Code of Practice relating to the keeping, management and disposal of records, as well as the transfer of records to public archives.

(3) The Commission shall cause to be established a documentation centre to reflect and promote the history and culture of the State.

Appointment and training of public information officers.

28. (1) Subject to subsections (3) and (4), a public authority shall appoint as many public information officers in all offices or units as they have at the local, district, provincial and national levels as is necessary to enable it to provide information to persons requesting information under this Act.
- (2) (2) Where for any reason, a public authority has not appointed a public information officer, the head of the public authority shall for purposes of this Act, be deemed to be the public information officer of that public authority.
- (3)
- (4) (3) A public information officer shall be the principal contact person within a public authority to deal with requests from persons seeking information from the public authority.
- (5)
- (6) (4) A public information officer shall be of sufficient rank within the public authority to be empowered to make binding decisions in relation to information disclosure under this Act.

- (4) Notwithstanding subsection (3), it is the duty of every official to provide reasonable assistance to a person seeking information under this Act and no official may refuse to receive a request for information on the ground only that the official is not a public information officer.
- (5) An official other than a public information officer to whom a request for information is made under subsection (5), shall refer the person seeking information to a public information officer and, if no officer is immediately available, the official shall receive the request and shall ensure that it is forwarded to the appropriate public information officer, who shall also issue a receipt for the request, indicating on it the official's name, date and designation of receiving the request.
- (6) A public information officer may seek the assistance of any other official that the officer considers necessary for the proper discharge of the officer's duties, and the other official shall render the required assistance.

29. Public authorities shall develop, for the purposes of this Act, information communication technology units in accordance with the national information communication technology policy of Sierra Leone, to—

Development of information communication facilities.

- (a) facilitate access to information;
- (b) ensure transparency and accountability;
- (c) improve record keeping;

30. (1) There is hereby established a body to be known as the Commission.

Establishment of Commission.

(2) The Commission shall be a body corporate having perpetual succession, capable of acquiring, holding and disposing of property, being sued in its corporate name and subject to this Act of performing all functions as bodies corporate may by law perform.

(3) The Commission shall have a common seal the use of which shall be authenticated by the signatures of the Chairperson and any other member of the Commission generally or specifically authorised by the Commission for that purpose.

(2) Every document purporting to be an instrument executed or issued by or on behalf of the Commission and to be sealed with the common seal of the Commission in the manner stated in subsection (1) shall be deemed to be so executed or issued without further proof unless the contrary is proved.

(3) In appropriate cases the seal may be affixed to documents outside Sierra Leone.

Composition
of
Commission.

30. (1) The Commission shall consist of the Information Commissioner who shall be the Chairperson of the Commission and four other Commissioners representing each of the Provinces and the Western Area.

(2) Members of the Commission shall be appointed by the President on the recommendation of the Minister and approved by Parliament.

(3) No person shall be appointed as a member of the Commission if that person—

- (a) is an employee of a political party or holds an elected or appointed position in central or local government; or
- (b) has been convicted of an offence involving fraud or dishonesty.

(4) The information Commissioner and the other members of the Commission shall hold office for a term of five years and shall be eligible for re-appointment to a further term of five years only.

Functions and
powers of
Commission.

32. (1) The Commission shall have all powers direct or incidental, as are necessary to undertake its functions under this Act, including the power to acquire, hold and dispose of property.

(2) Notwithstanding the generality of subsection (1), the Commission shall have power to—

(a) monitor and report on the compliance by public authorities with their obligations under this Act;

(b) make recommendations for reform both of a general nature and specific public authorities;

(c) co-operate with or undertake training activities for public authorities on the right to access information and the effective implementation of this Act;

(d) refer to the appropriate public authority, cases which reasonably disclose evidence of criminal offences under this Act; and

(e) publicise the requirements of this Act and the rights of individuals under it.

(3) In the performance of its functions under this Act, the Commission shall have the powers of a High Court to—

(a) issue summons or other orders requiring the attendance of any person before the Commission to give oral or written evidence and the production of any document or record relevant to any investigation by the Commission;

(b) administer oaths;

(c) examine any person in respect of any subject matter under investigation before the Commission;

(d) require any person to disclose any information within the person's knowledge relevant to any investigation by the Commission; and

(e) enter any premises occupied by a public authority to carry out any investigation.

(4) The Commission may, if satisfied that there has been an infringement of the provisions of this Act, order—

- (a) the release of any unlawfully withheld information;
- (b) the payment of compensation; or
- (c) any other lawful remedy or redress.

(5) A person or authority dissatisfied with an order made by the Commission under subsection (4) may appeal to the High Court within twenty-one days of the order.

(6) An order of the Commission under subsection (4) may be filed in the High Court by any party thereto in such manner as the Commission may, after consultation with the Chief Justice, prescribe and the party shall give written notice of the filing of the order to all other parties within thirty days of the date of the filing of the order.

(7) If no appeal is filed under subsection (5), the party in favour of whom the order is made by the Commission may apply *ex parte* by summons for leave to enforce such order as a decree and the order may be executed in the same manner as an order of the High Court to the like effect.

(8) A person who—

- (a) fails to attend before the Commission in accordance with any summons or order issued under subsection (3) or (4);
- (b) having attended before the Commission, refuses to be sworn or to make an affirmation, or having been sworn or affirmed, refuses without lawful excuse, to answer any question or to produce any information;
- (c) knowingly gives any false or misleading information to the Commission; or
- (d) causes an obstruction or disturbance in the course of any proceedings before the Commission,

commits an offence and is liable on conviction in the case of an individual to a fine not exceeding ten million Leones or in the case of a corporate body to a fine not exceeding one hundred million Leones or a term of imprisonment not exceeding one year or to both the fine and imprisonment.

33. (1) The Commission may, for the purpose of conducting any investigation pertaining to an inquiry, utilise the services of any official or investigation agency of the Government and where an official is so utilised under this subsection, the Commission shall pay the official or agency for the service rendered.

Power
relating to
investigation

(2) For the purpose of investigating any matter pertaining to an inquiry, an official or agency whose services are utilised under subsection (1) may, subject to the direction and control of the Commission—

- (a) summon and enforce the attendance of any person for examination;
- (b) require the discovery and production of any information; and
- (c) subject to this Act, requisition any public record or copy of the public record from any official.

(3) Paragraph (c) of subsection (8) of section 32 shall apply in relation to any information given by a person before any official or agency whose services are utilised under subsection (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

(4) The official or agency whose services are utilised under subsection (1) shall investigate any matter pertaining to the inquiry and submit a report on it to the Commission.

(5) The Commission shall satisfy itself on the correctness of the facts stated and the conclusion, if any, arrived at in the report submitted to it under subsection (4) and for that purpose, the Commission may make such inquiry, including the examination of any person or persons who conducts or assists in the investigation as it thinks fit.

Other staff.

34. (1) The Commission shall be assisted by a secretariat consisting of the Executive Secretary, Finance Officer, Administrative Officer and such other additional technical and administrative staff, as may be required for the efficient performance of its functions under this Act.

(2) The Executive Secretary, Finance Officer, Administrative Officer and such other technical and administrative staff, shall be appointed by the Commission, on such terms and conditions as the Commission shall determine.

Duties of Executive Secretary.

35. Subject to the general control of the Commission, the Executive Secretary shall—

- (a) be responsible for the carrying out of the policy decisions of the Commission, the day-to-day administration and management of the affairs of the Commission and the control of the other staff of the Commission; and
- (b) perform such other duties as may be assigned by the Commission.

(3) The Executive Secretary shall, unless in any particular case the Information Commissioner otherwise directs in writing, attend all meetings of the Commission.

Protection of officers.

36. No criminal or civil proceedings shall lie against the Commission or other staff in respect of any matter or thing done in good faith in the performance of its or their functions under this Act.

Independence of Commission.

37. The Commission and its authorised agents shall not in the performance of their functions under this Act be subject to the directions or control of any person or authority.

PART VI—FINANCIAL PROVISIONS

Funds of Commission.

38. The activities of the Commission shall be financed from funds consisting of—

- (a) moneys appropriated by Parliament for the purposes of the Commission;

(b) grants, gifts or donations for the purposes of the Commission.

39. (1) The Commission shall keep proper books of account and proper records in relation to the accounts and shall prepare within the period of three months after the end of each financial year, a statement of its accounts in a form approved by the Auditor-General. Accounts and audit.

(2) The books and accounts of the Commission shall each year be audited by the Auditor-General or by an auditor appointed by the Auditor-General and a report of the audit which shall include a copy of the audited accounts shall be submitted to the Commission.

(3) For the purposes of subsection (2), the Auditor-General or the auditor appointed by Auditor-General shall be entitled to have access to all books of accounts, vouchers and other financial records of the Commission and to require such information and explanation on them as the Auditor-General may think fit.

(4) The Auditor-General shall submit to the Commission a report on the audited accounts and shall, in the report draw attention to—

- (a) any irregularities in the accounts;
- (b) any matters that are likely to adversely affect the operations of the Commission; and
- (c) any other matter which, in the Auditor-General's opinion, ought to be brought to the notice of the Commission.

40. The financial year of the Commission shall be the same as the financial year of the Government. Financial year.

41. (1) The Commission shall, within three months after the end of the financial year, submit to the Minister a report on the performance of its functions during that year and on its policies and programmes. Annual report of Commission.

(2) The annual report shall include the accounts and annual financial statement prepared under section 39 and the report of the audit on the accounts.

(3) The annual report shall also include an overview of the performance of all public authorities in implementing this Act.

(4) To enable the Commission to comply with subsection (3), every public authority shall report annually to the Commission on the steps it has taken to implement this Act, including a report on the requests for information it has received and how these have been dealt with.

(5) The Minister shall lay copies of the annual report before Parliament within two months after receiving the report.

(6) The Commission shall make copies of the report available to all stakeholders once it has been laid before Parliament.

PART VII—APPEALS

Complaints.

42. (1) A public authority may create an internal appeal mechanism which requesters may use, if they wish to complain that they have not been provided with information in accordance with this Act.

(2) An internal appeals mechanism created by a public authority under subsection (1) shall be inexpensive, simple and shall require disposal of the appeal in not more than twenty-one days.

Review by
Commission.

43. A person who has made a request for information to a public authority and which has been refused may apply to the Commission for a review of the decision of the public authority and to ascertain whether the public authority failed to comply with an obligation under this Act, including—

- (a) refusing to indicate whether or not it holds a record, or to provide access to information, contrary to section 2;
- (b) failing to respond to a request for information within the time limits established in section 4;

(c) failing to communicate information in the form requested under this Act;

(d) charging an excessive fee, contrary to section 6;

(e) refusing to accept an application requesting access to information; or

(f) any other matter relating to a request for or access to information under this Act.

44. In an application made under section 43, the burden of proof shall be on the public authority to show that it acted in accordance with its obligations under this Act. Burden of proof.

45. (1) The Commission shall, on the receipt of an application for review under section 43, as soon as is reasonably possible, and in any case not later than fifteen days after giving both the complainant and the relevant public authority an opportunity to respond in writing, make an order— Review of decision.

- (a) rejecting the application; or
- (b) requiring the public authority to take such steps as may be necessary to bring it into compliance with its obligations under this Act, including—
 - (i) providing access to information;
 - (ii) providing access to information in a particular form;
 - (iii) requiring a public or private body to compensate the complainant for any loss or other detriment suffered; or
 - (iv) imposing a fine on the public authority.

(2) The Commission shall serve a notice of its decision, including any rights of appeal, on both the complainant and the public authority.

Appeal to
High Court.

46. The complainant or the public authority may, within forty-five days, appeal to the High Court for a review of the decision of the Commission.

PART VIII—OFFENCES AND PENALTIES

Offences.

47. Any person who willfully –

- (a) denies or obstructs the access of any other person to any record or information contrary to this Act;
- (b) obstructs compliance by a public authority of any of its obligations under this Act;
- (c) interferes with the work of the Commission or other officer of the Commission;
- (d) destroys a record with intent to deny access to a request made under this Act; or
- (e) deliberately conceals or falsifies records or provides false, misleading, incomplete or inaccurate information in response to a request made under this Act,

commits an offence and is liable on conviction to a fine not exceeding ten million Leones in the case of an individual and one hundred million Leones in the case of a body corporate or to a term of imprisonment not exceeding one year to both the fine and imprisonment.

Other
offences.

48. (1) Any person who without reasonable excuse, fails to supply information requested under this Act, within the period specified in this Act, commits an offence and is liable on conviction to a fine not exceeding ten million Leones in the case of an individual and one hundred million Leones in the case of a body corporate or to a term of imprisonment not exceeding six months or to both the fine and imprisonment.

(2) Any person who without reasonable excuse, refuse to accept an application for information requested under this Act, commits an offence and is liable on conviction to a fine not exceeding ten million Leones in the case of an individual and one hundred million Leones in the case of a body corporate or to a term of imprisonment not exceeding six months or to both the fine and imprisonment.

PART IX—MISCELLANEOUS PROVISIONS

49. (1) The Minister may after consultation with the Commission by statutory instrument make Regulations for giving effect to this Act. Regulations.

(2) Without prejudice to the generality of subsection (1), the Minister may, after consultation with the Commission, make Regulations prescribing the following:—

- (a) the form of training of information officers;
- (b) the form of reports to the Commission under subsection (4) of section 41;
- (c) any notice required by this Act;
- (d) any administrative or procedural matter necessary to give effect to this Act;
- (e) the manner in which fees are to be calculated and the maximum fee under section 6; and
- (f) that no fee is to be charged in prescribed cases.

50. (1) No person shall be penalized in relation to any employment, profession, voluntary work, contract, membership of an organization, the holding of any office or in any other way, as a result of having made or proposed to make a disclosure of information which the person obtained in confidence in the course of that activity if the disclosure is one which is in the public interest.

(3) Subject to subsection (3), subsection (1) shall only apply where the person believes on reasonable grounds that the information is accurate.

STATUTORY INSTRUMENT

Supplement to the Sierra Leone Gazette Vol. CXLXIII, No. 36

dated 26th May, 2022

THE RIGHT TO ACCESS INFORMATION REGULATIONS 2022

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STATUTORY INSTRUMENT No. 9 of 2022

Published 26th May, 2022

MADE THIS *20th day of May, 2022.*

FOR. HONOURABLE MOHAMED RAHMAN SWARAY,
Minister of Information.

FREETOWN
APRIL, 2022.

**THE RIGHT TO ACCESS INFORMATION ACT
2013(ACT NO. 2 OF 2013)**

The Right to Access Information Regulations, 2022

Short title

In exercise of the powers conferred upon him by section 49 of the Right to Access Information Act 2013 the Minister of information hereby makes the following regulations.

PART I- PRELIMINARY

1. In these Regulations, unless the context otherwise Interpretation requires-

"Act" means the Right to Access Information Act, 2013;

"applicant" means any person whether natural or legal who submits a request for information;

"Commission" means the Right to Access Information Commission established under section 30 of the Act;

**PART II- PUBLIC AUTHORITIES AND OTHER
RELATED MATTERS**

2. (1) The Commission shall promote awareness, educate and popularise the right of access to information.

Promotion of
access to
information

(2) In promoting the right of access to information the Commission shall -

- (a) assess all implementation plans to ensure public authorities have clear obligations towards the attainment of the objects of the Act;
- (b) consult and collaborate with civil society organizations and interest groups;
- (c) provide recommendations and guidelines to public authorities for internal training of personnel and provide training on request;
- (d) monitor internal training of staff within public bodies and issue notices for mandatory training where necessary;
- (e) assist public authorities and persons applying for access to information on matters of interpretation of the Act; and
- (f) develop materials as it deems necessary to advance the promotion of access to information

Duties of
Public
Authorities

3. A public authority shall undertake the following activities to ensure proper implementation of the Act-

- (a) provide the necessary support to the public information officer to enable him to discharge his duties effectively;
- (b) develop a website which shall contain-
 - (i) a short description of the right to information and the rights of citizens to request information;

- (ii) links to the relevant legal documents;
- (iii) links to annual reports produced by public authority;
- (iv) links to forms contained in the Regulations; and
- (v) list of categories of information available in electronic forms
- (c) put in place a system for ensuring that information subject to proactive publication is kept up-to-date;
- (d) put in place a system for ensuring that information which has been disclosed pursuant to a request and which is likely to be of interest to others is disclosed on a proactive basis;
- (e) adopt internal rules on the processing of requests;
- (f) ensure that public information officers receive appropriate training on the implementation of the Act; and
- (g) adopt an action plan setting out the steps to meet its obligations under this Act and these Regulations.

4. (1) A public authority shall create, keep, organize and maintain its information in a manner which facilitates access to information.

Duty to
maintain
information

(2) For the purpose of sub-regulation (1) a public authority shall-

duce information in respect of all its activities;

- (b) arrange all information in its possession systematically and in a manner that facilitates prompt and easy identification and access; and
- (c) keep all information in its possession in good condition and in a manner that preserves the safety and integrity of its contents.

Implemen-
tation plan

5. (1) A public authority shall submit an implementation plan to the Commission detailing its operational plan to implement its obligations under the Act and these regulations.

(a)

(2) The plan referred to under sub-regulation (1) shall include-

- (a) specific activities and cost of implementing the operational plan;
- (b) the details and identification of the staff required;
- (c) processes, mechanisms and policies to facilitate and enhance implementation of the Act and these regulations includes measures to secure optimal responsiveness to requests for information and management;
- (d) mechanisms it will use to monitor 2.0."1") track applications, notifications and responses;
- (e) steps to secure continued capacity building and compulsory training plans for staff;

(f) plans for public consultations , community outreach, information-sharing and awareness raising ;and

(g) plans for and frequency of self-initiated implementation audits.

(3) The Commission may request for further plans or amended plans at its discretion.

(4) The Commission may issue directives on specific plans for enhanced implementation.

(5) The Commission may require the plan referred to under sub-regulation (I) to be reviewed within such time frame and at such frequencies as it deems necessary.

6. (1) Pursuant to subsection (2) of section 8 of the Act a public authority shall adopt a publication scheme.

(2) The scheme referred to under sub-regulation (1) shall include the categories of information that the public authority will proactively disclose and those which will be made available only through the formal request process.

(3) With regards to proactively disclosing information the Commission shall from time to time determine measures to-

- (a) be undertaken to ensure accessibility of information; and
- (b) ensure accuracy of information.

(4) With regard to all other information the Commission shall determine measures to-

- (a) be adopted to ensure periodic and frequent updating of all categories of information held by a public authority;
- (b) be undertaken to ensure accessibility of information; and
- (c) ensure :accuracy of information.

(5) The publication scheme shall include the following information about the information holder-

- (a) a description of the structure and its functions , powers and duties;
- (b) physical and electronic contact details of the public authority and the public information officer;
- (c) a description of any arrangement or provision for a person to make recommendation or to otherwise participate in the formulation of policy or the exercise of powers or performance of duties by the pubic authority;
- (d) a description of remedies available in respect of an act or omission by the public authority; and
- (e) the manner of payment of any reproduction fees and transcription fees.

(6) A public authority shall-

- (a) update and publish its publication scheme whenever material change to the information therein occur but at least every 2 years; and

- (b) submit the updated publication scheme to the Commission.

7. (1) Pursuant to subsection (1) of section 28 of the Act a Public

public authority shall appoint public information officers.

Information
Officers

(2) The functions and duties of a public information officer shall include -

- (a) acknowledging receipts of applications for access to official documents;
- (b) electronically recording or putting in writing oral requests received;
- (c) conducting interviews with applicants where necessary in order to ensure proper identification of the official document being requested;
- (d) conducting an initial review of each requested document under the Act to determine whether any of the document is to be released;
- (e) examining a requested document to determine whether-
 - (i) the document is an exempt document;
 - (ii) the document contains exempt matters; or
 - (iii) the grants of access to the document should be deferred

- (f) keeping applicants for access to information fully informed of the status of their request;
- (g) providing access to non-exempt official information to applicants as provided under the Act and these regulations;
- (h) providing advice to the public authority for the purpose of identifying exempt matter or an exempt information ;
- (i) informing an applicant in writing that a requested information is exempt or contains exempt matters or that access to the document will be deferred and indicating to the applicant the basis for the exemption or deferral;
- (j) assisting with the implementation of all decisions in accordance with the Act and these regulations;
- (k) maintaining knowledge of the Act , regulations made under the Act and any law relating to records and information management;

- (l) informing applicants when an official document is published and if requested provide access to the publication;
- (m) transferring of applications; and
- (n) performing any other function required by the Act or these regulations

(3) In addition to the functions and duties of the public information officer set out in sub-regulation (2) the public information officer shall keep a register of applications in an electric form which shall include but not limited to the following-

- (a) an application number;
- (b) the name of the applicant;
- (c) the date of the application;
- (d) a summary of the applicant's request;
- (e) a summary of information provided, where information is provided;
- (f) where the request was refused the specific provision relied upon with an explanation of the reasons; and
- (g) where a review or appeal was filed the outcome of the review or appeal.

8. (I) The annual report referred to under section 41 of the Annual

Act shall contain the following information-

Report

- (a) the number of requests for access received;
- (b) the number of requests for personal information received;
- (c) the number of requests for access granted in full;
- (d) the number of requests for access refused;
- (e) the number of review applications lodged;

- (f) the number of cases which as a result of a review access was given ;
- (g) the description of steps taken by the public authority to encourage public information officers and other employees of the public authority to comply with the provisions of the Act, these regulations and other regulations made under the Act;
- (h) particulars of any penalties imposed against any person;
- (i) particulars of any disciplinary action taken against any person;
- (j) particulars of any difficulties encountered in the implementation of the Act, these regulations and other regulations made under the Act;
- (k) recommendation for reform or amendment of the Act, these regulations and regulations made under the Act

PART III-ACCESS TO INFORMATION

Right of access to information.

9. Subject to the Act and these regulations a person shall have the right to access information from a public authority.

Request for information in person.

10. (1) A public information officer of a public authority shall give to any applicant who wishes to access information under the control of the public authority an application form in the format as set out in Form A in the Schedule.

(2) The applicant shall submit the completed form to the public information officer who shall-

- (a) assign a unique reference number to the applicant; and
- (b) give to the applicant a receipt in the format as set out in Form B in the Schedule
- (3) The application form referred to in this regulations shall-
 - (a) provide details concerning the information requested which are reasonably necessary to enable the public information officer to identify the information;
 - (b) where the applicant believes that the information is necessary to safeguard the life or liberty of a person include a statement to that effect including the basis for that belief
 - (c) state the nature of the form in which the applicant prefers access; and
 - (d) include an authorization form if the request is made on behalf of another person

11. Where a request for access to information is done through electronic means the public information officer shall.

- (a) print and file the request; and
- (b) through the same electronic means acknowledge receipt of the request.

12. (1) Where a person is unable to make a request in accordance with section 3 of the Act because the person is an illiterate the request shall be done orally.

Request for information through electronic means.

Request for information by an illiterate or disabled person

(2) The information officer of a public body to whom an oral request is made under sub-regulation (1) shall reduce the request in writing in the prescribed form and shall give a copy of the 'written request to the person requesting access.

(3) Where a person with disability wishes to make a request the public information officer shall take all necessary steps to assist the person to make the request in a manner that meets the person's needs.

PARTIV-PROCESSING REQUEST FOR INFORMATION

Processing
request for
information.

13. (1) Where a request for information is received by the public information officer, he shall within 15 working days-

- (a) review the request to ensure that the applicant complies with section 3 of the Act;
- (b) assist the applicant to amend the application form if he does not comply with section 3 of the Act;
- (c) enquire whether or not the public authority holds the information;
- (d) determine whether to grant the request;
- (e) notify the applicant of the decision by submitting to him a completed response to a request notice in the format as set out in Form C in the Schedule.

(2) Where an applicant is given notice that his request has been granted the applicant shall -

- (a) upon payment of a reproduction fee or transcription fee if payable ; or

- (b) if no reproduction or transcription fee is payable immediately be given access to the information.

(3) If the request for information is refused the notification referred to under paragraph (e) of sub-regulation (1) shall-

- (a) state the reasons for the refusal based on the contents and substance of the request and information considered by the public information officer;
- (b) contain a reference to specific provisions of the Act or these regulations upon which the refusal is based; and
- (c) inform the applicant that he may apply for a review of the decision.

(4) Pursuant to sub-section (2) of section 4 of the Act where a request relates to information which reasonably appears to be necessary to safeguard the life or liberty of a person, the public information officer shall within 48 hours after receipt of the request

- (a) determine whether to grant the request;
- (b) notify the applicant of the decision in writing;
- (c) if the request is granted give the applicant access to the information

(5) If the request is granted the notice referred to under paragraph (b) of sub-regulation (2) shall state-

- (a) the reproduction fee or transcription fee if any;

- (b) the form in which access to the information will be given; and

(6) The applicant may apply for a review of the reproduction or transcription fee payable or the form which access is granted.

(7) Where a public information officer considers that a request made under sub-regulation 4, is not necessary to safeguard the life or liberty of a person, the public information officer shall within 48 hours after the request is made -

- (a) provide notice of the decision with reasons thereof to the applicant;
- (b) inform the applicant that subject to the applicant's right to apply for a review of the decision, the public information officer will make a decision regarding whether to grant access to the requested information within the specified time period;
- (c) inform the applicant that he may appeal to the commission in respect of the decision in accordance with section 43 of the Act.

(8) Where the information requested contains third party

information, an applicant may not be given access to that information until the right of the third party to appeal against the release of the

information has expired or any appeal lodged by the third party has been finally determined.

Transfer
of request

14. (1) Where a request is made to a public authority for information which the public authority does not hold -

- (a) but the public authority knows that it is held by another public authority; or

- (b) the subject-matter of which is more closely connected with the functions of another public authority

the public authority to which the request is made shall transfer the request or such part of it as may be appropriate to the other public authority.

(2) A public authority that transfers a request in accordance with sub-regulation (1) shall-

- (a) make the transfer as soon as practicable but in any event within 5 days from the date of receipt of the request;
- (b) notify the applicant by completing the response for information notice in the format as set out in Form C in the Schedule and submitting the notice to the applicant.

(3) A public authority that receives a transferred request shall immediately notify the applicant of receipt of the request in writing.

15. Where a public information officer fails to give a decision on a request for information within the time specified the public information officer shall be deemed to have refused the request.

Request
deemed to be
refused.

16. (1) Where a public information officer has taken all reasonable steps to find the information requested and has concluded

that the information -

etc.

- (a) is in the possession of the public authority but cannot be found; or
- (b) does not exist

Information
that cannot
be found

the public information officer shall notify the applicant by stating in the response for information notice in the format as set out in Form C in the Schedule that the information cannot be found or does not exist.

(2) The notice under sub-regulation (1) shall state the details of steps taken by the public information officer to find the information or to determine whether the information exists including

- (a) details of all locations searched for the information and the persons who conducted the searches;
- (b) details of communications with any person that the public information officer contacted in searching for the information or attempting to establish the existence of the information ; and
- (c) any evidence relating to the existence of the information including -
 - (i) evidence that the information was destroyed; and
 - (ii) the location in which the information was last known to have been held.

(3) If the information is found after notice is given to the applicant under sub-regulation (1) the public information officer shall immediately notify the applicant in writing and as soon as possible -

- (a) determine whether to grant the request;
- (b) notify the applicant of his decision; and
- (c) if the request is granted subject to the payment of any fees give the applicant access to the information.

17. (I) Access to information shall be given to an applicant in one or more of the following norms-

- (a) a reasonable opportunity to inspect the information;
- (b) providing a copy of the information;
- (c) the making of arrangements for the person to hear, view, record or copy the sounds or visual images in the case of information that is an article or thing from which sounds or visual images are capable of being reproduced;
- (d) providing a written transcript in the case of information by which words are recorded in a manner in which they are capable of being reproduced in the form of sound or in which words are contained in the form of shorthand writing or in codified form.;
- (e) providing a copy of the information in the case of information which is on a computer or in any electronic or machine readable form and from which the public authority is capable of producing a printed copy of the information or part of it;
- (f) providing a copy of the information in the case of information available or capable of being made available in computer readable form

(2) Subject to sub-regulation (4) where the applicant has requested access to information in a particular form access shall be given in that form.

(3) An applicant may amend his preferred form of access on receipt of notice of the reproduction fee or transcription fee payable if access is granted in the form initially requested.

(4) If giving access to information in the form requested by the applicant is likely to-

- (a) unreasonably interfere with the operations of the public authority;
- (b) be detrimental to the preservation of the information ; or
- (c) having regard to the physical nature of the information, render access in the requested form inappropriate

access in the form may be refused if access is given in another form authorized under the Act or these regulations.

(5) If an applicant with a disability is prevented by that disability from reading, viewing or listening to the information concerned in the form in which it is held by the public authority, the public information officer shall if the applicant so requests take' reasonable steps to make the information available in a form in which it is capable of being read, viewed or heard by the applicant.

Extension
of time

18. (1) Pursuant to subsection (3) of section 4 of the Act the Commission upon application being made to it may extend the period to respond to a request if-

- (a) the request is for a large amount of information or requires a search through a large amount of information and meeting the original time limit would unreasonably interfere with the activities of the public authority concerned; or
- (b) consultations are necessary to comply with the request that cannot be reasonably completed within the original time limit.

(2) If a period to respond to a request is extended the Commission shall notify the applicant in writing about the extension.

(3) The notification referred to under sub-regulation (2) shall state-

- (a) the period of the extension
- (b) reasons for the extension; and
- (c) that the applicant may apply for a review of the decision in accordance with section 43 of the Act.

19. (1) An applicant is not required to pay any fee in relation Payment
to time spent by a public information officer - of fees

- (a) searching for the information requested; or
- (b) examining the information to determine whether it contains exempt information or deleting exempt information from a document.

(2) A public information officer may charge the applicant a prescribed fee for reproduction of any information.

(3) Where a request is made that a written transcription be produced of any information provided to the applicant, the public information officer may recover the costs of the transcription at such rate as may be prescribed by the applicant.

PART IV-EXEMPT INFORMATION

Refusal

20. A public information officer may refuse to grant access to information if the information requested for falls within an exemption stated under Part III of the Act.

Third party information

21. (1) Subject to sub-regulation (2) a public information officer may refuse a request for information if its release would involve the unreasonable disclosure of personal information about a third party including a deceased individual.

(2) A request shall not be refused where -

- (a) the third party does not make a representation stating why access to the information should not be granted,
- (b) the third party gives his consent to the disclosure;
- (c) the third party has been deceased for more than 21 years;
- (d) the information is in the public domain;
- (e) the information relates to the physical or mental well-being of an individual who is under the care of the applicant and who is-
 - (i) under the age of 18 years; or
 - (ii) incapable of understanding the nature of the request and giving access would be in the individual's interest.

(f) the information relates to the position or functions of an individual who is or was an official of the public authority concerned or any other public authority;

(g) the information was given to the public authority by the individual to whom it relates and the individual was informed by or on behalf of the public authority before it was given, that the information belongs to a class of information that would or might be made available to the public.

22. (1) Where a public information officer is considering a request for access to personal, confidential or commercial information of a third party the public information officer shall take reasonable steps to inform the third party to whom or which the information relates or where the third party is deceased, the next -of -kin or legal representative of the third party, in writing of the request as soon as reasonably possible but in any event within 8 days after the request is received. Notice to third parties

(2) Subject to sub-regulation (7) when informing the third party under sub-regulation (1) the public information officer shall include in the notice-

- (a) the nature of the request and the content of the information
- (b) that the third party may consent to the release of the information or make representation as to why access to the information should not be granted in accordance with sub-regulation (3)
- (c) that if the third party does not make a representation as to why access to the information should not be granted access will be given

- (d) that the public information officer may give access after considering the representation under sub-regulation (3) on merits; and
- (e) that if the public information officer determines to release the information, the third party may apply for review under section 43 of the Act.

(3) Subject to sub-regulation (8) within 10 days of being informed of a request under sub-regulation (I) a third party may -

- (a) inform the public information officer in writing that he consents to the release of the information to the applicant;
- (b) make a representation to the public authority in writing stating why the request for access to the information should not be granted

(4) Where a third party does not provide a response under sub-regulation (3) within 10 days of receipt of the notification or cannot be located after reasonable steps have been taken to do so, the public information officer may assume that the third does not object to the information being granted to the applicant.

(5) In determining whether to grant the applicant to the information of the third party, the public information shall notify the third party in writing of the decision within after the decision was taken.

(6) Where the public information officer has grantee request for access in circumstances where the third party to the granting of access, the notification referred to under regulation (5) shall state-

- (a) the reasons for granting the request;

- (b) that the third party may apply for a review of the decision within 10 days of receipt of the notice; and

- (c) that the applicant win be granted access to the information unless an appeal is lodged within the 10 days period.

(7) Where the public information officer is considering a request which he should respond to within 48 hours and the information contains personal, commercial or confidential information of a third party, the public information officer shall take reasonable steps to inform the third party to whom or which the records relates in writing of-

- (a) the nature of the request and the content of the information;
- (b) the name of the applicant; and
- (c) whether the public information officer released the information to the applicant

(8) Where a public information officer responds to a request within 48 hours pursuant to subsection (7) a third party shall not have the right to make a representation to the public authority stating why the request should not be granted.

23. (1) Where a portion of a record or document containing requested information is exempt from release by these regulations the exempt portion of the information shall be severed or redacted from the record or document and access to the remainder of the information shall be granted to the applicant.

Severance

(2) Where the public information officer severs or redacts any portion of a record or document, the public information officer shall indicate the length or amount of information severed or redacted in the response to the applicant.

24. (1) Pursuant to section 15 of the Act information relating to national security and defence of the state shall be exempted from the duty to disclose information.

(2) For the purpose of section 15 of the Act security or defence of the state means -

- (a) military tactics strategy military exercise operation undertaken in preparation for hostilities ;
- (b) prevention, suppression or curtailment subversive or hostile activities;
- (c) intelligence relating to -
 - (i) the defence of the state; or
 - (ii) the detection, prevention, suppression or curtailment of subversive or hostile activities,
- (d) methods of and scientific or technic equipment for collecting assessing handling information referred to in paragraph (c);
- (e) the identity of a confidential source;
- (f) the quantity. characteristics, capabilities, vulnerabilities or deployment of anything being designed, developed , produced or considered for use as a weapon or other equipment excluding nuclear weapons .

(3) Subversive or hostile activities referred to under paragraph (b) of sub-regulation (2) means-

- (a) an attack against the state by a foreign element;
- (b) acts of sabotage or terrorism aimed at the people of the state or a strategic asset of the state whether inside or outside the state; or
- (c) a foreign or hostile intelligence operation

25. In addition to section 16 of the Act on the exemption of international relating to international relations, a public information officer may refuse to grant access to information- information relating.

- (a) supplied by or on behalf of the state to another state or an international organization in terms of an international agreement with that state or organization which requires the information to be held in confidence;
- (b) required to be held in confidence by international law;
- (c) on the positions adopted or to be adopted by the state, another state or an international organization for the purpose of present or future international negotiations; or
- (d) that constitutes diplomatic correspondence exchanges with another state or with an international organization or official correspondence exchanges with diplomatic missions or consular posts of the country if the release of the information would cause substantial prejudice to the international relations of the state.

if the release of the information would cause substantial prejudice to the international relations of the state.

Economic
interests of
the state

26. In addition to section 17 of the Act on the exemption of information relating to economic interest of the state, a public information officer may refuse to grant access to information if the disclosure of such information would cause serious prejudice to the economy of the state by disclosing prematurely decisions to change or continue economic or financial policy relating to -

- (a) exchange rates;
- (b) the regulation of banking or credit;
- (c) taxation
- (d) the stability, control and adjustment of prices of goods and services, rents and other costs and rates of wages, salaries and other income;
- (e) the entering into overseas trade agreement

Law
enforcement

27. In addition to section 18 of the Act on the exemption of information relating to law enforcement, a public information officer may refuse to grant access to information if such access would cause prejudice to -

- (a) the prevention or detection of crime
- (b) the apprehension or prosecution offenders;

- (c) the administration of justice;
- (d) the assessment or collection of any tax or duty; or
- (e) the security and life of an informant relating to a crime or investigation

28. In addition to section 20 of the Act on the exemption of information relating to privileged documents, a public information officer may refuse to grant access to information if it -

Privileged
documents

- (a) consists of confidential communication between a medical practitioner and his patient;
- (b) consists of confidential communication between a legal practitioner and his client;
- (c) consist of confidential communication between a journalist and his source; or
- (d) would otherwise be privileged from production in legal proceedings

unless the patient, client, source or person entitled to the privilege consents to the release or has waived the privilege.

29. (1) In addition to section 22 of the Act on the exemption of information relating to commercial interests, subject to sub-regulation (1) a public information officer may refuse a request for information if it contains-

- (a) trade, secrets of the public authority or a party;
- (b) information about the public authority third party that would substantially prejudice a legitimate commercial or financial interest of the public authority or third party

(2) A request may not be refused under sub-regulation

(1) where the -

- (a) disclosure of the information would facilitate accountability and transparency of decisions taken by the public authority;
- (b) information relates to the expenditure public funds;
- (c) disclosure of the information would reveal misconduct or deception;
- (d) the third party consents to the disclosure; or
- (e) the information is in the public domain

30. (1) Subject to sub-regulation (2) an official document shall be exempt from the duty to access information if its disclosure would or could reasonably be expected to result in the destruction of damage to or interference with the conservation of -

- (a) Any historical, archaeological or anthropological resources;
- (b) anything declared to be a national monument or designated as protection national heritage
- (c) any species of plant or animal life which is endangered, threatened or vulnerable

(2) A public authority shall grant access to a document referred to in sub-regulation (1) if it is satisfied having regard to all the circumstances, that the disclosure would be in the public interest

PART VI-REVIEW OF DECISIONS

31. (1) An applicant may apply for a review of any decision of the public information officer by filling out the application for review form in the format as set out in Form D in the Schedule.

(2) An application for review under sub-regulation (1) shall be filed with the review panel by the public authority within 7-days of receipt of the relevant decision of a public information officer.

(3) An application for review shall indicate the request of the applicant and decision of the public information officer which is the subject matter of the review.

(4) Where an application for review is lodged after the expiration date the review panel of the public authority may upon good cause shown allow the lodging of the application.

(5) The public information officer concerned shall submit to the review panel of the public authority the-

- (a) information that is the subject matter of the review; and
- (b) the reasons for his decision to reject the application.

Decision of
review panel

32. (1) The review panel of the public authority shall within 15 days after receipt of the application for review

- (a) make a decision ;and
- (b) notify the applicant and the public informer; officer concerned of its decision in

(2) Where the review panel of the public determines to grant access to the information request notification referred to under paragraph (b) of sub-regulation shall indicate-

- (a) that the applicant should immediately be given access to the information; and
- (b) the form in which access will be granted.

(3) Where the review panel of the public authority determines not to grant access to the information requested the notification referred to under paragraph (b) of sub-regulation (I) shall

- (a) state the reasons for the refusal based on the content and substance of the request and the information of the public information officer concerned;
- (b) inform the applicant that he may appeal to the Commission against the decision and the process of lodging that appeal.

(4) Where the review panel of the public authority fails to give a decision on a review application within the stipulated time limit the review panel shall be deemed to have affirmed the original decision of the public officer and the applicant may appeal to the Commission.

PART VII-APPEAL TO THE COMMISSION

33. An applicant who wishes to appeal against the decision of the review panel of a public authority shall submit a written appeal to commission within 7 working days after receipt of section appealed against.

Appeal
against
decision of
review panel

Direct
appeal.

34 (1) An applicant who requests access to information which he reasonably believed to be necessary to safeguard his life or liberty and is-

- (a) refused access to the information within 7 working hours of the requests; or
- (b) receives no notice of the decision of the public information officer within 48 hours of the request

shall submit a written appeal to the Commission within 7 working days after receipt of the decision appealed against.

(2) Where the Commission receives an appeal under sub-regulation (1) it may upon an assessment of the facts determine the matter summarily or undertake further investigation if necessary before the determination.

Notice of
intention to
investigate.

35. The Commission shall notify the public authority concerned of the intention to carry out an investigation and submit to it a copy of the appeal before commencing an investigation

Right to
make
representa-
tion

36 (I) In any matter before the Commission 3 reasonably opportunity to make representations shall be given to-

- (a) the applicant who filed the appeal;
- (b) the public authority concerned;

- (c) a third party if the information requested contains third party information and the third party can easily be located.

(2) With respect to any matter before it, the Commission shall have the power to -

- (a) summon witnesses or any person where necessary;
- (b) summon expert witnesses;
- (c) allow interested parties on application to join the proceedings;
- (d) allow relevant persons to participate in the hearing;
- (e) compel any witness or evidence it considers necessary for the resolution of the matter;
- (f) administer oaths and receive any evidence it deems necessary under oath or on affidavit.

37 (1) During the conclusion of the appeal process the Commission may issue orders or recommendations on any matter before it including - Orders decisions and directives

- (a) affirming the decision of the review panel of the public authority;
- (b) varying the type of access originally granted or requested;
- (c) setting aside the decision of the review panel of the public authority;
- (d) requiring the public authority to take steps necessary to secure compliance with its obligations; or
- (e) mandating, negotiation, conciliation and arbitration.

(2) The Commission may issue directions which it considers necessary to enforce its decision.

Time limit of appeal process.

38. The appeal process shall be concluded within 30 days

FIRST SCHEDULE

FORM A

REQUEST FOR INFORMATION

FOR DEPARTMENTAL USE

Reference number.....

Request received by.....

(state name, surname, position, unit and contact details of receiving officer)
signature of Receiving Officer

A. APPLICANT'S INFORMATION

1. Contact details (email, telephone number, address)

B. INFORMATION REQUESTED

1. Name of public authority.....
2. Description of document or information sought (provide document name or reference if available and provide enough details to enable the officer to identify the document)

.....
.....

3. If your request is granted you may be charged the applicable fees for reproduction of the document and for mailing copies to you (no fee will be charged for inspection of document or electronic copies). Fees will be waived for-

- (a) request for personal information about the applicant
- (b) where the applicant is below the poverty line

please describe here any reasons why you believe the fees should be waived in your case.

.....

(Add additional pages if necessary)

4. If you wish, you may stipulate the form in which you would like to access the information, as indicated below (failure to check off any of these will result in the information being provided to you in the simplest form for the public authority normally photocopies of the information)

- (a) inspecting the document(s) ☐
- (b) copying the document(s) using your own equipment ☐
- (c) obtaining a copy of the document(s) in electronic form ☐
- (d) obtaining a true copy of the document(s) in physical form
- (e) obtaining a written transcript of sound or visual document(s) ☐
- (f) obtaining a transcript of the content of document(s) ☐

5. If you believe that your request should be processed within 48 hours because the information is needed to protect the life or liberty of any individual, please indicate that and provide the reasons why you believe this is the case

.....

(add additional pages if necessary)

FORM B ACKNOWLEDGEMENT OF A REQUEST FOR INFORMATION

1. Reference number of the request
2. Request received by

(state name, surname, position, unit and contact details of receiving officer) on

..... (date) at.....(place)

3. Address provided for delivery of information.....
4. Short description of the information sought.....

.....
 signature of Receiving Officer

FORM C RESPONSE TO REQUEST FOR INFORMATION

- A. Information about the request
 1. Reference number of the request
 2. Name of public authority
 3. Date the request was received and the name of receiving officer.....

.....

4. Address provided for delivery of information.....
5. Short description of the information sought.....

B. Response to the request

1. The information is already available in published form location where the information is available including where applicable the URL

2. The information is not held by the public authority
 - (a) the request was transferred to another public authority
 - (b) name of the public authority
 - (c) the request is being returned to the applicant
3.
 - (a) The information if being provided
 - (i) in whole
 - (ii) in part (see below under refusal)
 - (b) The information is being provided in the following form
 - (i) inspecting the document(s)
 - (ii) copying the documents) using your own equipment
 - (iii) obtaining a copy of the document(s) in electronic form
 - (iv) obtaining a true copy of the document (5) in physical form
 - (v) obtaining a written transcript of sound or visual document(s)
 - (vi) obtaining a transcript of the content of document(s)
 - (c) If this is not the form stipulated by the applicant, the reasons are as follows
 - (d) The following information describes how to access the information (only filled out as necessary for example where the information is being inspected)
 - (e) Information about any fees being charged along with a breakdown of the fees

4.
 - (a) The request is refused in
 - (i) whole
 - (ii) part
 - (b) Description of the part of the information which is being refused
 - (c) The reasons why the request is refused in whole or in part
 - (d) The sections of the Sierra Leone Right to Access Information Act 20 13 which are being relied upon to refuse access.....

NOTE - You have the right to lodge an internal complaint against this decision. To lodge an internal complaint, please fill out Form D. An internal appeal can be lodged using following contact information

Signature

.....
Name of Officer

.....
Date

FORM D

INTERNAL COMPLAINT

FOR DEPARTMENTAL USE

Reference number.....

Request received by.....

(state name, surname, position, unit and contact details of receiving officer).....

.....
signature of Receiving Officer

A. Information about the request

1. Reference number of the request.....

2. Name of the public authority

3. Date the request was received and the name of the receiving officer.....

.....
4. Address provided for delivery of information.....

5. Short description of the information sought.....

.....
(add additional pages if necessary)

B. The decision being appealed against

Mark the appropriate box with an X

The request was refused in whole or in part for any reason
The request was not processed in accordance with the established limits
Excessive fees were charged
The preferred form for access was not respected
Insufficient notice was provided
Any other issue

C Nature of the complaint

1. The facts on which the complaint is based

.....

.....

.....

(add additional pages if necessary)

2. The substance of the complaint

.....

.....

(add additional pages if necessary)

4 1. STATUTES CONTAINING PROVISIONS RELATING TO MEDIA AND COMMUNICATION SECTOR

THE CONSTITUTION OF SIERRA LEONE, 1991 (Act No. 6 of 1991)

CHAPTER III – SECTION 25 (protection of freedom of Expression and the Press)

25. (1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, and for the purpose of this section the said freedom includes the freedom to hold opinions and to receive and impart ideas and information without interference, freedom from interference with his correspondence, freedom to own, establish and operate any medium for the dissemination of information, ideas and opinions, and academic freedom in institutions of learning:

Provided that no person other than the Government or any person or body authorised by the President shall own, establish or operate a television or wireless broadcasting station for any purpose whatsoever.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in the contravention of this section to the extent that the law in question makes provision—

a. which is reasonably required—

i. in the interests of defence, public safety, public order, public morality or public health; or

ii. for the purpose of protecting the reputations, rights and freedoms of other persons, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating the telephony, telegraphy, telecommunications, posts, wireless broadcasting, television, public exhibitions or public entertainment; or

b. which imposes restrictions on public officers or members of a defence force; and except in so far as that provision or, as the case may be, the thing done under the authority thereof, is shown not to

be reasonably justifiable in a democratic society.

4

THE CHILD RIGHTS ACT 2007

PART V - SECTION 82(1), (2)

No Publication
of information
on child.

82. (1) No person shall publish any information that may lead to the identification of a child in any matter before a Family Court except with the permission of the Family Court.

(2) Any person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding two million Leones or imprisonment for a term not exceeding one year or to both such fine and imprisonment.

THE ANTI-CORRUPTION ACT, 2008

PART II - SECTION 14 (1), (2), (3), (4), (5), (6)

Confidentiality.

14. (1) The Commissioner, Deputy Commissioner and every officer shall maintain confidentiality and secrecy of any matter, document, report and other information relating to the administration of this Act that becomes known to him, or comes in his possession or under his control.

(2) Except in accordance with this Act, or as otherwise authorised by law, neither the Commissioner, Deputy Commissioner nor any officer of the Commission shall-

(a) divulge any information obtained in the exercise of a power, or in the performance of a duty under this Act;

(b) divulge the source of such information or the identity of any informer or the maker, writer or issuer of a report given to the Commission.

(3) Notwithstanding subsections (1) and (2), the Commissioner may disclose, for the purposes of publication in the media, such information as he considers necessary in the public interest.

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- (4) For the purposes of an investigation under this act in respect of an offence committed in Sierra Leone, the Commissioner may, impart to an agency in Sierra Leone or elsewhere, such information, other than the source of the information, as may appear to him to be necessary to assist an investigation into any offence.
- (5) Any person who, without lawful excuse, fails to comply with this section is guilty of an offence and shall, on conviction, be liable to a fine not less than five million Leones or to imprisonment for a term not less than one year or to both such fine and imprisonment.
- (6) The Commissioner, Deputy Commissioner and every officer shall take such oath as may be prescribed by the Commission.

THE SEXUAL OFFENCES ACT, 2012

PART IV - SECTION 41 (1), (2)

Publication.

- 41.** (1) No person shall publish or make public information that has the effect of identifying a person who is a victim of an offence under this Act.
- (2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding Le10 million or to a term of imprisonment not exceeding three years.

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PART V - SECTION 40, 41, 42

- 40.** In the absence of any enactment or contract to the contrary, section 38 shall not imply a consent to -
- (a) licence other broadcasters to transmit the performance;
 - (b) make a fixation of the performance;
 - (c) reproduce the fixation if the authorization granted is to

broadcast and make a fixation of the performance; or

- (d) broadcasting the performance from a previous fixation or from the reproduction of the fixation where initial permission was given solely to enable the broadcasting of the performance.

- 41** A broadcasting organisation has the exclusive right to authorise or prohibit -

- (a) the Re-broadcasting of its broadcast;
- (b) the fixation of its broadcast; or
- (c) the reproduction of a fixation of its broadcast where
 - (i) the fixation used to make the reproduction is made without authorization; or
 - (ii) the broadcast is initially fixed in accordance with this Act, but the reproduction is made for purposes other than those specified.

- 42.** Sections 38, 40, 41 and 43 shall not apply where the acts referred to are concerned with

- (a) Private use;
- (b) the reporting of current events, but only short excerpts of a performance, sound recording, audiovisual work or broadcast may be used;
- (c) teaching or scientific research; and
- (d) quotations in the form of short excerpts of a performance, sound recording, audiovisual work or broadcast, which are compatible with fair practice and are justified by the informative purpose of those quotations.

CONCLUSION

The compilation of all the media laws and regulations by the MRCG was done with support from the National Endowment for Democracy (NED), to aid journalists, media workers and journalism students access the legal framework of the profession in a single document and to enhance professionalism.

Over the years, it has been difficult for journalists and journalism students to access the media laws and regulations. The MRCG has over the years conducted series of media trainings on the main media laws in the country, and has been monitoring and reporting on issues relating to the media laws and regulations against journalists in the country.

The MRCG continues to monitor the implementation and the popularization of the recent pieces of legislations: Right to Access Information Regulations 2022 (Statutory Instrument No. 9 of 2022); Independent Media Commission (Print and Electronic Media) Regulations, 2022 (Statutory Instrument No. 11 of 2022); and the Independent Media Commission Elections (Coverage and Reporting) Regulations, 2022 (Statutory Instrument No. 17 of 2022) by the RAIC and the IMC. The laws have introduced new regulations on the right to access information, media ethics and coverage and reporting of elections respectively.

SOURCES

- ✓ The Parliament of Sierra Leone Website ([Laws of Sierra Leone | Legislative Process | Parliament of Sierra Leone](#)).
- ✓ Laws of Sierra Leone website
- ✓ The MRCG Website (www.mrcgonline.org).

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