

THE CONSTITUTION OF SIERRA LEONE

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No. 12



1978

Short title.

A BILL ENTITLED

The Constitution of Sierra Leone, 1978

Date of commencement.

[14th June, 1978]

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

CHAPTER I – THE REPUBLIC OF SIERRA LEONE

Declaration of Republic.

1. Sierra Leone is a Sovereign Republic, the boundaries of which are delimited in the First Schedule hereto, and recognises a One Party form of Government.

Public Seal.

2. The Public Seal of the Republic shall be such a device as Parliament shall prescribe.

The National Flag and National Anthem.

3. (1)

- a) The Flag of which the design is described in subsection (2) is hereby declared to be the National Flag of Sierra Leone.

- b) The design of the Flag shall be from the top of the Flag to the bottom thereof, three horizontal stripes of green, white and blue.
- c) The normal size of the Flag for official use shall be in the proportion of nine units (across) to six units (down).

(2) The National Anthem of the Republic shall be such as Parliament shall prescribe.

The Party.

4. The One Party recognised shall be such as shall be prescribed by Parliament by a resolution adopted by at least two-thirds of the Members of Parliament and approved by the electorate at a referendum provided that until such resolution is so adopted the All People's Congress shall be presumed to be the One Party recognised in the Republic.

CHAPTER II – PROTECTION OF FUNDAMENTAL RIGHTS AND FREEDOMS OF THE INDIVIDUAL

Fundamental Rights and Freedoms of the Individual.

5. Whereas every person in Sierra Leone is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, tribe, place of origin, colour, creed or sex, but subject to respect for the rights of others and of the Recognised Party, and for the public interest, to each and all of the following:-

- a) life, liberty, security of the person, the enjoyment of property, and the protection of law;
- b) freedom of conscience, of expression, and of assembly and association; and
- c) respect for his private and family life;

the subsequent provisions of this Chapter shall have effect for the purpose of affording protection to the aforesaid rights and freedoms, subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others, or of the public or of the national well-being.

Protection of right to life.

6. (1) No person shall be deprived of his life intentionally except in execution of the sentence of a court in respect of a criminal offence under the law of Sierra Leone, of which he has been convicted.

(2) Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived of his life in contravention of this Section if he dies as a result of the use of force to such extent as is reasonably justifiable in the circumstances of the case—

- a) for the defence of any person from violence or for the defence of property;
- b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- c) for the purpose of suppressing a riot, insurrection or mutiny; or
- d) in order to prevent the commission by that person of a criminal offence;

or if he dies as a result of a lawful act of war.

Protection from arbitrary arrest or detention.

7. (1) No person shall be deprived of his personal liberty except as may be authorised by law in any of the following cases, that is to say:—

- a) in consequence of his unfitness to plead to a criminal charge; or
- b) in the execution of a sentence or order of a court whether in Sierra Leone or elsewhere in respect of a criminal offence of which he has been convicted; or
- c) in the execution of an Order of the High Court or the Court of Appeal or the Supreme Court or such other court as may be prescribed by Parliament on the grounds of his contempt of any such court or of another court or tribunal or commission of inquiry; or
- d) in the execution of an Order of a court made in order to secure the fulfilment of any obligation imposed on him by law; or
- e) for the purpose of bringing him before a court or a tribunal in execution of the order of a court; or

- f) upon reasonable suspicion of his having committed or being about to commit a criminal offence; or
- g) in the case of a person who has not attained the age of twenty-one years, for the purpose of his education or welfare; or
- h) for the purpose of preventing the spread of an infectious or contagious disease; or
- i) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care or treatment or the protection of the community; or
- j) for the purpose of preventing the unlawful entry of that person into Sierra Leone, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Sierra Leone or the taking of proceedings thereto; or
- k) during a period of public emergency; or
- l) to such an extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within Sierra Leone or prohibiting him from being in such an area, or to such an extent as may be reasonably justifiable for the taking of proceedings against that person relating to the making of any such order, or to such extent as may be reasonably justifiable for restraining that person during any visit which he may be permitted to make to any part of Sierra Leone in which, in consequence of any such order, his presence would otherwise be unlawful.

(2) Any person who is arrested or detained shall be informed as soon as reasonably practicable, in language which he understands, of the reasons for his arrest or detention.

(3) Any person who is arrested or detained in such a case as is mentioned in subparagraph (e) or (f) of subsection (1) of this Section and who is not released shall be brought without undue delay before a court; and if any person arrested or detained in such a case as is mentioned in the said paragraph (f) is not tried within a reasonable time, then without prejudice to any further proceedings which may be brought against him he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

(4) Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that other person.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Section to the extent that the law in question authorises the taking during a period of a state of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists immediately before and during that period of a state of public emergency.

(6) If any person who is lawfully detained by virtue only of such a law as is referred to in subsection (5) so requests at any time during the period of that detention not earlier than six months after he last made such a request during that period, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among the persons entitled to practise in Sierra Leone as legal practitioners.

(7) On any review by a tribunal in pursuance of subsection (6) of the case of any detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his detention to the authority by whom it was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.

Protection of freedom
of movement.

8. (1) No person shall be deprived of his freedom of movement, and for the purposes of this Section the said freedom means the right to move freely throughout Sierra Leone, the right to reside in any part of Sierra Leone, the right to enter or leave Sierra Leone, and immunity from expulsion from Sierra Leone.

(2) Any restriction on a person's freedom of movement which is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this Section.

(3) Nothing contained in or done under authority of any law shall be held to be inconsistent with or in contravention of this Section to the extent that the law in question makes provision:

- a) which is reasonably required in the interests of defence, public safety, public order, public morality, public health or the conservation of the mineral resources of Sierra Leone 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; or
- b) for the imposition of restrictions on the movement or residence within Sierra Leone of any person who is not a citizen thereof or the exclusion or expulsion from Sierra Leone of any such person; or
- c) for the imposition of restrictions on the acquisition or use by any person of land or other property in Sierra Leone; or
- d) for the imposition of restrictions upon the movement or residence within Sierra Leone of public officers or members of a defence force; or
- e) for the removal of a person from Sierra Leone to be tried outside Sierra Leone for a criminal offence recognised as such by the laws of Sierra Leone, or to serve a term of imprisonment outside Sierra Leone in the execution of the sentence of a court in respect of a criminal offence of which he has been convicted; or
- f) for preventing the departure from Sierra Leone of a person who is reasonably suspected of having committed a crime or seeking to evade the fulfilment of an obligation imposed on him under the civil law or to evade military service.

Provided that no court or other authority shall prohibit any such person from entering into or residing in any place to which he is indigenous; or

- g) for restricting vagrancy.

(4) If any person whose freedom of movement has been restricted by virtue only of such a provision as is referred to in paragraph (a) of subsection (3) so requests at any time during the period of that restriction not earlier than six months after he last made such a request during that period, his case shall be reviewed by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice from among the persons entitled to practise in Sierra Leone as legal practitioners.

(5) On any review by a tribunal in pursuance of subsection (4) of the case of any person whose freedom of movement has been restricted, the tribunal may make recommendations concerning the necessity or expediency of continuing that restriction to the authority by whom it was ordered but unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with such recommendations.

Protection from
slavery and forced
labour.

9. (1) No person shall be held in slavery or servitude or required to perform forced labour.

(2) For the purposes of this Section the expression "forced labour" does not include:—

- a) any labour required in consequence of a sentence or order of a court; or
- b) labour required of any person while he is lawfully detained which though not required in consequence of the sentence or order of a court, is reasonably necessary in the interests of hygiene or for the maintenance of the place in which he is detained; or
- c) any labour required of a member of a defence force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as such a member, any labour which that person is required by law to perform in place of such service; or
- d) any labour required during a period of public emergency or calamity which threatens the life or well-being of the community; or
- e) communal labour or labour which forms part of other civic obligation or of self-help projects.

Protection from
inhuman treatment.

10. (1) No person shall be subjected to any form of torture or to any punishment or other treatment which is inhuman

or degrading.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorises the infliction of any kind of punishment which was lawful immediately before the entry into force of this Constitution.

Protection from deprivation of property.

11. (1) No property of any description shall be compulsorily taken possession of, and no interest in or right over property of any description shall be compulsorily acquired, except where the conditions are satisfied, that is to say:—

- a) the taking of possession or acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development or utilization of any property in such a manner as to promote the public benefit or the public welfare of citizens of Sierra Leone;
- b) the necessity therefor is such as to afford reasonable justification for the causing of any hardship that may result to any person having any interest in or over the property; and
- c) provision is made by law applicable to that taking of possession or acquisition
 - i. for the prompt payment of adequate compensation. and
 - ii. securing to any person having an interest in or right over the property, a right of access to a court or other impartial and independent authority for the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right, and the amount of any compensation to which he is entitled and for the purpose of obtaining prompt payment of that compensation.

(2) Nothing in this Section shall be construed as affecting the making or operation of any law in so far as it provides for the taking of possession or acquisition of property:

- b) in satisfaction of any tax, rate or due;
- c) by way of penalty for breach of the law whether under civil process or after conviction of a criminal offence;
- d) as an incident of a lease, tenancy, mortgage, charge, bill of sale, pledge or contract;
- e) by way of the vesting or administration of trust property, enemy property, *bona vacantia*, property of prohibited aliens, or the property of persons adjudged or otherwise declared bankrupt or insolvent, persons of unsound mind, deceased persons, or bodies corporate or incorporate in the course of being wound up;
- f) in the execution of judgments or orders of courts, or orders of Commissions of Inquiry;
- g) by reason of such property being in a dangerous state, or liable to cause injuries to the health of human beings, animals or plants;
- h) in consequence of any law with respect to the limitation of actions;
- i) for so long only as such taking of possession may be necessary for the purposes of any examination, investigation, trial or inquiry, or, in the case of land, the carrying out thereon:
 - i. of work of soil conservation or the conservation of other natural resources; or
 - ii. of agricultural development or improvement which the owner or occupier of the land has been required, and has without reasonable or lawful excuse refused or failed, to carry out.

(3) Nothing in this Section shall be construed as affecting the making or operation of any law for the compulsory taking of possession in the public interest of any property or the compulsory acquisition in the public interest in or right over property, where that property, interest or right is held by a body corporate which is established directly by any law and in which no moneys have been invested other than moneys provided by Parliament or by the Legislature of the former Colony and Protectorate of Sierra Leone.

Protection for privacy of home and other property.

12. (1) Except with his own consent, no person shall be subjected to the search of his person or his property or the entry by others on his premises, or interference with his correspondence.

(2) Nothing contained in or done under authority of any law shall be held to be inconsistent with or in contravention

of this Section to the extent that the law in question makes provision that is reasonably required:—

- a) in the interest of defence, public safety, public order, public morality, public health, town and country planning, or the development or utilization of any property in such a manner as to promote the public benefit; or
- b) to enable any body corporate established directly by any law or any department of the Government or any local authority to enter on the premises of any person in order to carry out work in connection with any property or installation which is lawfully on such premises and which belongs to that body corporate or to the Government or to that authority, as the case may be; or
- c) for the purpose of protecting the rights and freedoms of other persons; or
- d) for the purpose of executing any judgment or order of a court; or
- e) for the purpose of affording such special care and assistance as are necessary for the health, safety, development and well-being of women, young persons and children,

and except in so far as that provision or, as the case may be, the thing done under authority thereof is shown not to be reasonably justifiable in a democratic society.

Protection to secure
protection of law.

13. (1) Whenever any person is charged with a criminal offence he shall, unless the charge is withdrawn, be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.

(2) Any court or other authority prescribed by law for the determination of the existence or extent of civil rights or obligations shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such court or other authority, the case shall be given fair hearing within a reasonable time.

(3) All proceedings of every court and proceedings relating to the determination of the existence or the extent of civil rights or obligations before any court or other authority, including the announcement of the decision of the court or other authority, shall be held in public:

Provided that the court or other authority may, to such an extent as it may consider necessary or expedient in circumstances where publicity would prejudice the interest of justice or interlocutory civil proceedings or to such extent as it may be empowered or required by law so to do in the interests of defence, public safety, public order, public morality, the welfare of persons under the age of twenty-one years, or the protection of the private lives of persons concerned in the proceedings, exclude from its proceedings, persons other than the parties thereto and their legal representatives.

(4) Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved, or has pleaded guilty;

Provided that nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this subsection, to the extent that the law in question imposes on any person charged as aforesaid the burden of providing particular facts.

(5) Every person who is charged with a criminal offence—

- a) shall be informed as soon as reasonably practicable, in the language which he understands and in detail, of the nature of the offence charged;
- b) shall be given adequate time and facilities for the preparation of his defence;
- c) shall be permitted to defend himself in person or by a legal practitioner of his own choice;
- d) shall be afforded facilities to examine in person or by his legal practitioner the witnesses called by the prosecution before any court and, to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and
- e) shall be permitted to have without payment the assistance of an interpreter if he cannot understand the

language used at the trial of the charge.

Provided that nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this subsection to the extent that the law in question prohibits legal representation in a Local Court.

(6) When a person is tried for any criminal offence, the accused person or any person authorised by him in that behalf shall, if he so requires, and subject to the payment of such reasonable fee as may be prescribed by law, be given within a reasonable time copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.

(7) No person shall be held to be guilty of a criminal offence on account of any act or omission which did not at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence which is severer in degree or description than the maximum penalty which might have been imposed for the offence at the time when it was committed.

(8) No person who shows that he has been tried by any competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other offence of which he could have been convicted at the trial for that offence save upon the order of a superior court made in the course of appeal proceedings relating to the conviction or acquittal; and no person shall be tried for a criminal offence if he shows that he has been pardoned for that offence.

Provided that nothing in any law shall be held to be inconsistent with or in contravention of this subsection by reason only that it authorises any court to try a member of a defence force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under service law; but any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under service law.

(9) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of any provisions of this Section other than subsection (7) to the extent that the law in question authorises the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists before or during that period of public emergency.

(10) In paragraphs (c) and (d) of subsection (5) of this Section “legal practitioner” means an advocate entitled to practise as such in Sierra Leone or except in relation to proceedings before a court in which a solicitor has no right of audience, a solicitor who is so entitled.

Protection of freedom
of conscience.

14. (1) Except with his own consent no person shall be hindered in the enjoyment of his freedom of conscience and for the purposes of this Section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom either alone or in community with others and both in public and in private to manifest and propagate his religion or belief in worship, teaching, practice and observance.

(2) Except with his own consent (or if he is a minor, the consent of his parent or guardian) no person attending any place of education shall be required to receive religious instruction or to take part in or to attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion other than his own.

(3) No religious community or denomination shall be prevented from providing religious instruction for persons of that community or denomination in the course of any education provided by that community or denomination.

(4) No person shall be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.

(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in

contravention of this section to the extent that the law in question makes provision which is reasonably required:

- a) in the interests of defence, public safety, public order, public morality or public health; or
- b) for the purpose of protecting the rights and freedoms of other persons including the right to observe and practise any religion without the unsolicited intervention of the members of any other religion 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.

Protection of freedom of expression.

15. (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, and freedom from interference with his correspondence.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in 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 entertainments, or safeguarding the proper functioning of the Recognised Party, 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.

Protection of freedom of assembly and association.

16. (1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to trade unions or other economic, social or professional associations for the protection of his interests.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Section to the extent that the law in question makes provision:

- a) which is reasonably required:
 - i. in the interest of the proper functioning of the Recognised Party; or
 - ii. in the interests of defence, public safety, public order, public morality or public health; or
 - iii. for the purpose of protecting the rights and freedoms of other persons; or
- b) which imposes restrictions upon public officers or upon members of a defence force; or
- c) which imposes restrictions on the establishment of political parties other than the Recognised Party, which regulates the organisation, functioning, and registration of the Recognised Party, and the behaviour of members of the Recognised Party, 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.

Protection from
discrimination.

17. (1) Subject to the provisions of subsections (4), (5) and (7) of this Section, no law shall make any provision which is discriminatory either of itself or in its effect.

(2) Subject to the provisions of subsections (6), (7) and (8) no person shall be treated in a discriminatory manner by any person acting by virtue of any law or in the performance of the functions of any public office or any public authority.

(3) In this Section the expression “discriminatory” means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, tribe, place of origin, colour or creed _Whereby persons of one such description are subjected to disabilities or restrictions to which persons -of another such description are not made subject. or are accorded privileges Or advantages which are not accorded to persons of another such description.

- c) (4) Subsection (1) of this Section shall not apply to any law so far as that law makes provision: —
- a) for the appropriation of revenues or other funds of Sierra Leone or for the imposition of taxation (including the levying of fees for the grant of licenses); or
 - b) with respect to persons who are not citizens of Sierra Leone; or
 - c) with respect to persons who acquire citizenship of Sierra Leone by registration or by naturalization, or by resolution of Parliament; or
 - d) with respect to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law; or
 - e) for the application in the case of members of a particular race or tribe or customary law with respect to any matter to the exclusion of any law with respect to that matter which is applicable in the case of other persons; or
 - f) for authorising the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency; or
 - g) whereby persons of any such description as mentioned in subsection (3) may be subjected to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society; or
 - h) for the limitation of citizenship or relating to National Registration or to the collection of demographic statistics.

(5) Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) to the extent that it makes provision with respect to qualifications for service as a public officer or as a member of a defence force or for the service of a local government authority or a body corporate established directly by any law or of Membership of Parliament.

(6) Subsection (2) shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (4) .

(7) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Section to the extent that the law in question makes provision whereby persons of any such description as is mentioned in subsection (3) may be subjected to any restriction of the rights and freedoms guaranteed by Sections 8, 12, 14, 15 and 16 being such a restriction as is authorised by subsection (3) of Section 8, subsection (2) of Section 12, subsection (5) of Section 14, subsection (2) of section 15 or subsection (2) of Section 16 as the case may be.

(8) The exercise of any discretion relating to the institution, conduct or discontinuance of civil or criminal proceedings in any court that is vested in any person under or by this constitution or any other law shall not be

enquired into by any Court on the grounds that it contravenes the provision of subsection (2) of this Section.

Enforcement of
protective provisions.

18. (1) Subject to the provision of subsection (6) of this Section if any person alleges that any of the provisions of Sections 6 to 17 (inclusive) has been, is being or will probably be contravened in relation to him, then, without prejudice to any other action with respect to the same matters which is lawfully available, that person may apply by motion to the High Court for redress.

(2) The High Court shall have original jurisdiction –

- a) to hear and determine any applications made by any person in pursuance of subsection (1); and
- b) to determine any question arising in the case of any person which is referred to in pursuance of subsection (3), and may make such order, issue such writs, and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement of any of the provisions of the said Sections 6 to 17 (inclusive) to the protection of which the person concerned is entitled.

Provided that the High Court shall not exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

(3) If in my proceedings in any court other than the Supreme Court, the Court of Appeal or the High Court any question arises as to the contravention of any of the provisions of the said Sections 6 to 17 (inclusive), the person presiding in that Court may, and shall if any party to the proceedings so requests, refer the question to the High Court unless in his opinion the raising of the question is merely frivolous or vexatious.

(4) Any person aggrieved by any determination of the High Court under this Section may appeal therefrom to the Court of Appeal and from the Court of Appeal to the Supreme Court.

(5) No appeal shall lie from any determination under this section that any application or the raising of any question is merely frivolous or vexatious.

(6) Parliament may make provision, or may authorise the making of provisions, with respect to the practice and procedure of any court for the purposes of this section and may confer upon that court such powers, or may authorise the conferment thereon of such powers, in addition to those conferred by this Section, as may appear to be necessary or desirable for the purpose of enabling that court more effectively to exercise the jurisdiction conferred upon it by this Section.

Public Emergency.

19. (1) Whenever a period of public emergency shall commence, the President may, at any time, by Proclamation which shall be published in the *Gazette*, declare that:

- a) a state of public emergency exists either in any part, or in the whole of Sierra Leone; or
- b) a situation exists which, if it is allowed to continue, may lead to a state of public emergency in any part of or the whole of Sierra Leone.

(2) Every declaration made under subsection (1) of this Section shall lapse—

- a) in the case of a declaration made when Parliament is sitting at the expiration of a period of fourteen days beginning with the date of publication of the declaration, and
- b) in any other case, at the expiration of a period of ninety days beginning with the date of publication of the declaration,

unless it has in the meantime been approved by or superseded by a resolution of Parliament supported by the votes of

two-thirds of the Members of Parliament.

(3) A declaration made under subsection (1) of this Section may at any time before being superseded by a Resolution of Parliament be revoked by the President by Proclamation which shall be published in the *Gazette*, and all measures taken thereunder shall be deemed valid and lawful and shall not be enquired into by any court or tribunal

(4) During a period of public emergency the President may make such Regulations and take such measures as appear to him to be necessary or expedient for the purposes of maintaining and securing peace, order and good Government in Sierra Leone or any part thereof.

(5) Without prejudice to the generality of the powers conferred by subsection (4) of this Section and notwithstanding the provisions of this Chapter the Regulations or measures may, so far as appears to the President to be necessary or expedient for any of the purposes mentioned. in that subsection—

- a) make provision for the detention of persons, the restriction of the movement of persons within defined localities, and the deportation and exclusion of persons from Sierra Leone or any part thereof;
- b) authorise—
 - i. the taking of possession or control on behalf of the Government of any property or undertaking;
 - ii. the acquisition on behalf of the Government of any property other than land;
- c) authorise the entering and search of any premises.,
- d) amend any law, suspend the operation of any law, and apply any law with or without modification; Provided that such amendment, suspension or modification shall not apply to this Constitution;
- e) provide charges, in respect of the grant or issue of any licence, permit, certificate or other document for the purpose of the Regulations, such fees as may be prescribed by or under the Regulations;
- f) provide for payment of compensation and remuneration to persons affected by the Regulations;
- g) provide for the apprehension, trial and punishment of persons offending against the Regulations;
- h) provide for maintaining such supplies and services as are, in the opinion of the President, essential to the life and well-being of the Community;

Provided that nothing in this subsection shall authorise the making of Regulations during a period of public emergency for the trial of persons who are not members of defence forces by military courts.

(6) The President may take measures to detain any person who is or is reasonably suspected to be dangerous to the well-being of the Republic, provided that there is in force a state of public emergency within twenty-eight days after that person's deprivation of his personal liberty.

(7) The payment of any compensation or remuneration under the provisions of such Regulations shall be a charge upon the Consolidated Fund.

(8) Regulations made under this Section shall apply to the whole of Sierra Leone or to such parts thereof as may be specified in the Regulations.

(9) Regulations made under this Section may provide for empowering such authorities or persons as may be specified in the Regulations to make Orders and Rules for any of the purposes for which the Regulations are authorised by this Constitution to be necessary or expedient for the purposes of the Regulations.

(10)

- a) Every Regulation or measure taken under this Section and every Order or Rule made in pursuance of such a

Regulation shall, without prejudice to the validity of anything lawfully done thereunder, cease to have effect ninety days from the date upon which it comes into operation unless, before the expiration of the period, it has been approved by resolution passed by Parliament.

- b) Any such Regulation, Order or Rule may, without prejudice to the validity of anything lawfully done thereunder, at any time be amended or revoked by the President.

(11) Every Regulation made under this Section and every Order or Rule made in pursuance of such a Regulation shall have effect notwithstanding anything inconsistent therewith contained in any law; and any provisions of a law which is inconsistent with any such Regulation, Order or Rule shall, whether that provision has or has not been amended, modified or suspended in its operation under any Act, cease to have effect to the extent that such Regulation, Order or Rule remains in force.

(12) A declaration made under subsection (1) of this Section that has been approved by or superseded by a resolution of Parliament in pursuance of subsection (2) of this Section shall, subject to the provisions of subsection (3) of this Section, remain in force as long as that resolution remains in force.

(13) A resolution of Parliament passed for the purpose of this Section shall remain in force for a period of twelve months or such shorter period as may be specified therein—

Provided that any such resolution may be extended from time to time by a further such resolution, supported by the votes of two-thirds of members of Parliament each extension not exceeding twelve months from the date of the resolution affecting the extension; and any such resolution may be revoked at any time by a resolution supported by the votes of a simple majority of all the members of Parliament.

(14) Any provision of this Section that a declaration made under subsection (1) of this Section shall lapse or cease to be in force at any particular time is without prejudice to the making of a further such declaration whether before or after that time.

(15) Every document purporting to be an instrument made or issued by the President or other authority or person in pursuance of this Section, or of any Regulation made thereunder and to be signed by or on behalf of the President or such other authority or person, shall be received in evidence, and shall until the contrary be proved, be deemed to be an instrument made or issued by the President or that authority or person.

(16) The President may summon Parliament to meet for the purpose of subsection (2) of this Section notwithstanding that Parliament then stands dissolved, and the persons who were members of Parliament immediately before the dissolution shall be deemed, for those purposes, still to be Members of Parliament but subject to the provisions of Section (48) of this Constitution (which relates to the election of the Speaker of Parliament), and without prejudice to the provisions of Section 23 of this Constitution which relates to the election of President) and further without prejudice to the provisions of Section (75) of this Constitution (which relates to the prolongation of the life of Parliament during a period of public emergency), Parliament shall not when summoned by virtue of this subsection, transact any business other than debating and voting upon a resolution for the purposes of subsection (2) of this Section.

Interpretation of
Chapter II.

20. (1) In this Chapter, save where the context otherwise requires, the following expressions have the following meanings respectively, that is to say—

“Contravention” in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;

“court” means any court of law in Sierra Leone other than a local court or a court constituted by or under service law and—

- a) in Section 6, Section 7, Section 8, Section 9, subsections (3), (5), (6), (8) (but not the proviso

- thereto) and subsection (10) of Section 13, subsection 2 of Section 15, subsection (8) of Section 17, subsection (3) of Section 18 and subsection 3 of Section 19 includes, in relation to an offence against service law, a court so constituted; and
- b) in Sections 7 and 9, and subsection (8) of Section 17, includes, in relation to an offence against service law, an officer of a defence force or of the Sierra Leone Police Force;

“defence force” means any naval, military, paramilitary, or airforce of the Government of Sierra Leone;

“member” in relation to a defence force or other disciplined force, includes any person who, under the law regulating the discipline of that force, is subject to that discipline;

“service law” means the law regarding the discipline of a defence force or of the Sierra Leone Police Force or the Prisons Service or any disciplined volunteer force.

(2) References in Sections 6, 7, 8 and 11 to a “criminal offence” shall be construed as including references to an offence against service law and such references in subsections (4) to (9) of Section 13 shall, in relation to proceedings before a court constituted by or under service law, be similarly construed.

(3) Nothing done by or under the authority of the law of any country other than Sierra Leone to a member of an armed force raised under that law and lawfully present in Sierra Leone shall be held to be in contravention of the provisions of this Chapter.

(4) In relation to any person who is a member of a disciplined force raised under an Act of Parliament, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

(5) In relation to any person who is a member of a disciplined force raised otherwise than as aforesaid and lawfully present in Sierra Leone nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

(6) In determining the appropriate “majority of all members of Parliament” account shall only be taken of the persons actually and validly existing as Members of Parliament at the relevant time.

CHAPTER III—THE PRESIDENT

Office of President.

21. (1) There shall be a Supreme Head of State, and Commander of the Armed Forces and Grand Commander of the Order of the Republic who shall be known as the President of Sierra Leone, and who is referred to in this Constitution as the President. He shall embody the national unity and ensure the continuance of the Republic. As guardian of the Constitution he shall be the guarantor of national independence, of the integrity of the territory, of respect for Treaties and International Agreements; he shall be the Fountain of Justice, and the Fountain of Honour.

(2) Notwithstanding any provisions of this Constitution or any law to the contrary., the President shall, without prejudice to such enactment as may for the time being be adopted by Parliament, be responsible, in addition to functions conferred upon him in the Constitution, for all constitutional matters concerning Legislation, Foreign States, the Reception of Envoys accredited to Sierra Leone, the Execution of Treaties, Agreements or Conventions in the name of Sierra Leone, the exercise of the Prerogative of Mercy, the grant of Honours and Awards, the declaration of War, and such other matters as may be referred to the President by Parliament; provided that any Treaty, Agreement, or Convention executed by or under the authority of the President which relates to any matter within the legislative competence of Parliament, or which in any way alters the law of Sierra Leone or imposes any charge on, or authorizes any expenditure out of the Consolidated Fund or any other fund of Sierra Leone, and any declaration of war made by the President shall be subject to ratification by Parliament—

- i. by an enactment of an Act of Parliament; or

- ii. by a resolution of Parliament supported by the votes of not less than one-half of the Members of Parliament;

(3) The President shall be elected to office in accordance with Section 23 of this Constitution.

(4) Notwithstanding the provisions of this Chapter, the person who holds the office of President of Sierra Leone immediately before the commencement of this Constitution, namely Dr. Siaka Probyn Stevens, shall continue, to be the Executive President of Sierra Leone and he shall automatically assume office as the Executive President of the Republic on the day of the commencement of this Constitution as if he had been elected in pursuance of the provision of this Constitution and shall, unless he sooner dies or resigns, or unless he virtue of Section 28 or Section 30 or Section 31 of this Constitution, continue in office for a period of seven years, and until the person elected President in the next following Presidential election assumes office.

Qualifications for
Office of President.

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

- a) is a citizen of Sierra Leone;
- b) is a member of the Recognised Party;
- c) has attained the age of forty-five years; and
- d) is otherwise qualified to be elected as a Member of Parliament.

Election of President.

23. (1) The members of the National Delegates Conference of the Recognised Party shall elect a person to be the Leader of the Party, and such person shall be the sole candidate in an election to the office of President (hereinafter referred to as “the Presidential candidate”).

(2) The Presidential candidate shall deliver his nomination papers to the Returning Officer on such day and at such time as may be prescribed by or under an Act of Parliament.

(3) The Presidential candidate shall not be entitled to take part in an election to the office of President unless he has paid such election fee as may be prescribed by or under an Act of Parliament on or before the date fixed by the Electoral Commission in that behalf.

(4) The following provisions shall apply to an election to the office of President:

- a) all persons registered in Sierra Leone as voters for the purposes of election to Parliament shall be entitled to vote in the election;
- b) the poll shall be taken by a secret ballot on such day or days, at such time, in such manner as may be prescribed by or under an Act of Parliament.
- c) after the expiration of the time fixed for polling, the votes cast shall be counted and the Returning Officer shall declare the Presidential candidate to be elected as President if such candidate has received a majority of the valid votes cast.

(5) If the Presidential candidate or the person elected as President before he assumes the office of President dies or the Presidential candidate is not elected President, the members of the National Delegates Conference of the Recognised Party shall elect another person to be the Leader of the Party, and such person shall be the next Presidential candidate and the foregoing provisions relating to nomination and election shall apply.

(6) A person elected to the office of President under this Section shall assume that office on the day upon which he is declared elected, or upon the date that his predecessor's term of office expires, whichever is the later.

(7) A Presidential Election Meeting shall take place:—

- a) if a retiring President continues in office after the beginning of the period of four months ending with the

date when the term of office of the retiring President would expire by the effluxion of time, during the first three months of that period;

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

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

(8) Parliament shall have the power to make laws for the purpose of regulating the election of the President and other matters connected therewith.

Presidential Returning Officer.

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

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

- a) any provision of this Constitution or any law relating to the election of a President under Section 23 of this Constitution has been complied with; or
- b) any person has been validly elected as President under these sections, shall be referred to and determined by the Returning Officer whose decision shall be conclusive and shall not be inquired in any court.

Tenure of Office, etc.

25. (1) The President shall assume office on the day his predecessor ceases to hold office or on the day following his election under Section 23 of this Constitution (whichever is the later) and shall, unless he sooner dies or resigns, or unless he ceases to hold office by virtue of Section 30 or Section 31 of this Constitution, continue in office for a period of seven years and until the person elected President at the next following Presidential Election assumes office, provided that no one President shall hold office for more than two consecutive terms.

(2) Any person who is elected President while he is, or has been elected a Member of Parliament shall, on assuming office as President cease to be an elected Member of Parliament and his seat shall be declared vacant.

(3) Upon his assumption of office, the President shall take and subscribe the oath for the due execution of his office as set out in the Second Schedule of this Constitution.

(4) The oath aforesaid shall be administered by the Chief Justice of Sierra Leone or the person for the time being appointed to exercise the functions of the Chief Justice.

President in Parliament.

26. The President shall be entitled to participate in the business of Parliament, and to address Parliament in person or to send a message to Parliament to be read by the first Vice-President, or the second Vice-President, or a Minister on his behalf.

Incidents of Office, etc.

27. (1) The President shall receive such salary and allowances as may be prescribed by resolution of Parliament and such salary and allowances payable to the President are hereby charged on the Consolidated Fund.

(2) The salary and allowances of the President shall not be altered to his disadvantage during his period of office.

(3) The President shall be exempted from personal taxation.

(4) While any person holds or performs the functions of the office of President no civil or criminal proceedings shall be instituted or continued against him in respect of anything done or omitted to be done by him either in his official or private capacity.

(5) The President shall be entitled to such pensions and retiring benefits as shall be prescribed by Parliament.

Vacancy in office of President.

28. The office of President shall become vacant:—

- a) on the expiration of the period mentioned in subsection (1) of Section 25 of this Constitution; or
- b) if the incumbent dies or resigns the office or ceases to hold office in pursuance of Section 30 or Section 31 of this Constitution.

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

Temporary filling of vacancy.

29. (1) Notwithstanding the provisions of Sections 30 and 31 whenever the office of President is vacant or the holder of the office is absent from Sierra Leone or is for any reason unable to perform the functions conferred upon him by this Constitution, these functions shall be exercised—

- a) by the First Vice-President, or
- b) if there is no First Vice-President or if the First Vice-President considers that he is for any reason unable to discharge the functions of the office of President, by the Second Vice-President or such other Minister as may be appointed by the Cabinet.

(2) The First Vice-President, the Second Vice-President or a Minister or other Member of Parliament shall not by reason of his exercising the functions of the office of President under subsection (1) of this Section, or under subsection (3) of Section 30, or subsection (6) of Section 31 vacate his seat in, or be disqualified for election to Parliament.

(3) Any person performing the functions of the President under subsection (1) of this Section or under subsection (3) of Section 30 or subsection (6) of Section 31 shall not exercise the powers of the President to revoke the appointment of the First Vice-President or the Second Vice-President to dissolve Parliament.

Mental or physical incapacity.

30. (1) Where the Cabinet resolves that the question of the mental or physical capacity of the President to discharge the functions conferred upon him by this Constitution ought to be investigated and informs the Speaker accordingly, the Speaker shall, in consultation with the Head of the Medical Service of Sierra Leone, appoint a Board consisting of not less than five persons selected by him from among persons who are qualified as medical practitioners under the law of Sierra Leone, and the Board shall enquire into the matter and make a report to the Speaker stating the opinion of the Board whether or not the President is, by reason of any infirmity of mind or body, incapable of discharging the functions conferred upon him by the Constitution.

(2) If the Board reports that the President is incapable of discharging the functions conferred upon him by this Constitution, the Speaker shall certify in writing accordingly, and thereupon the President shall cease to hold office.

(3) Where the Cabinet resolves that the question of the mental or physical capacity of the President to discharge his functions ought to be investigated in accordance with the provisions of subsection (1) of this Section, the President shall, until another person assumes the Office of President or the Board appointed in pursuance of subsection (1) of this Section, reports that the President is incapable of discharging his functions (whichever is the earlier), cease to perform the functions conferred upon him by the Constitution and these functions shall be performed by the First Vice-President or such other person appointed by the Cabinet.

(4) The report of the Board referred to in subsection (2) of this Section shall immediately be sent to the Speaker who shall—

- a) if Parliament is then sitting or has been summoned to meet within five days communicate the same to Parliament,
- b) if Parliament is not then sitting (and notwithstanding that it may be prorogued) summon Parliament to meet

within 21 days of the receipt of the report of the Board, and communicate the same to Parliament.

(5) For the purpose of this section—

- a) the Cabinet may act notwithstanding any vacancy in its membership or the absence of any member;
- b) a Certificate by the Speaker that the President is by reason of mental or physical infirmity, unable to discharge the functions of his office conferred on him by this Constitution shall, in respect of any period for which it is in force, be conclusive and shall not be enquired into in any court.

Misconduct by
President.

31. (1) If notice in writing is given to the Speaker signed by not less than one-half of all the members of Parliament of a motion alleging that the President has committed any violation of the Constitution or any gross misconduct in the performance of the functions of his office and specifying the particulars of the allegations and proposing that a tribunal be appointed under this Section to investigate those allegations, the Speaker shall—

- a) if Parliament is then sitting or has been summoned to meet within five days, cause the motion to be considered by Parliament within seven days of the receipt of the notice; or
- b) if Parliament is not then sitting (and notwithstanding that it may be prorogued), summon Parliament to meet within twenty-one days of the receipt of the notice, and cause the motion to be considered by Parliament.

(2) Where a motion under this Section is proposed for consideration by Parliament, Parliament shall meet in secret session and shall not debate the motion but the Speaker or the person presiding in Parliament shall forthwith cause a vote to be taken on the motion and, if the motion is supported by the votes of not less than two-thirds of all Members of Parliament, shall declare the motion to be passed.

If a motion is declared to be passed under subsection (2) of this Section—

- a) the Speaker shall immediately notify the Chief Justice who shall appoint a Tribunal which shall consist of a Chairman who shall be a Justice of the Supreme Court and not less than four others selected by the Chief Justice, at least two of whom shall hold or shall have held high judicial office;
- b) the Tribunal shall investigate the matter and shall within the period of three months from the date on which the motion was passed report to Parliament through the Speaker whether or not it finds the particulars of the allegation specified in the motion to have been sustained;
- c) the President shall have the right to appear and be represented before the Tribunal during its investigation of the allegations against him.

(4) If the Tribunal reports to Parliament that it finds that the particulars of any allegations against the President specified in the motion have not been substantiated, no further proceedings shall be taken under this Section in respect of that allegation.

(5) If the Tribunal reports to Parliament that it finds that the particulars of any allegation specified in the motion have been substantiated, Parliament may in secret session on a motion supported by the votes of not less than two-thirds of all the members of Parliament, resolve that the President has been guilty of such violation of the Constitution or, as the case may be, such gross misconduct as is incompatible with his continuance in office as President and, if Parliament so resolves, the President shall cease to hold office on the third day following the passage of the resolution.

(6) Whenever the office of President becomes vacant by virtue of the President ceasing to hold that office consequent upon the resolution of Parliament made in accordance with subsection (5) of this Section the First Vice-President or such other person appointed by the Cabinet shall perform those functions until a Presidential Election is held.

Secretary to the
President.

32. (1) There shall be a Secretary to the President who shall be appointed or selected by the President acting in consultation with the Public Service Commission.

(2) The Office of Secretary to the President and the offices of members of his staff shall be public offices.

CHAPTER IV—PARLIAMENT

PART I—THE REPRESENTATION OF THE PEOPLE

- Registration of voters. **33.** Every citizen of Sierra Leone being twenty-one years of age and of sound mind shall have the right to vote; and accordingly shall be entitled to be registered as a voter for the purposes of public elections.
- Electoral Commission. **34.** (1) There shall be an Electoral Commission for Sierra Leone, which shall be responsible to the President.
- (2) The members of the Electoral Commission shall be a Chief Electoral Commissioner, who shall be Chairman, and not less than two and not more than four other members who shall be known as Electoral Commissioners.
- (3) The Members of the Electoral Commission appointed by the President.
- (4) A person shall not be qualified:—
- a) for appointment as a Member of the Electoral Commission if he is not qualified to be elected as a Member of Parliament, or
 - b) to hold office as a Member of the Electoral Commission if he is a Minister, a Deputy Minister, a Parliamentary Special Assistant, a Member of Parliament, or a public officer, or if he has attained the age of sixty-five years.
- (5) A Member of the Electoral Commission when appointed shall enjoy the terms and conditions of service (other than such terms and conditions as relate to retiring awards) of a Justice of the Court of Appeal.
- (6) A Member of the Electoral Commission shall before assuming the functions of his office take and subscribe before the President the Oath of Allegiance as set out in the Third Schedule to this Constitution.
- (7) Subject to the provisions of this Section a Member of the Electoral Commission shall vacate his office—
- a) at the expiration of five years from the date of his present appointment; or
 - b) on attaining the age of sixty-five years; or
 - c) if any circumstances arise which, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.
- (8) A member of the Electoral Commission may be removed from office by the President for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.
- (9) A Member of the Electoral Commission shall not be removed from office except in accordance with the provisions of this Section.
- (10) Whenever a Member of the Electoral Commission dies, resigns, is removed from office, or is absent from Sierra Leone, or is by reason of illness or other cause unable to perform the functions of his office, the President may appoint a person who is qualified to be appointed Electoral Commissioner and any person so appointed shall, subject to the provisions of subsection 6 of this Section, continue to perform those functions until his appointment is revoked by the President or until the Electoral Commissioner is able to perform those functions, or until the appointment of a new Electoral Commissioner.
- (11) In the exercise of any functions vested in it by this Constitution the Electoral Commission shall not be subject to the direction or control of any person or authority other than the President to whom it shall report at least once a year.

Functions of Electoral
Commission.

35. Subject to the provisions of this Constitution, the Electoral Commission shall be responsible for the conduct and supervision of the registration of voters for, and of, all public elections and referenda; and for that purpose shall have power, with the prior approval of the President, to make Regulations by constitutional instrument for the registration of voters, the conduct of public elections and referenda, and other matters connected therewith, including regulations for voting by proxy.

Secret Ballot.

36. At any public elections or referenda voting shall be by secret ballot.

Referendum.

37. (1) A Bill enacting a new Constitution shall not become law unless:—

- a) the Bill is supported at the third reading by the votes of not less than two-thirds of the Members of Parliament;
- b) the Bill, after it has been passed by Parliament and in the form in which it was so passed, as, in accordance with the provisions of any law in that behalf being submitted to and being approved at a referendum;

(2) Every person who is entitled to vote in elections of elected Members of Parliament shall be entitled to vote at a referendum held for the purposes of subsection (1) of this Section and no other person may so vote; and the Bill shall not be regarded as having been approved at that referendum unless it was so approved by the votes of not less than one-half of all such persons or by not less than two-thirds of all the votes validly cast at the referendum.

(3) The conduct of any referendum for the purposes of subsection (1) of this Section shall be under the general supervision of the Electoral Commission and the provisions of Section 40 of this Constitution shall apply in relation to the exercise by the Electoral Commission of its functions with respect to a referendum as they apply in relation to the exercise of its functions with respect to elections of Members of Parliament.

(4) A Bill for an Act of Parliament under this Section shall not be submitted to the President for his assent unless it is accompanied by a certificate under the hand of the Speaker (or if the Speaker is for any reason unable to exercise the functions of his office, the Deputy Speaker) that the provisions of subsection (1) (2) and (3) of Section 53 and, where appropriate, the provisions of subsections (1) and (2) of this Section have been complied with, and every such certificate shall be conclusive for all purposes and shall not be questioned by any court.

Primary Elections.

38. (1) For the purpose of selecting persons from any constituency to be candidates for election to Parliament, the Central Committee of the Recognised Party shall hold a primary election in that constituency in such manner as may be prescribed by the Party Constitution.

(2) Any person who is qualified to be elected as a Member of Parliament under section 44 and is not disqualified under Section 45 may deliver his nomination to the Returning Officer appointed by the Central Committee on such day and such time and at such place as may be determined by the Central Committee.

Provided that the nomination shall not be valid unless it is supported by not less than three persons registered as voters in that constituency for the purpose of election to Parliament.

(3) At a primary election a poll shall be held at which the Members of the Constituency Executive of the Recognised Party who are also registered as voters in that constituency shall be entitled to vote:

(4) At the conclusion of the poll the Returning Officer shall declare the number of votes received by each candidate and shall thereafter submit the names of all the candidates to the Central Committee of the Recognised Party together with the number of votes received by each candidate.

(5) In any constituency only the two persons who have received the greatest number of votes at the primary election shall be qualified for nomination as candidates for election to Parliament from that constituency, unless the Central Committee disapproves the nomination of any such person on the ground that his nomination would be inimical to

the interests of the State, in which event the person who has received the next highest number of votes after the said two persons at the primary elections shall become qualified for the nomination.

Nomination for
election to Parliament.

39. (1) Nomination for election to Parliament shall be delivered to the Returning Officer on such day and at such time and at such place as may be prescribed by the Electoral Commission.

(2) Any such nomination shall not be valid unless the candidate has paid the election fee prescribed by or under an Act of Parliament.

(3) Subject to the provision of this section, where only one candidate is nominated at the close of nominations on the nomination day preceding a general election there shall be no election and that candidate declared elected.

(4) Where for the purposes of a general election two candidates are nominated but at the close of nominations on the nomination day preceding the elections, only one candidate stands nominated, a further period of seven days shall be allowed for the determination of nomination appeals, and it shall not be lawful for any person so nominated within the said period of seven days to withdraw his nomination.

(5) Where at the end of the determination of nomination appeals pursuant to the provisions of the immediately preceding subsection only one candidate stands nominated there shall be no election and that candidate shall be declared elected.

Constituencies and
elections.

40. (1) Sierra Leone shall be divided into such constituencies for the purposes of electing the Members of Parliament referred to in paragraph (b) of subsection (1) of Section 43 of this Constitution as the Electoral Commission, acting with the approval of Parliament signified by resolution of Parliament, may prescribe.

(2) Every constituency established under this Section shall return one Member of Parliament.

(3) The boundaries of each constituency shall be such that the number of inhabitants thereof is as nearly equal to the population quota as is reasonably practicable:

Provided that the number of inhabitants of such a constituency may be greater or less than the population quota in order to take account of means of communications, geographical features, density of population, the distribution of different communities, the areas and boundaries of the Chiefdoms and other administrative or traditional areas.

(4) The Electoral Commission shall review the division of Sierra Leone into constituencies at intervals of not less than seven and not more than ten years and may alter the constituencies in accordance with the provisions of this Section to such extent as it may consider desirable in the light of the review;

Provided that the Commission may at any time carry out such a review and alter the constituencies in accordance with the provisions of this Section to such extent as it considers necessary in consequence of any alteration in the number of members of Parliament referred to in paragraph (b) of subsection (1) of Section 43 by reason of the holding of a census of the population of Sierra Leone in pursuance of an Act of Parliament.

(5) Where the boundaries of any constituency are altered in accordance with the provisions of this Section that alteration shall come into effect upon the next dissolution of Parliament after the alteration has been approved by Parliament.

(6) In this Section “population quota” means the number obtained by dividing the number of inhabitants of Sierra Leone by the number of constituencies into which Sierra Leone is divided under this Section.

(7) For the purposes of this Section the number of inhabitants of Sierra Leone shall be ascertained by reference to the latest census of the population of Sierra Leone held in pursuance of an Act of Parliament or if no census has been

so held, by reference to any available information, which in the opinion of the Electoral Commission best indicates the number of those inhabitants.

(8) Save as is provided for under Sections 22 and 23 of this Constitution, the registration of voters and the conduct of elections in every constituency shall be subject to the direction and supervision of the Electoral Commission, and in particular but without derogation from the foregoing, the Electoral Commission shall cause the register of voters to be revised and reviewed at least once in every three years.

Filling of vacancies.

41. (1) When the seat of any member of Parliament becomes vacant, the vacancy shall be filled by election in accordance with the provisions of law relating to such election or if the vacant seat is that of an appointed member, by the President under the provisions of paragraph (c) of subsection (1) of section 43.

Provided that in the case of the seat of an elected Member, if Parliament is dissolved before such election is due to be held, the vacancy shall be filled at the general election.

(2) The Proclamation appointing a date for the holding of an election to fill a vacancy shall be published in the *Gazette* not less than twenty-one days before the date appointed for holding the election.

PART II—COMPOSITION OF PARLIAMENT

Establishment of Parliament.

42. (1) There shall be a Parliament of Sierra Leone which shall consist of the President, the Speaker, and Members of Parliament.

(2) Subject to the provisions of this Constitution, the legislative power of Sierra Leone is vested in Parliament.

(3) Parliament shall have power to make laws for the peace, security, order and good government of Sierra Leone.

Members of Parliament.

43. (1) Members of Parliament shall comprise the following:—

- a) one member for each District who shall, subject to the provisions of this Constitution, be elected in such manner as may be prescribed by or under any law from among the persons who, under any law, are for the time being Paramount Chiefs; and
- b) such number of members as Parliament may prescribe who, subject as aforesaid, shall be elected in such manner as may be prescribed by or under any law:

Provided that—

- i. the number of Members to be elected in pursuance of paragraph (a) and the number of Members to be elected in pursuance of paragraph (b) shall not together be less than sixty; and
 - ii. no alteration in the number of Districts shall affect the composition of Parliament until the next dissolution of Parliament after such alteration; and
- c) such other Members not exceeding seven as may be appointed by the President by Instrument under the Public Seal and such Members shall be entitled to sit and to speak and vote on any matter before Parliament.

(2) In any election of Members of Parliament the votes of the electors shall be given by ballot in such manner as not to disclose how any particular elector votes.

(3) Members of Parliament shall be entitled to such salaries, allowances, gratuities, pensions and such other benefits as may be prescribed by Parliament.

(4) In this Section "District," means a district established under the Provinces Act or by any Act of Parliament amending or replacing that Act.

Qualifications for membership of Parliament.

44. (1) Subject to the provisions of Section 45 any person who—

- a) is a Citizen of Sierra Leone (otherwise than by naturalization); and
- b) is a member of the Recognised Party; and
- c) has attained the age of twenty-one years; and
- d) is an elector whose name is on a register of electors under the Franchise and Electoral Registration Act, 1961, or under any Act of Parliament amending or replacing that Act; and
- e) is able to speak, and to read the English Language with a degree of proficiency sufficient to enable him to take an active part in the proceedings of Parliament,

shall be qualified for election or appointment as such a member of Parliament as is referred to in paragraphs (a), (b) and (c) of subsection (1) of section 43 and any such person who, under any law, is for the time being a Paramount Chief shall be qualified for election or appointment as such a Member of Parliament as is referred to in paragraph (c), of subsection (1) of Section 43, and no other person shall be qualified to be elected or appointed.

Provided that a person who becomes a citizen of Sierra Leone by registration by law shall not be qualified for election as such a Member of Parliament or of any Local Authority unless he shall have resided continuously in Sierra Leone for twenty-five years after such registration or shall have served in the Civil or Regular Armed Services of Sierra Leone for a continuous period of twenty-five years.

(2) Subject to Section 45 any person who is qualified under paragraphs (a), (b), and (c) of subsection (1) of Section 43 shall be eligible for appointment to Parliament.

Disqualifications for Membership of Parliament.

45. (1) No person shall be qualified for election or appointment as a Member of Parliament—

- a) if he is a naturalised citizen of Sierra Leone or is a citizen of a country other than Sierra Leone having become such a citizen voluntarily or is under a declaration of allegiance to such a country;
- b) if he is a member of any Commission established under this Constitution, or a member of the armed forces of the Republic or has been such member within twelve months prior to the date on which he seeks to be elected; or
- c) if he holds the office of Speaker; or
- d) if being a person possessed of professional qualifications, he is disqualified (otherwise than at his own request) from practising his profession in Sierra Leone by order of any competent authority made in respect of him personally within the immediately preceding five years of an election held in pursuance of Section 77; or
- e) if under any law in force in Sierra Leone he is adjudged to be a lunatic or otherwise declared to be of unsound mind; or
- f) if he is under a sentence of death imposed on him by any court or a sentence of imprisonment (by whatever name called) exceeding twelve months imposed on him by a court or substituted by a competent authority for some other sentence imposed on him by a court; or
- g) if within five years prior to the date on which he seeks to be elected or appointed he has been sentenced to imprisonment for a period exceeding twelve months for an offence which involves dishonesty and has not been granted a pardon; or
- h) if, in the case of the election of such a member as is referred to in paragraph (b) of subsection (1) of section 43 he is for the time being a Paramount Chief under any law.

(2) Parliament may provide that a person shall not be qualified for election or appointment to Parliament for such period (not exceeding five years) as may be prescribed by Parliament if he is convicted by any court for such offence connected with the election of Members of Parliament as may be so prescribed.

- (3) Parliament may provide that any person who is the holder of any office the functions of which involve responsibility for, or in connection with, the conduct of any election to Parliament or the compilation of any register of voters for the purposes of such an election shall not be qualified for election or appointment to Parliament.
- (4) Parliament may provide that a person disqualified under paragraph (f) or (g) of subsection (1) by reason of his being under a sentence of imprisonment exceeding twelve months for any such offence (being an offence that appears to Parliament to involve dishonesty) as may be prescribed by Parliament or by reason of his being under sentence of imprisonment that includes such a sentence for any such offence shall not be qualified for election or appointment as Member of Parliament for such period from the date at which he ceases to be disqualified under that paragraph (not exceeding five years) as may be so prescribed.
- (5) For the purposes of paragraphs (f) and (g) of subsection (1) two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceed twelve months but if any one of those sentences exceed that term they shall be regarded as one sentence.
- (6) A person shall not be disqualified for election or appointment as a member of Parliament under paragraph (b) of subsection (1) by reason only that he holds the office of Vice-President, Minister, Deputy Minister, Special Parliamentary Assistant, Paramount Chief, Member of a Chiefdom Council, Member of a Local Court or member of any body corporate established by or under any of the following laws, that is to say, the Freetown Municipality Act, the Chiefdom Councils Act, the Rural Area Act, the District Councils Act, the Sherbro Urban District Council Act, the Bo Town Council Act, and the Townships Act or any law amending or replacing any of those laws.
- (7) Save as otherwise provided by Parliament, a person shall not be disqualified from being a Member of Parliament by reason only that he holds office as a Member of a Statutory Corporation.
- (8) Notwithstanding the provisions of paragraph (b) of subsection (1) a person mentioned in that paragraph shall not be disqualified from being a Member of Parliament if he is appointed as such by the President under paragraph (c) of subsection (1) of Section 43.

Tenure of seats of
members of
Parliament.

46. (1) A Member of Parliament shall vacate his seat:—

- a) if he is elected as Speaker; or
- b) if any other circumstances arise that if he were not a Member of Parliament would cause him to be disqualified for election or appointment as such under Section 45 or any law enacted in accordance with subsection (2) or (3) of that section; or
- c) if he ceases to be a citizen of Sierra Leone; or
- d) if he is absent from sittings of Parliament for such period and in such circumstances as may be prescribed in the rules of procedure of Parliament; or
- e) if, in the case of such a member as is referred to in paragraph (a) of subsection (1) of Section 43, he ceases to be a Paramount Chief under any law; or
- f) if, in the case of such a member as is referred to in paragraph (b) of subsection (1) of Section 43, he ceases to be qualified under any law to be registered as an elector for election to Parliament of the members referred to in that paragraph; or
- g) if, in the case of a member referred to in subsection (1) of Section 43 he is adjudged to be a lunatic or declared to be of unsound mind or sentenced to death; or
- h) if, in the case of a member appointed by the President under paragraph (c) of subsection (1) of Section 43, his appointment is suspended or revoked by the President or if he ceases to be a member on the dissolution of Parliament; or
- i) if, being a member appointed under paragraph (c) of subsection (1) of Section 43 he resigns his appointment.

(2) Parliament may, in order to permit any Member of Parliament who has been adjudged to be a lunatic, declared to be of unsound mind or sentenced to death or imprisonment, to appeal against the decision in accordance with any

law, provide that, subject to such conditions as may be prescribed, the decision shall not have effect until such time as may be prescribed.

Determination of Questions as to membership of Parliament.

47. (1) The High Court shall have jurisdiction to hear and determine any question whether

- a) any person has been validly elected as Member of Parliament; and
- b) the seat of a Member of Parliament has become vacant.

(2) For the purpose of this Section Parliament may make provision, or may authorise the making of provisions with respect to the practice and procedure of the High Court or any Court entitled to hear appeals from that Court, and may confer upon the High Court or any such Court such powers or may authorise the conferment thereon of such powers, as may appear to be necessary or desirable for the purpose of enabling the said Courts effectively to exercise the jurisdiction conferred upon them by this Section or by any law relating to the hearing of appeals from the High Court.

The Speaker.

48. (1) The Speaker of Parliament shall be elected by the Members of Parliament from among persons who are Members of Parliament or who are qualified to be elected as such,

Provided that a person shall be eligible for election as Speaker of Parliament notwithstanding that such person is a Public Officer or a Judge of the High Court, a Justice of Appeal or a Justice of the Supreme Court provided that such person, if elected, shall retire from the public service on the day of his election with full benefits.

(2) The Speaker shall be elected by a resolution in favour of which there are cast the votes of not less than two-thirds of the Members of Parliament;

Provided that if three successive resolutions proposing the election of a Speaker fail to receive the votes of two-thirds of the Members of Parliament, the Speaker shall be elected by a resolution passed by a simple majority of all the Members of Parliament.

(3) No person shall be elected as Speaker—

- a) if he is a Member of the armed forces; or
- b) if he is a Minister or Deputy Minister or Parliamentary Special Assistant.

(4) The Speaker shall vacate his office—

- a) if any circumstances arise that, if he were not the Speaker, would disqualify him from election as Speaker; or
- b) when Parliament first meets after any dissolution; or
- c) if he is removed from office by a resolution of Parliament supported by the votes of not less than two-thirds of the Members of Parliament.

(5) No business shall be transacted in Parliament (other than an election to the office of Speaker) at any time if the office of Speaker is vacant.

(6) Any person elected to the office of Speaker who is not a Member of Parliament shall before entering upon the duties of his office, take and subscribe before Parliament the Oath for the due execution of his office set out in the Third Schedule.

(7) The Speaker (or in his absence the Deputy Speaker) shall preside over all sittings of Parliament, except when the President is present.

Deputy Speaker.

- 49.** (1) There shall be a Deputy Speaker who shall be elected by the Members of Parliament.
- (2) No person shall be elected as Deputy Speaker unless he is a Member of Parliament and is not a Minister or a Deputy Minister or a Parliamentary Special Assistant.
- (3) The Members of Parliament shall elect a person to the office of Deputy Speaker—
- a) at the first sitting of Parliament in every session; or
 - b) at the first sitting of Parliament after the occurrence of a vacancy in the office of Deputy Speaker,
- or so soon thereafter as may be convenient.
- (4) The Deputy Speaker shall vacate his office—
- a) if he becomes a Minister or Deputy Minister; or a Parliamentary Special Assistant; or
 - b) if he ceases to be a Member of Parliament; or
 - c) if he is removed from office by a resolution of Parliament.
- (5) If the Speaker is absent from Sierra Leone or otherwise unable to perform any of the functions conferred upon him by this Constitution those functions may be performed by the Deputy Speaker.

Election of Speaker and Deputy.

- 50.** In any election of a Speaker or Deputy Speaker the votes of the members of Parliament shall be given by ballot in such manner as not to disclose how any particular member votes.

Clerk of Parliament.

- 51.** (1) There shall be a Clerk of Parliament
- (2) The office of the Clerk of Parliament and the offices of the members of his staff shall be public offices.

PART III—LEGISLATION AND PROCEDURE IN PARLIAMENT

Power to make Laws.

- 52.** Subject to the provisions of this Constitution Parliament shall be the supreme legislative authority for Sierra Leone.

Mode of exercising legislative power.

- 53.** (1) The power of Parliament to make laws shall be exercised by Bills passed by Parliament and signed by the President.
- (2) A Bill shall not become law unless it has been duly passed and signed in accordance with this Constitution.
- (3) An Act signed by the President shall come into operation on the date of its publication in the *Gazette* or such other date as may be prescribed therein or in any other enactment.
- (4) When a Bill which has been duly passed is signed by the President in accordance with the provisions of this Constitution it shall become law and the President shall thereupon cause it to be published in the *Gazette* as law.
- (5) Any law made by Parliament shall come into operation on the date of its publication in the *Gazette* or such other date as may be prescribed therein or in any other enactment, but Parliament may postpone the coming into operation of any such law and may make laws with retroactive effect.
- (6) All laws made by Parliament shall be styled “Acts” and the words of enactment shall be “Enacted by the President and Members of Parliament in this present Parliament assembled”.
- (7) Nothing in this Section or in Section 79 of this Constitution shall prevent Parliament from conferring on any

person or authority the power to make statutory instruments.

(8) Every statutory instrument shall be published in the *Gazette* not later than twenty-eight days after it is made or, in the case of a Statutory instrument which will not have the force of law unless it is approved by some person or authority other than the person or authority by which it is made, not later than twenty-eight days after it is approved, and if it is not so published it shall be void from the date on which it was made.

Restriction with regard to certain financial measures.

54. Except upon the recommendation of the President signified by a Minister, Parliament shall not—

- a) proceed upon any Bill (including any amendment to a financial Bill) that in the opinion of the person presiding makes provision for any of the following purposes—
 - i. for the imposition of taxation or the alteration of taxation otherwise than by reduction;
 - ii. for the imposition of any charge upon the Consolidated Fund or any other public fund of Sierra Leone or the alteration of any such charge otherwise than by reduction;
 - iii. for the payment, issue or withdrawal from the Consolidated Fund or any public fund of Sierra Leone of any moneys not charged thereon or any increase in the amount of such payment, issue or withdrawal; or
 - iv. for the composition or remission of any debt due to the Government;
- b) proceed upon any motion (including an amendment to any motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes.

Alteration of this Constitution.

55. (1) Subject to the provisions of this Section, Parliament may alter this Constitution.

(2) A Bill for an Act of Parliament under this Section shall not be passed by Parliament unless—

- a) before the first reading of the Bill in Parliament the text of the Bill is published in at least two issues of the *Gazette*; and
- b) the Bill is supported on the second and third readings by the votes of not less than two-thirds of the Members of the Parliament.

(3) A Bill for an Act of Parliament enacting a new Constitution or altering any of the following provisions of this Constitution, that is to say—

- a) this Section;
- b) Chapters I, II and VI
- c) Sections 42, 43 (2), 52, 56, 74 (2), 75, 77, 100, 101, 102, 103, 104, 107, 108, 110, 111, 113, 114, 115, 118, 126 to 134, 135, 141.

shall not be submitted to the President for his assent and shall not become law unless the Bill, after it has been passed by Parliament and in the form in which it was so passed, has, in accordance with the provisions of any law in that behalf, been submitted to and been approved at a referendum

(4) Every person who is entitled to vote in the elections of Members of Parliament shall be entitled to vote at a referendum held for the purposes of subsection (3) of this Section and no other person may so vote; and the Bill shall not be regarded as having been approved at the referendum unless it was so approved by the votes of not less than one-half of all such persons and by not less than two-thirds of all the votes validly cast at the referendum:

Provided that in calculating the total number of persons entitled to vote at such referendum, the names of deceased persons, of persons disqualified as electors, and of persons duplicated in the register of electors, and so certified by the Electoral Commission, shall not be taken into account.

(5) The conduct of any referendum for the purposes of subsection (3) of this Section shall be under the general supervision of the Electoral Commission and the provision of subsections (4), (5) and (6) of Section 40 of this Constitution shall apply in relation to the exercise by the Electoral Commission of its functions with respect to a referendum as they apply in relation to the exercise of its functions with respect to elections of Members of Parliament.

(6) A Bill for an Act of Parliament under this Section shall not be submitted to the President for his signature unless it is accompanied by a certificate under the hand of the Speaker of Parliament. (or, if the Speaker is for any reason unable to exercise the functions of his office, he Deputy Speaker) that the provisions of subsections (3) and (4) of this Section have been complied with, and every such certificate shall be conclusive for all purposes and shall not be enquired into in any court.

(7) The provisions of subsections (2) to (5) inclusive of Section 55 of this Constitution shall not apply to a Bill certified by the Speaker under subsection (6) of this Section; and accordingly the President shall give his assent to any such Bill when presented for signature.

(8) No Act of Parliament shall be deemed to amend, add to or repeal or in any way alter any of the provisions of this Constitution unless it does so in express terms.

(9) Any suspension, alteration, or revocation of the Constitution other than on the authority of Parliament shall be deemed to be an act of Treason.

(10) In this Section—

- a) references to this Constitution include references to any law that amends or replaces any of the provisions of this Constitution; and
- b) references to the alteration of this Constitution or of any chapter or Section of this Constitution include references to the amendment, modification or re-enactment, with or without amendment or modification, of any provision for the time being contained in this Constitution or chapter or Section thereof, the suspension or repeal of any such provision in lieu of such provision and the addition of new provisions to this Constitution or chapter or Section thereof, and references to the alteration of any particular provision of this Constitution shall be construed likewise.

Office of Paramount Chief.

56. (1) No provision of any law in so far as it provides for the abolition of the office of Paramount Chief as existing by Customary Law and usage immediately before the entry into force of this Constitution, shall have effect unless it is included in an Act of Parliament and the provisions of Section 55 shall apply in relation to the Bill for such an Act as they apply in relation to the Bill for an Act of Parliament that alters any of the provisions of this Constitution that are referred to in subsection (3) of that Section.

(2) A Paramount Chief may be removed from office by the President if, after a public enquiry conducted under the Chairmanship of a Judge of the High Court or a Justice of Appeal or a Justice of the Supreme Court, the President is of the opinion that it is in the public interest that the Paramount Chief should be removed.

Residual Authority of Parliament.

57. Subject to the provisions of Section 52 of this Constitution, where on any matter, whether arising out of this Constitution or otherwise there is no provision, expressed or by necessary implication, of this Constitution which deals with the matter that has arisen, Parliament shall, by an Act of Parliament, not being inconsistent with any provision of this Constitution, provide for that matter to be dealt with.

Oath to be taken by Members of Parliament.

58. (1) Every Member of Parliament shall, before taking his seat in Parliament take and subscribe before Parliament the oath to support the Constitution set out in the Third Schedule but a Member may before taking that oath take part in the election of a Speaker.

(2) Any person elected to the Office of Speaker who is not a Member of Parliament shall before entering upon the

duties of his office, take and subscribe before Parliament the oath for the due execution of his office set out in the Third Schedule.

Presiding in Parliament.

59. There shall preside at any sitting of Parliament

- a) the Speaker; or
- b) in the absence of the Speaker, the Deputy Speaker; or
- c) in the absence of the Speaker and the Deputy Speaker, such member of Parliament not being a Minister or a Deputy Minister or a Parliamentary Special Assistant as Parliament may elect for that purpose;

Provided that when the President addresses Parliament or attends in person, the Speaker shall leave his chair and no other person shall preside during such address or attendance.

Quorum in Parliament.

60. If objection is taken by any Member of Parliament that there are present in Parliament (besides the person presiding) less than one-fourth of all the Members of Parliament, and the person presiding shall be so satisfied he shall thereupon adjourn Parliament.

Use of English in Parliament.

61. The business of Parliament shall be conducted in the English Language.

Voting in Parliament.

62. (1) Except as otherwise provided in this Constitution any question proposed for decision in Parliament shall be determined by a majority of the votes of the members present and voting.

(2) The person presiding in Parliament may cast a vote whenever necessary to avoid an equality of votes but shall not vote in any other case; if the person presiding does not exercise his casting vote the question proposed for discussion in Parliament shall be deemed to be rejected.

(3) The rules of procedure of Parliament may provide that the vote of a member upon a question in which he has a direct pecuniary interest shall be disallowed and if any such provision is made a member whose vote is disallowed in accordance therewith shall be deemed not to have voted.

Unqualified persons sitting or voting.

63. Any person who sits or votes in Parliament knowing or having reasonable ground for knowing that he is not entitled to do so shall be liable to a penalty not exceeding one hundred leones or such other sum as may be prescribed by Parliament for each day in which he so sits or votes in Parliament, which shall be recoverable by action in the High Court at the suit of the Director of Public Prosecutions acting under the instructions of the Attorney-General and Minister of Justice.

Regulation of procedure in Parliament.

64. (1) Subject to the provisions of this Constitution, Parliament may regulate its own procedure and may in particular make, amend, and revoke Standing Orders for the orderly conduct of its own proceedings.

(2) Notwithstanding anything to the contrary in this Constitution or in any other law contained, no decision, order or direction of Parliament or any Committee of Parliament or the Speaker relating to the rules of procedure of Parliament or to the application or interpretation of such rules or any act done or purporting to have been done by Parliament or by the Speaker under any rules of procedure, shall be enquired into by any court.

(3) Parliament may act notwithstanding any vacancy in its membership (including any vacancy not filled when Parliament first meets after the entry into force of this Constitution or after any dissolution of Parliament) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of Parliament shall not invalidate those proceedings.

(4) Parliament may, for the purpose of the orderly and effective discharge of its business make provision for the powers, privileges and immunities of Parliament and the Committees and the members thereof.

Contempt of

65. Any act or omission which obstructs or impedes Parliament in the performance of its functions or which obstructs

Parliament. or impedes any member or officer thereof in the discharge of his duties or affronts the dignity of Parliament or which tends either directly or indirectly to produce such a result shall be a contempt of Parliament.

Criminal Proceedings. **66.** Where an act or omission which constitutes contempt of Parliament is an offence under the criminal law, the exercise by Parliament of the power to punish for contempt shall not be a bar to the institution of Proceedings under the criminal law.

PART IV—PRIVILEGES AND IMMUNITIES

Freedom of Debate. **67.** There shall freedom of speech, debate and proceedings in Parliament and that freedom shall not be impeached or questioned in any court or place out of Parliament.

Parliamentary Privilege. **68.** (1) Subject to the provisions of this Section, but without Prejudice to the generality of the immediately preceding section, no civil or criminal proceedings shall be instituted against a member of Parliament in any court or place out of Parliament by reason of anything said by him in Parliament.

(2) Whenever in the opinion of the person presiding in Parliament a statement made by a Member is *prima facie* defamatory of any person, the person presiding shall refer the matter for inquiry to the Committee of Privileges which shall report its findings to Parliament not later than thirty days of the matter being so referred.

(3) Where the Committee of Privileges reports to Parliament that the statement made by the Member is defamatory to any person, the Member who made the statement shall, within seven days of that report, render an apology at the bar of Parliament, the terms of which shall be approved by the Committee of Privileges and communicated to the person who has been defamed.

(4) Where a Member refuses to tender an apology pursuant to the provisions of the immediately preceding subsection, the Speaker shall suspend that Member for the duration of the session of Parliament in which the defamatory statement was made, and a Member so suspended shall lose his Parliamentary privileges, immunities and remuneration which shall be restored to him if at any time before the end of the session he renders the apology as required under the provisions of subsection (3) of this Section.

(5) Any person who may have made a contemporaneous report of the proceedings in Parliament including a statement which has been the subject of an inquiry pursuant to the provisions of subsection (2) of this Section shall publish the apology referred to in subsection (3) of this Section or the suspension or the apology referred to in the immediately preceding subsection with the same prominence as he published the first report; and if any such person fails to publish that apology he shall not be protected by privilege.

Immunity from service of process and arrest. **69.** No civil or criminal process issuing from any court or place out of Parliament shall be served on or executed in relation to the Speaker or a Member or the Clerk of Parliament while he is on his way to attending or returning from any proceedings of Parliament.

Immunity from Witness Summons. **70.** (1) Neither the Speaker nor any Member of, nor the Clerk of Parliament shall be compelled, while attending Parliament, to appear as a witness in any Court or place out of Parliament.

(2) The certificate of the Speaker that a Member or the Clerk is attending the proceedings of Parliament shall be conclusive evidence of attendance at Parliament.

Immunity from serving as jurymen. **71.** Neither the Speaker nor any Member of, nor the Clerk of Parliament shall be required to serve on a jury in any Court or place out of Parliament.

Immunity from Publication of Proceedings. **72.** Subject to the provisions of this Constitution, no person shall be under any civil or criminal liability in respect of the publication of

a) the text or a summary of any report, papers, minutes, votes or proceedings of Parliament, or

- b) a contemporaneous report on the proceedings of Parliament,

unless it is shown that the publication was effected maliciously or otherwise in want of good faith.

Privileges of witness.

73. (1) Every person summoned to attend or to give evidence or to produce any paper, book, record or other document before Parliament shall be entitled, in respect of his evidence, or the production of the said document, as the case may be, to the same privileges as if he were appearing before a Court.

(2) No public officer shall be required to produce before Parliament any document if the Speaker certifies that

- i. the document belongs to a class of documents which is injurious to the public interest to produce, or
- ii. disclosure of the contents thereof will be injurious to the public interest.

(3) Where there is a doubt as to whether any document as is referred to in the immediately preceding subsection is injurious to the public interest or prejudicial to the security of the State, the Speaker shall refer the matter to the Supreme Court to determine whether the production or the disclosure of the contents of any such document would be injurious to the public interest or prejudicial to the security of the State.

(4) An answer by a person to a question put by Parliament shall not be admissible in evidence against civil or criminal proceedings out of Parliament, not being proceedings for perjury brought under the criminal law.

PART V—SUMMONING, PROROGATION AND DISSOLUTION

Sessions of Parliament.

74. (1) Each session of Parliament shall be held at such place within Sierra Leone and shall commence at such time as the President may by Proclamation appoint.

(2) There shall be a session of Parliament at least once in every year, so that a period of twelve months shall not intervene between the last sitting of Parliament in one session and the first sitting thereof in the next session:

Provided that there shall be a session of Parliament not later than twenty-eight days from the holding of a general election of Members of Parliament.

Life of Parliament.

75. (1) The President may at any time prorogue or dissolve Parliament.

(2) Subject to the provisions of subsections (3) and (5) Parliament, unless sooner dissolved, shall continue for five years from the date of the first sitting of Parliament after any dissolution and shall then stand dissolved.

(3) At any time when Sierra Leone is at war, Parliament may extend the period of five years specified in subsection (2) for not more than twelve months at a time;

Provided that the life of Parliament shall not be extended under this subsection for more than five years.

(4) In the exercise of his powers to dissolve Parliament, the President shall act in accordance with the advice of the Cabinet:

Provided that if the Cabinet recommends a dissolution and the President considers that the Government of Sierra Leone can be carried on without a dissolution and that a dissolution would not be in the best interest of Sierra Leone, he may refuse to dissolve Parliament;

(5) If, after a dissolution of Parliament and before the holding of a general election the President considers that owing to a State of Public Emergency arising or existing in Sierra Leone or any part thereof, it is necessary to recall Parliament, the President may summon the Parliament which has been dissolved to meet and the Parliament shall be

deemed to be the Parliament for the time being and the general election of Members of the Parliament shall be postponed subject to provisions of subsection (2) of Section 77 of this Constitution.

Sittings of Parliament.

76. (1) The President may at any time summon a meeting of Parliament.

(2) Subject to the provisions of subsection (1) of this Section and of Section 19 and 74 of this Constitution sittings of Parliament in any session after the commencement of that session shall be held at such times and on such days as Parliament shall appoint.

General Election.

77. (1) Subject to the provisions of subsection (2) of this Section a general election of the Members of Parliament shall be held not later than the ninetieth day after any dissolution of Parliament or such earlier day as the President may by Proclamation appoint:

(2) If, when Parliament has been dissolved the President considers that owing to the existence of a state of a public emergency it would not be practicable to hold a general election within ninety days after the dissolution, the President may by Proclamation recall the Parliament that has been dissolved and the following provisions shall then have effect:—

- a) Parliament shall meet at such date, not later than fourteen days after the date of the Proclamation, as may be specified therein;
- b) the first Vice-President or the second Vice-President shall, subject to the provisions of subsection (16) of Section 19 introduce or cause to be introduced in Parliament as soon as it meets, a resolution declaring that a state of Public Emergency exists and subject as aforesaid, no other business shall be transacted in the Parliament until that resolution has been passed or defeated;
- c) if the Resolution is passed by Parliament with the support of the votes of not less than two-thirds of the Members thereof a general election shall be held on the last day of the period of twelve months beginning with the date of the original dissolution of the Parliament which has been recalled or such earlier date as the President shall appoint, and the Parliament that has been recalled shall be deemed to be a Parliament for the time being and may meet and be kept in session accordingly until the date fixed for nomination of candidates in that general election and unless previously dissolved, shall then stand dissolved;
- d) if the resolution is defeated, or is passed with the support of the votes of less than two-thirds of the Members of Parliament or has not been put to the vote within five days after it has been introduced the Parliament that has been recalled shall then be again dissolved and a general election shall be held not later than the ninetieth day after the date of the Proclamation by which Parliament was so recalled or such earlier date as the President may by Proclamation appoint.

(3) When a Parliament is recalled under this Section after having been dissolved

- a) the session of that Parliament held next before that dissolution; and
- b) the session or sessions of that Parliament held between the date of its first sitting and of the next dissolution thereafter,

shall be deemed together to form one session.

Illegal Dissolution.

78. Any dissolution or abolition of Parliament otherwise than in accordance with the provisions of this Constitution or the Standing Orders of Parliament, shall be deemed to be an act of Treason.

CHAPTER V—EXECUTIVE POWERS

Exercise of Executive Authority of Sierra Leone.

79. (1) Subject to the provisions of this Constitution executive power in Sierra Leone shall vest in the President and may be exercised either by him directly or through members of the Cabinet, Ministers, Deputy Ministers, Parliamentary Special Assistants or public officers subordinate to him.

(2) In the exercise of his functions the President may act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet except in cases where by this Constitution or any other law he is required to act in accordance with the advice of any person or authority other than the Cabinet:

Provided that the President shall always act in accordance with his own deliberate judgment in the performance of the following functions—

- a) in the exercise of the power relating to the dissolution of Parliament conferred upon him by the proviso to subsection (4) of Section 75.
- b) in the exercise of the power to appoint the Vice-Presidents and Ministers conferred upon him by subsection (2) of Section 80 and subsection (1) of Section 81.
- c) in the exercise of the powers conferred upon him by subsection (3) of Section 80.
- d) in the exercise of the powers conferred upon him by paragraphs (c) of subsection (1) of Section 43 to appoint members to the Parliament; and
- e) in signifying his approval for the purpose of an appointment to an office on his personal staff.

(3) Where by this Constitution or under any other law the President is required to act in accordance with the advice of any person or authority, the question whether he has in any case received, or acted in accordance with such advice shall not be enquired into in any court.

(4) The reference in subsection (1) to the functions of the President shall be construed as a reference to his powers and duties in the exercise of the executive authority of Sierra Leone and to any other powers and duties conferred or imposed on him as President by or under this Constitution or any other law.

(5) Nothing in this Section shall prevent Parliament from conferring functions on persons or authorities other than the President.

Vice-Presidents.

80. (1) There shall be two Vice-Presidents of the Republic of Sierra Leone (who shall be styled the First Vice-President and the Second Vice-President respectively), the first of whom shall be the Principal Assistant of the President in the discharge of his executive functions and shall act as President during the President's absence from Sierra Leone or whenever the President is by reason of illness or other cause unable to perform the functions conferred on him, and the second shall be the other Principal Assistant of the President. Each Vice-President shall, before entering upon the duties of his office, take and subscribe the Oath of Vice-President as set out in the Third Schedule to this Constitution.

(2) The President shall within four days of the occurrence of a vacancy in either of the offices of the Vice-Presidents or following a general election appoint as Vice-Presidents two of the elected members of Parliament.

(3) Whenever the First Vice-President is absent from Sierra Leone or is by reason of illness or other cause unable to perform the functions conferred upon him by this Constitution, the President may authorise the Second Vice-President or some other Member of the Cabinet to perform those functions until his authority is revoked by the President.

(4) The powers of the President under this Section shall be exercised by him in his absolute discretion.

Ministers of
Government.

81. (1) There shall be, in addition to the offices of Vice-Presidents, such other offices of Ministers as may be established by the President, and subject to the provisions of Section 79 of this Constitution the Ministers shall hold office during the President's pleasure.

(2) Subject to the provisions of subsection (3) of this Section the Vice-Presidents and the other Ministers under the direction of the President shall be responsible for such departments of State or other business of the Government as the President may assign to them.

(3) Notwithstanding the provisions of subsection (2) of this Section the President shall be responsible for such departments of State including the Commissions established under this Constitution as he may determine.

The Secretary-General
of the Party.

82. There shall be a Secretary-General of the Recognised Party.

Deputy Ministers, etc.

83. (1) The President may appoint Deputy Ministers and Parliamentary Special Assistants from among the Members of Parliament to assist the President, the Vice-Presidents and Ministers in the performance of their duties.

(2) A Minister of State or a Deputy Minister or a Parliamentary Special Assistant shall not, while he continues in office, hold any other office of profit or emolument whether private or public and either directly or indirectly;

Provided that the Vice-Presidents, the- Ministers of State, the Deputy Ministers, and Parliamentary Special Assistants shall be entitled to such remuneration, allowances, gratuities, pensions, and other incidents of office as may be prescribed by Parliament.

(3) The Vice-Presidents, a Minister of State, a Deputy Minister or a Parliamentary Special Assistant shall, on assuming office, make a declaration in writing of his assets and liabilities to the President.

Oaths to be taken by
Ministers of Cabinet,
etc.

84. A Member of the Cabinet, a Minister, a Deputy Minister or a Parliamentary Special Assistant shall not enter upon the duties of his office unless he has taken and subscribed to the Oath for the due execution of his duties as set out in the Third Schedule.

Ministerial Vacancies.

85. (1) The office of a Vice-President shall become vacant—

- a) on the dissolution of Parliament; or
- b) if a Vice-President resigns from office or dies; or
- c) if the holder of the office ceases to be a member of the Recognised Party; or
- d) if the President by instrument under the Public Seal, removes the incumbent from office; or
- e) if a Vice-President is incapacitated by illness from performing the functions of his office; or
- f) upon the assumption of any person to the office of President.

(2) The office of a Minister of State or of a Deputy Minister or of a Parliamentary Special Assistant shall become vacant—

- a) on the dissolution of Parliament; or
- b) if his appointment is revoked by the President; or
- c) if he resigns from office or dies; or
- d) if the holder of the office ceases to be a member of the Recognised Party; or
- e) if he is elected as Speaker or Deputy Speaker of Parliament; or
- f) upon the assumption of any person to the office of President.

(3) Notwithstanding the provisions of paragraph (a) of subsection (1) and paragraph (a) of subsection (2) of this Section Vice Presidents, Ministers of State, Deputy Ministers and Parliamentary Special Assistants shall not vacate office as such by reason only of a dissolution of Parliament and shall accordingly continue to perform the functions of their respective offices until the appointment by the President of the Vice-Presidents, and the formation of the Cabinet.

(4) Notwithstanding the provisions of this Constitution, or any other law, the offices of the Vice-Presidents shall not become vacant by reason only of the election of a new President, and the Vice-Presidents shall accordingly continue to perform the duties of their respective offices until the new President is inaugurated and appoints other Vice-Presidents as the case may be.

Establishment of

86. (1) There shall be a Cabinet whose functions shall be to advise the President in the government of Sierra Leone

Cabinet.

and which shall consist of the President, the Vice-Presidents, the Secretary-General of the Party *ex-officio*, Ministers and such other persons, being Ministers, as the President may from time to time appoint.

(2) A person appointed as a member of Cabinet shall vacate his seat in the Cabinet if he ceases to be a Minister or if the President so directs.

(3) The Cabinet shall determine the general policy of the Government.

(4) The President or in his absence the First Vice-President or in his absence the Second Vice-President shall preside at meetings of the Cabinet.

Collective
Responsibility.

87. (1) The Cabinet shall be collectively responsible to Parliament for any advice given to the President by or under the general authority of the Cabinet and for all things done by or under the authority of any Minister in the execution of his office:

(2) The provisions of this Section shall not apply in relation to—

- a) the appointment and removal from office of Ministers, Deputy Ministers and Parliamentary Special Assistants, the assignment of responsibility to any Minister under Section 81 or the authorisation of another Member of the Cabinet to perform the function of a Vice-President during absence or illness;
- b) the dissolution of Parliament;
- c) the exercise of the prerogative of mercy; or
- d) the exercise by the Attorney-General and Minister of Justice or Director of Public Prosecutions of the powers conferred upon them under Section 96.

Establishment of the
office of Attorney-
General and Minister
of Justice.

88. (1) There shall be an Attorney-General and Minister of Justice who shall be a Minister of State and the principal legal adviser to the Government.

(2) The Attorney-General and Minister of Justice shall be appointed by the President from among Members of Parliament qualified to hold office as a Justice of the Supreme Court provided that if no elected Member of Parliament is so qualified, the President may appoint as Attorney-General and Minister of Justice a person appointed under paragraph (c) of subsection (1) of Section 43 of this Constitution, and a person so appointed shall exercise all the functions of the Attorney-General and Minister of Justice and have a seat in the Cabinet as well as in Parliament.

(3) All offences prosecuted in the name of the Republic of Sierra Leone shall be at the suit of the Attorney-General and Minister of Justice or some other person authorised by him in accordance with any law governing the same.

(4) The Attorney-General and Minister of Justice shall have audience in all Courts in Sierra Leone except Local Courts.

Prerogative of Mercy.

89. (1) The President may, acting in accordance with the advice of a Committee appointed by the Cabinet over which the First Vice-President shall preside—

- a) grant to any person concerned in or convicted of any offence against the laws of Sierra Leone a pardon, either free or subject to lawful conditions;
- b) grant to any person a respite, either indefinite or for a specified period of the execution of any punishment imposed on that person for such an offence;
- c) substitute a less severe form of punishment for any punishment imposed on any person for such an offence;
- d) remit the whole or any part of any punishment imposed upon any person for such an offence or any penalty or forfeiture otherwise due to the Government on account of such an offence:

Provided that, in cases which the First Vice-President considers urgent, the President may exercise the powers specified in paragraph (a) on the advice of the First Vice-President alone but the First Vice-President shall inform the

Committee of any such advice as soon as practicable after giving the same.

(2) Where any person has been sentenced to death by any Court (other than a court martial) for any offence, the Committee appointed under subsection (1) shall cause a written report of the case from the trial judge together with such other information, including a medical report on the prisoner, derived from the record of the case or elsewhere, as the Committee may require, to be submitted to it as soon as possible.

Appointment of
Judges, etc.

90. Notwithstanding the provisions of Section 113 of this Constitution, and save as otherwise provided in this Constitution, the President shall have power to appoint, in accordance with the provisions of this Constitution or any other law governing the same—

- a) the Chief Justice;
- b) any Justice of the Supreme Court, the Court of Appeal, or Judge of the High Court;
- c) the Auditor-General;
- d) the sole Commissioner or the Chairman and other Members of any Commission established by this Constitution;
- e) the Chairman and other Members of the Governing Body of any Corporation established by an Act of Parliament, a statutory instrument, or out of public funds.

Other Statutory
Appointments.

91. Notwithstanding the provisions of Section 136 of this Constitution, and save as otherwise provided in this Constitution, the President shall acting in consultation with the First Vice-President and in accordance with the provisions of this Constitution or any law governing the same, appoint—

- a) to any office to which Section 118 (which relates to offices within the Jurisdiction of the Judicial and Legal Service Commission) applies;
- b) to any office to which Sections 138 and 139 (which relate to the offices of Permanent Secretaries and certain other offices abroad) apply;
- c) the Governor and the other Members of the Governing body of any State Bank, Banking or Financial Institution.

Administration of
Ministries.

92. Where any Minister has been charged with responsibility for any department of Government, he shall exercise general executive direction and control over that department; and, subject to such direction and control, the department shall be under the administrative supervision of a Permanent Secretary, whose office shall be a public office.

Constitution of offices.

93. Subject to the provisions of this Constitution and of any Act of Parliament, the President may constitute offices for Sierra Leone, make appointments to any such office and terminate any such appointment.

Secretary to the
Cabinet.

94. (1) There shall be a Secretary to the Cabinet whose office shall be a public office.

(2) The Secretary to the Cabinet shall have charge of the Cabinet Secretariat and shall be responsible, in accordance with such instructions as may be given him by the President, for arranging the business for and keeping the minutes of the Cabinet and for conveying the decisions of the Cabinet to the appropriate person or authority and shall have such other functions as the President may from time to time determine.

(3) The Secretary to the Cabinet shall not enter upon the duties of his office unless he has taken and subscribed to the Oath for the due execution of his duties set out in the Third Schedule.

Secretaries to the
President and Vice-
Presidents.

95. (1) There shall be a Secretary to the President who shall be the head of the Civil Service. The Secretary to the President shall be appointed by the President and shall before assuming the functions of his office, take and subscribe to the Oath of Allegiance as set out in the Third Schedule to this Constitution.

(2) There shall be Secretaries to the Vice-Presidents whose offices shall be public offices. The Secretaries to the

Vice-Presidents shall be appointed by the President and shall before assuming the functions of their respective offices take and subscribe to the Oath of Allegiance as set out in the Third Schedule to this Constitution.

Solicitor-General.

96. (1) There shall be a Solicitor-General whose office shall be a public office.

(2) The Solicitor-General shall be appointed by the President on the advice of the Attorney-General and Minister of Justice, and he shall, before assuming the functions of his office, take and subscribe to the Oath of Allegiance as set out in the Third Schedule to this Constitution.

(3) A person shall not be qualified to hold or act in the office of Solicitor-General unless he is qualified for appointment as a Justice of the Court of Appeal.

(4) The Solicitor-General shall be the principal assistant to the Attorney-General and Minister of Justice.

(5) The Solicitor-General shall have audience in all Courts in Sierra Leone except Local Courts.

(6) The Solicitor-General shall in all matters including his powers under this Constitution or any other law be subject to the general or special direction of the Attorney-General and Minister of Justice.

(7) Subject to the provisions of this Section a person holding the office of Solicitor-General shall vacate his office when he attains the age of 62 years.

(8) If the office of Solicitor-General is vacant or the holder of that office is for any reason unable to perform the functions thereof, a person qualified for appointment to that office may be appointed to act therein, and any person so appointed shall be subject to the provisions of subsection (7) and subsections (8) to (14) (inclusive) of this Section, continue to act until a person has been appointed to and has assumed the functions of the office of Solicitor-General or until the person holding that office has resumed those functions.

(9) The Solicitor-General may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this Section.

(10) The Solicitor-General shall be removed from office by the President if the question of his removal from office has been referred to a tribunal appointed under subsection (11) of this Section and the tribunal has recommended to the President that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(11) If the First Vice-President represents to the President that the question of removing the Solicitor-General from office for inability as aforesaid or for misbehaviour ought to be investigated then—

- a) the President acting in consultation with the First Vice-President shall appoint a tribunal which shall consist of a Chairman and not less than half of the other members being persons who hold or have held office as a Judge of the High Court, or Justice of the Appeal Court and
- b) that tribunal shall enquire into the matter and report on the facts thereof to the President and recommend to the President whether the Solicitor-General ought to be removed from office for inability as aforesaid or for misbehaviour.

(12) If the question of removing the Solicitor-General from office has been referred to a tribunal under subsection (10) of this Section, the President, may suspend the Solicitor-General from performing the functions of his office, and any such suspension may at any time be revoked by the President, acting in consultation with the First Vice-President, and shall in any case cease to have effect if the tribunal recommends to the President that the Solicitor-General shall not be removed from office.

Director of Public
Prosecutions.

97. (1) There shall be a Director of Public Prosecutions, whose office shall be a public office.
- (2) The Director of Public Prosecutions shall be appointed by the President on the advice of the Attorney-General and Minister of Justice and he shall, before assuming the functions of his office, take and subscribe to the Oath of Allegiance as set out in the Third Schedule to this Constitution.
- (3) A person shall not be qualified to hold or act in the office of Director of Public Prosecutions unless he is qualified for appointment as a Justice of the Court of Appeal.
- (4) Subject to subsection (3) of Section 88 the Director of Public Prosecutions shall have power in any case in which he considers it desirable so to do—
- a) to institute and undertake criminal proceedings against any person before any court in respect of any offence against the law of Sierra Leone;
 - b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority; and
 - c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.
- (5) The powers of the Director of Public Prosecutions under subsection (4) of this Section may be exercised by him in person or through other persons acting under and in accordance with his general or special instructions.
- (6) The Director of Public Prosecutions shall in all matters including his powers under this Constitution or any other law be subject to the general or special direction of the Attorney- General and Minister of Justice.
- (7) The powers conferred upon the Attorney-General and Minister of Justice by this Section shall be vested in him to the exclusion of any other person or authority.
- Provided that where any other person or authority has instituted criminal proceedings, nothing in this Section shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the Court.
- (8) In the exercise of the powers conferred upon him by this Section the Attorney-General and Minister of Justice shall not be subject to the direction or control of any other person or authority.
- (9) For the purposes of this Section any appeal from any determination in any criminal proceedings before any court, or any case stated or question of law reserved for the purposes of any such proceedings, to any other court shall be deemed to be part of those proceedings.
- (10) Subject to the provisions of this Section a person holding the office of Director of Public Prosecutions shall vacate his office when he attains the age of 62 years.
- (11) If the office of Director of Public Prosecutions is vacant or the holder of that office is for any reason unable to perform the functions thereof, a person qualified for appointment to that office may be appointed to act therein, and any person so appointed shall, subject to the provisions of subsection (10) and subsections (12) to (15) (inclusive) of this Section, continue to act until a person has been appointed to and has assumed the functions of the office of Director of Public Prosecutions or until the person holding that office has resumed those functions.
- (12) The Director of Public Prosecutions may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this Section.

(13) The Director of Public Prosecutions shall be removed from office by the President if the question of his removal from office has been referred to a tribunal appointed under subsection (13) of this Section and the tribunal has recommended to the President that he ought to be removed from office for inability as aforesaid or for misbehaviour.

(14) If the First Vice-President represents to the President that the question of removing the Director of Public Prosecutions from office for inability as aforesaid or for misbehaviour ought to be investigated then—

- a) the President acting in consultation with the First Vice-President shall appoint a tribunal which shall consist of a Chairman and not less than half of the other members being persons who hold or have held office as a Judge of the High Court, or Justice of the Appeal Court and
- b) that tribunal shall enquire into the matter and report on the facts thereof to the President and recommend to the President whether the Director ought to be removed from office for inability as aforesaid or for misbehaviour.

(15) If the question of removing the Director of Public Prosecutions from office has been referred to a tribunal under subsection (13) of this Section, the President, acting in consultation with the First Vice-President, may suspend the Director from performing the functions of his office, and any such suspension may at any time be revoked by the President, acting in consultation with the First Vice-President, and shall in any case cease to have effect if the tribunal recommends to the President that the Director shall not be removed from office.

Execution of Treaties.

98. (1) The President shall be responsible for the execution of Treaties, Agreements and Conventions in the name of Sierra Leone:

Provided that no treaty, agreement or convention shall in any way alter the laws of Sierra Leone or impose any charge on, or authorise any expenditure out of, the Consolidated Fund or any other fund of Sierra Leone unless it has been ratified by an Act of Parliament.

(2) The President shall appoint persons to represent Sierra Leone abroad.

(3) The President may receive envoys accredited to Sierra Leone.

Registration of
Professional bodies.

99. (1) The President may, by constitutional instrument, make Regulations for the registration of professional bodies.

(2) Regulations made pursuant to the provisions of the preceding subsection shall provide—

- a) for the recognition by the President of any such body as is registered;
- b) that no person shall practise as a member of a profession unless he shall have registered pursuant to the Regulations so made; and
- c) for the right of a professional body so registered to promulgate rules and regulations governing the admission, and the code of ethics, of its members compatible with its tradition

(3) The President shall, acting in accordance with the advice of a professional body recognised by him, establish by constitutional instrument, the governing body of any such professional body which shall regulate and supervise the practice of the profession concerned.

(4) For the purposes of this Section, the expression “professional body” includes a society, an institution, or groups of persons, by whatever name called, the members of which are—

- a) trained and qualified in a profession recognised as such; and,
- b) united in a common interest for the purposes of pursuing research and other activities concerned with the progress of knowledge in any such profession and for maintaining and advancing a code of ethics and conduct among its members and generally for the maintenance of the highest standards compatible with the

ideals and principles of the profession concerned.

CHAPTER VI—THE JUDICIARY

PART I—THE SUPERIOR COURT OF JUDICATURE

Establishment of the
Judiciary.

- 100.** (1) The judicial power of Sierra Leone shall be vested in the Judiciary of which the Chief Justice shall be the Head.
- (2) The Judiciary shall have jurisdiction in all matters civil and criminal including matters relating to this Constitution, and such other matters in respect of which Parliament may by or under an Act of Parliament confer jurisdiction on the Judiciary.
- (3) In the exercise of its judicial functions the Judiciary shall be subject to this Constitution or any other law.
- (4) The Judicature shall consist of the Supreme Court of Sierra Leone, the Court of Appeal and the High Court of Justice which shall be the superior courts of record and which shall constitute one Superior Court of Judicature, and such other inferior and traditional Courts as Parliament may by law establish.
- (5) The Superior Court of Judicature shall have the power to commit for contempt to themselves and all such powers as were vested in a court of record immediately before the coming into force of this Constitution.
- (6) Save as may be otherwise ordered by a Court in the interests of public morality, public safety or public order, all proceedings of every Court, including the announcement of the decision of the Court, shall be held in public.
- (7) Nothing contained in the immediately preceding subsection shall prevent a Court from excluding from the proceedings persons, other than the parties thereto and their Counsel, to such an extent as the Court may consider necessary or expedient;
- a) in circumstances where publicity would prejudice the interests of justice or any interlocutory proceedings; or
 - b) in the interests of defence, public safety, public morality, the welfare of persons under the age of majority, or the protection of the private lives of persons concerned in the proceedings.
- (8) In the exercise of the judicial power conferred upon the Judiciary by this Constitution or any other law, the Superior Court of Judicature shall have power, in relation to any matter within its jurisdiction, to issue such orders as may be necessary to ensure the enforcement of any judgment, decree or order of the Court
- (9) A Judge of the Superior Court of Judicature shall not be liable to any action or suit for any matter or thing done by him in the performance of his Judicial function.
- (10) The Judges of the High Court shall be entitled to sit as Justices of Appeal and the Justices of Appeal shall be entitled to sit as Justices of the Supreme Court whenever so requested by the Chief Justice.
- (11) Notwithstanding the provisions of the preceding subsections, any Justice of Appeal or any person who has held the office of Justice of Appeal may, on the request of the Chief Justice, sit and act as a judge of the High Court.
- (12) Every such person, while sitting and acting as a Judge of the High Court, shall have all the jurisdiction, powers and privileges of, but not otherwise be deemed to be a Judge of the High Court.
- (13) The provisions Of subsections (11) and (12) shall apply *mutatis mutandis* to a Justice of the Supreme Court

sitting as a Justice of Appeal.

(14) Neither the Chief Justice nor any Justice of the Court of Appeal or of the Supreme Court or Judge of the High Court may take any part in the hearing of any Appeal from his own judgment or the judgment of a bench of judges of which he was a member.

(15) No office of Judge of the High Court, Justice of Appeal or Justice of the Supreme Court shall be abolished while there is a substantive holder thereof.

Part II—THE SUPREME COURT

Constitution of the
Supreme Court.

101. The Supreme Court shall consist of:—

- a) the Chief Justice who shall be the President thereof;
- b) not than three other Justices of the Supreme Court; and
- c) such other Justices of the Superior Court of Judicature or of Superior Courts in any State practising a body of law similar to Sierra Leone, not more in number than the number of Justices of the Supreme Court sitting as such, as the Chief Justice may, for the determination of any particular cause or matter by writing under his hand, request to sit in the Supreme Court for such period as the Chief Justice may specify or until the request is withdrawn.

(2) The Supreme Court shall, save as otherwise provided in Section 105 of this Constitution, be duly constituted for the despatch of its business by not less than three Justices thereof.

(3) The Chief Justice shall preside at the sittings of the Supreme Court and in his absence the most senior of the Justices of the Supreme Court as constituted for the time being shall preside.

Jurisdiction of the
Supreme Court.

102. (1) The Supreme Court shall be the final court of Appeal in and for Sierra Leone and shall have such appellate and other jurisdiction as may be conferred upon it by this Constitution or any other law.

Provided that notwithstanding any law to the contrary, the President may refer any Petition in which he has to give a final decision to the Supreme Court for a judicial opinion.

(2) The Supreme Court may, while treating its own previous decisions as normally binding, depart from a previous decision when it appears right so to do; and all other Courts shall be bound to follow the decisions of the Supreme Court on questions of law.

(3) For the purposes of hearing and determining any matter within its jurisdiction and the amendment, execution or the enforcement of any judgment or order made on any such matter, and for the purposes of any other authority, expressly or by necessary implication given to it, the Supreme Court shall have all the powers, authority and jurisdiction vested in any Court established by this Constitution or any other law.

Appeals of the
Supreme Court.

103. (1) An appeal shall lie from a judgement, decree or order of the Court of Appeal to the Supreme Court:

- a) as of right, in any civil cause or matter where the amount or value of the subject matter of the dispute is not less than such an amount as may be determined by Parliament; or
- b) as of right, in any criminal cause or matter in respect of which an appeal has been brought to the Court of Appeal from a judgment, decree or order of the High Court of Justice in the exercise of its original jurisdiction; or
- c) with the leave of the Court of Appeal, in any other cause or matter, civil or criminal, where the Court of Appeal is satisfied that the case involves a substantial question of law or is of public importance.

(2) Notwithstanding the provisions of the preceding subsection, the Supreme Court shall have power to entertain any

application for special leave to appeal in any cause or matter, civil or criminal, to the Supreme Court, and to grant such leave accordingly.

Interpretation of the Constitution.

104. (1) The Supreme Court shall, save as otherwise provided in Section 101 of this Constitution, have original Jurisdiction, to the exclusion of all other Courts—

- a) in all matters relating to the enforcement or interpretation of any provision of this Constitution; and
- b) where any question arises whether an enactment was made in excess of the power conferred upon Parliament or any other authority or person by law or under this Constitution.

(2) Where any question relating to any matter or question as is referred to in the preceding subsection arises in any proceedings in any Court, other than the Supreme Court, that Court shall stay the proceedings and refer the question of law involved to the Supreme Court for determination; and the Court in which the question arose shall dispose of the case in accordance with the decision of the Supreme Court.

Supervisory Jurisdiction.

105. The Supreme Court shall have supervisory jurisdiction over all other Courts in Sierra Leone and over any adjudicating authority; and in exercise of its supervisory jurisdiction shall have power to issue such directions, orders or writs including writs or orders in the nature of *habeas corpus*, *certiorari*, *mandamus*, *prohibition* and *quo warranto*, as it may consider appropriate for the purposes of enforcing or securing the enforcement of its supervisory powers.

Power of Single Justice of the Supreme Court.

106. A single Justice of the Supreme Court may exercise any power vested in the Supreme Court not involving the decision of a cause or matter before the Supreme Court, save that—

- a) in criminal matters, if any such Justice refuses or grants an application in the exercise of any such power, any person affected thereby shall be entitled to have the application determined by the Supreme Court constituted by three Justices thereof; and
- b) in civil matters, any order, direction or decision made or given in pursuance of the powers conferred by this section may be varied, discharged or reversed by the Supreme Court constituted by three Justices thereof.

PART III—THE COURT OF APPEAL

Constitution of Court of Appeal.

107. (1) The Court of Appeal shall consist of

- a) the Chief Justice;
- b) not less than five Justices of the Court of Appeal; and
- c) such other Justices of the Superior Court of Judicature as the Chief Justice may, for the determination of any particular cause or matter by writing under his hand, request to sit in the Court of Appeal for such period as the Chief Justice may specify or until the request is withdrawn.

(2) The Court of Appeal shall be duly constituted by any three Justices thereof and when so constituted the most senior of such Justices shall preside.

(3) Subject to the provisions of subsections (1) and (2) of Section 101 of this Constitution, the Court of Appeal shall be bound by its own previous decisions and all Courts inferior to the Court of Appeal shall be bound to follow the decisions of the Court of Appeal on questions of law.

(4) The Chief Justice may create such Divisions of the Court of Appeal as he may consider necessary.

- a) consisting of such number of Justices as may be assigned thereto by the Chief Justice,
- b) sitting at such places in Sierra Leone as the Chief Justice may, by constitutional instrument, determine; and

- c) presided over by the most senior of the Justices of the Court of Appeal constituting the Court.

Jurisdiction of the
Court of Appeal.

108. (1) The Court of Appeal shall have jurisdiction throughout Sierra Leone to hear and determine, subject to the provisions of this Section and of this Constitution, appeals from any judgment, decree or order of the High Court of Justice or any Justice thereof and such other appellate jurisdiction as may be conferred upon it by this Constitution or any other law.

(2) Save as otherwise provided in this Constitution or any other law, an appeal shall lie as of right from a judgment, decree or order of the High Court of Justice to the Court of Appeal in any cause or matter determined by the High Court of Justice.

(3) For the purposes of hearing and determining any appeal within its jurisdiction and the amendment, execution or the enforcement of any judgment or order made on any such appeal, and for the purposes of any other authority expressly or by necessary implication given to the Court of Appeal by this Constitution or any other law, the Court of Appeal shall have all the powers, authority and jurisdiction vested in the Court from which the Appeal is brought.

Power of Single
Justice of Appeal.

109. A single Justice of the Court of Appeal may exercise any power vested in the Court of Appeal not involving the decision of any cause or matter before the Court of Appeal save that:

- a) in criminal matters, if any such Justice refuses or grants an application in the exercise of any such power, any person affected thereby shall be entitled to have the application determined by the Court of Appeal as duly constituted; and
- b) in civil matters, any order, direction or decision made or given in pursuance of the powers conferred by this Section may be varied, discharged or reversed by the Court of Appeal as duly constituted.

PART IV—THE HIGH COURT OF JUSTICE

Constitution of the
High Court.

110. (1) The High Court of justice shall consist of:

- a) the Chief Justice
- b) not less than seven High Court Judges; and
- c) such other Judges of the, Superior Court of Judicature as the Chief Justice may, for the determination of any particular cause or matter by writing under his hand request to sit in the High Court of Justice for such period as the Chief Justice may specify or until the request is withdrawn.

(2) The High Court of Justice shall be duly constituted as the case may be,

- a) by any one Judge thereof; or
- b) by any one Judge thereof and a jury, in accordance with the Rules of Court;
- c) by two judges thereof in accordance with the Rules of Court for the determination of any particular cause or matter.

(3) There shall be in the said High Court such Divisions consisting of such number of Judges respectively as may be assigned thereto by the Chief Justice; and sitting in such places in Sierra Leone as the Chief Justice may determine.

Jurisdiction of the
High Court.

111. (1) The High Court of Justice shall have Jurisdiction in civil and criminal matters and such other original, appellate and other jurisdiction as may be conferred upon it by this Constitution or any other law.

(2) The High Court of Justice shall have jurisdiction to determine any matter relating to industrial and labour disputes and administrative complaints.

(3) Parliament shall, by an Act of Parliament, make provision for the exercise of the jurisdiction conferred on the

High Court of Justice by the provisions of the immediately preceding subsection.

(4) For the purposes of hearing and determining an appeal within its jurisdiction and the amendment, execution or the enforcement of any judgment or order made on any such appeal, and for the purposes of any other authority expressly or by necessary implication given to the High Court of Justice by this Constitution or any other law, the High Court of Justice shall have all the powers, authority and jurisdiction vested in the Court from which the appeal is brought.

(5) Any Judge of the High Court of Justice may, in accordance with Rules of Court made in that behalf, exercise in Court or in Chambers all or any part of the jurisdiction vested in the High Court of Justice by this Constitution or any other law.

Supervisory
Jurisdiction of High
Court.

112. The High Court of Justice shall have supervisory jurisdiction over all inferior and traditional Courts in Sierra Leone and any adjudicating authority, and in the exercise of its supervisory jurisdiction shall have power to issue such directions, orders or writs including writs or orders in the nature of *habeas corpus*, *certiorari*, *mandamus*, *prohibition* and *quo warranto* as it may consider appropriate for the purposes of enforcing or securing the enforcement of its supervisory powers.

PART V—APPOINTMENT OF JUDGES, ETC.

Appointment of
Judges, etc.

113. (1) The Chief Justice shall be appointed by the President, by warrant under his hand.

(2) The other Judges of the Superior Court of Judicature shall be appointed by the President by warrant under his hand acting in accordance with the advice of the Attorney-General and Minister of Justice.

(3) A person shall not be qualified for appointment as a Judge of the Superior Court of Judicature, unless he is entitled to practise as Counsel in a Court having unlimited jurisdiction in civil and criminal matters in Sierra Leone or any other country having a system of law analogous to that of Sierra Leone and approved by the Judicial and Legal Service Commission, and has been entitled as such Counsel in the case of appointment to—

- a) the Supreme Court, for not less than ten years;
- b) the Court of Appeal, for not less than seven years;
- c) the High Court of Justice, for not less than five years.

(4) For the purposes of the immediately preceding subsection, a person shall be regarded as entitled to practise as Counsel if he has been called, enrolled or otherwise admitted as such and has not subsequently been disbarred or removed from the Roll of Counsel for Legal Practitioners.

(5) For the purposes of this section a person shall not be regarded as not being entitled to practise in a Court by reason only that he is precluded from doing so by virtue of his holding, or acting in any office.

Judicial Vacancies.

114. (1) Where the office of the Chief Justice is vacant or if the Chief Justice is for any reason unable to perform the functions of his office, then,

- a) until a person has been appointed to and has assumed the functions of that office, or
- b) until the person holding that office has resumed the functions of that office, as the case may be,

those functions shall be performed by the most senior for the time being of the Justices of the Supreme Court.

(2) Where the office of a Judge of the High Court is vacant or for any reason a Judge thereof is unable to perform the functions of his office or if the Chief Justice advises the Attorney-General and Minister of Justice that the state or business in the High Court of Justice so requires, the President may, acting in accordance with the advice of the Attorney-General and Minister of Justice, appoint a person who has held office as, or a person qualified for

appointment as a Judge of the Superior Court of Judicature to act as Judge of the High Court of Justice, notwithstanding the fact that he has already attained the retiring age prescribed by Section 115.

(3) Any person appointed under the provisions of subsection (2) of this Section to act as a Judge of the High Court of Justice shall continue to act for the period of his appointment or if no such period is specified until his appointment is revoked by the President, acting in accordance with the advice of the Judicial and Legal Service Commission.

(4) Where the office of a Justice of the Supreme Court or of the Court of Appeal is vacant or for any reason a Justice thereof is unable to perform the functions of his office or if the Chief Justice advises the President that the state of business in the Supreme Court or in the Court of Appeal, as the case may be, so requires the President may, acting in accordance with the advice of the Judicial and Legal Service Commission, appoint a person who has held office as, or a person qualified for appointment as a Judge of the Superior Court of Judicature to act as a Justice of the Supreme Court or of the Court of Appeal as the case may be, notwithstanding the fact that he has already attained the retiring age prescribed by Section 115.

(5) Any person appointed under the provisions of subsection (4) of this Section to act as a Justice of the Supreme Court or of the Court of Appeal shall continue to act for the period of his appointment or if no such period is specified until his appointment is revoked by the President acting in accordance with the advice of the Judicial and Legal Service Commission.

(6) Notwithstanding the expiration of the period of his appointment or the revocation of his appointment, a Judge appointed pursuant to the provisions of subsection (2) or (4) of this Section, may thereafter continue to act for so long as may be necessary to enable him to deliver judgment or do any other thing in relation to proceedings that were commenced before him previously thereto.

Tenure of office of
Judges, etc.

115. (1) Subject to the provisions of this Section, a person holding office as a Judge of the Superior Court of Judicature—

- a) may be required by the President to retire at any time after attaining the age of 55 years; or
- b) may retire as Judge at any time after attaining the age of sixty-two years.
- c) shall vacate that office on attaining the age of sixty-five years.

(2) Notwithstanding that he has attained the age at which he is required by the provisions of this Section to vacate his office, a person holding the office of a Judge of the Superior Court of Judicature may continue in office for so long after attaining that age as may be necessary to enable him to deliver judgment or do any other thing in relation to proceedings that were commenced before him previously thereto.

(3) Subject to the provisions of this Section a Judge of the Superior Court of Judicature may be removed from office only for inability to perform the functions of his office, whether arising from infirmity of body or mind or for stated misconduct, and shall not be so removed save in accordance with the provisions of this section.

(4) If the President is satisfied, on a petition presented to him in that behalf, that the question of removing a Judge of the Superior Court of Judicature, other than the Chief Justice, ought to be investigated then—

- a) the President shall refer the petition to the Chief Justice for inquiry by a tribunal consisting of three Judges of the Superior Court of Judicature appointed by the Judicial and Legal Service Commission; and
- b) the tribunal shall inquire into the matter and report the facts and the findings thereon to the President and recommend to the President whether the Judge ought to be removed under the provisions of this Section; and the President shall act in accordance with the recommendations of the tribunal.

(5) If the President is satisfied, on a petition presented to him in that behalf, that the question of removing the Chief Justice ought to be investigated, then—

- a) the President shall, acting in consultation with the Cabinet, appoint a tribunal to which he shall refer the petition and which tribunal shall consist of—
 - i. two Justices of the Supreme Court., or legal practitioners qualified to be appointed as Justices of the Supreme Court one of whom shall be appointed Chairman by the President, and
 - ii. three other persons who are not members of Parliament or Legal Practitioners, and
- b) that the tribunal shall enquire into the matter and report the facts and findings thereon to the President;

and the President shall act in accordance with the recommendations of the tribunal.

(6) Where the question of removing a Judge of the Superior Court of Judicature under the provisions of this Section has been referred to the appropriate tribunal, the President

- a) in the case of the Chief Justice, may by warrant under his hand suspend the Chief Justice from performing the functions of his office; and any such suspension may at any time be revoked by the President, or
- b) in the case of any other Judge may, acting in accordance with the advice of the Attorney-General and Minister of Justice, suspend that Judge from performing the functions of his office; and any such suspension may at any time be revoked by the President, acting in accordance with the advice of the Attorney-General and Minister of Justice.

Remuneration of
Judges, etc.

116. (1) The salaries, allowances, gratuities and pensions of Judges of the Superior Court of Judicature shall be a charge upon the Consolidated Fund.

(2) A Judge of the Superior Court of Judicature shall on retiring from office as such Judge, be entitled to such gratuity and pension as may be determined by Parliament.

(3) The salary, allowances, privileges, right in respect of leave of absence, gratuity or pension and other conditions of service of a Judge of the Superior Court of Judicature shall not be varied to his disadvantage.

Oaths of office of
Judges.

117. A Judge of the Superior Court Judicature shall, before assuming the functions of his office, take and subscribe before

- a) the President, in the case of the Chief Justice; and
- b) the Chief Justice, in the case of any other Judge,

the Oath of Allegiance and the Judicial Oath set out in the Third Schedule to this Constitution.

Judicial and Legal
Services Commission.

118. (1) There shall be established a Judicial and Legal and Service Commission which shall advise the Chief Justice in the performance of his administrative functions and perform such other functions as provided by this Constitution or by any other law, and which shall consist of:

- a) the Attorney-General and Minister of Justice;
- b) the Chief Justice;
- c) the most senior Justice of the Supreme Court, the most senior Justice of the Court of Appeal and the most senior Judge of the High Court of Justice;
- d) the Director of Public Prosecutions;
- e) one practising Counsel of not less than ten years' standing appointed by the Sierra Leone Bar Association; and
- f) the Chairman of the Public Service Commission.

(2) The Chief Justice shall, acting in accordance with the advice of the Judicial and Legal Service Commission, and

save as otherwise provided in this Constitution, be responsible for the effective and efficient administration of the Judiciary.

(3) The following provisions shall apply in relation to the member of the Judicial and Legal Service Commission who is appointed by the Sierra Leone Bar Association:—

- a) subject to the provisions of this subsection such member shall vacate office at the expiration of three years from the date of his appointment;
- b) any such member may be removed from office by the President for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct; and
- c) such member shall not be removed from office except in accordance with the provisions of this subsection.

Appointment of
Judicial and Legal
Officers, etc.

119. (1) Power to appoint persons to hold or act in any office to which this Section applies (including power to make appointments on promotion and transfer from one office to another and to confirm appointments) and to dismiss and exercise disciplinary control over persons holding or acting in such offices shall vest in the Judicial and Legal Service Commission;

Provided that that Commission may, with the approval of the President and subject to such conditions as it may think fit, delegate any of its powers under this Section, by direction in writing to any of its members, to any Judge of the High Court, to the holder of any office to which this Section applies, or in the case of a power relating to an office connected with the Court of Appeal or the Supreme Court to any Justice of either of those Courts.

(2) This section applies to the offices of Registrar and Deputy Registrar of the Supreme Court, Registrar and Deputy Registrar of the Court of Appeal, Master and Registrar of the High Court, Deputy Master and Registrar of the High Court, any Registrar of the High Court, Deputy Administrator and Registrar-General, any Magistrate, Undersheriff, Principal State Counsel, Senior State Counsel, State Counsel, Parliamentary Counsel, Legal Draftsman, Customary Law Officer and such other officers as may be prescribed by Parliament.

Rules of Court
Committee.

120. (1) There shall be established a Rules of Court Committee which shall consist of

- a) the Chief Justice, who shall be Chairman;
- b) the Director of Public Prosecutions;
- c) a Justice of the Supreme Court, a Justice of Appeal, and a Judge of the High Court, to be appointed by the Chief Justice;
- d) the First Parliamentary Counsel; and
- e) two practising Counsels of not less than seven years standing both of whom shall be nominated annually by the Sierra Leone Bar Association.

(2) Subject to the provisions of this Constitution the Rules of Court Committee may, by constitutional instrument, make Rules of Court for regulating the practice and procedure of all Courts in Sierra Leone, which shall include regulations relating to the prevention of frivolous and vexatious proceedings.

Appointment of Court
Officers.

121. (1) The appointment of officers and servants of the Courts of Sierra Leone shall, subject to the provisions of Section 119 of this Constitution, be made by the Chief Justice or such other Judge or officer of the Court as the Chief Justice may direct.

2) The Judicial and Legal Service Commission may, acting in consultation with the Public Service Commission and with the prior approval of the President make Regulations by constitutional instrument prescribing the terms and conditions of service of officers and other employees of the Courts and of the Judicial and the Legal Services established by this Constitution or any other law.

Fees of Court, etc.

122. Any fees, fines or other moneys taken by the Courts shall form part of the Consolidated Fund.

Official Document.

123. (1) Whenever in any proceedings in a Court, other than the Supreme Court, any question arises as to the discovery of an official document, and any person or authority having custody legal or otherwise of any such document, refuses, upon request, to produce that document, on the ground—

- a) that the document belongs to a class of documents which it is prejudicial to the security of the State or injurious to the public interest to produce, or
- b) that disclosure of the contents thereof will be prejudicial to the security of the State or injurious to the public interest,

the Court shall stay the proceedings and refer the question to the Supreme Court for determination.

(2) The Supreme Court shall have power, pursuant to the provisions of the preceding subsection

- a) to order any person or authority having custody legal or otherwise of the document to produce it; and any person so ordered shall produce the document for the purpose of inspection by the Supreme Court; and
- b) to determine whether or not any such document shall be produced in the Court from which the reference was made after hearing the parties thereto or their legal representatives or after having given them the opportunity of being heard.

(3) Where the Supreme Court is of the opinion that the document shall be produced it shall make an order upon the person or authority having custody of the document to produce the same or so much of the contents thereof as is essential for the proceedings in accordance with the terms of the order.

(4) Where the question of the discovery of an official document arises in any proceedings in the Supreme Court in the circumstances, mentioned in subsection (1) of this Section, the Supreme Court shall be governed, *mutatis mutandis*, by the preceding provisions of this Section for the determination of the question that has arisen.

Transitional Provisions.

124. (1) The High Court of Justice established under the provisions of subsection (4) of Section 100 of this Constitution, shall be the successor to the High Court in being immediately before the coming into force of this Constitution.

(2) The Court of Appeal established under the provisions of subsection (4) of Section 100 of this Constitution, shall be the successor to the Court of Appeal in being immediately before the coming into force of this Constitution; and accordingly the Court of Appeal as established by this Constitution shall be bound to follow the decisions on questions of law binding on the Court of Appeal as is existed immediately before the coming into force of this Constitution.

(3) The Supreme Court established under the provisions of subsection (4) of Section 100 of this Constitution, shall be the successor to the Supreme Court in being immediately before the coming into force of this Constitution.

CHAPTER VII—THE LAWS OF SIERRA LEONE

The laws of Sierra Leone.

125. (1) The laws of Sierra Leone shall comprise

- a) this Constitution;
- b) enactments made by or under the authority of the Parliament established by this Constitution;
- c) any Orders, Rules and Regulations made by any persons or authority pursuant to a power conferred in that behalf by this Constitution or any other law;
- d) the existing law; and
- e) the common law.

(2) The common law of Sierra Leone shall comprise the rules of law generally known as the common law, the rules of law generally known as the doctrines of equity, and the rules of customary law including those determined by the

Superior Court of Judicature.

(3) For the purposes of this Section, the expression “customary law” means the rules of law which by custom are applicable to particular communities in Sierra Leone.

(4) The existing law shall, save as otherwise provided in subsection (1) of this Section, comprise the written and unwritten laws of Sierra Leone as they existed immediately before the date of the coming into force of this Constitution and any statutory instrument issued or made before that date which is to come into force on or after that date.

(5) Subject to the provisions of this Section the operation of the existing law after the coming into force of this Constitution shall not be affected by such commencement; and accordingly the existing law shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with the provisions of this Constitution or otherwise to give effect to or enable effect to be given to any changes effected by this Constitution.

(6) Any Orders, Rules or Regulations made by any person or authority pursuant to a power conferred in that behalf by this Constitution or any other law

- a) shall be laid before Parliament;
- b) shall be published in the *Gazette* on or before the day they are so laid before Parliament;
- c) shall come into force at the expiration of a period of twenty-one days of being so laid unless Parliament before the expiration of the said period of twenty-one days, annuls any such Orders, Rules or Regulations by the votes of not less than two-thirds of the Members of Parliament.

CHAPTER VIII—FINANCE

Authority for
imposition of
Taxation.

126. (1) Subject to the provisions of this Section no taxation shall be imposed or altered except by or under an Act of Parliament.

(2) Save as provided by subsections (3) and (4) Parliament shall not confer upon any other person, or authority power to impose or to alter (otherwise than by reduction) any taxation.

(3) Parliament may make provision under which the President or a Minister may by order Provide that, on or after the publication of a Bill (being a Bill approved by the President) that it is proposed to introduce into Parliament providing for the imposition or alteration of taxation, such provisions of the Bill as may be specified in the order shall, until the Bill becomes law, have the force of law for such period and subject to such conditions as may be prescribed by Parliament.

Provided that any such order shall, unless sooner revoked, cease to have effect—

- i. if the Bill to which it relates is not passed within such period from the date of its first reading in Parliament as may be prescribed by Parliament;
- ii. if, after the introduction of the Bill to which it relates, Parliament is prorogued or dissolved;
- iii. if, after the passage of the Bill to which it relates, the President refuses his assent thereto; or
- iv. at the expiration of a period of four months from the date it came into operation or such longer period from that date as may be specified in any resolution passed by Parliament after the Bill to which it relates has been introduced.

(4) Parliament may confer upon any authority established by law for the purpose of local government power to

impose taxation within the area for which that authority is established and to alter taxation so imposed.

(5) Where the Appropriation Act in respect of a financial year has not come into force at the expiration of six months from the commencement of that financial year, the operation of any law relating to the collection or recovery of any tax upon any income or profits or any duty of customs or excise shall be suspended until that Act comes into force:

Provided that—

- i. in any financial year in which Parliament stands dissolved at the commencement of that year the period of six months shall begin from the day upon which Parliament first sits following that dissolution instead of from the commencement of the financial year;
- ii. the provisions of this subsection shall not apply in any financial year in which Parliament is dissolved after the laying of estimates in accordance with Section 128 and before the Appropriation Bill relating to those estimates is passed by Parliament.

Consolidated Fund.

127. (1) There shall be a Consolidated Fund into which, subject to the provisions of this Section, shall be paid

- a) all revenue or other moneys raised or received for the purpose of, or on behalf of, the Government, and
- b) any other moneys raised or received in trust for or on behalf of the Government.

(2) The revenues or other moneys referred to in the preceding subsection shall not include revenues or other moneys

- a) that are payable by or under an Act of Parliament into some other fund established for a specific purpose, or
- b) that may, by or under an Act of Parliament, be retained by the department of Government that received them for the purpose of defraying the expenses of that department.

(3) No moneys shall be withdrawn from the Consolidated Fund except—

- a) to meet expenditure that is charged upon the Fund by this Constitution or by an Act of Parliament; or
- b) where the issue of those moneys has been authorised
 - i. by an Appropriation Act; or
 - ii. by a Supplementary Estimate approved by a resolution of Parliament passed in that behalf; or
 - iii. by an Act of Parliament enacted pursuant to the provisions of Sections 128 and 129 of this Constitution; or
 - iv. by Rules or Regulations made under an Act of Parliament in respect of trust moneys paid into the Consolidated Fund.

(4) No moneys shall be withdrawn from any public fund, other than the Consolidated Fund and the Contingencies Fund, unless the issue of those moneys has been authorised by or under the authority of an Act of Parliament.

Authorisation of
Expenditure from
Consolidated Fund.

128. (1) The Minister for the time being responsible for finance shall cause to be prepared and laid before Parliament in each financial year estimates of the revenues and expenditure of Sierra Leone for the next following financial year.

(2) The Head of the expenditure

- a) of the estimates shall be included in a Bill to be known as an Appropriation Bill which shall be introduced into Parliament to provide for the issue from the Consolidated Fund of the sums of money necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein; and
- b) of the Consolidated Fund payments shall be laid before Parliament for the information of the members thereof.

(3) Where, in respect of any financial year, it is found that the amount of moneys appropriated by the Appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount of moneys has been appropriated by that Act, a supplementary estimate showing the sum of money required shall be laid before Parliament.

(4) Where, in respect of any financial year, a supplementary estimate has been approved by Parliament in accordance with the provisions of subsection (3) of this Section, a Supplementary Appropriation Bill shall be introduced in Parliament in the financial year next following the financial year to which the estimates relate, providing for the appropriation of the sums so approved for the purposes specified in that estimate.

(5) Notwithstanding the provisions of the preceding subsection of this Section, the Minister for the time being responsible for finance may cause to be prepared and laid before Parliament estimates of revenue and expenditure of Sierra Leone for periods of over one year.

Authorisation of
Expenditure in
Advance of
Appropriation.

129. Where it appears to the Minister responsible for finance that the Appropriation Act in respect of any financial year will not come into operation by the beginning of that financial year, he may, with the prior approval of Parliament signified in that behalf by a resolution thereof, authorise the withdrawal of moneys from the Consolidated Fund for the purposes of meeting expenditure necessary to carry on the services of the Government in respect of the period expiring four months from the beginning of the financial year or on the coming into operation of the Act whichever is earlier.

Withdrawal of moneys
from General
Revenues.

130. (1) No moneys shall be expended from the general revenue of the Republic unless—

- a) the expenditure is authorised by a warrant under the hand of the President; or
- b) the expenditure is charged by this Constitution or any other law on the general revenues of the Republic; or
- c) the expenditure is of moneys received by a department of Government and is made under the provisions of any law which authorises that department to retain and expend those moneys for defraying the expenses of the department.

2) No warrant shall be issued by the President authorising expenditure from the general revenues of the Republic unless—

- a) the expenditure is necessary to carry on the services of the Government in respect of any period not exceeding four months beginning with the commencement of a financial year during which the Appropriation Act for that financial year is not in force; or
- b) the expenditure has been proposed in a supplementary estimate to be approved by Parliament; or
- c) no provision exists for the expenditure and the President considers that there is such an urgent need to incur the expenditure that it would not be in the public interest to delay the authorisation of the expenditure until such time as a supplementary estimate can be laid before and approved by Parliament; or
- d) the expenditure is incurred on capital projects continuing from the previous financial year until the commencement of the Appropriation Act for the current financial year.

(3) The President shall, immediately after he has signed any warrant authorising expenditure from the general revenues of the Republic, cause a copy of the warrant to be transmitted to the Auditor-General.

(4) The issue of warrants under paragraph (c) of subsection (2), the investment of moneys forming part of the general revenues of the Republic and the making of advances from such revenues shall be subject to such limitations and conditions as Parliament may from time to time prescribe.

Remuneration of the
President and certain
other officers.

131. (1) There shall be paid to the holders of the offices to which this Section applies such salaries and allowances as may be prescribed by or under any law or determined by the President acting in consultation with the Cabinet.

(2) The salaries and allowances payable to the holders of the offices to which this Section applies shall be a charge

on the Consolidated Fund.

(3) The salary, pensions, gratuity and allowances payable to the holder of any office to which this Section applies and his other terms of services shall not be altered to his disadvantage after his appointment, and for the purposes of this subsection, in so far as the terms of service of any person depend on the option of that person, the terms for which he opts shall be taken to be more advantageous to him than any other terms for which he might have opted.

(4) This Section applies to the offices of the President, Vice-Presidents, Attorney-General and Minister of Justice, Ministers, Deputy Ministers, Parliamentary Special Assistants, the Chief Justice, a Justice of the Supreme Court, a Justice of Appeal, a Judge of the High Court, the Director of Public Prosecutions, the Chairman and Members of the Electoral Commission, the Chairman and Members of the Public Service Commission, and the Auditor-General.

Contingencies Fund.

132. (1) Parliament may provide for the establishment of the Contingencies Fund and for authorising the Minister responsible for Finance, if he is satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

(2) Where any advance is made in accordance with subsection (1) of this Section, a Supplementary Estimate shall be presented and a Supplementary Appropriation Bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

(3) Whenever in the estimates prepared pursuant to the provisions of subsections (1) and (3) of Section 128 of this Constitution provision is made for an item or vote other than for the Contingencies Fund, not relating to any specific item of expenditure, any moneys voted by Parliament in respect of that item or vote shall be under the control and supervision of a committee which shall consist of the President, the Vice-Presidents, the Minister for the time being responsible for Finance and one other Minister appointed by the President.

Public Debt.

133. (1) The public debt of Sierra Leone shall be secured on the revenues and assets of Sierra Leone.

(2) In this Section reference to the public debt of Sierra Leone includes references to the interest on that debt, sinking fund payments in respect of that debt and the costs, charges and expenses incidental to the management of that debt.

Establishment of
office and functions of
Auditor-General.

134. (1) There shall be an Auditor-General for Sierra Leone whose office shall be a public office, and who shall be appointed by the President in consultation with the Public Service Commission.

(2) The public accounts of Sierra Leone and of all public offices, including the Courts, the accounts of the Central and local government administrations, of the Universities and public institutions of like nature, of any statutory corporation, company, or other body or organisation established by an Act of Parliament or statutory instrument or otherwise set up partly or wholly out of Public Funds, shall be audited and reported on by or on behalf of the Auditor-General; and for that purpose the Auditor-General or any person authorised or appointed in that behalf by the Auditor-General shall have access to all books, records, returns and other documents relating or relevant to those accounts.

(3) The public accounts of Sierra Leone and of all other persons or authorities referred to in the immediately preceding subsection shall be kept in such form as the Auditor-General shall approve.

(4) The Auditor-General shall, within twelve months of the end of the immediately preceding financial year, submit his report through the Minister for the time being responsible for Finance to Parliament and shall in that report draw attention to irregularities in the accounts audited and to any other matter which in his opinion ought to be brought to the notice of Parliament.

(5) Parliament shall debate the report of the Auditor-General and appoint where necessary in the public interest a committee to deal with any matters arising therefrom.

- (6) In the exercise of his functions under this Constitution or any other law the Auditor-General shall not be subject to the direction or control of any other person or authority other than the President.
- (7) The provisions of subsection (6) of this Section shall not preclude the President, acting in accordance with the advice of Cabinet, from requesting the Auditor-General in the public interest to audit at any particular time, the accounts of any body or organisation as is referred to in subsection (2) of this Section.
- (8) The salary and allowances payable to the Auditor-General shall be a charge upon the Consolidated Fund.
- (9) The salary and allowances payable to the Auditor-General, his rights in respect of leave of absence, retiring age and other conditions of service, shall not be varied to his disadvantage after his appointment.
- (10) The provisions of Section 115 of this Constitution relating to the removal of a Judge of the Superior Court of Judicature, other than the Chief Justice, from office shall apply to the Auditor-General.
- (11) The Auditor-General shall retire from office on attaining the age of sixty years or such age as may be prescribed by Parliament.
- (12) The administrative expenses of the office of the Auditor-General including all salaries, allowances, gratuities and pensions payable to or in respect of persons serving in the Audit Service shall be a charge upon the Consolidated Fund.
- (13) The accounts of the office of the Auditor-General shall be audited and reported upon by an auditor appointed by Parliament.
- (14) Every person appointed to be the Auditor-General for Sierra Leone shall, before entering upon the duties of his office, take and subscribe the Oath of the Auditor-General set out in the Third Schedule to this Constitution.
- (15) Whenever the office, of the Auditor-General is vacant or the holder of the office is for any reason unable to perform the functions of his office, the President may appoint a person to act in the office and any person so appointed shall, subject to the provisions of this Section relating to the removal of the Auditor-General, continue to act until his appointment is revoked by the President.

CHAPTER IX—THE PUBLIC SERVICE

Establishment of
Public Service
Commission.

- 135.** (1) There shall be a Public Service Commission which shall consist of a Chairman and not less than two nor more than four other members.
- (2) The members of the Public Service Commission shall be appointed by the President.
- (3) A person shall not be qualified to hold the office of a member of the Public Service Commission if he is a member of Parliament, a Minister or a Deputy Minister, or a Parliamentary Special Assistant, or if he holds or is acting in any public office.
- (4) A person who has held office or who has acted as a member of the Public Service Commission shall not, within a period of three years commencing with the date on which he last so held office or acted, be eligible for appointment to any public office.
- (5) The office of a member of the Public Services Commission unless he sooner resigns or dies shall become vacant—
- a) at the expiration of a period of five years from the date of his appointment or such shorter period not being

- less than three years as may be specified at the time of his appointment.,
- b) if any circumstances arise that if he were not a member of the Commission, would cause him to be disqualified for appointment as such:

Provided that a member of the Public Service Commission shall retire at the age of sixty-five years.

(6) A member of the Public Service Commission may be removed by the President for inability to discharge the functions of his office (whether arising from infirmity of mind or body or from any other cause) or for misconduct.

(7) Whenever the office of a member of the Public Service Commission is vacant or a member is for any reason unable to perform the functions of his office, the President may appoint a person who is qualified for appointment as a member of the Commission, and any person so appointed shall, subject to the provisions of paragraph (b) of subsection (5) of this Section continue to act until his appointment is revoked by the President.

Appointments, etc., of
public officers.

136. (1) Subject to the provisions of this Constitution, the power to appoint persons to hold or act in offices in the public service (including power to make appointments on promotion and to confirm appointments) and to dismiss and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Public Service Commission.

(2) The President may, subject to such conditions as he may think fit, delegate any of his functions relating to the making of appointments etc., by directions in writing to the Public Service Commission or to a committee thereof or to any member of the Commission or to any public officer.

(3) Before the Public Service Commission appoints to any public office any person holding or acting in any office, the power to make appointment to which is not vested in the Public Service Commission, it shall consult the person or authority in whom that power is vested.

(4) The Public Service Commission shall, upon request made to it by any person or authority having power to make an appointment to an office under this Constitution or in any other public institution, make recommendations to that person or authority for the appointment of any public officer or any other person to any office, the power to make appointment to which is vested by this Constitution or any other law in that person, authority or public institution.

(5) The power to transfer persons holding or acting in offices in the public service from one department of Government to another shall, (where such transfer d not involve promotion) vest in the Public Service Commission.

(6) The provisions of this Section shall not apply in relation to any of the following offices—

- a) the office of any Justice of the Supreme Court or of the Court of Appeal, or a Judge of the High Court;
- b) the Director of Public Prosecutions;
- c) the office of Auditor-General;
- d) any office to which Section 119 (which relates to offices within the jurisdiction of the Judicial and Legal Services Commission) applies;
- e) any office to which Section 138 (which relates to the offices of Ambassadors and certain other offices) applies;
- f) any office to which Section 139 (which relates to the offices of Permanent Secretaries and certain other offices) applies; and
- g) any office the remuneration of which is calculated on a daily rate:

Provided that the power of transfer vested in the Public Service Commission under subsection (5) of this Section may be exercised in the case of persons holding any of the offices specified in this subsection where such persons express their consent in writing to such transfer.

(7) The provisions of this Section shall not apply in relation to any office in the Sierra Leone Police Force except in

the following cases—

- a) with respect to appointments (including appointments on promotion and the confirmation of appointments) of persons to hold or act in the office of Chief Inspector or any office of higher rank (other than of the Commissioner of Police) and the dismissal and disciplinary control of persons holding or acting in any such office; and
- b) subject to the provisions of subsection (8), with respect to the dismissal or reduction in rank of any persons holding or acting in any office below the rank of Chief Inspector.

(8) Unless Parliament otherwise provides, the power to dismiss or reduce in rank any person holding or acting in an office in the Sierra Leone Police Force below the rank of Chief Inspector shall be exercised under subsection (1) only on the recommendation of the Commissioner of Police.

(9) No appointment shall be made under this Section to any office on the personal staff of the President or a Vice-President unless he signifies his personal approval of the appointment.

(10) The Public Service Commission shall not dismiss, or inflict any other punishment on, a public officer on grounds of any act done or omitted to be done by that officer in the exercise of a judicial function conferred upon him unless the Judicial and Legal Service Commission concurs therein.

(11) No Member of the public service shall be

- a) victimised or discriminated against directly or indirectly for having discharged his duties faithfully in accordance with this Constitution;
- b) dismissed or removed from office or reduced in rank or otherwise punished without just cause.

(12) The Public Service Commission may, with the prior approval of the President, make Regulations by constitutional instrument for the effective and efficient performance of its functions under this constitution or any other law, and may with such prior approval and subject to such conditions as it may think fit delegate any of its powers to any of its members or to any public officer.

(13) Save as is otherwise provided in this Constitution, the Public Service Commission shall not be subject to the control or direction of any other person or authority in the performance of its functions under this Constitution or any other law.

Duties relating to the
Public Service
Commission and
Public Corporations.

137. (1) It shall be the duty of the Public Service Commission—

- a) to conduct or cause to be conducted on its behalf examinations for appointments to any office in the Public Service including service with a public corporation where any such examinations are prescribed by Regulations made in that behalf.
- b) to assist in framing and operating schemes of joint recruitment to offices in the Public Service and public corporations for which candidates possessing special qualifications are required, including schemes for the standardisation of salaries and other conditions of service in the Public Service and public corporations;
- c) to prescribe the methods of recruitment to offices in the Public Service and public corporations in consultation with the appropriate authority responsible for appointment to such offices; and
- d) to prescribe the principles to be followed in making appointments to posts in the Public Service and public corporations and in making promotions and transfers from one Service to another, and on the suitability of candidates for such appointments, promotions or transfers in consultation with the appropriate authority responsible for the Public Service or public corporation concerned.

(2) For the purposes of this Section the expression “public corporation” means a statutory corporation set up entirely out of public funds or funds provided in whole or in part by or otherwise guaranteed by Parliament.

Appointment of
Principal
representatives of
Sierra Leone abroad,
Commissioner of
Police and Armed
Forces Commanders.

138. (1) Power to appoint persons to hold or act in the office to which this Section applies (including power to make appointments on promotion and transfer from one office to another and to confirm appointments) and to remove persons so appointed from any such office shall vest in the President.

(2) The offices to which this Section applies are the offices of Ambassador, High Commissioner, or other principal representative of Sierra Leone abroad, the Commanders of the Armed Forces, and the Commissioner of Police.

(3) No person shall be appointed to any of the offices to which this Section applies or continue in any such office unless he is a member of the Recognised Party.

Appointment of
Permanent Secretaries
and certain other
officers.

139. (1) Power to appoint persons to hold or act in any of the offices to which this Section applies (including power to make appointments on promotion and transfer from one office to another and to confirm appointments) and to remove persons so appointed from any such office shall vest in the President acting in consultation with Vice-Presidents.

(2) The office to which this Section applies are the offices of the Secretaries to the President, Vice-Presidents, Secretary to the Cabinet, Financial Secretary, Secretary to the Foreign Minister, Establishment Secretary, Development Secretary, and Director of Public Prosecutions, Solicitor-General, Administrator and Registrar-General.

(3) No person shall be appointed to any of the offices to which this Section applies or continue in any such office unless he is a member of the Recognised Party.

(4) Subject to the provisions of Section 136 of this Constitution where any person has been removed under subsection (1) from any office specified in subsection (2) of this Section he may notwithstanding such removal

- a) remain in the Public Service;
- b) continue to receive a salary not less than the salary he received before such removal; and
- c) continue to be eligible for any benefits granted to him in respect of his service as a public officer including benefits payable under any law providing for the grant of pensions, gratuities or both,

unless by such removal he ceases to be a member of the Public Service.

Prohibition of Private
Armed Force.

140. No person shall raise any armed force save by or under the authority of an Act of Parliament;

Provided that this Section shall not apply to the organisation of un-armed and voluntary community and customary defence arrangements and voluntary and customary training arrangements of the Recognised Party.

Establishment of
Defence Council.

141. (1) There shall be a Defence Council which shall consist of—

- a) the President, who shall be Chairman;
- b) the Vice-Presidents;
- c) the Minister responsible for Defence;
- d) the Chief of Defence Staff;
- e) the Commanders of the Armed Forces (Army, Navy and Air Force) and their deputies;
- f) the Minister of the Interior;
- g) the Commissioner of Police and his deputy; and
- h) two other persons as the President shall appoint.

(2) The Permanent Secretary of the Ministry of Defence shall be Secretary to the Council.

Appointment in the
Armed Forces.

142. (1) The Chief of Defence Staff of the Armed Forces shall be appointed by the President.

(2) The Chief of Defence Staff of the Armed Forces shall, subject to the provisions of this Section and to the control

or direction of the Defence Council, be responsible for the operational control and the administration of the Armed Forces as a whole.

Functions of Defence Council.

143. (1) The Defence Council shall advise the President on all major matters of policy relating to defence and strategy including the role of the Armed Forces, military budgeting and finance, administration and the promotion of officers above the rank of Lieutenant or its equivalent.

(2) The Defence Council may with the prior approval of the President, by constitutional instrument, make Regulations for the performance of its functions under this Constitution or any other law, and for the effective and efficient administration of the Armed Forces.

(3) Regulations made pursuant to the provisions of subsection (2) shall include regulations in respect of

- a) the control and administration of the Army, the Navy and the Air Force of Sierra Leone;
- b) the ranks of officers and men of each Armed Force, the members in each such rank and the use of uniforms by such men;
- c) the conditions of service, including those relating to the enrolment and to the pay, pensions, gratuities and other allowances of officers and men of each Armed Force and deductions therefrom;
- d) the authority and powers of command of officers and men of each Armed Force; and
- e) the delegation to other persons of powers of commanding officers to try accused persons, and the conditions subject to which such delegation may be made.

Resignations and effect of new appointments on a person holding an established office.

144. (1) Any person who is appointed or elected to, or otherwise selected for, any office established by this Constitution (including the office of Vice-Presidents, Secretary-General of the Party, Member of the Cabinet, Minister or Deputy Minister or Parliamentary Special Assistants, may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed, elected or selected:

Provided that in the case of the Speaker or the Deputy Speaker his resignation from office shall be addressed to Parliament, and in the case of a Member of Parliament his resignation from Parliament shall be addressed to the Speaker, and in the case of the Secretary-General of the Party his resignation from office shall be addressed to the Central Committee of the Party.

(2) The resignation of any person from any such office as aforesaid shall take effect, where no date is specified, when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any person authorised by that person or authority to receive it.

(3) Where any person holding an office mentioned in Section 139 accepts another such office carrying higher remuneration, he shall, unless a contrary intention appears from the terms of his appointment, be deemed to have relinquished the office he was originally holding; where the second office does not carry higher remuneration, the question whether or not he shall be deemed to have relinquished the original office shall depend on the terms of his second appointment.

Re-appointment, etc.

145. (1) Where any person has vacated any office established by this Constitution he may, if qualified, again be appointed, elected, or otherwise selected to hold that office in accordance with the provisions of this Constitution.

(2) Where by this Constitution a power is conferred upon any person or authority to make any appointment to any public office a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this subsection then for the purposes of any function conferred upon the holder of that office the person last appointed shall be deemed to be the sole holder of the office.

Protection of pension rights.

146. (1) The law applicable to any benefits to which this Section applies shall in relation to any person who has been

granted, or who is eligible for the grant of, such benefits be that in force on the relevant date or any later law that is not less favourable to that person.

(2) In this Section “the relevant date” means—

- a) in relation to any benefits granted before the twenty-seventh day of April, 1961, the date on which those benefits were granted;
- b) in relation to any benefits granted on or after the twenty-seventh day of April, 1961, to or in respect of any person who was a public officer before that date, the twenty-sixth day of April, 1961; and
- c) in relation to any benefits granted or to be granted to or in respect of any person who becomes a public officer on or after the twenty-seventh day of April, 1961, the date on which he becomes a public officer.

(3) Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law specified by him in exercising the option shall, for the purposes of this Section, be deemed to be more favourable to him than the other law or laws.

(4) Any benefit to which this Section applies (not being a benefit that is a charge upon some other public fund of Sierra Leone) shall be a charge upon the Consolidated Fund or upon such other Special Fund, whether contributory or non-contributory as Parliament may prescribe.

(5) This Section applies to any benefits payable under any law providing for the grant of pensions, gratuities or compensation to persons who are or have been public officers in respect of their service in the public service or to the widows, children, dependants or personal representatives of such persons in respect of such service.

(6) References to the law applicable to any benefits to which this Section applies includes (without prejudice to their generality) references to any law relating to the time at which and the manner in which any person may retire in order to become eligible for these benefits.

(7) Notwithstanding any law or custom to the contrary it shall be lawful for Parliament to enact that a person shall not be entitled to a benefit under this Section unless he has contributed to a specific Fund created for the purpose.

147. (1) Where any benefits to which this Section applies can be withheld, reduced in amount or suspended by any law, those benefits shall not be so withheld, reduced in amount or suspended—

- a) in the case of benefits which have been granted in respect of service in the public service of any person who at the time when he ceased to be a public officer was subject to the jurisdiction of the Judicial and Legal Service Commission or for which any person may be eligible in respect of such service, without the approval of that Commission; or
- b) in any other case, without the approval of the Public Service Commission.

(2) No benefits to which this Section applies that have been granted to or in respect of any person who is or has been a Judge of the High Court, a Justice of Appeal or of the Supreme Court or a former Judge of the Supreme Court or for which any such person or his widow, children, dependants or personal representatives may be eligible, shall be withheld, reduced in amount or suspended on the ground that that person has been guilty of misconduct or misbehaviour unless that person has been removed from judicial office by reason of such misconduct or misbehaviour.

(3) This Section applies to any benefits payable under any law providing for the grant of pensions, gratuities or compensation to persons who are or have been public officers in respect of their service in the public service or to the widows, children, dependants or personal representatives of such persons in respect of such service, whether on a contributory or non-contributory basis.

Power and Procedure
of Commissions.

148. (1) Any Commission or Council established by this Constitution may, with the consent of the President and subject to the provisions of subsection (2) by regulation or otherwise, regulate its own procedure and confer powers or impose duties on any public officer or on any authority of the Government for the purpose of the discharge of its functions.

(2) At any meeting of any Commission or Council established by this Constitution a quorum shall be constituted if three members are present; and if a quorum is present the Commission or Council shall not be disqualified for the transaction of business by reason of any vacancy among its members and any proceedings of the Commission or Council shall be valid notwithstanding that some person who was not entitled to do so took part therein.

Protection of
Commissions from
legal proceedings.

149. The question whether—

- a) any Commission or Council established by this Constitution has validly performed any function vested in it by or under this Constitution; or
- b) any member of such a Commission or Council or any other person has validly performed any function delegated to such member or person in pursuance of the provisions of subsection (1) of Section 148 or, as the case may be, subsection (12) of Section 136;
- c) any member of such a Commission or Council or any other person or authority has validly performed any other function in relation to the work of the Commission or Council or in relation to any such function as is referred to in paragraph (b),

shall not be enquired into in any court.

Appointment of
Commission of
Inquiry.

150. (1) Save as otherwise provided in subsection (2) of this Section, the President shall, by constitutional instrument, appoint a Commission of Inquiry into any matter of public interest where—

- a) the first Vice-President advises that it is in the public interest so to do; or
- b) Parliament by a resolution passed in that behalf requires that a Commission be appointed to inquire into any matter specified in the resolution being a matter of public importance.

(2) A Commission appointed pursuant to the provisions of subsection (1) may consist of a sole Commissioner or two or more persons one of whom shall be appointed the Chairman of the Commission.

(3) No person shall be appointed a sole Commissioner or the Chairman of a Commission of Inquiry pursuant to the provisions of this Section unless—

- a) he is a Judge of the Superior Court of Judicature; or
- b) he is a person qualified to be appointed a Judge of the Superior Court of Judicature; or
- c) he is a person who has held office as a Judge of the Superior Court of Judicature; or
- d) he is a person who possesses special qualifications or special background knowledge in respect of the matter forming the subject matter of the investigation.

(4) Subject to the provisions of subsection (3), where a Commission of Inquiry appointed pursuant to the provisions of subsection (1) consists of more than two Commissioners other than the Chairman, each of the persons forming the majority of such Commissioners shall be such a person as is referred to in paragraph (a) or (b) or (c) or (d) of subsection (3) of this Section.

Powers, Rights and
Privileges of
Commissions of
Inquiry.

151. (1) A Commissioner of Inquiry shall have such powers, rights and privileges as are vested in the High Court of Justice or a Judge thereof at a trial in respect of—

- a) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise; and
- b) compelling the production of documents; and

c) the issue of a commission or request to examine witnesses abroad.

(2) A sole Commissioner or a Member of a Commission of Inquiry shall not be liable to any action or suit in respect of any matter or thing done by him in the performance of his functions as such Commissioner or Member.

Report on Inquiry.

152. It shall be the duty of a Commission of Inquiry to make a full report in respect of any matter specified in the commission of appointment.

Proceedings of Commissions of Inquiry.

153. (1) Save as may be otherwise ordered by the Commission in the interest of public safety or public order, the proceedings of every Commission of Inquiry shall be held in public.

(2) Subject to the provisions of this Chapter the Rules of Court Committee shall, by constitutional instrument, make Rules regulating the practice and procedure of all Commissions of Inquiry.

Titles of Honour, etc.

154. (1) Subject to the provisions of this Section Parliament may make laws for Sierra Leone with respect to titles of honour, decorations and other dignities.

(2) Any such law providing for the award of a title, decoration or other dignity shall confer the power to make the award upon the President.

(3) Except with the prior consent of the President—

- a) a person who is a citizen of Sierra Leone; and
- b) any other person who is a member of the public service or of the armed forces of the Republic, shall not accept a title of honour, decoration or other dignity (other than a distinction conferred by an educational, professional or scientific body) from an authority of a country other than Sierra Leone.

Presidential Awards.

155. Notwithstanding the provisions of Section 154 of this Constitution, the President shall be entitled to make and confer such national awards, titles and decorations as he may think fit.

Interpretation.

156. (1) In this Constitution unless a contrary intention appears—

“Chiefdom Council” means a Chiefdom Council constituted under the Chiefdom Councils Act.

“Court” means any court of law in Sierra Leone other than a court martial.

“Deputy Minister” includes a Parliamentary Special Assistant.

“Law” includes—

- a) any instrument having the force of law made in exercise of a power conferred by law;
- b) customary law and any other unwritten rules of law;

“Local Court” means a court established by or under the Local Courts Act, 1963;

“Oath” includes an affirmation;

“The President” means the President of the Republic.

“Public Emergency” means any period during which—

- a) Sierra Leone is at war, or

- b) there is in force a Proclamation issued by the President under subsection (1) of Section 19, or
- c) there is in force a Resolution of Parliament made under section (2) of Section 16 of this Constitution.

“public office” means, an office of emolument in the public service;

“public officer” means, a person holding or acting in a public office;

“Public service” means, subject to the provisions of subsection (3) and (4) of this Section, service of the Government of Sierra Leone in a civil capacity and includes such service in respect of the Government existing a Sierra Leone prior to the twenty-seventh day of April, 1961;

“Session” means the sittings of Parliament beginning when it first meets after the commencement of this Constitution or after the prorogation or dissolution of Parliament at any time and ending when Parliament is prorogued or dissolved without having been prorogued;

“Sierra Leone” means the territory more particularly described in the First Schedule;

“Statutory Instrument” means any proclamation, regulation, order, rule or other instrument (not being an Act of Parliament) having the force of law.

“Sierra Leone Police Force” means the Police Force established under the Police Act, 1964;

“sitting” means a period during which Parliament is sitting continuously without adjournment and includes any period during which Parliament is in committee;

(2) In this Constitution unless a contrary intention appears—

- a) words importing male persons shall include female persons and corporations;
- b) words in the singular shall include the plural, and words in the plural shall include the singular;
- c) where a word is defined, other parts of speech and tenses of that word shall have corresponding meanings;
- d) words directing or empowering a public officer to do any act or thing, or otherwise applying to him by the designation of his office, shall include his successors in office and all his deputies or all other assistants;
- e) words directing or empowering a Minister of State to do an act or thing, or otherwise applying to him, by the designation of his office, shall include a Minister acting for him, or if the office is vacant a Minister designated to act in that office by or under the authority of an Act of Parliament and also his successors in office or all his deputies or other assistants;

(3) In this Constitution unless otherwise expressly provided “the public service” includes service in the office of Chief Justice, a Justice of the Supreme Court, Justice of Appeal, Judge of the High Court or of the former Supreme Court or in the office of Judge of any other court established by Parliament being an office the emoluments attaching to which are paid out of the Consolidated Fund or any other public fund of Sierra Leone, and service in the office of member of the Sierra Leone Police Force.

(4) In this Constitution the, “public service” does not include service in the office of the President, Vice-Presidents, Speaker, Minister, Attorney-General and Minister of Justice, Deputy Speaker, Parliamentary Special Assistant, Member of Parliament, or any person serving in the office of Ambassador or High Commissioner after the entry into force of this Constitution or in the office of any Member of any Commission established by this Constitution, or any member of any council, board, panel, committee or other similar body (whether incorporated or not) established by

or under any law, or in the office of any Paramount Chief, Chiefdom Councillor or member of a Local Court.

(5) In this Constitution, unless a contrary intention appears—

- a) a reference to an appointment to any office shall be construed as including a reference to the appointment of a person to act in or perform the functions of that office;
- b) a reference to the holder of an office by a term designating his office shall be construed as including a reference to any person for the time being lawfully acting in or performing the functions of that office.

(6) Where by this Constitution power is vested in any person or authority, to appoint any person to act in or perform the functions of any office if the holder thereof is himself unable to perform those functions, no such appointment shall be called in question on the ground that the holder of office was not unable to perform those functions.

(7) In this constitution and in any other law,

- a) the power to appoint any person to hold or to act in any office in the public service shall include the power to confirm appointments, to exercise disciplinary control over persons holding or acting in such offices, to remove, suspend, dismiss, such persons from offices and to reappoint or reinstate any person appointed in exercise of the power in question unless such power is expressly or by implication conferred upon some other person of authority by this Constitution.
- b) Where a power is conferred or a duty is imposed on the holder of an office as such, the power may be exercised and the duty shall be performed by the person for the time being charged with the performance of the functions of his office.

(8) Reference in this Constitution to the power to remove a public officer from his office shall be construed as including references to any power conferred by any law to require or permit that officer to retire from the public service:

Provided that—

- a) nothing in this subsection shall be construed as conferring on any person or authority the power to require a Judge of the High Court, a Justice of Appeal or a Justice of the Supreme Court, the Solicitor-General, the Director of Public Prosecution, or the Auditor-General to retire from the public service; and
- b) any power conferred by any law to permit a person to retire from the public service shall in the case of any public officer who may be removed from office by some person or authority other than a Commission established by this Constitution, be vested in the Public Service Commission.

(9) Any provision in this Constitution that vests in any person or authority the power to remove any public officer from his office shall be without prejudice to the power of any person or authority to abolish any office or to any law providing for the compulsory retirement of public officers generally or any class of public officers on attaining an age specified by or under that law.

(10)

- a) Where any power is conferred by this Constitution to make any order, regulation, rule or pass any resolution or give any direction or make any declaration or designation, it shall be deemed to include the power, exercisable in like manner and subject to the like conditions, if any, to amend or revoke any such order, regulation, rule, constitutional or statutory instrument, resolution, direction, declaration or designation as the case may be;

Provided that nothing in this subsection shall apply to the power to issue a certificate conferred by paragraph (b)

of subsection (5) of section 26 of this Constitution;

- b) where any power is given to any person or authority to do or enforce the doing of any act or thing, all such powers shall be deemed to be also given as are necessary to enable that person or authority to do or enforce the doing of the act or thing.

(11) For the purposes of this Constitution a person shall not be regarded as holding an office of emolument under the Government by reason only that he is in receipt of a pension or other like benefit in respect of service in an office under the Government.

(12) No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in exercising any functions under this Constitution shall be construed as precluding a Court from exercising jurisdiction in relation to any question whether the person or authority has performed those functions in accordance with this Constitution or any other law.

(13) Where, under any provision of this Constitution, any person or authority is authorised or required to exercise any function acting after consultation with some other person or authority, the person or authority first referred to shall not be required to act in accordance with the advice of the other person or authority, and the question whether such consultation was made shall not be enquired into in any court.

(14) Where any conflict arises between the provisions of this Constitution and the provisions of any other enactment the provisions of this Constitution shall prevail.

Legislation.

157. (1) Any reference in this Constitution to a law made before 27th April, 1961, shall, unless the context otherwise requires, be construed as a reference to that law as it had effect immediately before the coming into effect of this Constitution.

(2) Any reference in this Constitution to a law that amends or replaces any other law or any provision of any other law shall be construed as including a reference to a law that modifies, re-enacts, with or without amendment or modification, suspends, repeals, adds new provisions, or makes different provisions in lieu of that other law or that provision.

(3) For the avoidance of doubt it is hereby declared that—

- a) any power to make laws conferred by this Constitution includes power to make laws having extra-territorial operation;
- b) any reference in this Constitution to the functions of the President includes a reference to his functions as Commander-in-Chief of the Armed Forces of the Republic;
- c) the functions of the Commander-in-Chief of the Armed Forces of the Republic shall be such as may be prescribed by Parliament.

Consequential Provisions.

158. The Provisions of the Constitution (Consequential Provisions) Act, 1976 a of any Act relating to Citizenship shall not be amended, repealed, re-enacted or replaced unless the Bill incorporating such amendment, repeal re-enactment or replacement is supported at the final vote thereupon by the votes of not less than two-thirds of the Members of Parliament.

Reprint.

159. The President may, within a period of five years from the coming into force of this Constitution, cause these provisions to be reprinted and published without the transitional provisions in this Constitution.

Existing Constitution.

160. In this chapter “the existing Constitution” refers to the Constitution of Sierra Leone Act, 1971.

Existing Law.

161. For the purposes of this chapter, the expression “existing law” means any Act, law, rule, regulation, order or other instrument made in pursuance of (or continuing in operation under) the existing Constitution and having effect

as part of the law of Sierra Leone or of any part thereof immediately before the commencement of this Constitution or any Act of the Parliament of the United Kingdom or Order of Her Majesty in Council so having effect and may be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with this Constitution) as if it had been made under this Constitution by Parliament or, as the case may require, by the other authority or person.

Application of
Existing Laws.

162. (1) The existing law and enactments shall, notwithstanding the repeal of the Constitution of Sierra Leone Act, 1971, have effect after the entry into force of this Constitution as if they had been made in pursuance of this Constitution and shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Constitution.

(2) Where any matter that fails to be prescribed or otherwise provided for under this Constitution by Parliament or by any other authority or person is prescribed or provided for by or under an existing law (including any amendment to any such law made under this section), or is otherwise prescribed or provided for immediately before the commencement of this Constitution by or under the existing Constitution, that prescription or provision shall, as from the commencement of this Constitution have effect with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with this constitution as if it had been made under this Constitution by Parliament or, as the case may require by other authority or person.

(3) The President may, by order made at any time before 1st January, 1979, make such amendments to any existing law as may appear to him to be necessary or expedient for bringing that law into conformity with the provisions of this Constitution or otherwise for giving effect or enabling effect to be given to the provisions of this Constitution.

(4) The provisions of this section shall be without prejudice to any powers conferred by this Constitution or by any other law upon any person or authority to make provision for any matter, including the amendment or repeal of any existing law.

Constitution of
Offices.

163. (1) Where any office has been established by or under the existing Constitution or any existing law, and this Constitution establishes or provides for the establishment of a similar or an equivalent office not being the office of President, first Vice-President, second Vice-President, Minister, Attorney-General and Minister of Justice, Member of the Cabinet, Deputy Minister or Parliamentary Special Assistant, any person who, immediately before the commencement of this Constitution, holds or is acting in the former office shall, so far as is consistent with the provisions of this Constitution, be deemed as from the commencement of this Constitution to have been appointed, elected or otherwise selected to or to act in the latter office in accordance with the provisions of this Constitution:

Provided—

- i. that any person who under the existing Constitution or any existing law would have been required to vacate his office at the expiration of any period or on the attainment of any age shall vacate his office at the expiration of that period or on the attainment of that age;
- ii. that no alteration made in the functions, powers or duties of any office by this Constitution shall entitle the holder thereof for the purpose of any law with respect to pensions benefits to be treated as if his office had been abolished.

(3) Any person who, by virtue of this Section, is deemed as from the commencement of this Constitution to have been appointed, elected or otherwise selected to hold or act in any office shall also be deemed as from the commencement of this Constitution to have been appointed, elected or otherwise selected to hold or act in any office, and shall also be deemed to have taken and subscribed any necessary oath under this Constitution.

(3) The persons who immediately before the entry into force of this Constitution were Justices of the Supreme Court, or Justices of the Court of Appeal, Judges of the High Court established under Sections 66 and 67 of the existing Constitution shall be deemed to have been appointed respectively Justices of the Supreme Court, Justices of the

Court of Appeal and Judges of the High Court established by this Constitution.

(4) The person who immediately before the entry into force of this Constitution held the office of Chief Justice of the Judiciary established under Sections 66 and 67 of the existing Constitution shall be deemed to have been appointed Chief Justice, and a Justice of the Supreme Court under this Constitution.

(5) A person who is a member of the Public Service Commission established by the existing Constitution may, notwithstanding that by reason of his having held or been nominated for election to any office before the coming into effect of this Constitution, he is disqualified to be appointed as a member of the Public Service Commission established by this Constitution, continue in office under this section as a member of that Commission and be re-appointed thereto upon the expiration of his term of office.

(6) The provisions of this Section shall be without prejudice to the provisions of subsection 4 of Section 21 of this Constitution.

(7) In this Chapter “pensions benefits” mean any pensions, compensations, gratuity, or other like allowances for the holder of that office in respect of his service as a public officer or for the widow, children, dependants or personal representative of such holder in respect of such service, whether accruing from a contributory or non-contributory basis.

(8) Reference in this Chapter to the law with respect to pensions benefits includes (without prejudice to their generality) references to the law regulating the circumstances in which such benefits may be granted or in which the grant of such benefits may be refused, the law regulating the circumstances in which any such benefits that have been granted may be withheld, reduced in amount or suspended, and the law regulating the amount of any such benefits.

Existing Parliament.

164. (1) Parliament constituted by the existing Constitution (hereinafter referred to as “the existing Parliament”) shall be deemed to be the Parliament established by this Constitution during the period beginning with the commencement of this Constitution and end with the first dissolution of Parliament thereafter, and the existing members thereof shall be deemed to have been elected or appointed in accordance with the provisions of this Constitution.

(2) All existing members of Parliament shall make a declaration that they are members of the Recognised Party.

(3) Members of Parliament not members of the Recognised Party who do not within a period of 24 days of the coming into effect of this Constitution make a declaration in writing to the Speaker that they have applied for Membership of the Recognised Party or become accepted as members thereof, shall be presumed to have vacated their seats in Parliament on the 25th day after the coming into effect of this Constitution, and the Speaker shall so certify.

(4) The Constituencies into which Sierra Leone was divided immediately before the commencement of this Constitution and until other provision is made in that behalf in accordance with this Constitution shall be deemed to be the Constituencies into which Sierra Leone is divided in pursuance of Section 40 of this Constitution; and the persons who, immediately before the commencement of this Constitution, are the elected members of the existing Parliament representing these constituencies shall be deemed as from the commencement of this Constitution to have been elected to Parliament in accordance with the provisions of this Constitution as the elected members representing the respective constituencies corresponding to those constituencies and shall hold their seats in accordance with those provisions until the next dissolution of Parliament.

(5) The registers of voters having effect immediately before the commencement of this Constitution for the purposes of elections to the existing Parliament shall, as from the commencement of this Constitution, have effect as if they have been compiled in pursuance of this Constitution.

(6) The persons who, immediately before the commencement of this Constitution, are members of Parliament

appointed by the President pursuant to the provisions in paragraph (c) of subsection (1) of Section 20 of the existing Constitution, shall be deemed as from the commencement of this Constitution to have been appointed Members of Parliament in accordance with the provisions of paragraph (c) of subsection (1) of Section 43 of this Constitution, and shall hold their seats in accordance with those provisions until the next dissolution of Parliament or until their appointments are revoked by the President.

(7) The persons who, immediately before the commencement of this Constitution, are the Speaker and the Deputy Speaker of the existing Parliament shall be deemed as from the commencement of this Constitution to have been elected as Speaker and Deputy Speaker of Parliament in accordance with the provisions of this Constitution and shall hold office in accordance with those provisions.

(8) Until Parliament otherwise provides, any person who holds or acts in any office the holding of which would, under the existing law, be a disqualification for election to Parliament, shall be deemed not to be so disqualified as though provisions in that behalf had been made in pursuance of this Constitution.

(9) The Standing Orders of the existing Parliament as in force immediately before the commencement of this Constitution shall until it is otherwise provided by Parliament, be the Standing Orders of Parliament, but they shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Constitution.

(10) Any person who, by virtue of this Section, is deemed as from the commencement of this Constitution to have been elected as Speaker or any other Member of Parliament shall be deemed to have taken and subscribed any necessary oath under this Constitution.

Delegated Powers and
Inquiries.

165. (1) Any power immediately before the commencement of this Constitution, is vested in an existing public service authority (that is to say, for example, the President or the Public Service Commission established by the existing Constitution, or the Commissioner of Police) and that, under the existing Constitution is then delegated to some other person or authority shall, as from the commencement of this Constitution and so far as is consistent with the provisions of this Constitution, be deemed to have been delegated to such person or authority in accordance with those provisions.

(2) Any matter that, immediately before the commencement of this Constitution, is pending before an existing public service authority shall, so far as is consistent with the provisions of this Constitution, be continued before the corresponding public service authority established by this Constitution, and any matter that, immediately before the commencement of this Constitution, is pending before a person or authority to whom power to deal with that matter has been delegated by an existing public service authority shall, so far as is consistent with the provisions of this Constitution, be continued before the person or authority to whom that power was delegated:

Provided that, where the hearing of a disciplinary proceeding has begun but has not been completed immediately before the commencement of this Constitution, the continued hearing shall not be held before any person unless the hearing that has already taken place was also held before him; and where, by virtue of this proviso, the hearing cannot be continued it shall be recommenced.

Continuation of
Matters.

166. Where any matter or thing has been commenced before the coming into force of this Constitution by any person or authority having power in that behalf under the existing law, that matter or thing may be carried on and completed by the person or authority having power in that behalf on or after such commencement and it shall not be necessary for any such person or authority to commence any such matter or thing *de novo*.

Legal Proceedings.

167. Subject to the provisions of this Section legal proceedings pending immediately before the coming into force of this Constitution before any Court, including civil proceedings by or against the Government, shall not be affected by the coming into force of this Constitution and may be continued accordingly.

Appeals.

168. (1) Any proceedings pending immediately before the entry into force of this Constitution before the existing High Court or any proceedings on appeal from that Court so pending before the existing Court of Appeal or any

proceedings on appeal from the Court of Appeal so pending before the Supreme Court may be continued after the entry into force of this Constitution before the High Court or the Court of Appeal or the Supreme Court established by this Constitution.

(2) Any decision given before the commencement of this Constitution by any such court as aforesaid shall, for the purpose of any appeal therefrom, have effect after the commencement of this Constitution as if it were a decision of the corresponding court established by this Constitution or by or under an existing law.

Jurisdiction of Courts. **169.** (1) On and after the 19th of April, 1971, no court having jurisdiction under the law of Sierra Leone shall, by virtue of the Colonial and Other Territories (Divorce Jurisdiction) Act, 1926 to 1950, have jurisdiction to make a decree for the dissolution of a marriage, or as incidental thereto to make an order as to any matter, unless proceedings for the decree were instituted before the commencement of this Constitution.

(2) Except as provided by subsection (1) of this Section, and subject to any provision to the contrary which may be made on or after the commencement of this Constitution by or under any law made by any legislature established for Sierra Leone, all courts having jurisdiction under the laws of Sierra Leone shall on and after that day have the same jurisdiction under the said Acts as they would have had if this Constitution had not been passed.

(3) The references in subsection (1) of this Section to proceedings for the dissolution of a marriage include references to proceedings for such a decree of presumption of death and dissolution of marriage as is authorised by section 1 of the Matrimonial Causes Act, 1950.

Swearing of President. **170.** The person who held or acted in the office of Chief Justice immediately before the commencement of this Constitution and notwithstanding any law to the contrary shall administer the oath of President as prescribed in the Second Schedule of this Constitution to the person designated as the President of Sierra Leone by virtue of Section 21 (4) of this Constitution.

Finance. **171.** The Public Funds known as the Consolidated Fund and the Contingencies Fund of the 1971 Constitution shall respectively continue in being as the Consolidated Fund and the Contingencies Fund established respectively by Sections 127 and 132 of this Constitution.

Financial Authorisation. **172.** Every payment required or authorised to be made out public fund under any enactment in force immediately before the commencement of the Constitution is hereby charged on that Fund.

Official Seals, etc. **173.** The Public Seal, the seals of the High Court, the Court of Appeal and the Supreme Court together with any duplicates thereof and any other official seal, as well as any prescribed forms, in use under any enactment in force immediately prior to the commencement of this Constitution may be employed on and after that date by the corresponding authorities under any enactment in force at the said commencement and contained in the former enactments

The Police Force. **174.** The Police Force established by the Police Act 1964 (Act No. 7 of 1964) and in being immediately prior to the commencement of this Constitution shall continue in being thereafter and be deemed to be the Police Service of the State of Sierra Leone and any enactment in force immediately prior to the commencement of this Constitution in relation to the said Police Force shall have effect accordingly.

The Military Forces. **175.** The Republic of Sierra Leone Military Forces established by the Royal Sierra Leone Military Forces Act 1961 (No. 34 of 1961) (as amended) in being immediately prior to the commencement of this Constitution shall continue in being thereafter and be deemed to be the Military Forces of the State of Sierra Leone, and any enactment in force immediately prior to the commencement of this Constitution in relation to the said Military Forces shall have effect accordingly.

The Party. **176.** The All People's Congress established and in being immediately prior to the commencement of this Constitution shall continue in being thereafter and be deemed to be the One Party officially recognised in Sierra Leone/

The Laws of Sierra Leone on the Sierra Leone Web
The Constitution of Sierra Leone, 1978

Repeal and Revocation
of Act No. 6 of 1971.

177. The Constitution of Sierra Leone Act, 1971, is hereby repealed and revoked in so far as it affects the law of Sierra Leone:

Provided that notwithstanding such repeal all enactments made by virtue of any authority therein contained shall remain in full force and effect to the same extent as if the aforesaid Act had not been repealed.

Citation and
Commencement.

178. This Act may be cited as the Constitution of the Republic of Sierra Leone and shall come into operation on the day of 1978 or on such date that the Speaker makes a declaration in accordance with Fourth Schedule that the provisions of Section 42 of the 1971 Constitution (Act No. 6 of 1971) have been complied with, which declaration shall not be inquired into or questioned in any Court or tribunal.

FIRST SCHEDULE

TERRITORY OF SIERRA LEONE

The area in West Africa lying between the sixth and tenth degrees of north latitude and the tenth and fourteenth degrees of west longitude and bounded on the north by the boundary line delimited under the provisions of the Anglo-French Convention dated the twenty-eighth day of June, 1882, the Anglo-French Agreement dated the twenty-first day of January, 1895, and the notes exchanged between His Britannic Majesty's Principal Secretary of State for Foreign Affairs and the Ambassador of the French Republic, and dated the sixth day of July, 1911, and on the South by the Anglo-Liberian boundary line delimited under the provisions of the Anglo-Liberian Conventions dated the eleventh day of November, 1885, and the twenty-first day of January, 1911.

SECOND SCHEDULE

PRESIDENT'S OATH

"I do hereby (in the name of God Swear) (solemnly affirm) that I will at all times well and truly discharge the duties of the office of the President of the Republic of Sierra Leone according to law, that I will preserve, support, uphold, maintain and defend the Constitution of the Republic of Sierra Leone as by law established, and that I will do right to all manner of people according to law, without fear or favour, affection or will-will. (So help me God.)

THIRD SCHEDULE

OATH OF THE VICE-PRESIDENTS, MINISTERS, ATTORNEY-GENERAL AND MINISTER OF JUSTICE, SOLICITOR-GENERAL, DIRECTOR OF PUBLIC PROSECUTIONS, AUDITOR-GENERAL, MEMBERS OF PUBLIC SERVICE, ELECTORAL AND JUDICIAL AND LEGAL SERVICE COMMISSIONS, AND SUCH OTHER PERSONS AS THE PRESIDENT MAY DESIGNATE

"I do hereby (in the name of God swear) (solemnly affirm) that I will faithfully and truly discharge the duties of the office of of the Republic of Sierra Leone, and that I will support, uphold and maintain the Constitution of Sierra Leone as by law established. (So help me God.)

OATH OF THE SPEAKER

"I do hereby (in the name of God swear) (solemnly affirm) that I will bear true faith and allegiance to the Republic of Sierra Leone as by law established; that I will faithfully and conscientiously discharge my duties as Speaker of Parliament, and that I will do right to all manner of people in accordance with the Constitution of Sierra Leone and the Laws and customs of Parliament without fear or favour or affection or will-will. (So help me God.)

OATH OF MEMBER OF PARLIAMENT

"I having been elected (appointed) a Member of Parliament do hereby (in the name of God swear) (solemnly affirm) that I will bear true faith and allegiance to the Republic of Sierra Leone as by law established; that I will uphold and defend the Constitution of Sierra Leone, and that I will faithfully and conscientiously discharge the duties of a Member of Parliament. (So help me God.)

THE JUDICIAL OATH

"I do hereby (in the name of God swear) (solemnly affirm) that I will faithfully and truly discharge the duties of the office of and that I will support and uphold the Constitution of Sierra Leone as by law established, and that I will do right to all manner of people after the laws and usages of Sierra Leone without fear or favour affection or ill-will. (So help me God.)

FOURTH SCHEDULE

DECLARATION OF COMPLIANCE

“I Speaker of Parliament of Sierra Leone, do hereby certify that a Bill entitled

“THE CONSTITUTION OF SIERRA LEONE 1978”

was first introduced by in the Parliament of Sierra Leone on the day of 1978, then passed the First Reading, the Second Reading and Committee Stage (with or without amendments made thereto) and that on the day of , 1978 the said reported to the House that the said Bill entitled

“THE CONSTITUTION OF SIERRA LEONE 1978”

passed the House with (or without) certain amendments, it then passed its Third Reading with the majority required under subsection 4 of Section 42 of the 1971 Constitution (as amended).

I further certify that on the day of , 1978 the said Bill entitled

“THE CONSTITUTION OF SIERRA LEONE 1978”

has, in accordance with the provisions of the Referendum Act of 1978 (Act No. of 1978) been submitted to and been approved at a referendum conducted on the , the , and the days of 1978, and been approved with the majority required under subsection (5) of Section 42 of the 1971 Constitution (as amended).

I further certify that all the appropriate provisions of Section 42 of the 1971 Constitution (as amended) have been complied with and that the said Bill entitled

“THE CONSTITUTION OF SIERRA LEONE 1978”

may therefore be submitted to His Excellency the President for his assent and signature.”

OBJECTS AND REASONS

The object of this Bill is to provide a One Party Republican Constitution for Sierra Leone.

F.M. MINAH
*Attorney-General and Minister
of Justice*

Freetown,
Sierra Leone
13th May, 1978