

ACT

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THE NATIONAL COMMISSION FOR PRIVATISATION ACT, 2002

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SIGNED this 25th day of October, 2002.

ALHAJI AHMAD TEJAN KABBAH,
President.

LS

No. 12



2002

Sierra Leone

**The National Commission for Privatisation
Act, 2002**

Short title.

Being an Act to establish the National Commission for Privatisation to be responsible for the privatisation and reform of public enterprises; to amend certain laws relating to public enterprises; and to provide for other related matters.

[/] Date of commencement.

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

PART I—PRELIMINARY

Commence-
ment. 1. This Act shall come into operation on such date as the President may fix by order in a statutory instrument.

Interpretation. 2. In this Act, unless the context otherwise requires—

“Chairman” means the Chairman of the Commission;

“Commission” means the National Commission for Privatisation established by section 3;

“divestiture” means the divestiture of government ownership in a public enterprise under this Act;

“Executive Secretary” means the Executive Secretary appointed under section 16;

“Government” means the Government of Sierra Leone;

“member” means a member of the Commission;

“Minister” means the Minister responsible for finance;

“President” means the President of the Republic of Sierra Leone;

“public enterprise” includes any statutory corporation established by or under an Act of Parliament or a company in which the Government has a shareholding and which is specified in the First Schedule.

PART II—ESTABLISHMENT OF COMMISSION

Establishment
of National
Commission
for
Privatisation. 3. (1) There is hereby established a body to be known as the National Commission for Privatisation.

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

4. (1) The Commission shall have a common seal, the affixing of which shall be authenticated by the signatures of — Common seal.

- (a) the Chairman or other member of the Commission generally or specifically authorised by the Commission for that purpose; and
- (b) the Executive Secretary or other officer of the Commission authorised by the Commission for that purpose.

(2) Every document purporting to be an instrument executed or issued by or on behalf of the Commission and to be sealed with the common seal of the Commission authenticated in the manner stated in subsection (1) shall be deemed to be so executed or issued without further proof unless the contrary is proved.

(3) In appropriate cases the seal may be affixed to documents outside Sierra Leone.

5. (1) The Commission shall consist of a Commissioner as Chairman; and the following other members: — Composition
of
Commission.

- (a) Governor, Bank of Sierra Leone;
- (b) A representative each of the following bodies elected by the bodies concerned:-
 - (i) the Sierra Leone Labour Congress;
 - (ii) the Institute of Chartered Accountants;
 - (iii) the Sierra Leone Bar Association;
 - (iv) the Sierra Leone Bankers' Association
 - (v) the Professional Engineers Association;
 - (vi) the Sierra Leone Chamber of Commerce, Industry and Agriculture;
 - (vii) the Sierra Leone Indigenous Business Association;
 - (viii) the University of Sierra Leone.

(2) In electing their representatives, each body specified in paragraph (b) of subsection (1) shall ensure that the person elected is of the highest technical, professional and personal reputation:

Provided that a person shall not be eligible for election under paragraph (b) of subsection (1) if he is an office holder in any political party.

(3) The Chairman shall be appointed by the President from among persons of the highest calibre of personal integrity, demonstrated exemplary achievement in either public or private office and capable of championing the cause of privatisation or reform of public enterprise.

(4) The Executive Secretary shall be secretary to the Commission.

Tenure of
members.

6. (1) The Chairman shall hold office for a term of three years and shall be eligible for reappointment.

(2) A member elected under paragraph (c) of subsection (1) of section 5 shall hold office for two years and shall be eligible for re-election.

(3) On the death or vacation of office of the Chairman or any member referred to in paragraph (b) of subsection (1) of section 5, the President or, as the case may be, the body represented by the member, may appoint or elect another person for the unexpired term of the Chairman or that member, as the case may be.

(4) A person shall cease to be a member of the Commission on any of the following grounds: —

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

7. The Chairman and the other members shall be paid such remuneration and allowances as the President may determine and shall be reimbursed by the Commission, for the expenses incurred in connection with the discharge of their functions.

Remuneration and expenses of members of Commission.

8. (1) The Commission shall hold its first meeting on such date and at such place as the President, after consultation with the Commission, may determine; and thereafter, the Commission shall meet for the dispatch of business at least once every month at such place and time as the Chairman may determine.

Proceedings of Commission.

(2) The quorum at any meeting of the Commission shall be not less than half of the members, including, at least half of the members referred to in paragraph (b) of subsection (1) of section 5.

(3) Any question which falls to be determined by the Commission at any of its meetings shall be decided by a majority of the members present and voting, except that a decision accepting the disposition of any public enterprise assets shall be by a two-thirds vote and such decision shall be reasoned and made available as a public document and on the website of the Commission.

(4) The Chairman shall preside at every meeting of the Commission at which he is present and, in his absence, the members present shall appoint one of their number to preside.

(5) Each member shall have one vote but in the case of an equality of votes, the Chairman or the person presiding shall have a casting vote.

(6) A majority of the members may, by notice in writing signed by them request the Chairman to summon a special meeting of the Commission for such purposes as may be stated in the notice.

(7) The Chairman or, in his absence the member appointed to act in his behalf shall summon a special meeting within five days of the receipt of the notice referred to in subsection (6).

(8) Any proposal circulated among all members and agreed to in writing by a two-thirds majority of all members shall be of the same force or effect as a decision made at a duly constituted meeting of the Commission and shall be incorporated in the minutes of the next succeeding meeting of the Commission.

Provided that, if a member requires that such proposal be placed before a meeting of the Commission, this subsection shall not apply to such proposal.

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

(10) Members shall attend meetings personally and bear individual responsibility for their decisions.

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

(12) Subject to this Act, the Commission shall regulate its own procedure.

Disclosure of interest.

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

(2) Any member who contravenes subsection (1) shall be liable to removal from the Commission.

Part III — FUNCTIONS OF COMMISSION

Functions of Commission.

10. (1) The object for which the Commission is established is to serve as the policy and decision making body with regard to the divestiture and reform of public enterprises; to transfer the management of all public enterprises to the Commission, and remove the interference in the management of public enterprises from line Ministries thereby ensuring transparency, corporate governance and avoidance of conflict of interest in the affairs of public enterprises.

(2) Without prejudice to the generality of subsection (1), it shall be the function of the Commission—

- (a) to act as a prudent shareholder, fully respecting the distinction between shareholding and management, manage and prepare all public enterprises for divestiture and delivery of efficient services;
- (b) to approve policies for divestiture;
- (c) to approve guidelines and criteria for valuation of public enterprises for divestiture and choice of strategic investors;
- (d) to recommend to Government the legal and regulatory framework for public enterprises to be divested;
- (e) to determine whether the shares of a public enterprise should be by public or private issue or otherwise;
- (f) to determine the time when a public enterprise is to be divested;
- (g) to approve the prices for shares or assets of public enterprises offered for sale;
- (h) to act as interlocutor for all projects in the divestiture process or for public enterprises with the World Bank and other donors;
- (i) to review from time to time, the socio-economic effects of the programme of divestiture and decide on appropriate remedies;
- (j) to approve the appointment of divestiture advisers and consultants and their remuneration;

- (k) to submit to the President and Parliament, in each year, a report on the activities of the Commission and the divestiture process;
- (i) to receive regular and periodic reports from the Executive Secretary on programme implementation and give appropriate direction;
- (m) to approve the budget of the Commission and supervise the activities of the secretariat of the Commission;
- (n) to do all such things as will contribute to the attainment of the object stated in subsection (1).

(3) Any Minister planning to present changes to sector policies, which may affect the operations, reform or divestiture of any public enterprise shall, before implementing such policy changes, present them to the Commission for its comment before presenting them to Cabinet for consideration.

Powers of
Commission.

11. The Commission shall have power to develop, using best practice, a code of practice for the good corporate governance of public enterprises to be rigorously applied to all public enterprises during the process of divestiture, but especially for the operation of public enterprises remaining in the First Schedule.

Commission to
appoint
Committees.

12. The Commission may appoint as and when necessary committees comprising persons from the private and public sectors with requisite technical competence to advise on the divestiture of specific public enterprises and to perform such other functions as the Commission shall determine.

Power to
appoint
members and
Boards of
enterprises.

13. (1) As from the commencement of this Act—

- (a) the appointment of persons—

- (i) as members of a public enterprise shall be made by the Commission; and
 - (ii) to the governing body of a public enterprise shall be made by the President acting on the recommendation of the Commission and subject to the approval of Parliament;
- (b) the representation of Ministries or Government departments in the membership or on the Board of Directors of public enterprises, shall cease and the vacancies shall be filled in accordance with paragraph (a);

and every provision in any law, including the articles and memorandum of association of companies, in existence immediately before such commencement relating to the membership or appointments to the Board of Directors of any public enterprise shall be read and construed with such modification as will enable effect to be given to this subsection.

(2) Subsection (1) shall cease to apply to any public enterprise in which the ownership of the Government has been divested, and any such public enterprise shall be deleted from the First Schedule by order made by the Commission by statutory instrument .

14. Pursuant to section 13, the laws specified in the first column of the Second Schedule are repealed or amended to the extent shown in the second column. Amendment of certain enactments.

15. (1) The Commission shall have a secretariat which shall provide secretarial or administrative support to the Commission. Secretariat of Commission.

(2) The secretariat shall be headed by the Executive Secretary appointed under section 16.

PART IV—EMPLOYEES OF COMMISSION

Appointment
of Executive
Secretary.

16. (1) The Commission shall have an Executive Secretary appointed by the Commission upon such terms and conditions as the Commission shall determine.

(2) The Executive Secretary shall be a person with high integrity and with vast knowledge and experience in divestiture arrangements and related fields.

Functions of
Executive
Secretary.

17. The Executive Secretary shall be responsible to the Commission for—

- (a) implementing the Commission's policy on divestiture;
- (b) preparing the public enterprises approved by the Commission for divestiture;
- (c) advising the Commission on other public enterprises that may be divested;
- (d) carrying out all activities required for the successful issue of shares and sale of assets of the public enterprises to be divested;
- (e) making recommendations to the Commission on the appointment of consultants, advisers, investment bankers, issuing houses, solicitors, trustees, accountants and other professionals required for the purposes of divestiture;
- (f) advising the Commission on the allotment pattern for the sale of the shares of the public enterprises specified for divestiture;
- (g) overseeing the actual sale by the issuing houses of shares of the public enterprises to be divested, such sale to be in accordance with the policy of the Commission;

- (h) ensuring a balanced and meaningful participation by all Sierra Leoneans and foreign investors in accordance with the relevant laws of Sierra Leone;
- (i) performing such other functions imposed on him by this Act or as the Commission may direct.

18. (1) There shall be appointed by the Commission on such terms and conditions as the Commission may determine such other employees as the Commission may require for the effective discharge of its functions under this Act. Other staff of Commission.

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

PART V—OBJECT, MODE AND PROCEEDS OF PRIVATISATION

19. The purposes to be served by the divestiture of public enterprises under this Act are— Object of privatisation.

- (a) to enable the public sector to focus on the efficient delivery of basic services to the poor, especially, in the rural areas;
- (b) to allow wider private sector participation and thereby enhance economic opportunities, increase economic growth and provide jobs to address the unemployment in the country; and
- (c) to remove the fiscal burden imposed by non-performing public enterprises on the government budget.

20. (1) Subject to subsections (2) and (3), the process of divestiture shall be as follows:— Mode of privatisation.

- (a) for loss making public enterprises engaged in production, the divestiture shall be by outright sale without any further capitalisation;

- (b) for performing enterprises, the divestiture shall be by contracts with a single company or a consortium of companies, to manage all or parts of the public enterprise, until such time that full divestiture takes place;
- (c) for commercial banks, the divestiture shall be by a withdrawal of Government so as to increase the participation of such private investors as will enhance greater efficiency in the financial sector.

(2) Without prejudice to the generality of subsection (1), a divestiture may take one or a combination of the following forms:-

- (a) the sale of the business to a private sector investor or investors or the sale of the assets of the business in part or as a whole;
- (b) joint venture of the State with a private sector investor;
- (c) management contracts with a single company or a consortium of companies, of all or part of the public enterprise;
- (d) performance contracts;
- (e) liquidation of the public enterprise;
- (f) sale to other shareholders in the company where Government owns part of the shares;
- (g) leases, in the case of hotels;
- (h) employee or management buyouts so as to broaden local participation in the process.

(3) It shall be the responsibility of the Commission to ensure that all transactions in the process of divestiture are transparent and in the public interest and shall set out in the minutes of the Commission the basis of its decisions.

(4) Every proposal for divestiture approved by the Commission shall, before implementation, be laid before Parliament for a period of twenty-one days.

21. In the process of divestiture, the guidelines set out in the Third Schedule shall be applied by the Commission to the particular public enterprises referred to in that Schedule.

Additional guidelines in respect of particular enterprises.

22. (1) In order to secure the efficient and profitable operations of newly divested as well as existing and new businesses, the Commission shall pursue the establishment and maintenance of a clear, transparent and fair legal and regulatory framework designed to enhance the competitiveness of all public enterprises and to create a level playing field which will ensure that all enterprises, whether domestic, foreign, new or old will benefit from and be subjected to the same laws and regulations.

Privatised public enterprises in new business enabling environment.

(2) The Commission shall also ensure that public enterprises maintain excellent standards of corporate governance and that the Government, as shareholder, shall always be fully informed of the status of operations.

23. (1) All the revenue or proceeds paid or due and payable to the Commission for a divested public enterprise under this Act, shall be paid into the Consolidated Fund.

Proceeds of privatisation to be paid into Consolidated Fund.

(2) In case retrenchments or repayment of debts or obligations of the public enterprise is a condition precedent for the divestiture, the estimated resources needed to effect such payments shall be segregated and kept in a specific trust account set up for such purpose and authorised by a specific decision of the Commission and detailed in the minutes, and any such account shall be opened for a stated, limited period of time and the account, after auditing, shall be closed and the balance transferred to the Consolidated Fund.

24. The Commission shall, when requested to do so, submit periodic reports to the President concerning the progress of the divestiture process for the information of Cabinet and may on its own motion also submit such reports.

Periodic reports.

25. (1) In order to monitor some elements necessary for a satisfactory conclusion of the process of divestiture, and which will guide the formulation of a follow-up programme, the Commission shall, as part of its responsibilities, design an evaluation mechanism for each divested public enterprise so as to ensure that the objectives defined in the strategy for the divestiture are being met.

Post-privatisation monitoring.

(2) The monitoring process referred to in subsection (1), shall also be designed by the Commission to allow Government to review the lessons learnt, as the programme of divestiture proceeds.

Form of post-privatisation evaluation.

26. (1) The post-divestiture evaluation referred to in subsection (1) of section 25, shall be conducted in the form of periodic reports by the Commission on the performance of divested public enterprises.

(2) The periodic reports referred to in subsection (1) shall cover such factors as the following:—

- (a) jobs created;
- (b) investment in new facilities;
- (c) sales volume, particularly, export sales; and
- (d) the impact of government policies and practices on the performance of the divested public enterprises.

PART VI—FINANCIAL PROVISIONS

Funds of Commission.

27. (1) The activities of the Commission shall be financed by a fund consisting of—

- (a) any monies appropriated from time to time by Parliament for the purposes of the Commission, based on the estimated income and expenditure of the Commission annually; and
- (b) any monies otherwise accruing to the Commission in the course of its activities.

Accounts and audit.

28. (1) The Commission shall keep proper books of accounts and proper records in relation to the accounts and shall prepare within a period of three months after the end of each financial year a statement of its accounts in such form as the Auditor-General may direct.

(2) The books and accounts of the Commission shall each year be audited by the Auditor-General or an auditor appointed by him and a report of the audit shall be submitted to the Commission.

29. (1) The Commissioner shall, within three months after the end of each financial year, submit for the approval of the Commission an annual report of the activities, operations, undertakings, property and finances of the Commission for that year. Annual report of Commission.

(2) Subject to subsection (1), an annual report shall include

- (a) a copy of the audited accounts of the Commission together with the audit report thereon;
- (b) any other reports made to or requested by the President for the information or consideration of Cabinet.

(3) A copy of the annual report approved by the Commission shall be sent to the President not later than three months after the end of the year to which the report relates and the President shall as soon as possible but not later than one month after the receipt of the report, cause the report to be laid before Parliament.

(4) The financial year of the Commission shall be the same as that of the Government.

PART VII—MISCELLANEOUS PROVISIONS

30. The Commission shall be exempted from stamp duty payable under the Stamp Duty Act and shall not be liable to pay any tax or duty for the acquisition or transfer of any asset or property. Exemption from stamp duty. Cap 274

31. (1) The Commission may by statutory instrument make rules and regulations to give effect to this Act. Regulations.

(2) Rules or regulations made under subsection (1) may establish codes of conduct and discipline and regulate the appointment, promotion and dismissal of employees.

Transitional provisions.

32. (1) Until the Commission is in a position to assume its functions and responsibilities under this Act, the Public Enterprises Unit of the Ministry of Finance shall, under the direction of the Minister, co-ordinate the conclusions of ongoing divestiture arrangements, collect the proceeds of sale from divested public enterprises for payment into the Consolidated Fund and continue to monitor the financial performance of the public enterprises remaining in the First Schedule.

(2) The date of assumption by the Commission of its functions and responsibilities under this Act shall be fixed by notice made in a statutory instrument by the Commission.

Repeal of Act No. 10 of 1993 and Act No. 14 of 1993.

33. The following enactments are hereby repealed:—

- (a) Public Enterprises (Reform) Act, 1993;
- (b) Public Enterprises (Reform) (Amendment) Act, 1993.

FIRST SCHEDULE

(Section 2)

(PUBLIC ENTERPRISES FOR DIVESTITURE)

1. Sierra Leone Housing Corporation
2. Sierra Leone Produce Marketing Board
3. Mining and General Services Limited
4. Sierra Leone Road Transport Corporation
5. Sierra Leone Postal Services Limited
6. Sierra National Airlines
7. Sierra Leone Telecommunications Company Limited
8. Sierra Leone Airport Authority
9. National Power Authority
10. Sierra Leone Ports Authority

11. Guma Valley Water Company
12. Sierra Leone National Shipping Company Limited
13. Forest Industries Corporation
14. National Insurance Company Limited
15. Sierra Leone State Lottery Company Limited
16. Sierra Leone Commercial Bank Limited
17. National Development Bank Limited
18. Sierra Leone Roads Authority
19. Rokel Commercial Bank Limited
20. Seaboard West Africa
21. Sierra Leone Daily Mail
22. National Workshop.
23. Government Printing Department
24. Sierra Leone Broadcasting Service

SECOND SCHEDULE

(Section 14)

(AMENDMENT OF PUBLIC ENTERPRISE LAWS)

<i>Name of enactment</i>	<i>Extent of amendment or repeal</i>
1. Sierra Leone Produce Marketing Act, Cap 229	The whole Act is repealed
2. Road Transport Corporation Act, 1964 (Act No. 17 of 1964)	Section 2: (a) Delete definition of "Minister"

(b) Insert the following definition:—

“Commission” means the National Commission for Privatisation established by the National Commission for Privatisation Act, 2002;”

(c) Substitute “Commission” for “Minister” everywhere in the Act, except sections 2 and 21.

Section 5. Paragraphs (b) to (f) of subsection (1) are deleted and replaced by—

“(b) not more than eight other members appointed by the President acting upon the recommendation of the Commission and subject to the approval of Parliament”.

3. Ports Act, 1964
(Act No. 56 of 1964)

Section 2: (a) delete the definition of “Minister”

(b) Insert the following definition:—
“Commission” means the National Commission for Privatisation established by the National Commission for Privatisation Act, 2002”.

4. Forest Industries Corporation
Act, 1964 (Act No. 57 of 1964)

(c) Substitute “Commission” for “Minister” everywhere in the Act except section 2.

Section 2: (a) Delete the definition of “Minister”

(b) Insert the following definition:—
“Commission” means the National Commission for Privatisation established by the National Commission for Privatisation Act, 2002”.

(c) Substitute “Commission” for “Minister” everywhere in the Act, except section 2.

Section 5: Paragraphs (b) to (f) of subsection (1) are deleted and replaced by—

“(b) not more than six members appointed by the President acting upon the recommendation of the Commission and subject to the approval of Parliament”.

Section 6: Substitute “Commission: for “President” in subsection (3).

5. National Power Authority Act, 1982 (Act No. 3 of 1982) Section 2: (a) Delete the definition of "Minister".

(b) Insert the following definition:—
"Commission" means the National Commission for Privatisation established by the National Commission for Privatisation act, 2002".

(c) Substitute "Commission" for "Minister" everywhere in the Act, except section 2.

Section 5: The section is deleted and replaced by the following:—

"5(1) The governing body of the Authority shall be a Board of Directors which shall consist of a Chairman and the following other members:—

(a) a representative each of the following bodies elected by the bodies concerned:—

(i) the Chamber of Commerce Industry, and Agriculture;

- (ii) the association of manufacturers,
- (iii) the association of bankers;
- (iv) the association of professional engineers;
- (b) two persons appointed for their knowledge and expertise in such fields relating to energy and power as the Commission shall determine who shall be appointed by the President on the recommendation of the Commission and subject to the approval of Parliament”.

(2) The Chairman and the other members of the Board shall hold office for a term of four years and shall be eligible for re-appointment.

(3) The Chairman shall preside at every meeting of the Board but in his absence a member of the Board nominated by the members present and voting from among themselves shall preside.

(4) The members of the Board shall be paid such remuneration, fees and allowances as may be determined by the Commission after consultation with Parliament.

(5) Any member of the Board who at any time after his appointment—

- (a) accepts or continues to hold office or employment with the Authority; or

- (b) becomes bankrupt; or
- (c) is convicted of an offence involving fraud or dishonesty; or
- (d) is adjudged to be a person of unsound mind or otherwise incompetent to act as a member; or
- (e) fails to attend three consecutive meetings of the Board without reasonable cause allowed by the Board; or
- (f) resigns his office by written notice to the Commission,

shall cease to be a member of the Board.

(6) Where the President is satisfied that the conduct of a member of the Board is detrimental to the effective and economic performance of the functions of the Authority, the President may remove that member from the Board.”

6. Sierra Leone Housing
Corporation Act, 1982
(Act No. 5 of 1982)

Section 1: (a) Delete the definition
of “Minister”

(b) Insert the following definition: —

“Commission” means the National
Commission for Privatisation
established by the National
Commission for Privatisation Act,
2002”.

- (c) Substitute “Commission” for “Minister” everywhere in the Act, except section 1.

Section 4: (a) Paragraphs (d) to (f) of subsection (1) to be deleted and replaced by—

- “(d) three other members representing such other interests relating to housing as the Commission may determine.”

- (b) Subsection (2) is deleted and replaced by the following:—

“(2) The Chairman and the appointed members shall be appointed by the President acting upon the recommendation of the Commission and subject to the approval of Parliament and shall hold office subject to such conditions as the Commission may determine, after consultation with Parliament”.

Section 5: Subsection (2) is deleted and replaced by the following:—

“(2) Where the Commission is satisfied that the conduct of the Chairman or any appointed member is detrimental to the effective and economic performance of the functions of the Corporation, the Commission may remove him from the Board.”.

7. Sierra Leone Airport Authority Act, 1988 (Act No. 8 of 1988).

Section 2 (a) Delete the definition of “Minister”.

(b) Insert the following definition: —

“Commission” means the National Commission for Privatisation established by the National Commission for Privatisation Act, 2002.

(c) Substitute “Commission” for “Minister” everywhere in the Act, except sections 2 and 3.

8. Sierra Leone Roads Authority Act, 1992 (Act No. 2 of 1992).

Section 2 (a) Delete the definition of “Minister” and “Ministry”.

(b) Insert the following definition: —

“Commission” means the National Commission for Privatisation established by the National Commission for Privatisation Act, 2002.”

- (c) Substitute “Commission” for “Minister” everywhere in the Act, except section 2.

Section 12: The section is deleted and replaced by the following:—

“The governing body of the Authority shall be a Board of Directors which shall consist of a Chairman and the following other members:—

- (a) a representative each of the following bodies elected by the bodies concerned:—
- (i) the Chamber of Commerce, Industry and Agriculture;
- (ii) Sierra Leone Institution of Engineers whose representative shall be a professional engineer with

sufficient experience in road development, construction or maintenance,

- (iii) the road users,
- (b) six persons appointed for their knowledge and expertise in such fields relating to roads as the Commission shall determine who shall be appointed by the President upon the recommendation of the Commission and subject to the approval of Parliament.
- (c) the Director-General appointed under section 18.”

Section 18: Subsection (1) is deleted and replaced by the following: —

“(1) The Authority shall have a Director-General and a Deputy Director-General both of whom shall be appointed by the Commission”.

Section 45: (a) Delete the expression“(1)”

- (b) Substitute “Government” for “Ministry”.

THIRD SCHEDULE

(Section 21)

GUIDELINES FOR PRIVATISATION OF PARTICULAR PUBLIC ENTERPRISES

The following shall apply as guidelines to the divestiture of the particular public enterprises referred to therein :—

- (a) For the loss making public enterprises engaged in production or trade in services which are operating in competitive markets, the divestiture shall be by out right sale with the small and medium sized ones being privatised on “as is” basis, following the completion of the valuation of their assets, with a view to ensuring that—
 - (i) a fair price is obtained for the public enterprise;
 - (ii) the divestiture is conducted in the most efficient and transparent manner so as to maximise the benefit to Government and the tax payer;
 - (iii) the public enterprises concerned will not require any recapitalisation or restructuring before sale and are, where possible, sold to local investors:

Provided that immediate steps shall be taken to remove and sell nonessential assets from public enterprises such as real estate owned by the Sierra Leone State Lottery in London, apartments and houses owned by various public enterprises in Sierra Leone after an inventory of all such assets has been taken.

- (b) In the case of large public enterprises, especially, the utilities, measures to improve the efficiency of those public enterprises shall be instituted by the Commission initially, where outright sale is not financially or politically feasible in the short term, using management contracts, performance contracts, joint ventures and leases while the legal, organisational, managerial and financial aspects of those public enterprises are being restructured in preparation of their sale and, in the case of the energy, communications and transportation sectors, while studies are conducted or undertaken to consider if such services could be privatised immediately, so as to conserve donor funding for services to the poor;
- (c) The divestiture of Government interests in commercial operations in the financial and insurance sectors shall be carried out as soon as possible, recognising the contributions of current employees and management, where appropriate, but giving primary importance to maximising the sales price and the revenue to be generated, while in the particular case of the National Investment Bank, immediate steps shall be taken by the Commission to strengthen management and ensure that the Board of Directors include those sectors most involved in the development objectives of that Bank and can ensure the proper and professional operations of the Bank;
- (d) Recognising that certain public enterprises, specifically, the Sierra Leone Ports Authority, Sierra Leone Airports Authority and the Sierra Leone State Lottery provide functions generally reserved to Government to hold and preserve in the public interest, these public enterprises shall become subjected to the authority of the Commission, which shall take immediate steps for the appointment of Boards of Directors and management to achieve clearly defined objectives, such Boards of Directors, being broad based to include persons with the background and

understanding of the public enterprise concerned and representatives of civil society most affected by the operations of such public enterprise, so, however, that the selection of management shall be transparent and documented by a written management contract clearly stating the rights and obligations of management which shall be of sufficient duration to maximise the benefits accruing thorough experience and which shall not be terminated except for good cause approved by the Commission;

- (e) Employee ownership schemes and effective local participation shall be given high priority in the sale process so as to mobilise domestic support for the programme for its success, but the foregoing shall not justify the sale of assets on a discounted or less than market value basis.

PASSED in Parliament this *10th* day of *September*, in the year of our Lord two thousand and two.

J. A. CARPENTER,
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correctly printed copy of the said Bill.

J. A. CARPENTER,
Clerk of Parliament.