

BILL

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THE NATIONAL REFORESTATION AND TIMBER GOVERNANCE AGENCY ACT, 2021

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No.

2021



Sierra Leone

A BILL ENTITLED

Short title.

**The National Reforestation And Timber Governance Agency
Act, 2021.**

Being an Act to provide for the establishment of the National Reforestation and Timber Governance Agency; to provide for the regulation of timber resources, to provide for the improvement of timber revenue management and governance, to provide for the enhancement of reforestation and investment in sustainable utilisation of forest resources and to provide for other related matters.

[] Date of commencement.

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

PART I – PRELIMINARY

Interpretation.

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

"Agency" means the National Reforestation and Timber Governance Agency established under section 2;

"alienation holding" means land acquired by a person through an outright sale of the land by the owner;

"annual rent" means the fee levied or paid per hectare per annum to the owner of land or landlord for the exercise of timber rights on his piece of land as specified by contract;

"authorisation" means a written authorisation granted by the minister under section 24 that specifies the terms of timber rights granted in respect of an area of land for a fixed period of time;

"Board" means the National Reforestation and Timber Governance Agency Board established under section 3;

"Committee" means the Strategic Technical Advisory Committee established under section 11;

"Director-General" means the "Director-General appointed under section 12;

"harvest" means felling, cutting, collecting or otherwise disposing of timber from land to which this Act applies;

"harvesting plan" means the schedule of planned felling and harvesting operations for an area to which an authorisation relates, prepared by the holder of the authorisation for a period of 5 years in accordance with the Logging Manual;

"holder" means a person to whom timber rights have been granted under this Act;

"Logging Manual" means a set of rules intended to guide the activities of persons who harvest timber in the forest;

"Minister" means the Minister appointed by the President for the administration of this Act;

"timber" includes standing, falling and felled trees, wood for industrial purposes, logs, sawn wood;

PART II – ESTABLISHMENT OF NATIONAL REFORESTATION AND TIMBER GOVERNANCE AGENCY

2. (1) There is hereby established a body to be known as the National Reforestation and Timber Governance Agency.

Establishment of National Reforestation and Timber Governance Agency.

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

(3) The Agency shall have a common seal, the use of which shall be authenticated by the signature of -

(a) the Chairman or other member of the Board authorised either generally or specially for that purpose; and

(b) the Director General or other officer of the Agency authorised by the Board for that purpose.

(4) A document purporting to be an instrument executed or issued by or on behalf of the Agency and to be sealed with the common seal, authenticated in the manner stated in subsection (3) shall be deemed to be so executed or issued without the proof unless the contrary is proved.

(5) The common seal of the Agency may be affixed, in appropriate cases, to documents outside Sierra Leone.

Board of
Agency.

3. The governing body of the Agency shall be a Board to be known as the National Reforestation and Timber Governance Agency Board.

Objects and
functions of
Board.

4. (1) The Board shall be responsible for the development and co-ordination of policies related to the regulation and utilisation of forest Resources.

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

- (a) oversee the efficient operation of the Agency and in particular to -
 - (i) approve the operational budget of the Agency;
 - (ii) establish strategic direction and set performance targets;
 - (iii) effectively enforce this Act and ensure its compliance;
 - (iv) determine the grading, remuneration, recruitment, promotion and training of staff;
- (b) regulate the utilisation of forest and timber resources by -

- (i) vetting and registering contracts to market timber and such other forest products;
 - (ii) establishing procedures to track the movement of timber, wood and other forest products;
 - (iii) monitoring the harvesting, marketing of forest products and related contracts;
 - (iv) promoting the development and dissemination of appropriate industrial standards and trade guidelines for timber, wood and other forest products;
 - (v) conducting pre-shipment inspection and examination of timber, wood and other forest products;
 - (vi) advising on approvals to establish new timber industries and the registration of approved timber processors and traders in forest products;
- (c) manage the forest reserves and protected areas of Sierra Leone by -
- (i) proper planning for the protection, harvesting and development of forest resources in a sustainable manner;
 - (ii) monitoring the condition and extent of the nation's forest resources;
 - (iii) controlling the harvesting of forest products;

- (iv) making recommendations to the Minister on the grant of timber rights and licences;
- (v) advise the Minister on forest and wildlife policy with particular regard to management practices that sustains resources and improve productivity;
- (d) assist the private sector and other bodies with the implementation of forest policies by -
 - (i) advising and providing technical services with regard to matters of resource protection, management and development and of market intelligence pertaining to the timber and wildlife industries;
 - (ii) co-operating and liaising with national and international bodies and organisations on forestry conservation and utilization;
 - (iii) supporting the development of forest plantations for the restoration of degraded forest reserves, increasing the production of industrial timber and expanding the protected forest cover of Sierra Leone;
 - (iv) providing training, management and technical skills for related industries; and
- (e) undertake such other functions as are incidental to the foregoing, or as the Minister may direct.

5. (1) The Board shall consist of a Chairman, who shall be appointed from among persons of high personal integrity and proven professional knowledge and experience in forestry matters related to the functions of the Agency and the following other members- Composition of Board.

- (a) the Permanent Secretary, Ministry of the Environment;
- (b) the Permanent Secretary, Ministry Agriculture and Forestry;
- (c) the Permanent Secretary, Ministry of Lands, Housing, and Country Planning;
- (d) the Permanent Secretary, Ministry of Trade and Industry;
- (e) the Permanent Secretary, Ministry of Local Government and Rural Development;
- (f) the Financial Secretary, Ministry of Finance;
- (g) the Executive-Director, National Protected Area Authority;
- (h) the Commissioner-General, National Revenue Authority;
- (i) 3 other persons with professional knowledge and experience in agriculture, nominated by the Minister; and
- (j) The Director-General who shall be the Secretary and is a non-voting member.

(2) The Chairman and the 3 persons nominated by the Minister in paragraph (i) of subsection (1), shall be appointed by the President and subject to the approval of Parliament.

Tenure of members.

6. (1) The Chairman and other members of the Board, appointed under paragraph (i) of sub-section (1) of section 5 shall hold office for a term of 3 years and shall be eligible for re-appointment for a further term of 3 years only.

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

- (a) for his inability to perform the functions of his office by reason of infirmity of mind or body;
- (b) for proven misconduct;
- (c) if he becomes bankrupt or insolvent;
- (d) if he is convicted and sentenced for an offence involving fraud or dishonesty;
- (e) if he fails to attend 3 consecutive meetings of the Board without reasonable cause;
- (f) if he resigns his office by written notice to the Minister.

Remuneration of members.

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

Meetings of Board.

8. (1) The Board shall meet for the dispatch of its business at least once every 3 months and at such time as the Chairman may determine.

(2) The Chairman shall preside at every meeting of the Board and in his absence, the members present shall elect one of their number to preside.

(3) A minimum of 3 members of the Board may, by notice in writing signed by them, request the Chairman to summon a special meeting of the Board for such purposes as may be stated in the notice.

(4) The Chairman or, in his absence, the member appointed to act in his behalf shall summon a special meeting within 3 days of his receipt of the notice referred to in subsection (3).

(5) The quorum at any meeting of the Board shall be 5.

(6) The Chairman or other person presiding shall have a casting vote where there is an equality of votes.

(7) A 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 Board and shall be incorporated in the minutes of the next meeting:

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

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

(9) The Board shall cause minutes of all its meetings to be taken and signed by the Chairman or other person presiding at that meeting and kept in proper form.

(10) Subject to this Act, the Board shall regulate its own meeting procedure and 7 days written notice of a meeting of the Board or not less than 24 hours, in case of an emergency meeting, shall be given by the Secretary to each member of the Board and the notice shall state the place, day and time of the meeting and, in case of a special meeting, the nature of the business to be discussed at the meeting.

Disclosure
of interest.

9. (1) A member of the Board who has an interest, whether direct or indirect, in any matter being considered or to be considered the Board shall disclose the nature of his interest to the Board and the disclosure shall be recorded in the minutes of the Board and such member shall not take part in any deliberation or decision of the Board relating to that matter.

(2) A member of the Board who contravenes subsection (1) shall be guilty of misconduct and shall be removed from the Board.

Committees
of Board.

10. (1) The Board may, for the discharge of its functions, appoint one or more committees to perform such functions as the Board may determine.

(2) A committee shall consist of members of the Board or non-members or both as the Board may decide.

(3) A committee shall submit a report of its proceedings to the Board at such time as the Board may determine.

Strategic
Advisory
Technical
Committee.

11. (1) There shall be a Strategic Advisory Technical Committee of the Agency which shall comprise not less than 5 persons who have proven knowledge and experience in forest management in environmental protection and biodiversity conservation.

(2) The Strategic Advisory Technical Committee shall be responsible to -

- (a) evaluate applications for timber authorisation in accordance with prescribed qualifications and criteria; and
- (b) rank the qualified applications on merit and competitiveness.

(3) For the purpose of an evaluation of applications under subsection (1), the Strategic Advisory Technical Committee may -

(a) request documents and information; and

(b) co-opt such experts and other technical assistance, as it may consider necessary.

(4) The Strategic Advisory Technical Committee shall submit an evaluation report to the Board, not later than 42 days of receipt of an application referred to it under subsection (2) of section 23.

PART III-ADMINISTRATION

12. (1) The Agency shall have a Director-General and a Deputy Director-General both of whom shall be appointed by the President subject to the approval of Parliament.

Director-
General and
Deputy
Director-
General.

(2) A person shall not be appointed as Director-General or Deputy-Director-General unless he has proven knowledge and experience in forest management environmental protection and biodiversity conservation.

(3) The Director-General shall be responsible to the Board for the performance of the following functions-

- (a) to provide overall leadership in the conduct and management of the day-to-day business or activities of the Agency;
- (b) to initiate and maintain high-level contact with stakeholders, both local and international, in relevant areas of the operations of the Agency;
- (c) to monitor and supervise the preparation of the annual budgets and reports of the Agency for the review and approval of the Board;

- (d) to oversee the work and discipline of the other staff of the Agency;
- (e) to carry out such other functions as may be assigned by the Board or necessary for the purposes of the Agency.

(2) In the performance of his functions under subsection (1), the Director-General shall be assisted principally by the Deputy-Director-General who shall also act for the Director-General in his absence.

Other staff
of Agency.

13. (1) The Board shall, on the recommendation of the Director-General, appoint such other staff to discharge the functions of the Agency and on terms and conditions it may determine.

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

(3) The Board may engage the services of consultants or advisers as it considers necessary for the performance of the functions of the Agency.

Protection
of officers.

14. An officer or employee of the Agency or a person acting on the directions of an officer or employee of the Agency shall not be liable in respect of any matter or thing done by him in good faith under this Act.

Departments
of Agency.

15. (1) The Agency shall have such departments as the Director-General may, with the approval of the Board, deem necessary for the performance of its functions under this Act, including -

- (a) Forestry Department;
- (b) Forest Products Inspection Department; and
- (c) Timber Export Development Department.

(2) A department of the Agency established under subsection (1) shall be headed by a Director who shall be appointed by the Board in strict compliance with the procedures and processes for the procurement of services under the Public Procurement Act, 2004.

(3) A Director shall have such responsibilities and functions as may be assigned by the Director-General.

PART IV—FINANCIAL PROVISIONS

16. (1) The activities of the Agency shall be financed by funds consisting of - Funds of Council.

- (a) monies appropriated by Parliament for the purposes of the Agency;
- (b) monies given to the Agency by way of loan, gifts, endowments, bequests, grants or other contributions by persons and organisations for the purposes of the Agency;
- (c) all other monies which may, from time to time, accrue to the Agency.

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

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

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

(2) The accounts of the Agency kept under subsection (1) shall, not later than 3 months after the end of each financial year, be audited by the Auditor-General or an auditor appointed by him.

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

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

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

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

Financial
year of
Agency.

18. The financial year of the Agency shall be the same as the financial year of the Government.

Annual
report.

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

(2) The annual report shall include the accounts and annual financial statement prepared under section 17 and the report of the audit thereon.

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

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

PART V- AUTHORISATION AND TRADE IN FOREST PRODUCTS

20. (1) A person shall not harvest timber from land to which this Act applies unless he holds an authorisation granted by the Minister under subsection (2) of section 24.

Harvesting
timber
without
authorisation
prohibited.

(2) An authorisation shall not be granted in respect of a forest for which there is a pre-existing authorisation, except on terms mutually agreed upon by all the parties involved.

(3) A person who-

- (a) harvests timber without valid authorisation;
- (b) operates or causes to be operated a vehicle to carry, haul evacuate or transport timber harvested without valid authorisation;
- (c) offers for sale, sells or buys timber harvested without valid authorisation;
- (d) stocks timber harvested without valid authorisation; or
- (e) carries, hauls or evacuates by non-mechanical means any timber harvested without valid authorisation,

commits an offence and is liable on summary conviction to imprisonment for a term of not less than 6 months and not exceeding 2 years.

Land subject
to authorisation.

21. (1) Timber authorisation granted under this Act shall be in respect of -

- (a) lands previously subject to timber rights which have expired and are suitable for re-allocation;
- (b) unallocated public lands suitable for timber operations in timber production areas; and
- (c) alienation holdings.

(2) Timber authorisation shall not be granted in respect of -

- (a) a land with forest plantations;
- (b) land with timber grown or owned by an individual or group;
- (c) land subject to alienation holding; or
- (d) farm land, without the authorisation in writing of the owner concerned.

Eligibility for
authorisation.

22. (1) A person shall not be eligible to apply for an authorisation under section 23 unless that person -

- (a) is a body incorporated under the Companies Act, 2009 and possesses the capacity to enter into binding agreements with the Agency;
- (b) has financial capacity to undertake the forestry activity for which authorisation is sought including, proof of solvency and ability to conform to good business practices as demonstrated by the applicant's financial statements and tax compliance certificates.

- (c) has the technical capacity to undertake the forestry activity for which authorisation is sought, including employment of technical staff, access to equipment, satisfactory past performance and a record of statutory and regulatory compliance;

- (d) in the case of a foreign investor, has complied with all laws relating to investment by foreigners.

(2) An authorisation shall not be issued under this Act, unless in compliance with the Public Procurement Act, 2016 (Act No. 1 of 2016) and other law relating to the disposal of public assets.

23. (1) An application for authorisation to harvest, export or import timber shall be made in writing to the Agency and shall be accompanied by -

- (a) a sustainable timber resources harvesting management plan;
- (b) an environmental impact assessment of the likely effect of the proposed programme including measure to be taken to redress such effects;
- (c) evidence of the financial ability of the applicant to operate the area of land subject to his contract;
- (d) evidence of the technical capability of the applicant to operate the area of land subject to his contract;
- (e) proposals to assist in addressing social needs of the communities who have interest in the applicant's proposed area of operations; and

Application
for timber
authorisation.

- (f) such other relevant information or documents as the Commission may request.

(2) The Agency shall, on receipt of an application under subsection (1), immediately refer the application for evaluation to the Strategic Advisory Technical Committee under section 11.

Grant of
authorisation.

24. (1) The Board shall, not later than 30 days of receipt of the evaluation report of the Strategic Advisory Technical Committee under subsection (4) of section 11, submit the report together with its recommendations thereon to the Minister.

(2) The Minister shall on the basis of the recommendations of the Board under subsection (1), grant the authorisation to the applicant subject to such terms and conditions as may be specified in the authorisation, including -

- (a) the limitation of the area of land to which the authorisation relates;
- (b) the period of operation of the authorisation;
- (c) prompt payment of -
 - (i) rents, royalties, compensation, management and service charges as prescribed by law;
 - (ii) annual rent payable to the landlord or owner of the area of land relevant to the grant;

- (d) the periodic review of the operations of the holder of the authorisation by the Forestry Department;
- (e) the execution, during the period of the authorisation, a reforestation plan approved by the Chief Conservator of Forests;
- (f) the submission of a 5 year harvesting plan to the Forestry Department, in accordance with the Logging Manual, prepared by the Forestry Department in consultation with the Forestry Commission; and
- (g) grounds for suspension or termination of the authorisation.

(3) An authorisation granted by the Minister under subsection (2), shall be in the form of -

- (a) a permit;
- (b) a licence;
- (c) a special use licence;
- (d) a timber utilisation contract;
- (e) a joint management agreement; or
- (f) a concession agreement.

Payment of royalties, charges and other fees.

25. (1) There shall be paid in respect of timber operations approved under this Act such royalties, annual rent, fees and charges as the Minister may, on the advice of the Commission, by statutory instrument prescribed.

(2) A holder who fails to pay royalties, annual rent, fees and charges payable under subsection (1) shall have his authorisation terminated.

Suspension and termination of timber utilization contracts.

26. (1) The Minister, acting on the recommendations of the Board may suspend or terminate, as is appropriate in the circumstances of the case, an authorisation where -

- (a) the holder has breached any of the terms or conditions of the contract;
- (b) the holder has lost the ability, financially or otherwise to manage the timber resources efficiently;
- (c) the area of the land subject to the authorisation or a part of it is under review to determine its suitability for the operations;
- (d) the area of land subject to the authorisation or a part of it is no longer suitable for the operations;

(e) a review of operations by the Forestry Department determines that there are enough grounds for termination of the authorisation; or

(f) the holder is charged with or convicted of an offence under this Act or of a forest offence.

(2) Where an authorisation is suspended or terminated under this section the right of the holder shall cease but without prejudice to any right of action or remedy in respect of any prior breach, non-performance or non-observance of any condition on the part of the holder.

27. (1) Rights over or interest in timber granted under an authorisation shall be transferred or assigned with the written consent of the Board and the consent to assign or transfer shall not be unreasonably withheld.

Transfer of authorisation.

(2) An application to assign or transfer an authorisation under subsection (1) shall be evaluated by the Strategic Technical Advisory Committee.

(3) A holder who transfers or assigns his authorisation under a contract contrary to subsection (1) commits an offence and is liable on conviction to a fine of not less than 300% of the annual rent payable.

28. A person shall not import, export, re-export or introduce forest products into or from Sierra Leone without a valid authorisation issued by the Board for that purpose.

Export and import procedure.

Prohibition
trade in forest
produce.

29. (1) The Minister may, by Notice in the Gazette, declare a forest of produce prohibited for export or import.

(2) A person who-

- (a) harvests forest produce prohibited for export or import;
- (b) operates or causes to be operated a vehicle to carry, haul evacuate or transport forest produce prohibited for export or import;
- (c) offers for sale, sells or buys forest produce prohibited for export or import;
- (d) stocks forest produce prohibited for export or import; or
- (e) carries, hauls or evacuates by non-mechanical means forest produce prohibited for export or import,

commits an offence and is liable on conviction to imprisonment for a term of not less than 6 months and not exceeding 2 years.

PART VI-MISCELLANEOUS

Regulations.

30. The Minister on the recommendations of the Agency may by legislative instrument make regulations-

- (a) prescribing procedure for the identification of lands suitable for grant of timber rights;
- (b) prescribing the procedure for application, processing and grant of timber rights;
- (c) on the terms and conditions for timber rights;
- (d) in respect of the Logging Manual to ensure proper harvesting and yield;
- (e) prescribing the rate of royalties, fees, management service charges and other charges payable in respect of timber;
- (f) criteria for categorizing timber operations in timber scale of operations;
- (g) on procedure for salvage and disposal abandoned timber or seized timber produce;
- (h) specifying the proportion of timber originating from timber utilization contracts to be made available to the domestic and export market;
- (i) on approved hours for timber harvesting and for conveyance of harvested timber;
- (j) on registration and operation of chainsaws operators on land to which this Act applies;
- (K) prescribing species of trees considered "depleted", "threatened", "endangered", or "economically extinct" and specifying the conditions under which they may be felled;

- (l) prescribing conditions for harvesting trees for domestic or social purposes; and
- (m) generally for the purpose of giving effect to the provisions of this Act.

Savings and transitional provision.

31. (1) A timber right, concession or lease granted under an enactment and valid immediately before the commencement of this Act shall continue in force for a period not exceeding 6 months from the date of the coming into force of this Act.

(2) Within 6 months from the coming into force of this Act, the holder of any such timber right, concession or lease, may apply for an authorisation under this Act.

(3) On an application made under subsection (2) the Strategic Technical Advisory Committee shall evaluate the application and shall submit its report to the Board in accordance with this Act.

(4) The Board shall on the receipt of the Strategic Technical Advisory Committee's report under subsection (3) submit its recommendation to the Minister on the merits of an application for an authorisation under subsection (2).

(5) The Minister shall on the basis of the recommendation under subsection (4) enter into a timber utilization contract with the holder of the timber right, concession or lease.

MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to establish the National Reforestation and Timber Governance Agency; to provide for the regulation of timber resources, to provide for the improvement of timber revenue management and governance, to provide for the enhancement of reforestation and investment in sustainable utilisation of forest resources and to provide for other related matters.

The Bill is divided into 6 Parts.

Part I - Provides for the interpretation of certain terms and expressions in the Bill.

Part II - Deals with the establishment of the National Reforestation and Timber Governance Agency.

Part III - Deals with the administrative provisions of the Agency including its departments and divisions, the appointment of the Director-General and other staff of the Agency.

Part IV - Deals with the funds and accounts of the Agency.

Part V - Makes provision for licensing and trade in forest products of the Agency.

Part VI - MISCELLANEOUS vests the power to make Regulations by the Minister.

MADE this day of , 2021.

JACOB JUSU SAFFA .
Chief Minister

FREETOWN,
SIERRA LEONE.