

## BILL

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### THE NATIONAL RECORDS AND ARCHIVES ACT, 2017

#### ARRANGEMENT OF SECTIONS

Sections.

#### PART I-PRELIMINARY

1. Interpretation.

#### PART II-ESTABLISHMENT OF THE NATIONAL RECORDS AND ARCHIVES AUTHORITY

2. Establishment of the National Records and Archives Authority.
3. Board of Authority.
4. Tenure of members.
5. Meeting of Board.
6. Disclosure of interest
7. Immunity of members of Board.
8. Committees of Board.
9. Functions of Board.
10. Remuneration of members.
11. Filling of vacancies.

#### PART III - FUNCTIONS OF AUTHORITY

12. Functions of Authority.

#### PART IV - ADMINISTRATIVE PROVISIONS

13. Appointment of Director.
14. Functions of Director.
15. Deputy Director.
16. Other staff of Authority.
17. Regional offices.

#### PART V - FINANCIAL PROVISIONS

18. Funds of Authority.
19. Accounts and audit of Authority.
20. Financial year of authority.
21. Annual Report.

#### PART VI - MISCELLANEOUS PROVISIONS

22. Offences
23. Repeal and savings.
24. Regulations.

No.

2017



Sierra Leone

**A BILL ENTITLED**

**THE NATIONAL RECORDS AND ARCHIVES ACT, 2017.** Short title.

**Being an Act to repeal and replace the Public Archives Act, 1965, to establish the National Records and Archives Authority as an autonomous body responsible for the management of all Government and other Public Records and Archives, for preservation, utilisation and disposal of public records, documents and other historical matter in Sierra Leone and for other related matters.**

[ ] Date of commencement.

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

## PARTI- PRELIMINARY

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

"archives" means all public records, documents and other historical matter of every kind, format, and description which are in the custody of any Government office or which may after the commencement of this Act be transferred to or acquired by the National Records and Archives Authority;

"Authority" means the National Records and Archives Authority established in section 2;

"Director" means the Director of National Records and Archives Authority appointed under section 13;

"Government Office" includes a Ministry or Department of the Government, the Supreme Court, the Office of any body incorporated by an Act of Parliament, the office of any authority constituted, under whatever name for purposes of local government and the office of any local court

"Local Authority" includes Chiefdom Council;

'Minister 'means The Minister of Information and Communication

"public records" mean records data and archives belonging to the state that are created, received and maintained -

- (a) in the Offices of the President and the Cabinet;
- (b) by any Ministry, Department, Agency, Commission, Committee, office or other body under the Government or by the Minister or any other officer or employee of Government;

- (c) by any post representing the Government of the Republic of Sierra Leone outside the country or any officer serving in such post;
- (d) by any formation or unit of the armed forces of Sierra Leone or any officer of such formation or unit;
- (e) by the Parliament or Electoral Commission or any committee or officer thereof;
- (f) by the High Court or any other court or tribunal with jurisdiction within the Republic or by any judge, magistrate or other officer of such court;
- (g) by any regional, district, municipal or other local authority or officer thereof;
- (h) by any predecessor or successor of any of the institutions, bodies or individuals designated in (a) - (g) above;
- (i) by any private party located within Sierra Leone, but only to the extent that such records and archives are -
  - (i) subject to the Right to Access Information Act, 2013 (Act No. 2 of 2013); or
  - (ii) related to the contract between the state and such private party, to the administration and extraction of the natural resources of Sierra Leone, or to the fundamental civil rights of citizens of Sierra Leone;
- (j) within the meaning of the Public Archives Act, 1965 in the custody of the National Archives of Sierra Leone, including its regional offices, at the time of coming into operation of this Act;

- (k) any private record in the custody of the Director under Section 14

PART II- ESTABLISHMENT AND FUNCTIONS OF THE NATIONAL RECORDS AND ARCHIVES AUTHORITY

Establishment of National Records and Archives Authority.

2. (1) There is hereby established a body to be known as the National Records and Archives Authority.

(2) The Authority shall be a body corporate having perpetual succession and capable of acquiring, holding, and disposing of any property, whether moveable 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 Authority shall have a common seal, the use of which shall be authenticated by the signatures of-

- (a) the Chairman or other member of the Board authorised either generally or specially by the Board in that behalf; and
- (b) the Director or some other person authorised by the Board in that behalf.

Board of Authority.

3. (1) The governing body of the Authority shall be a Board in which shall be vested, subject to this Act, the control and supervision of the Authority.

(2) the Board shall consist of a Chairman and the following members-

- (a) the Secretary to the Cabinet and Head of the Civil Service;
- (b) the Financial Secretary, Ministry of Finance and Economic Development;
- (c) the Permanent Secretary, Ministry of Information and Communications;

- (d) the Permanent Secretary, Ministry of Local Government and Rural Development;
- (e) a Civil Society organisation associated with records and archives management appointed by the Minister;
- (f) the Director of the Institute of Library, Information and Communications Studies;
- (g) the Chief Librarian, Sierra Leone Library Services;
- (h) the Director, of Communications; Ministry of Information and Communications;
- (i) the Chairperson, Right to Access Information Commission;
- (j) the Director of the Authority who shall be the secretary to the Board and a non-voting member.

(3) The Chairman shall be appointed by the President on the recommendation of the Minister and subject to the approval of Parliament.

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

(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 three consecutive meetings of the Board without reasonable cause; or
- (f) if he resigns his office by written notice to the President.

Meetings of Board.

5. (1) The Board shall meet for the dispatch of its business at least twice a year and at such time as the Chairman may determine.

(2) The Chairman shall preside at every meeting of the Board, if present, and in his absence, the members present shall appoint a member from among themselves to preside at that meeting.

(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 five 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) 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 Board and shall be incorporated in the minutes of the next succeeding meeting of the Board:

Provided that, if a member requires that such proposal be placed before a meeting of the Board, 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 and kept in proper form.

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

6. (1) A member of the Board who has any interest, whether direct or indirect in any matter being considered or to be considered by 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. Disclosure of interest.

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

7. (1) No action or other proceedings shall lie or be instituted against any member of the Board or member of a committee of the Board for or in respect of any act or thing done or omitted to be done in good faith in the exercise of his functions under this Act. Immunity of Members.

(2) No member of the Board shall be personally liable for any debt or obligation of the Authority.

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

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

(3) Without prejudice to the generality of subsection (1), the Board shall appoint an audit committee.

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

9. (1) Subject to this Act, the Board shall have the control and supervision of the Authority, including overseeing the sound and proper financial management of the Authority. Functions of Board.

(2) It shall also be the responsibility of the Board to provide such policy guidance and advice as will secure the efficient implementation of the functions of the Authority and enhance the overall performance of the Authority including policy guidance and advice on -

- (a) matters relating to the appraisal, exchange, disposal export, deferment, transfer of information;
- (b) the management of public records and archives generally; and
- (c) compliance with the requirement of the Right to Access Information Act, 2013 (Act No. 2 of 2013)

Remuneration of members.

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

Filling of Vacancies.

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

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

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

### PART III-FUNCTIONS OF AUTHORITY

12. (1) The object for which the Authority is established is <sup>Functions of Authority.</sup> for the management, preservation, utilisation and disposal of all Government and other public records and archives.

(2) Without prejudice to the generality of subsection (1) it shall be the responsibility of the Authority to -

- (a) preserve and make available for access, public records selected for preservation in the National Archives or any other archival repository under the control of the Authority;
- (b) establish and maintain a records management and archives cadre which shall be responsible for the National Archives or any other archival repository under the control of the Authority;
- (c) establish and implement standards in records keeping and procedures for the management by public entities, of records containing information in all media or format, including electronic form;
- (d) establish records centres housing documents, including classified, secret and confidential documents throughout Sierra Leone;
- (e) establish and implement procedures for the timely disposal of public records of no continuing value;

- (f) establish and implement procedures for the transfer of public records of enduring value for preservation in the National Archives or other archival repository under the control of the Authority;
- (g) lend any record from the National Archives or any other archival repository under the control of the Authority for display at commemorative, trade, art or exhibition or for any other purpose;
- (h) ensure compliance with the requirement of the Right to Access Information Act, 2013 (Act No. 2 of 2013);
- (i) restrict public access to certain categories of records transferred to the Authority for 15 years where the Attorney General and Minister of Justice certifies that any specified public record in the control of the Authority contains information which, if made accessible under this section, may adversely affect national security, maintenance of public order or the protection of privacy of individuals; and
- (j) carry out such other functions as are necessary, expedient or conducive to the attainment of the general objects of the Authority.

PART IV—ADMINISTRATIVE PROVISIONS

Director. 13. (1) The Authority shall have a Director who shall be appointed by the Board upon such terms and conditions as the Board shall, determine.

(2) No person shall be appointed Director, under subsection (1), unless that person -

- (a) has a postgraduate degree in archives and records management from a recognised university;
- (b) has at least 7 years' experience in matters relating to archives and records management four years must have been spent in a managerial role;
- (c) is proficient in information technology relating to archives and records management including records digitization and digital preservation; and
- (d) is of proven integrity.

14. (1) The Director shall be responsible to— Functions of Director.

- (a) direct, manage and control all national records and archives including electronic records;
- (b) implement such operational policies, programs and plans relating to the functions of the Authority as maybe approved by the Board;
- (c) initiate and maintain high level relations with local interest groups and international institutions in the field of records and archives administration;
- (d) ensure the regular training and development of staff of the Authority based on such personnel or manpower guidelines as maybe approved by the Board;
- (e) provide overall leadership in the day-to-day operation of the Authority;
- (f) prepare publications on the activities and services of the Authority and other archival repository under the control of the Authority; and

- (g) perform such other functions as are necessary for the purpose of the direction, management and control of the Authority.

Deputy-Director.

15 (1). The Authority shall have a Deputy-Director who shall be appointed by the Board upon such terms and conditions as the Board shall, determine.

(2) No person shall be appointed Deputy Director unless that person—

- (a) has a postgraduate degree in archives and records management from a recognised university;
- (b) has at least 5 years' experience in matters relating to archives and records management 2 of the years must have been spent in a supervisory role in a related field
- (c) is proficient in information technology relating to archives and records management including records digitization and digital preservation; and
- (d) is of proven integrity.

(3) The Deputy Director shall be responsible to:

- (a) collect archives and records for and on behalf of the Authority and ensure that they are efficiently managed and preserved;
- (b) provide guidance on archives development including, access requirements, preservation management, search room design, archive storage, environmental controls and archives security;
- (c) establish and develop risk-management practices within the Authority;

- (d) generally oversee the physical care of the collections;
- (e) advise the Director on budgetary matters relating to the collection of archives and records; and
- (f) carry out such other responsibilities as shall be assigned by the Director.

16. (1) The Authority shall have, in addition to the Director and Deputy Director such other technical and administrative staff, as may be required for the efficient performance of the functions of the Authority Other Staff of Authority.

(2) The other technical and administrative staff of the Authority shall be appointed by the Board subject to such terms and conditions as the Board shall determine.

17. There is hereby established in each of the administrative regions of Sierra Leone Regional Offices of the Authority which shall perform tasks assigned to it by the Authority. Regional offices.

PART -V FINANCIAL PROVISIONS

18. (1) The activities of the Authority shall be financed by funds consisting of— Funds of Authority.

- (a) moneys appropriated from time to time by Parliament for the purposes of the Authority;
- (b) moneys given to the Authority by way of gifts, endowments, bequests, grants or other contributions by persons and organisations for the purposes of the Authority;
- (c) returns on investment, if any; and
- (d) other moneys which may, from time to time, accrue to the Authority;



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

Accounts and audit of Authority.

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

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

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

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

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

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

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

20. The financial year of the Authority shall be the same as the financial year of the Government. Financial year of Authority.

21. (1) The Authority shall, within three months after the end of the financial year, submit to the Minister a report on the performance of its functions during that year and on its policies and programmes. Annual Report.

(2) The annual report shall include the accounts and annual financial statement prepared under section 19 and the report of the audit thereon.

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

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

#### PART VI- MISCELLANEOUS PROVISIONS

22. (1) Any person who- Offences.

- (a) contravenes this Act or any regulations made under it;
- (b) wilfully mutilates or destroys any public archives or records;
- (c) illegally exports historical documents,

commits an offence and shall on conviction be liable to a fine not exceeding 15,000,000.00 Leones or to imprisonment for a term of 2 years or to both fine and imprisonment.

23. The Public Archives Act, 1965 (Act No. 44 of 1965) is hereby repealed. Repeal and savings.

(2) All regulations, orders, rules and instructions relating to public archives in force immediately before the commencement of this Act and not inconsistent therewith, shall continue to be in force until such regulations, orders, rules or instructions are expressly revoked.

(3) Any enactment in force immediately before the commencement of this Act to the extent that its provisions are not in conflict with this Act shall have effect and continue in force subject to such modifications as may be necessary to give effect to this Act.

Regulations. 24. The Board may, after consultation with the Minister, by statutory instrument make Regulations for the implementation of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The purpose of this Bill is to establish the National Records and Archives Authority as an autonomous body responsible for the management of all Government and other Public Records and Archives throughout their life-cycle, for preservation, utilisation and disposal in Sierra Leone and other related matters.

PART I –PRELIMINARY–deals with the interpretation of words used throughout the Bill.

PART II–THE ESTABLISHMENT OF THE NATIONAL RECORDS AND ARCHIVES AUTHORITY deals with the establishment of the National Records and Archives Authority, the Board of the Authority and the composition of the Board

PART III –FUNCTIONS OF AUTHORITY–deals with the functions of the Authority and the relationship of the Authority with the public and other stakeholders

PART IV–ADMINISTRATIVE PROVISIONS –contains provisions dealing with the appointment, requirement and functions of the Director of the Authority and establishment of other departments of the Authority.

PART V–FINANCIAL PROVISIONS–deals with financing the activities of the Authority and auditing such processes. The latter part states the provision of an annual report at the end of the financial year which reflects both expenses and auditing of the Authority.

PART VI –MISCELLANEOUS PROVISIONS –deals with repeal and savings of any existing law relating to Public Archives, Offences and power of the Board to make regulations for the implementation of this Act.

MADE this day , 2017.

MOHAMED BANGURA,  
Minister of Information and Communications.

FREETOWN,  
SIERRA LEONE.