

BILL

No.



2017

Sierra Leone

A BILL ENTITLED

The Public Elections (Amendment) Act, 2017

Short title.

Being an Act to amend the Public Elections Act, 2012.

[

] Date of commencement.

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

PART 1—PRELIMINARY

Section 1 of
Act No. 4 of
2012.

1. Section 1 of the Public Elections Act, 2012 is amended by inserting the following new definitions—

"District Returning Officer" means the person appointed by the Commission to be responsible for the conduct and supervision of the elections in the defined District under this Act;

"Electoral Centre" means a place where

- (a) registrants or voters may present themselves either to register or to vote;
- (b) voters' registers are displayed for public viewing; and
- (c) provisional results are displayed.

"National Returning Officer" means the person responsible for the supervision of elections under this Act;

"Polling Centre Manager" means the person who supervises and manages the conduct of polling at any center;

"Regional Returning Officer" means the person appointed by the Commission to be responsible for the supervision of elections in the defined region under this Act;

Section 12 of
Act No 4 of
2012.

2. Section 12 of the Public Elections Act, 2012 is amended in paragraph (e) of subsection (2) by deleting the word "and" and replacing it with the word "or".

3. Section 19 of the Public Elections Act, 2012 is amended by repealing and replacing that section with the following new section—

Section 19 of
Act No 4 of
2012.

**"voters to
register
once**

19. A person who knowingly registers as a voter in more than one ward or more than once in a ward commits an offence and shall be liable on conviction to a fine not exceeding five million Leones or imprisonment for a period not exceeding five years or to both such fine and imprisonment."

4. Section 22 of the Public Elections Act, 2012 is amended by repealing and replacing that section with the following new section—

Section 22 of
Act No 4 of
2012.

**Notice of
Intention to
compile
Register of
Voters**

22. The Electoral Commission may from time to-time by statutory instrument make Orders
- (a) declaring its intention either generally or in such wards as it may specify in the order to have new Register of Voters prepared; and
 - (b) specifying a date for the publication of notices inviting claims from eligible voters under section 23;

but any order already in existence, if issued not more than two years earlier, shall be sufficient for the purposes of this section.

Section 23 of Act No 4 of 2012. 5. Section 23 of the Public Elections Act, 2012 is amended by repealing and replacing that section with the following new section—

"Notice inviting claims of eligible voters.

23 (1) On the date specified under an order made under section 22, the Electoral Commission shall publish in each ward a notice set out in Form A of the Second Schedule requiring within twenty one days of the publication of the notice that every eligible voter to present himself for registration in the ward in respect of which the notice is published.

(2) The Electoral Commission may by statutory instrument enlarge the twenty-one days period referred to in subsection (1)"

Section 24 of Act No 4 of 2012. 6. Section 24 of the Public Elections Act, 2012 is amended in subsection (1) by deleting the word "fifteen" and replacing it with the words "twenty-one".

Section 28 of Act No 4 of 2012. 7. Section 28 of the Public Elections Act, 2012 is amended by deleting the word "forty" on the first line of the section and replacing it with the word "sixty"

Section 29 of Act No 4 of 2012. 8. Section 29 of the Public Elections Act, 2012 is amended by repealing and replacing subsection (2) with the following new subsection—

"(2) A person who hinders or obstructs a field registrar in the execution of the field registrar's duties under paragraph (a) of subsection (1) commits an offence and is liable on conviction to a fine of five million Leones or imprisonment for a period not exceeding five years or to both fine and imprisonment'.

9. Section 30 of the Public Elections Act 2012 is amended by repealing and replacing subsection (4) with the following new subsection—

Section 30 of Act No 4 of 2012.

"(4) A person who knowingly causes his name to be included in a copy of a provisional list while not entitled to be registered or a Registration Officer who knowingly includes the name of a person who is not entitled to be registered commits an offence and is liable on conviction to a fine of five million Leones or imprisonment for a period not exceeding five years or to both fine and imprisonment."

10. Section 40 of the Public Elections Act, 2012 is amended by inserting the following new subsections immediately after subsection (2)—

Section 40 of Act No 4 of 2012.

"(3) The application for transfer of name to the Register of Voters referred to in subsection (1) shall be submitted to the Registration Officer of ward six months before an election.

(4) This section shall apply only to general elections.

11. Section 45 of the Public Elections Act, 2012 is amended by repealing and replacing subsection (4) with the following new subsection—

Section 45 of Act No 4 of 2012.

"(4) A person who makes a statutory declaration under subsection (3),—

(a) knowing it to be false in a particular material commits an offence and is liable on conviction to a fine of not less than thirty million Leones or imprisonment for a period not exceeding five years or to both fine and imprisonment; or

- (b) reckless as to whether it is true or not commits an offence and is liable on conviction to a fine of not less than five million Leones or imprisonment for a period not less than three years or to both fine and imprisonment.

Section 50 of Act No 4 of 2012.

12. Section 50 of the Public Elections Act, 2012 is amended in subsection (1) by inserting the following new paragraph immediately after paragraph (b)–

- (c) Polling Centre Managers who shall supervise and manage the conduct of polling at a polling centre.

Section 57 of Act No 4 of 2012.

13. Section 57 of the Public Elections Act, 2012 is amended by repealing and replacing that section with the following new section–

"Time for Parliamentary elections

57. The time for a general election of the ordinary members of Parliament shall be appointed by proclamation made by the Electoral Commission"

Section 64 of Act No 4 of 2012.

14. Section 64 of the Public Elections Act, 2012 is amended by inserting the following new paragraph immediately after paragraph (b)–

- (c) the notice shall be delivered to the Returning Officer before the end of the period stipulated for nominations.

Section 74 of Act No 4 of 2012.

15. Section 74 of the Public Elections Act, 2012 is amended in sub paragraph (iii) of paragraph (b) of subsection (1) by inserting the following words at the beginning of the paragraph before the word "mark" –"Punch and "

Sections 99, 100,101 and 102 of Act No. 4 of 2012.

16. Sections 99,100,101 and 102 are amended by inserting the word "District" in front of the words "Returning Officer" wherever it appears.

17. Section 103 of the Public Elections Act, 2012 is amended by repealing and replacing that section with the following new section–

"Time for Local council elections

57. The time for a local council election shall be appointed by Government Notice by the Electoral Commission"

Section 103 of Act No 4 of 2012.

18. Sections 107 to 115 of the Public Elections Act, 2012 are amended by repealing and replacing the penalty provisions with the following new provision–

Sections 107 to 115 of Act No 4 of 2012.

"commits an offence and is liable on conviction to a fine not less than five million Leones or imprisonment for a period not less than one year or to both fine and imprisonment."

19. Section 116 of the Public Elections Act, 2012 is amended by repealing and replacing the penalty provision with the following new provision–

Section 116 of Act No. 4 of 2012.

"commits an offence and is liable on conviction to a fine not less than five million Leones or imprisonment for a period not less than two years or to both fine and imprisonment."

20. Sections 117 and 118 of the Public Elections Act, 2012 are amended by repealing and replacing the penalty provisions with the following new provision–

Sections 117 and 118 of Act No 4 of 2012.

"commits an offence and is liable on conviction to a fine not less than five million Leones or imprisonment for a period not less than two years or to both fine and imprisonment."

Section 119 of Act No 4 of 2012.

21. Section 119 of the Public Elections Act, 2012 is amended by repealing and replacing the penalty provision with the following new provision—

"commits an offence and is liable on conviction to a fine not less than five million Leones or imprisonment for a period not less than six months or to both fine and imprisonment."

Sections 120 to 123 of Act No 4 of 2012.

22. Sections 120 to 123 of the Public Elections Act, 2012 are amended by repealing and replacing the penalty provisions with the following new provision—

"commits an offence and is liable on conviction to a fine not less than five million Leones or imprisonment for a period not less than two years or to both fine and imprisonment."

Section 124 of Act No 4 of 2012.

23. Section 124 of the Public Elections Act, 2012 is amended by repealing and replacing the penalty provision with the following new provision—

"commits an offence and is liable on conviction to a fine not less than ten million Leones or imprisonment for a period not less than five years or to both fine and imprisonment."

Section 125 of Act No 4 of 2012.

24. Section 125 of the Public Elections Act, 2012 is amended by repealing and replacing the penalty provision with the following new provision—

"commits an offence and is liable on conviction to a fine not less than ten million Leones or imprisonment for a period not less than two years or to both fine and imprisonment".

Section 127 of Act No 4 of 2012.

25. Section 127 of the Public Elections Act, 2012 is amended by repealing and replacing the penalty provision with the following new provision -

"commits an offence and is liable on conviction to a fine not less than twenty million Leones or imprisonment for a period not less than five years or to both fine and imprisonment."

Sections 128 and 129 of Act No 4 of 2012.

26. Sections 128 and 129 of the Public Elections Act, 2012 are amended by repealing and replacing the penalty provisions with the following new provision—

"commits an offence and is liable on conviction to a fine not less than five million Leones or imprisonment for a period not less than six months or to both fine and imprisonment."

Section 130 of Act No 4 of 2012.

27. Section 130 of the Public Elections Act, 2012 is amended by repealing and replacing the penalty provision with the following new provision—

"commits an offence and is liable on conviction to a fine not less than five million Leones or imprisonment for a period not less than two years or to both fine and imprisonment."

Section 131 of Act No 4 of 2012.

28. Section 131 of the Public Elections Act, 2012 is amended by repealing and replacing the penalty provision with the following new provision—

"commits an offence and is liable on conviction to a fine not less than three million Leones or imprisonment for a period not less than six months or to both fine and imprisonment."

Section 132 of Act No 4 of 2012. 29. Section 132 of the Public Elections Act, 2012 is amended by repealing and replacing the penalty provision with the following new provision -

"commits an offence and is liable on conviction to a fine not less than five million Leones or imprisonment for a period not less than two years or to both fine and imprisonment."

Section 133 of Act No 4 of 2012. 30. Section 133 of the Public Elections Act, 2012 is amended by repealing and replacing the penalty provision with the following new provision-

"commits an offence and is liable on conviction to a fine not less than ten million Leones or imprisonment for a period not less than five years or to both fine and imprisonment."

Section 134 of Act No 4 of 2012. 31. Section 134 of the Public Elections Act, 2012 is amended by repealing and replacing the penalty provision with the following new provision-

"commits an offence and is liable on conviction to a fine not less than five million Leones or imprisonment for a period not less than three years or to both fine and imprisonment."

Section 137 of Act No 4 of 2012. 32. Section 137 of the Public Elections Act, 2012 is amended by repealing and replacing subsection(6) with the following new subsection-

"(6) All trials by the Election Offences Court be-

- (a) by Judge alone; and
- (b) deemed to be in compliance with subsection (2) of section 144 of the Criminal Procedure Act 1965

33. The Public Elections Act, 2012 is amended by inserting the following new section immediately after section 137- Insertion of new Section.

"Indictments 137A (1) An indictment relating to an offence under this Act shall be preferred without any previous committal for trial and it shall be deemed to have been preferred pursuant to a written consent by a Judge granted under paragraph (b) of subsection (1) of section 136 of the Criminal Procedure Act 1965 and shall be proceeded with accordingly.

(2) During a trial on indictment preferred under this section, an extract of any finding signed by the Director of Public Prosecutions, to the effect that a particular person is or particular persons are implicated in any offence under this Act, shall without more be sufficient authority for preferring that indictment in respect of such offence as is disclosed in or based on the report of those findings.

(3) An indictment preferred under this section shall be filed and served on the accused together with the summary of the evidence of the witnesses which the prosecution relies on for the proof of the charge contained in the indictment and the names of such witnesses shall be listed on the back of the indictment.

34. Section 158 of the Public Elections Act, 2012 is amended in subsection (8) by deleting the words "Chief Electoral Commissioner" and replacing it with the words "National Returning Officer" Section 158 of Act No 4 2012.

35. Section 161 of the Public Elections Act, 2012 is amended by repealing and replacing that section with the following new section- Section 161 Act No 4 of 2012.

161 (1). Any employee of the Electoral Commission who—

- (a) is partial in the performance of his functions; or
- (b) receives instructions other than from the Electoral Commission;

commits an offence and is liable on conviction to a fine not less than five million Leones or to imprisonment for a period not less than two years or to both fine and imprisonment.

(2) Any person who causes an employee of the Electoral Commission—

- (a) to be partial; or
- (b) to receive instructions other than from the Electoral Commission commits an offence and is liable on conviction to a fine not less than five million Leones or to imprisonment for a period not exceeding two years or to both fine and imprisonment.

MEMORANDUM OF OBJECTS AND REASONS

The Bill seeks to amend the Public Elections Act, 2012. The amendment of the Public Elections Act, 2012 is necessary because of the following reasons-

1. Certain words used in the Act are not defined under the interpretation section.

The following words are used in the Public Elections Act, 2012 but are not defined—

- (a) District Returning Officer;
- (b) Electoral Centre;
- (c) Regional Returning Officer;

These words are now defined under the proposed amendment Bill.

2. Fines imposed under the Act were minimal

* Under section 19 of the Public Elections Act, 2012 the penalty imposed for the offence of registering in more than one ward or registering more than once in a ward is a fine not exceeding five hundred thousand Leones or imprisonment to a term not exceeding two years or to both the fine and imprisonment. The amendment Bill proposes that the penalty should be amended to a fine of not less than five million Leones or imprisonment to a term not less than two years or to both the fine and imprisonment.

* Under subsection (2) of section 29 of the Public Elections Act, 2012 the penalty imposed for obstructing or hindering a field registrar in the execution of his duties is a fine not exceeding five hundred thousand Leones or imprisonment to a term not exceeding two years or to both the fine and imprisonment. The amendment Bill proposes that the penalty should be amended to a fine of not less than five million Leones or imprisonment to a term not less than two years or to both the fine and imprisonment.

3. Certain powers were conferred on the President instead of the National Electoral Commission

The following powers vested under the President pursuant to the Public Elections Act have been proposed to be transferred to the Electoral Commission

* Under section 22 of the Public Elections Act the power to declare the intention to compile a new register of voters by statutory instrument is vested in the President. The amendment Bill now proposes that the power should be vested in the Electoral Commissioner.

* Under section 57 of the Public Elections Act, 2012 the power to appoint the date for a general election of the Ordinary Members of Parliament is vested in the President after consultation with the Electoral Commission. The amendment Bill proposes that it should be the other way around. It proposes that the power to appoint the date should be vested in the Electoral Commission after consultation with the President.

4. Time limit for certain actions to be carried out were very short

Under section 23 of the Public Elections Act an eligible voter should present himself for registration within fifteen days of the publication of the notice to register. The amendment Bill proposes that the fifteen days should be increased to twenty one days and the Commission should be given powers to further increase the twenty one days.

5. Time limit to carry out certain actions were not indicated under the 2012 Act;

* Under section 40 of the Public Elections Act, 2012 the time within which to register when a person who is registered in one ward and is now resident in another is not stipulated and the provision is not clear.

The amendment Bill proposes that the time limit should be expressly outlined and the provision should be redrafted for it to be understandable.

* Under section 64 the time within which a candidate should withdraw his nomination is not stipulated. The amendment Bill proposes that the time

limit should be stipulated. It proposes that the notice to withdraw should be delivered to the Returning Officer before the end of the period stipulated for nominations

6. Certain positions were not created.

The Bill proposes that the position of a polling centre manager should be created. The polling centre manager will be responsible for supervising and managing the conduct of polling at a polling station.

The Public Elections (Amendment) Bill if passed would ensure the following–

1. A comprehensive Act with provisions that can be implemented effectively;
2. electoral matters are dealt with speedily in court,
3. new fines and imprisonment will act as a deterrent.

MADE *this 7th day of July 2017.*

MOHAMED N'FAH ALIE CONTEH,
*Chief Electoral Commissioner and Chairman
National Returning Officer
Electoral Commission.*