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ii

THE LAW REFORM COMMISSION ACT

ARRANGEMENT OF SECTIONS

PART I—PRELIMINARY

1. Interpretation.

PART II—FRAMEWORK OF THE COMMISSION AND OTHER RELATED MATTERS

2. Continuation of the Commission.
3. Composition of Commission.
4. Term of Office.
5. Filling of vacancies.
6. Full time basis for Chairman.
7. Part time basis for other members.
8. Meetings of Commission.
9. Disclosure of interest.
10. Remuneration.
11. Independence.
12. Immunity.
13. Committees of Commission.
14. Provincial offices.

PART III—FUNCTIONS OF THE COMMISSION

15. Objects of the Commission.
16. Duties of the Commission.
17. Powers of the Commission.
18. Role of the Attorney-General

PART IV—SECRETARIAT OF THE COMMISSION

19. Secretariat.
20. Secretary to the Commission.
21. Departments.
22. Other staff of Commission.
23. Consultants.
24. Protection of personal liability.
25. Conflict of interest.

PART V—FINANCIAL PROVISIONS

26. Funds of the Commission.
27. Accounts and audit.
28. Financial year of Commission.
29. Annual report.
30. Regulations.
31. Repeal and savings.

No.



2017

Sierra Leone

A BILL ENTITLED

The Law Reform Commission Act, 2017.

Short title.

Being an Act to expand the functions of the Law Reform Commission, enhance its operational autonomy 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—

“Chairman” means the Chairman of the Commission appointed under section- 4;

“Commission” means the Law Reform Commission established under section 2;

“Commissioner” means a member of the Commission appointed under section 3;

“Constitution” means the Constitution of Sierra Leone, 1991;

“member” means a member of the Commission;

“Secretary” means the Executive Secretary to the Commission appointed under section 20;

PART II—THE FRAMEWORK OF THE COMMISSION AND OTHER RELATED MATTERS

Continuation of the Commission.

2. (1) There shall continue to be in existence, the body known as the Law Reform Commission (“the Commission”).

(2) The Commission shall be a body corporate having perpetual succession and shall be capable of—

(a) acquiring, holding and disposing of movable and immovable property;

(b) suing and being sued in its corporate name; and

(c) performing all such acts as bodies corporate may by law perform.

(3) The Commission shall have a seal, the use of which shall be authenticated by the signatures of—

(a) the Chairman or any other member of the Commission authorized either generally or specifically by the Commission in that behalf; and

(b) the Secretary.

3. The Commission shall consist of—

(a) a Chairman who shall be qualified to be appointed as a Judge of the Supreme Court;

(b) a Judge of the Superior Court of Judicature representing the Chief Justice;

(c) the Director of Sierra Leone Law School;

(d) a law officer with more than ten years practice in the legal profession representing the Attorney-General;

(e) two legal practitioners with more than ten years practice in the legal profession representing the Sierra Leone Bar Association;

(f) a representative of the faculty of law, University of Sierra Leone;

Composition of Commission.

Term of office.

4. (1) The Chairman and members referred to in paragraphs (e) and (f) of section 3 of the shall be appointed by the President for a term of three years each, and after, shall be eligible for re-appointment.

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

- (a) inability to perform the functions of his office by reason of infirmity of mind or body;
- (b) 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 by written notice to the Attorney-General;
- (g) If he dies

Filling of vacancies.

5. (1) Where a person ceases to be a member of the Commission under the circumstances specified in subsection (2) of section 4;

- (a) the members of the Commission shall, where the person is the Chairman, elect one of their number to act as Chairman until such time as another Chairman is appointed in his stead;

(b) in the case of any other member, the Chairman shall arrange, subject to this Act to have another person appointed to the Commission.

(2) Where a person is appointed as Chairman or member to fill a vacancy in the Commission, 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.

6. Subject to this Act, the Chairman shall serve on a full time basis on such terms and conditions as may be specified in his letter of appointment. Full time basis for Chairman

7. Subject to this Act, the other members of the Commission shall serve on a part-time basis on such terms and conditions as may be specified in their letters of appointment. Part time basis for members.

8. (1) The Commission shall meet for the dispatch of its business at such time and place as the Chairman may determine. Meetings of Commission.

(2) The Chairman shall preside at meetings of the Commission and in the absence of the Chairman, a member of the Commission elected by the members present from among their number, shall preside.

(3) The quorum for a meeting of the Commission shall be 4.

(4) The Commission may co-opt a person to attend its meetings and provide technical or other advice to the Commission or otherwise assist at its meetings but such person shall not vote on any matter for decision by the Commission.

(5) Any proposal circulated among members of the Commission and agreed to in voting by a two-thirds majority of the members shall have the same force or effect as a decision made at a duly constituted meeting of the Commission; but if a member requires that the proposal be place before a meeting of the Commission this subsection shall not apply to the proposal

(6) Subject to this Act, the Commission shall regulate the procedure at its meetings.

Disclosure of interest

9. (1) A member of the Commission who has an interest or any committee set up by the Commission shall disclose the nature of his interest to the Board and such disclosure shall be recorded in the minutes of the Commission and the member shall not take part in any deliberation or decision of the Commission relating to that matter.

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

Remuneration

10. The Chairman and other members of the Board and persons co-opted by the Board under subsection (4) of section 8 shall be paid remuneration, fees and allowances and shall be reimbursed by the Centre for any expenses incurred in connection with the discharge of their functions as the Board may determine.

Independence.

11. The Commission shall act independently, impartially, fairly and in the public interest.

Immunity.

12. No action or other proceedings shall lie or be instituted against any member of the Commission or member of a committee of the Commission 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 the Act.

13. (1) The Commission may, for the effective discharge of its functions, establish committees. Committees of Commission.

(2) The committees shall consist of members or non-members of the Commission, appointed by the Commission to study in detail and make recommendations to it on any field of study in which the Commission is concerned and, in which such persons may have specialized or expert knowledge.

(3) Members of committees shall be paid such allowances and expenses as the Commission may determine.

(4) The quorum of any committee set up under this section shall be determined by the Commission.

14. The Commission may establish such provincial offices as it may consider necessary for the efficient performance of its functions. Provincial offices.

PART III—FUNCTIONS OF THE COMMISSION

15. (1) The object for which the Commission is established it to keep under review the laws from time to time in force in Sierra Leone to ensure their systematic development and reform including the integration, unification and codification of the laws, elimination of anomalies and the repeal of obsolete and unnecessary enactments. Objects of the Commission.

(2) In the performance of its objects under subsection (1), the Commission shall ensure that—

- (a) the law conforms with the Constitution;
- (b) there is no conflict with any other law;

- (c) the law is consistent, harmonized, just, simple, accessible, modern and cost effective in application;
- (d) there is respect for and observance of international obligations in relation to international instruments signed, ratified or acceded to by Sierra Leone;

Duties of the Commission.

16. (1) The Commission shall–
- (a) provide information and advice to ministries, departments and agencies of Government with regard to the development, reform or amendment of any area of the law pertaining to the work of their respective institutions;
 - (b) collaborate with ministries, departments and agencies of government and non-state organs in the review and reform of laws and upon request, provide technical assistance with regard to the development, reform or amendment of any area of the law;
 - (c) upon request or on its own motion, undertake research and comparative studies relating to the development, reform or amendment of any area of the law;
 - (d) formulate and implement programmes, plans and actions for the effective reform of laws;
 - (e) formulate by means of draft bills or otherwise, any proposals for the development, reform or amendment of any area of the law;

- (f) monitor and evaluate the impact of reform legislation on the lives of ordinary citizens;
- (g) undertake public education on matters relating to law reform;
- (h) develop measures to make the legal system more efficient, economical and accessible;
- (i) forge productive networks among academic and other national and international communities in order to ensure cooperation and coordination; and
- (j) perform such other functions as may be prescribed by this Act or any other law.

(2) The Commission shall submit to the Attorney- General and Minister of Justice proposals for law reform that the Commission has initiated itself or at his request.

17. The Commission shall have powers to–

Powers of the Commission.

- (a) initiate, undertake, promote and evaluate studies and research in any area of the law;
- (b) support, publish, sell or otherwise disseminate studies, reports and other documents prepared by it or connected to its work;
- (c) sponsor or support conferences, seminars and other meetings;

- (d) establish, facilitate and support relationships and collaborate with local and international bodies and institutions interested in the work of the Commission;
- (e) do all such things as are conducive to the furtherance of its purpose.

Role of the Attorney-General.

18. (1) The Attorney-General and Minister of Justice shall at the end of every year prepare a report on—

- (a) the proposals of the Commission implemented (in whole or in part) during the year; and
- (b) the proposals of the Commission that have not been implemented (in whole or in part) as at the end of the year, including-
 - (i) plans for dealing with any of those proposals;
 - (ii) any decision not to implement any of those proposals (in whole or in part) taken during the year and the reasons for the decision.

(2) The Attorney-General and Minister of Justice shall lay the report before Parliament.

PART IV—SECRETARIAT OF THE COMMISSION

19. The Commission shall have a secretariat which shall be headed by the Secretary. Secretariat.

20. (1) The Secretary shall be a legal practitioner of not less than fifteen years practice in his profession with proven managerial and administrative experience and shall be appointed by the Commission. Secretary to the Commission.

(2) Subject to the general control of the Commission the Secretary shall be responsible for-

- (a) carrying out the policy decisions of the Commission;
- (b) the day-to-day administration and management of the affairs of the Commission;
- (c) supervising the work of other staff of the Commission;
- (d) recording and keeping the minutes of meetings of the Commission; and
- (e) such other duties as the Commission may direct.

21. The Commission shall establish such departments as it may think necessary for the performance of its functions. Department.

22. The Commission shall comprise— Other staff of the commission.

- (a) such professional, technical and administrative officers and support staff as may be appointed by the Commission for the efficient discharge of its functions under this Act; and
- (b) such public officers as may be seconded by the Public Service Commission to the Commission, upon the request of the Commission.

Consultants. 23. (1) The Commission may, where it considers it expedient to do so, hire, engage or retain the services of such professionals, experts and consultants as may be necessary for the effective performance of its functions.

(2) The Commission shall pay to the persons referred to in subsection (1), such fees and allowances as the Commission may determine.

Protection from personal liability. 24. No action, suit or other legal proceeding shall lie against the Chairman, member or staff of the Commission, or any person working under the instructions of the Commission, in respect of any decision, taken or any act done or omitted to be done, in good faith, in the performance of any function under this Act.

Conflict of interest. 25. (1) If any person is present at a meeting of the Commission or any committee at which any matter is the subject of consideration and in which that person or that person's spouse is directly or indirectly interested in a private capacity, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the Commission or committee otherwise directs, take part in any consideration or discussion of, or vote on any question connected to such matter.

(2) The disclosure of interest shall be recorded in the minutes of the meeting at which it is made.

(3) The Chairman, member or staff of the Commission shall not transact any business or trade with the Commission.

PART V—FINANCIAL PROVISIONS

26. The funds of the Commission shall consist of— Funds of the Commission.

- (a) monies appropriated by Parliament for purposes of the Commission;
- (b) grants, gifts, donations or bequests from sources within or outside Sierra Leone made to and accepted by the Commission; and
- (c) such funds as may be generated by the Commission in the performance of its functions or exercise of its powers under this Act.

27. (1) The Commission shall keep proper books of account and proper records in relation to the funds of the Commission and the books of account and records shall be in such form as the Auditor-General shall approve. Accounts and audit.

(2) The books of account of the Commission shall be audited by the Auditor-General or by an auditor appointed by him within three months after the end of each financial year.

28. The financial year of the Commission shall be of the same as the financial year of the Government. Financial year Commission.

Annual Reports.

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

(2) The report referred to in subsection (1) shall include a copy of the audited accounts of the Commission together with the audit report on the accounts.

(3) A copy of the annual report approved by the Commission shall be submitted by the Commission to the Attorney-General and Minister of Justice, not later than six months after the end of the year to which it relates.

(4) The Attorney-General and Minister of Justice shall, as soon as possible, but not later than one month after receipt of the report, present the report together with any comments he may make on it, to Cabinet and shall lay the same before Parliament.

PART VI—MISCELLANEOUS PROVISIONS

Regulations.

30. The Commission may, by statutory instrument, make regulations for the carrying out of the provisions of this Act.

Repeal and Savings.

31. (1) The Law Reform Commission Act, 1994 is hereby repealed.

(2) The Chairman and members who immediately before the commencement of this Act were serving at the former Commission shall, upon commencement of this Act, continue in office for the unexpired period of their term.

(3) A person who, immediately before the commencement of this Act, was an employee of the former Commission shall, upon commencement of this Act, be deemed to be an employee of the Commission.

(4) Notwithstanding subsection (1), any rules, regulations, orders, notices, prescriptions and other instruments or directives issued under the repealed Act and in existence immediately before the commencement of this Act, shall continue in operation until their expiration or until their express repeal or revocation.

(5) Subject to this Act, all the rights, duties, obligations, assets and liabilities of the former Commission existing at the commencement of this Act shall be automatically and without more, transferred to the Commission.

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to repeal and replace the Law Reform Commission Act 1994. This Bill expands on the Commission's functions and enhances its operational autonomy.

The Bill is divided into five parts.

Part I which is the preliminary part defines words and expressions used throughout the Bill.

Part II deals with the framework of the Commission and other related matters

Clause stipulates that the Commission should comprise the following members—

- (a) a Chairman who should be qualified to be appointed as a Judge of the Supreme Court;
- (b) a Judge of the Superior Court of Judicature representing the Chief Justice;
- (c) Director of the Sierra Leone Law School;
- (d) a law Officer with more than ten years practice representing the Attorney-General;
- (e) two legal practitioners with more than ten years standing representing the Sierra Leone Bar Association and
- (f) a representative of the Faculty of Law University of Sierra Leone

Part III deals with the functions of the Commission. Clause 15 provides that the object for which the Commission is established is to keep under review the law from time to time in force in Sierra Leone to ensure its systematic development and reform including the integration, unification and codification of the law, elimination of anomalies and the repeal of obsolete and unnecessary enactments. Clause 16 outlines the duties of the Commission among which is to collaborate with all ministries, departments and agencies of government and non-state organs in the

review and reform of laws and upon request provide technical assistance with regard to the development reform or amendment of any area of the law. Clause 17 deals with powers of the Commission it provides that the Commission should have powers to initiate, undertake, promote and evaluate studies and research in any area of the law.

Part IV deals with the secretariat of the Commission. Clause 19 stipulates that the Commission should have a secretariat which should be headed by the Secretary. Clause 20 deals with the Secretary of the Commission who should be a legal practitioner of not less than fifteen years practice in his profession with proven managerial and administrative experience. Clause 22 provides for technical and administrative staff of the Commission.

Part V deals with the financial provisions. It contains provisions on the funds of the Centre, how the funds should be applied, proper books of account to be kept by the Centre and preparation of an annual report on the activities of the Centre.

Made this day of , 2017

JOSEPH FITZGERALD KAMARA,
Attorney-General and Minister of Justice.

FREETOWN,
SIERRA LEONE,
, 2017.