

ACT

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THE POSTAL SERVICES REGULATORY AGENCY ACT, 2012

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SIGNED this 19th day of June, 2012.

DR. ERNEST BAI KOROMA,
President.



No. 5



2012

Sierra Leone

The Postal Services Regulatory Agency Act, 2012. Short title.

Being an Act to establish the Postal Services Regulatory Agency as a body corporate, to license and regulate the operation of postal services throughout Sierra Leone, to establish a Postal Services Regulatory Agency Board 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 Postal Services Regulatory Agency established under section 2;

“Courier Service” means a service for the receipt and delivery of correspondence, items of value or both, such as parcels and packets, for which no postage stamp is required;

“IATA” means International Air Traffic Association;

“Inspector” means an Inspector appointed by the Executive-Director under section 21;

“letter” means any communication in writing directed to a specified person or address and includes postcards;

“licence” means a licence issued by the Agency for the provision of postal services under section 24;

“licensee” means a person to whom a licence has been granted under this Act;

“Minister” means the Minister responsible for communication;

“postal service” means any service, including private courier service, for the collection, dispatch or conveyance of letters and other postal articles licensed under this Act.

PART II–ESTABLISHMENT OF POSTAL SERVICES REGULATORY AGENCY

Establishment of Postal Services Regulatory Agency.

2. (1) There is hereby established a body to be known as the Postal Services Regulatory Agency.

(2) The Agency shall be a body corporate having perpetual 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. (1) The Agency shall have a common seal, the use of which shall be authenticated by the signatures of – Common seal.

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

(b) the Executive-Director or some other person authorised by the Board for that purpose.

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

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

PART III–FUNCTIONS AND POWERS OF AGENCY

4. (1) The object for which the Agency is established is to exercise licensing and regulatory functions in respect of postal services throughout Sierra Leone. Functions of Agency.

(2) Notwithstanding the generality of subsection (1), it shall be the function of the Agency to–

(a) promote the efficiency and international competitiveness of the postal services throughout Sierra Leone;

- (b) ensure that postal services are reasonably accessible to all persons throughout Sierra Leone;
- (c) promote the development of postal services in accordance with recognised international standard practice;
- (d) promote and maintain fair competition among persons engaged in the operation or provision of postal services in Sierra Leone;
- (e) promote the effective participation of all sectors of the Sierra Leone postal services industry in markets within Sierra Leone and elsewhere;
- (f) regulate prices, tariffs and charges in respect of postal services and other related services;
- (g) act internationally as the national body representative of Sierra Leone in postal matters;
- (h) further the advancement of technology relating to postal services and systems; and
- (i) advise the Minister on national needs and policies in respect of postal agencies and on matters relating to postal services generally.

(3) In discharging the functions and duties imposed on it by subsection (1), the Agency shall have regard to—

- (a) efficiency and economy;
- (b) the social and commercial needs of Sierra Leone for postal services;

- (c) the state of, and trends in the development of postal services and systems and the evolution of standards and protocols used in the postal industry, both in Sierra Leone and elsewhere;
- (d) fostering the development of postal services in collaboration with international postal administrations and organisations;
- (e) enabling persons providing postal services in Sierra Leone to compete fairly in the provision of such services outside Sierra Leone;
- (f) the provision of postal services at rates consistent with efficient service delivery;
- (g) the promotion of research and development in the field of postal services; and
- (h) collaboration with educational institutions for the promotion of technical education in the field of postal services.

5. Subject to this Act, the Agency may carry on such activities as appear to it to be advantageous, necessary or expedient for the discharge of its functions under this Act. Powers of Agency.

PART IV—FUNDS OF AGENCY

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

- (a) any moneys appropriated, from time to time, by Parliament for the purposes of the Agency;
- (b) all other moneys which may, from time to time, accrue to the Agency in the course of its activities.

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

Accounts and
audit of
Agency.

7. (1) The Agency shall keep proper books of account and other 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—

- (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 two 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.

8. The financial year of the Agency shall be the same as the ^{Financial year} financial year of the Government. _{of Agency.}

9. (1) The Agency shall, within three months after the end ^{Annual} of the financial year, submit to the Minister a report on the performance _{report.} 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 7 and the report of the audit thereon.

(3) The Minister shall lay copies of the annual report before Parliament within two 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 – BOARD OF AGENCY

10. (1) The governing body of the Agency shall be a Board ^{Board of} in which shall be vested, subject to this Act, the control and _{Agency.} supervision of the Agency.

(2) The Board shall consist of a Chairman and the following other members—

- (a) four persons, at least two of whom shall be women, knowledgeable in matters relevant to the Agency's functions.
- (b) The Executive-Director who shall be Secretary to the Board.

(3) The Chairman and other members of the Board, except the Executive-Director, shall be appointed by the President on the recommendation of the Minister and subject to the approval of Parliament.

Tenure of members.

11. (1) The Chairman and other members of the Board, excluding the Executive-Director, shall hold office for a term of three years and shall be eligible for re-appointment.

(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 Minister.

Meetings of Board.

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

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

(3) A minimum of three 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 four.

(6) 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.

(7) 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.

(8) The Board shall cause minutes of all its meetings to be taken and signed by the Chairman and kept in proper form.

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

13. (1) No person with a personal interest in activities or practices regulated by the Agency shall be a member of the Board. Disclosure of interest.

(2) A person appointed to be member of the Board shall disclose in writing his personal interests or otherwise in activities or practices regulated by the Agency.

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

14. (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 of Board, etc.

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

Committees of Board.

15. (1) The Board may, for the discharge of its functions, appoint one or more technical advisory 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) Without prejudice to the generality of subsection (1), the Board shall appoint an audit committee consisting of such members of the Board, excluding the Executive-Director, and performing such functions as the Board may determine.

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

Functions of Board.

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

(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 Agency and enhance the overall performance of the Agency.

Remuneration of members.

17. The Chairman and the other members of the Board and any person co-opted by the Board shall be paid such remuneration, fees and allowances as the Minister may determine and shall be reimbursed by the Agency for expenses incurred in connection with the discharge of their functions.

Filling of vacancies.

18. (1) Where the Chairman dies, or resigns, or is removed from office or is out of 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 three 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 a member, the Chairman shall arrange, subject to this Act, to have another person appointed to the Board.

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

PART VI – STAFF OF THE AGENCY

19. (1) There shall be an Executive-Director of the Agency who shall be appointed by the Board upon such terms and conditions as the Board may determine. Executive-Director.

(2) The Executive-Director appointed under subsection (1), shall be a person of proven integrity and with vast knowledge and experience in the postal industry.

20. (1) The Executive-Director shall be responsible to the Board for the performance of the following functions- Functions of Executive-Director.

- (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 interested parties, 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; and

(f) to serve as Secretary to the Board.

(2) The Board may delegate to the Executive-Director, for the effective administration of the Agency—

- (a) the power to establish the necessary Directorates for the operations of the Agency, headed by a Director, performing specified functions assigned by the Executive-Director;
- (b) the power to appoint such grade or categories of staff as the Agency may require;
- (c) the power to enter into agreements with independent bodies or agencies for the purpose of carrying out the functions of the Agency for and on behalf of the Agency.

Other staff of Agency.

21. (1) The Agency shall have, in addition to the Executive-Director, other staff including a Finance Officer, Administrative Officer, Inspectors and such other additional technical and administrative staff, as may be required for the efficient performance of the functions of the Agency.

(2) The Finance Officer and the other staff of the Agency shall be appointed by the Executive-Director, subject to such terms and conditions as the Board shall determine.

Secondment of public officers.

22. Public officers may, at the instance of the Agency, be seconded or otherwise render assistance to the Agency but the Agency may request the withdrawal of any such seconded staff who is unable to carry out assigned functions in a manner satisfactory to the Agency.

Protection of staff.

23. No officer or employee of the Agency or any person acting on the directions of an officer or employee of the Agency shall be liable in respect of any matter or thing done by him in good faith under this Act.

PART VII—LICENSING AND RELATED PROVISIONS

24. Subject to this Act, a person shall not establish or operate a postal service in Sierra Leone except under a licence issued by the Agency under this Act. Licence to provide services.

25. A licence to operate a postal service may be granted only to— Qualification for licence.

- (a) a citizen of Sierra Leone; or
- (b) a body corporate registered under the Companies Act, 2009 (Act No 5 of 2009)

26. (1) An application for a licence under section 24 shall be made to the Executive-Director and shall be in such form and supported by such documents and on such conditions including fees and charges as the Board shall determine. Application for licence.

(2) The Executive-Director shall—

- (a) upon receipt of an application under section 24, acknowledge the receipt of the application in writing, within five working days from the date of receipt of the application and
- (b) within sixty days after acknowledgement of receipt of an application under subsection (1), inform the applicant of his decision in writing.

(3) The Executive-Director shall, in considering an application under section 24, require an applicant to show proof of ability to provide the services to which the application relates.

27. (1) The Executive-Director shall, subject to section 26, issue a licence to an applicant to provide a postal service under this Act. Grant of licence.

(2) Without limiting the scope of subsection (1), a licence shall state—

- (a) the type of services to be provided;
- (b) the period of validity of the licence; and

(c) the fees paid to the Agency for the issuance of the licence.

Licence not transferable. **28.** A licence issued under this Act is not transferable except with the prior written approval of the Executive-Director.

Renewal of licence. **29.** (1) A licence may be renewed upon an application made to the Executive-Director for renewal of the licence, not later than three months before the expiry of the licence.

(2) The procedure for renewal of a licence shall be the same as that applicable to the issuance of the original licence

(3) A licensee who fails to renew a licence or where an application for renewal is rejected by the Executive-Director, shall cease to provide postal services not later than ninety days after the expiration of the licence.

Suspension or cancellation of licence. **30.** (1) Where the Executive-Director is satisfied that a licensee has not complied with the conditions of his licence, he may suspend or cancel the licence.

(2) A suspension or cancellation of a licence under subsection (1), shall not be made unless—

(a) the Executive-Director gives the licensee a written notice specifying in the notice the cause of dissatisfaction and giving directions for rectification of the breach and the action proposed to be taken in the event of non-compliance with the notice;

(b) the licensee is given an opportunity to be heard and to comply with the directives of the Executive-Director if any, within a reasonable period.

31. (1) A person aggrieved by— Appeal to Board.

(a) a rejection or refusal of the Executive-Director to grant or renew a licence: or

(b) suspension or cancellation of a licence,

shall make a complaint in writing to the Board, in which event the Board shall, within thirty days of receipt of the complaint, make a decision on it.

(2) A person dissatisfied with the decision of the Board or with the failure of the Board to make a decision within thirty days as required under subsection (1), may appeal to the High Court.

PART VIII—MISCELLANEOUS PROVISIONS

32. (1) The Agency shall establish and keep a register in such form as it may determine and shall record in it— Establishment of register.

(a) licences issued under this Act;

(b) suspensions and cancellation of licences; and

(c) other information relating to licences that the Agency considers appropriate.

(2) Any person may, on payment of the prescribed fee, require the Agency to supply to that person an extract from any part of the register.

33. An Inspector appointed under section 21, to carry out such specified tasks as may be required by the Agency for the efficient performance of its functions, may at reasonable times— Power of entry of Inspectors.

- (a) enter and inspect premises, which the Inspector knows or reasonably suspects to be used for a purpose to which this Act applies, to ensure that the provisions of the Act are complied with; or
- (b) enter premises to perform any other function assigned to the Inspector by the Agency or under this Act.

Offences and
Penalty.

34. (1) Any person who contravenes any of the provisions of this Act commits an offence and shall be liable on conviction to a minimum fine of ten million Leones or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(2) Where an offence under this Act is committed by a body corporate, that offence shall be deemed to have been committed by every director, corporate secretary or manager of the body corporate unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and the circumstances of the case.

(3) Where an offence under this Act is committed by a partnership or firm, every person who at the time of the commission of the offence was a partner in that firm or was purporting to act in that office shall be deemed to have committed the offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence he ought to have exercised having regard to the nature of his functions and the circumstances of the case.

35. Without prejudice to the other provisions of this Act, the Minister may on the advice of the Agency, by statutory instrument, make regulations for the implementation of this Act.

Passed in Parliament this *12th* day of *June*, in the year of our Lord two thousand and twelve.

IBRAHIM S. SESAY,
Clerk of Parliament.

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

IBRAHIM S. SESAY,
Clerk of Parliament.