

ACT

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ARRANGEMENT OF SECTIONS

THE BANK OF SIERRALEONE ACT, 2019

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SIGNED this 17th day of June, 2019.

DR. JULIUS MAADA BIO,
President.



No. 5



2019

Sierra Leone

The Bank of Sierra Leone Act, 2019

Being an Act to continue in existence the Bank of Sierra Leone to act as banker, adviser and fiscal agent and to support the general economic policy of the Government of Sierra Leone, to provide for the maintenance of price stability and stable financial system, to provide for the formulation and implementation of monetary policy, financial regulations and prudent standards and to provide for other related matters. Short title.

[] 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–

"agent means any legal entity to whom the bank has issued a written authorisation to carry out specific functions on behalf of the bank;

"Bank" means the Bank of Sierra Leone;

"Board" means the Board of Directors of the Bank referred to by section 7;

"Deputy Governor" means the Deputy Governor of the Bank;

"financial institution" means an institution licensed and subject to regulation and supervision by the Bank under this Act or any other enactment;

"Government" means the Government of Sierra Leone;

"Governor" means the Governor of the Bank;

"Minister "means the Minister responsible for finance;

"monetary liabilities" means currency in circulation and financial claims against the Bank except the Bank's liabilities to the Government and international financial organizations.

Application.

2. (1) This Act shall apply to the operations of the offices, agents and financial institutions of the Bank Sierra Leone.

(2) Where there is a conflict or inconsistency between this Act and any other Act relating to banking, this Act shall prevail.

PART II- CONTINUATION, OBJECTIVE AND FUNCTIONS OF THE BANK

Continuation of Bank of Sierra Leone.

3. (1) There shall continue in existence a body known as the Bank of Sierra Leone.

(2) The Bank shall be a body corporate having perpetual succession and capable of acquiring, holding and disposing of property, whether movable or immovable, of entering into contracts 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.

4. (1) The Bank shall be autonomous and accountable in the performance of its functions under this Act. Autonomy of Bank.

(2) In the exercise of their functions under this Act, members of the Board and staff members shall not take instructions from any person or body.

5. (1) The objective of the Bank shall be to- Objective and functions.

- (a) issue and manage the currency of Sierra Leone.
- (b) achieve and maintain price stability.
- (c) contribute to fostering and maintaining a stable financial system; and
- (d) support the general economic policy of the Government.

(2) In the exercise of its functions under this Act, the Bank shall -

- (a) formulate and implement monetary policy financial regulations and prudent standards;
- (b) act as banker , adviser and fiscal agent of the Government;
- (c) formulate and implement the foreign exchange policy of Sierra Leone;
- (d) conduct foreign exchange operations;
- (e) own, hold and maintain the official international reserves including the gold reserves;
- (f) establish , promote, license and oversee sound and efficient payment and securities settlement systems and clearing systems;
- (g) license, register, regulate and supervise financial institutions as specified in this Act or any other law;
- (h) adopt and implement macro-prudential policy measures by regulations or guidelines;

- (i) resolve financial institutions in accordance with the Banking Act, 2019;
- (j) act as a depository for funds from international organisations;
- (k) collect and produce statistics;
- (l) cooperate with and participate in international fora; and
- (m) carry out any ancillary activities incidental to the exercise of its functions.

Place of business.

6. (1) The Bank shall have its principal place of business in Freetown.

(2) The Bank may in accordance with the decision of the Board-

- (a) establish branches within Sierra Leone;
- (b) appoint agents in Sierra Leone and agents and correspondents outside Sierra Leone;
- (c) establish offices outside Sierra Leone.

PART III- ADMINISTRATION

Continuation of Board.

7. (1) There shall continue in existence a Board of Directors which shall consist of the following members-

- (a) the Governor who shall be Chairman;
- (b) the first Deputy Governor and a second Deputy Governor; and
- (c) 6 non-executive directors,

all of whom shall be appointed by the President subject to the approval of Parliament.

(2) The Governor and Deputy Governors shall each be appointed for a term of 5 years and shall be eligible for reappointment for another term of 5 years only.

(3) The 6 non-executive members shall hold office for a term of 3 years and shall be eligible for reappointment for another term of 3 years only.

(4) Members of the Board shall be persons -

- (a) of proven integrity; and
- (b) having qualification and considerable experience in economics, finance, banking, accounting or law.

(5) Where the office of the Governor, a Deputy Governor or a non-executive director is vacant, the President shall appoint another qualified person to complete the term of the outgoing Governor, Deputy Governor or non-executive director.

8. A person shall not be eligible to be appointed as Governor Deputy Governor or non-executive director while that person is -

Ineligibility to serve on Board.

- (a) a Member of Parliament;
- (b) an officer or employee of a financial institution operating in Sierra Leone or any other institution whose activities are regulated by the Bank;
- (c) a functioning member of a political party;
- (d) a public officer.

9. (1) The Governor, a Deputy Governor or a non-executive director shall be removed from office if -

Removal from office.

- (a) he is unable to perform the functions of his office by reason of infirmity of mind or body;
- (b) he is bankrupt, suspends payment or compounds with his creditors;
- (c) he is convicted of an offence which carries a sentence of imprisonment with or without the option of a fine;

- (d) he is suspended or disqualified from practising his profession by the competent body of the profession;
- (e) he is absent for 3 consecutive meetings of the Board without reasonable excuse;
- (f) there is proven misconduct on his part;
- (g) he resigns from office by written notice to the President;
- (h) there is proven gross breach of duty on the part of the person.

(2) Subject to this Act, the Governor or the Deputy Governors may be removed from office by the President before the expiration of their term of office on a resolution passed by Parliament supported by two thirds majority of all members of Parliament recommending their removal.

(3) The President, acting on a report by the Board that a temporary absence or incapacity of a director other than the Governor or Deputy Governor has occurred, may appoint a substitute to serve until the Board determines that that state has ceased to exist for now.

(4) Section 8 relating to ineligibility to serve on the Board and this section, relating to the removal from office shall apply to the members of the Monetary Policy Committee established under paragraph (b) of subsection (2) of section 14.

Functions
of Board.

10. (1) Subject to this Act, the Board shall have control and supervision of the Bank and shall provide policy guidance and advice that will secure the efficient implementation of the objects of the Bank and enhance the overall performance of the Bank.

(2) Without prejudice to the generality of subsection (1), the Board shall perform the following functions

- (a) determine the strategic organisation of the Bank, including the establishment and location of branches, representative offices and operations facilities;

- (b) determine the general policies and adopt internal rules applicable to the administration and operations of the Bank;
- (c) supervise the implementation of the policies and the exercise of the functions of the Bank;
- (d) approve the annual budget of the Bank;
- (e) approve the accounting policies and procedures of the Bank in line with International Financial Reporting Standards;
- (f) oversee the financial reporting, risk management, compliance, information technology, security and internal control systems of the Bank;
- (g) approve the audited accounts, annual reports and other formal reports and financial statements of the Bank;
- (h) determine denominations and design of banknotes, coins and their issuance and handling;
- (i) appoint committees consisting of members of the Board or members of the Bank's staff and assign their responsibilities;
- (j) approve the internal audit report prepared by the Audit and Risk Committees and monitor implementation of the internal auditor's recommendations;
- (k) assess risks and formulate contingency plans for the ongoing operations and security of the Bank;
- (l) adopt the rules of procedure for meetings of the Board;
- (m) exercise all powers that are not specifically reserved for the Governor; and
- (n) perform other functions prescribed by this Act.

Powers and functions of Governor .

11. (1) The Governor shall be the chief executive officer of the Bank and shall be responsible for the implementation of the policies of the Bank.

(2) The Governor shall be responsible to the Board for the execution of its decisions and for the direction and control of the administration and operations of the Bank.

(3) The Governor shall have powers to take all actions required or deemed advisable for the administration or operations of the Bank, including the procurement of goods and services, entering into contractual commitments on behalf of the Bank, appointing the staff and agents of the Bank, and generally representing the Bank.

(4) The Governor may, within the rules prescribed by the Board, delegate any of his executive powers or functions to other executive members of the Board and his non-executive powers to any member of the Board, but shall remain accountable for the proper execution of the functions.

(5) The Governor shall report, not less than 6 times each year, to the Board on-

- (a) the conduct of the policies and operations of the Bank;
 - (b) the soundness of the financial system including the state of the money, capital and foreign exchange markets;
 - (c) all events and conditions that have or are expected to have a significant effect on the administration or operations of the Bank or on the financial system.
- (6) The Governor shall approve the issuance of-
- (a) licences for clearing, payment and securities settlement systems;
 - (b) licences and permits for financial institutions, and to revoke licences and permits of these institutions.

(7) The Governor shall have powers to take enforcement measures and take remedial actions including -

- (a) issuing cease and desist powers;
- (b) instructing any supervised bank or other financial institution;
- (c) oversee clearing, payment and security settlement system;
- (d) appointing a receiver for entities; or
- (e) imposing such administrative penalties provided by this Act, or any other Act.

12. (1) The First Deputy Governor shall be charged with the responsibility of monetary stability and the Second Deputy Governor shall be charged with the responsibility of financial stability.

Powers and functions of Deputy Governors.

(2) The First Deputy Governor and the Second Deputy Governor shall assist the Governor in the performance of his duties under this Act and the Governor may, in writing, delegate to the First Deputy Governor or the Second Deputy Governor any of his functions under this Act, subject to such condition or limitation that he may specify and subject to the approval of the Board.

(3) Where the Governor is absent the First Deputy Governor shall act as Governor and where the Governor and First Deputy Governor are absent the Second Deputy Governor shall act as Governor.

(4) The First Deputy Governor and the Second Deputy Governor shall report directly to the Governor.

13. (1) The Governor shall preside at meetings of the Board.

Meetings of Board.

(2) Meetings of the Board shall be called by the Governor and shall take place as often as the business of the Bank may require, but not less frequently than 6 times per calendar year.

(3) Meetings of the Board shall be convened by the Governor and special meetings may also be convened at the written request of any 3 members of the Board.

(4) Meetings of the Board shall be communicated to all members of the Board, at least 7 working days before the date set for the meeting, stating the time, venue and agenda of the meeting.

(5) 5 members of the Board of whom one shall be the Governor shall form a quorum at a meeting and a majority of non-executive Board members shall be present at all times, except for crisis times, natural catastrophes or similar events.

(6) Each member of the Board shall have one vote and in the event of an equality of votes, the Chairman shall have a casting vote.

(7) The Board may invite other officers and employees of the Bank to attend its meetings and to assist the Board in its deliberations whenever it considers it necessary, but these persons shall not vote on any matter for decision by the Board.

(8) A member of the Board who has an interest in any matter that is a subject for the Board to consider shall disclose to the Board the nature of the interest and shall not participate in a discussion or decision of the Board on the matter.

(9) A member of the Board who contravenes subsection (8) shall be guilty of misconduct and shall be removed from the Board.

(10) Subject to this Act the Board shall regulate its meetings and procedures as it thinks fit.

Committees
of the Board.

14. (1) The Board may, for the discharge of its functions, establish committees consisting of members of the Board and non-members and to perform such as the Board may determine.

(2) Without prejudice to the generality of subsection (1) the Board shall establish a -

- (a) Management Committee which shall advise on any issue relating to policy implementation, the day-to-day management of the Bank and the Board's decisions making powers;
- (b) Monetary Policy Committee which shall advise on any issue relating to formulation

of monetary policy and monetary policy operations;

(c) Financial Policy Committee which shall advise on all policy issues relating to financial stability, micro and macroprudential supervision and resolution and financial market infrastructures; and

(d) Audit and Risk Committee which shall advise on any issue relating to -

(i) the oversight and integrity of the financial statement of the Bank;

(ii) the effectiveness of the internal controls of the Bank;

(iii) the performance of the internal audit function and the qualifications and independence of the external auditor;

(iv) the Bank's risk management function;

15. The Board shall establish such departments within the Bank as it thinks necessary for the performance of its functions. Departments.

16. (1) The Governor shall appoint staff, agents and correspondents of the Bank within the limits and in accordance with the general terms and conditions of employment approved by the Board. Staff of Bank.

(2) All appointments of staff, agents and correspondents of the Bank under subsection (1), shall be only to positions created by a decision of the Board and on such terms and conditions as shall be determined by the Board.

(3) A staff, agent or correspondents appointed under subsection (1), shall not occupy any other office of employment, whether remunerated or not, except as nominee of the Bank or for educational and civic endeavors provided that they do not conflict with the ability to serve the Bank.

Salaries fees.
etc.

17. No salaries, fees, wages, allowances or other remuneration paid by the Bank to staff, agents and correspondents shall be computed by reference to the net or other profit of the Bank.

confidentiality,
conflict of
interest and
fiduciary duty.

18. (1) A director, agent, member of committee or staff of the Bank shall not, except when necessary for the fulfillment of any function or duty under this Act -

- (a) permit access to;
- (b) disclose or publicise;
- (c) use or allow to be used for personal gain,

non-public information obtained in the performance of his duties.

(2) Notwithstanding subsection (1), a director, agent, member of committee or staff of the Bank may disclose information outside the Bank, in accordance with procedures established by the Bank, but only if it is-

- (a) with the express consent of the person about whom the information relates;
- (b) for the fulfillment of a duty to disclose as required by law, including to assist law enforcement or on the order of a court;
- (c) given to the external auditor of the Bank;
- (d) given to regulatory and supervisory authorities or to public international financial institutions, in the performance of their official duties; or
- (e) in the interest of the Bank itself in legal proceedings that require disclosure.

(3) The Board shall determine the classification and accessibility of documents held by or drawn up by the Bank.

(4) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not less than one hundred million Leones, or to a term of imprisonment not less than three years.

(5) Members of the Board and staff shall avoid any situation which is likely to give rise to a conflict of interest.

(6) A conflict of interest arises where members of the Board or staff have private or personal interests, which may influence or appear to influence the impartial and objective performance of their duties.

(7) For the purpose of sub section (6) private or personal interests of members of the Board or staff mean any potential advantage for themselves, their families, their other relatives up to the second degree or their friends or acquaintances.

(8) No member of the Board and staff shall receive or accept from any source any benefit, reward, remuneration or gifts in excess of a customary or negligible amount, whether financial or otherwise, which are connected in any way whatsoever with their activities within the bank.

(9) A breach of this section by a member of the Board and any staff shall notwithstanding the value given or received, constitute a serious breach and may at the discretion of the Governor constitute grounds for disciplinary measures including dismissal without compensation.

(10) Members of the Board and staff shall not use confidential information to which they have access, for the purpose of carrying out private financial transactions, whether directly or indirectly through third parties or whether conducted at their own risk and for their account, or at the risk and for the account of a third party.

(11) Each member of the Board shall before the last day of January of each year, disclose to the Minister in full, significant financial interest which that member or any person with whom the member has family, business, or financial connections may directly or indirectly possess and the disclosures shall comply with the internal rules adopted by the Board.

(12) Whenever a matter related to that interest is before the Board, the member concerned shall disclose his interest without undue delay and at the latest at the beginning of the discussion and shall not participate in the discussion and decision on the matter, but the members present shall be counted for the purpose of constituting a quorum.

(13) Members of the Board and staff have a fiduciary duty to the bank and to the Bank's customers to place the Bank and its customers' interests before their own pecuniary interest.

(14) The Board may make internal rules to implement the requirements of this section.

PART IV-FINANCIAL STATEMENTS, REPORTS AND AUDIT

Accounts of Bank.

19. The Bank shall maintain accounts and records in accordance with the International Financial Reporting Standards to reflect its operations and financial condition.

Financial year of Bank.

20. The financial year of the Bank shall begin on the first day of January and end on the last day of December of the same year.

Annual financial statements and reports.

21. (1) The Bank shall within 3 months from the end of each financial year submit to the Minister and to Parliament-

- (a) a copy of the annual financial statements approved by the Board, signed by the Chairman and certified by the external auditor;
- (b) a report approved by the Board on-
 - (i) its operations during that year, in particular in relation to its policy objectives and the events that affected the economy of Sierra Leone; and
 - (ii) the state of the economy during the previous financial year, including an outlook for the economy for the coming year, with emphasis on its policy objectives and the condition of the financial system of Sierra Leone,

(2) The report on the state of the economy under paragraph (b) of subsection (1) shall -

- (a) include -

(i) a review and assessment of the policies of the Bank of the last financial year;

(ii) a description and explanation of the policies for the next financial year;

(b) be published in the Gazette.

(3) The Bank shall -

(a) publish on its website -

(i) the financial statements and reports under subsection (1) of section 27;

(ii) not later than 21 days after the last working day of each month, a proforma balance sheet as of the end of that month;

(b) publish in the Gazette, the proforma balance sheet under subparagraph (ii) of paragraph (a).

22. (1) The Bank shall, when requested or on its own initiative, inform Parliament and the public of its monetary policy, the achievements of its objectives and its vision on the real variables of the economy not less than twice a year. Information on monetary policy .

(2) The Governor shall appear before Parliament at a minimum of 2 times per year to explain -

(a) the monetary policy decisions of the Bank; and

(b) where its monetary policy targets are missed, the assessment of the policy outlook of the Bank and any remedial actions to return to target.

(3) The Bank may publish on its website or by other means, reports and studies on monetary policy and other financial and economic matters as it thinks fit.

Chief
Internal
Auditor.

23. (1) The Board shall appoint a chief internal auditor who shall be a person with extensive professional experience in the field of accounting or auditing.

(2) The Chief Internal Auditor shall be appointed for a term of 5 years and may be renewed.

(3) The Chief Internal Auditor may resign from office on giving not less than 3 months' notice to the Governor.

(4) The Chief Internal Auditor may be removed from office by the Board subject to conditions regarding disqualification and removal of members of the Board.

Duties of
Chief
Internal
Auditor.

24. (1) The Chief Internal Auditor shall be responsible for -

- (a) performing periodic audits of the administration and operations of the Bank;
- (b) making recommendations to the Audit and Risk Committee and the Board on procedures and practices for proper risk management and supervising their implementation and reviewing the effectiveness of the procedures and practices on a continuing basis;
- (c) reviewing the financial statements and related documents of the Bank;
- (d) preparing and delivering to the Board, at least once every quarter, reports and recommendations regarding the financial statements and records, the budgetary and accounting procedures, the risk management and other controls implemented by the Bank, the efficiency and cost effectiveness with which the Bank operates, and any other matter within its competence and area of responsibilities, required by the Board or the Audit and Risk Committee.;
- (e) liaising with the external auditors of the Bank; and

(f) any other assignment that may be given by the Board or the Audit and Risk Committee.

25. (1) The accounts, records and financial statements of the Bank shall, at least annually, be audited in accordance with International Standards of Auditing by an independent external auditor appointed by the Auditor-General, who shall be of good repute and with recognised experience in the auditing of major international financial institutions.

(2) An external auditor appointed under subsection (1), shall not be appointed consecutively for a cumulative period exceeding 5 years, after which he is to be replaced.

(3) An external auditor shall report to the Audit and Risk Committee under paragraph (d) of subsection (2) of section 14, on key matters arising from the audit and in particular on material weaknesses in internal control in relation to the financial reporting process.

(4) An external auditors shall examine all books and accounts of the Bank and obtain all information about its transactions.

PART V - CURRENCY OF SIERRA LEONE

26. (1) The currency of Sierra Leone shall continue to be the Leone.

Currency
of Sierra
Leone.

(2) The Leone shall be the currency for all accounting, financial reporting and official purposes in Sierra Leone.

(3) The Leone shall be issued in banknotes and coins and prefixed by the sign "Le".

(4) Prices for all transactions in Sierra Leone shall be indicated in Leones.

(5) Except as otherwise provided in this Act any person or institution who contravenes any provision of this Act or Statutory Instruments made under this Act commits an offence and shall be liable on conviction to a fine of 100 million Leones or to imprisonment for a term not less than 3 years or to both the fine and imprisonment.

Authority to issue currency.

27. (1) The Bank shall have the sole right of issuing banknotes and coins in Sierra Leone and no other person or institution; Government or private shall issue banknotes or coins without the express authorisation of the Bank.

(2) The Bank shall arrange for the printing of banknotes, the minting of coins and for all other related matters including the security and safe keeping of un-issued banknotes or coins and the custody and destruction, as may be necessary, of unfit and retired banknotes or coins.

(3) Banknotes or coins issued by the Bank shall be in denominations, composition, form and design as shall be approved by the Board after consultation with the Minister.

(4) The Bank shall by statutory instrument determine the characteristics of banknotes and coins issued by the Bank, including security, and other features of the banknotes.

(5) The Bank shall be responsible for maintaining an appropriate supply of banknotes and coins.

(6) The aggregate amount of banknotes and coins in circulation issued by the Bank shall appear as a liability in the financial statements of the Bank.

Exchange of currency.

28. (1) The Bank shall exchange on demand and without charge currency issued under this Act of any denomination.

(2) In the event of a temporary unavailability of a requested denomination, the Bank may discharge this obligation by delivering notes and coins of available denominations which shall nearly approximate that requested.

Agencies of Bank.

29. The Bank may appoint one or more financial institutions or agents in Sierra Leone to act in an agency capacity for the issue, exchange and withdrawal of notes and coins on terms and conditions as may be agreed by the Bank and the financial institution or agent.

30. (1) Banknotes and coins issued by the Bank shall be legal tender in Sierra Leone at their face value for the payment of any amount. Legal tender.

(2) Notwithstanding subsection (1), the Bank may on giving not less than 3 months notice in the Gazette and in one newspaper of general circulation in Sierra Leone, call in any of its banknotes or coins, on payment of the face value of the banknotes or coins with respect to which a notice has been given, shall, on the date specified in the notice, cease to be legal tender.

(3) The Bank may, by notice published in the Gazette and in one newspaper of general circulation in Sierra Leone, specify a period during which banknotes or coins which have ceased to be legal tender may, nevertheless be exchanged by the Bank.

31. (1) The Bank shall withdraw from circulation any banknotes or coins issued by the Bank or the circulation of which it has otherwise authorised on payment of the face value by giving notice in the Gazette and in at least three newspapers of general circulation in Sierra Leone and in all the community radio stations in Sierra Leone. Withdrawal of banknotes and coins.

(2) Banknotes or coins withdrawn under subsection (1) shall, in accordance with the terms of the notice, cease to be legal tender but the holders of the banknotes or coins shall be entitled, at any time within the period designated in the notice, to claim payment from the Bank in accordance with regulations as the Bank may prescribe.

(3) The Bank may decline to exchange banknotes or coins if their designs are illegible, misshaped or perforated and the banknotes or coins shall be withdrawn and destroyed without indemnity to the owner.

32. (1) No person shall tamper with a coins issued by the Bank under this Act. Tampering with coins.

(2) A coin shall be deemed to have been tampered with if the coin has been impaired, diminished or lightened otherwise than by fair wear and tear or has been defaced by stamping, engraving or piercing, whether the coin has or has not been thereby diminished or lightened.

Recovery of damaged banknotes or coins.

33. No person shall, as of right, be entitled to recover from the Bank the value of a lost, stolen, mutilated or imperfect banknote or coin except under any law or at the discretion of the Bank.

Counterfeit banknotes or coins.

34. (1) A person who -

- (a) falsely makes, forges, counterfeits or alters a banknote or coin that is legal tender, whether in Sierra Leone or abroad, or any cheque, security or payment card, whether denominated in Leones or in another currency;
- (b) possesses, transports or issues any banknote, coin, cheque, security or payment card with the knowledge that it was falsely made, forged, counterfeited or altered; or
- (c) manufactures, possesses or transports any plate, stone, paper, die or other object or substance knowing that it was destined to be used in falsely making, forging, counterfeiting or altering a bank note, coin, cheque, security or payment card,

commits an offence and is liable on conviction to a fine not less than 500 million Leones or to a term of imprisonment not less than 10 years.

(2) Banknotes and coins presented to financial institutions denominated in legal tender, whether in Sierra Leone or abroad, which are suspected to be forgeries or counterfeits, whether at licensed banks, financial institutions or other entities authorised to carry out exchange operations, shall be withheld and forthwith sent to such authorities responsible to verify the authenticity.

(3) The Bank shall seize all banknotes or coins presented to it which are suspected to be counterfeited, forged or changed in value, and shall draw up a writ with the identification of the banknotes or coins, their bearer, and the Bank's grounds for suspicion.

35. (1) A reproduction of banknotes, coins, cheques, securities or payment cards, whether legal tender in Sierra Leone or abroad and the creation of an object that by design initiate any banknotes, coins, cheques, securities or payment cards, shall not be made unless authorised by the Bank in writing.

Reproduction of banknotes, coins, etc.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not less than 100 million Leones or to a term of imprisonment not less than 5 years.

(3) The Bank may authorise the publication of photographs of banknotes and coins.

36. (1) The Bank shall assist in the enforcement of any enactment relating to the counterfeiting of the currency issued under this Act or any foreign currency.

Enforcement relating to counterfeiting.

(2) A certificate of a duly authorised officer of the Bank that a document or token in question is or is not a genuine note or coin shall be prima facie evidence of the fact in any judicial proceeding in Sierra Leone.

PART VI-CAPITAL, PROFITS, LOSSES AND RESERVES

37. The authorised share capital of the Bank shall be 250 Billion Leones which may be altered by the Board after consultation with the

Authorised Minister.

38. (1) The minimum paid-up capital of the Bank shall be 125 Billion Leones and may be altered by the Board after consultation with the Minister.

Paid-up capital

(2) The paid-up capital shall be subscribed and held exclusively by the Government of Sierra Leone.

(3) There shall be paid up by the Government the amounts that may from time to time be resolved by the Board and approved by the Minister.

(4) The Minister may by warrant authorise the payment from the Consolidated Fund of any sum required for subscribing to the paid-up capital of the Bank.

Reserve
accounts.

39. (1) The Bank shall establish and maintain a general reserve Account which shall not be used except to cover losses .

(2) The Bank shall establish unrealised revaluation accounts to account for unrealised gains and losses owing to its positions with foreign currencies, gold , financial instruments, and other assets.

(3) The Bank may establish special reserve accounts determined by the Board for specific anticipated expenditures.

Profits, losses
and distri-
butable
earnings.

40. (1) The net profits or losses of the Bank for each financial years hall be determined by the Bank in accordance with internationally recognised standards.

(2) The earnings allocated for distribution under section 41 shall be determined by deducting from -

- (a) the net profits, the total amount of unrealised revaluation gains and by allocating an equivalent amount to the respective unrealised revaluation reserve accounts; and
- (b) the unrealised revaluation reserve accounts and adding to the distributable earnings as determined in paragraph (a) the amount of any unrealised profit that was deducted from the net profits for one or more previous financial years and was realized during the current financial year.

Allocation of
distributable
earnings

41. (1) Within 30 days after publishing the financial statements under section 21 and after appropriate allocations have been made to the general reserve under paragraph (a) of subsection (2) of section 40, the Board shall allocate the distributable earnings as follows -

- (a) an amount equivalent to at least fifty percent of distributable earnings shall be credited to the general reserve account until the paid-up capital and general reserves equal ten percent of the total monetary liabilities of the Bank;
- (b) after achieving the level prescribed in paragraph (a) ,any remaining distributable earnings shall be transferred to the Government as revenue for the general budget of the Government.

(2) No distribution shall be made out of retained or current income of the Bank except as provided in subsection (1).

(3) Where in a financial year the Bank incurs a net loss, the loss shall first be charged to the general reserve account, and subsequently applied to the paid-up capital.

42. (1) Where in the audited annual financial statements of the Bank, the value of its assets falls below the sum of its liabilities, its unimpaired authorised capital and general reserves, then- Coverage of
shortfall in
capital.

- (a) the Board, on the advice of the external auditors of the Bank, shall assess the situation and prepare a report on the causes and extent of the shortfall within a period of not more than 30 days;
- (b) if the Board approves the report, the Bank shall request the Minister for a capital contribution by the Government to remedy the deficit; and
- (c) upon receipt of the request the Minister shall, within a period of not more than 30 calendar days, transfer to the Bank the necessary amount in currency or in negotiable debt instruments with a specified maturity issued at market- related interest rates, as determined by the Board.

PART VII-PAYMENTS, SUPERVISION AND STATISTICS

Licensing and monitoring of payment and settlement systems.

43. (1) The Bank shall license, regulate and monitor payment and securities settlement systems and may for these purposes take remedial measures and impose sanctions.

(2) The Bank may by statutory instrument, make regulations prescribing conditions and requirements for -

- (a) payment and securities settlement systems and the operators of such systems; and
- (b) the issuance and quality of payment instruments.

(3) The staff of the Bank, and other qualified persons designated by the Bank, may visit the offices of payment and securities settlement systems, and their participants, to examine such accounts, books, documents and other records, to obtain such information and records from them, and to take such other action as the Bank shall deem necessary or advisable.

(4) Payment and securities settlement systems, and their operators and participants, shall furnish the Bank with such information and records as the Bank may require.

(5) The Bank may organize, own, participate in or operate payment, clearing or securities settlement systems.

Supervisory functions of Bank.

44. (1) The Bank shall be responsible for the regulation, licensing registration and supervision including the imposition of remedial measures and administrative sanctions of commercial banks and other financial institutions in accordance with this Act or other enactment.

(2) The remedial measure and administrative sanctions of commercial banks and other financial institutions may not be published in the Gazette.

Collection of statistics and information

45. (1) The Bank shall -

- (a) request from institutions or persons, information relating to money, banking, balance of payments and any other documents as the Board may determine;

(b) collect, compile, analyse, abstract and publish statistics and information relevant to the carrying out of its functions;

(c) collaborate with Government departments and agencies in the collection, compilation and publication of statistics and other relevant information; and

(d) coordinate with bilateral and multilateral agencies on the adoption of international data dissemination standards.

(2) Information received by the Bank under subsection (1) shall be subject to confidentiality.

(3) The Bank shall determine the statistical information so required and the form in which the information is to be provided to the Bank, the persons subject to reporting requirements, the applicable confidentiality regime and the administrative penalties that may be imposed on entities operating in breach of these statistical requirements or which fail to provide the required statistical information;

46. The Bank shall publish -

(a) statistics and information subject to the confidentiality requirement under subsection 18.

(b) documentation on the methodology applied to its compilation; and

(c) relevant statistical data and concepts that will allow making external verification of the statistics produced by the Bank.

Publication of Information.

PART VIII-FOREIGN EXCHANGE REGIME, EXCHANGE RATE
POLICY, INTERNATIONAL RESERVES AND EXCHANGE
CONTROL

Foreign
Exchange
regime.

47. (1) Without prejudice to the Bank's objective to achieve and maintain price stability, the foreign exchange regime of Sierra Leone shall be determined by the Minister after consultation with the Bank and shall be consistent with the obligations of any international treaty to which Sierra Leone is a party.

(2) The Minister may declare the external value for the Leone and any change of its value.

(3) Where the Minister does not declare the external value of the Leone or any other exchange system, the exchange rates for the Leone against other currencies shall be determined in the market.

Exchange
rate policy.

48. (1) The exchange rate policy of Sierra Leone shall be formulated and executed by the Bank.

(2) The Bank may issue guidelines for the purpose of regulating the purchase, sale, holding or transfer of foreign exchange.

(3) The Bank may, in order to avert a foreign exchange crisis, temporarily restrict the purchase, sale, holding or transfer of foreign exchange.

(4) Any restrictions under subsection (3) shall initially be for a period not exceeding 12 months and may, with the approval of the Board, be extended for another period not exceeding 12 months.

(5) Whenever the Bank imposes a restriction, it shall submit a report to the Minister within 7 days and every 3 months thereafter, containing the causes which have led to the imposition of the restrictions and the actions the Bank intends to take to remedy the situation.

(6) Any restriction imposed under this section shall be consistent with the obligations of any international treaty to which Sierra Leone is a party.

49. Without prejudice to section 57 the Bank shall -

- (a) make rules regulating foreign exchange market operations;
- (b) set limits on open foreign exchange positions of financial operations;
- (c) buy, sell or deal in gold coins or bullion or other precious metals;
- (d) buy, sell or deal in foreign exchange, using for these purposes, quality financial instruments commonly used by bankers;
- (e) contract, purchase and market financial instruments, debt obligations rated in one of the two highest rating categories recognised by reputable international credit rating agencies, and other securities issued or guaranteed by foreign central banks, governments or international financial institutions;
- (f) open and maintain foreign exchange accounts abroad;
- (g) open and maintain accounts and appoint agents or correspondents to or at foreign central banks, foreign financial institutions and international financial institutions.

Foreign
market
operations
Exchange.

50. The Bank may either on its account or by order of the Minister enter into clearing and payments agreement or any other contracts for the same purpose with public and private central clearing institutions domiciled abroad.

Clearing and
payment
agreements.

51. (1) The Bank shall own, maintain and manage the international reserves which shall consist of all or any of the following assets-

International
reserves.

- (a) foreign exchange in the form of banknotes and coins or bank balances held abroad in convertible foreign currencies;
- (b) gold;
- (c) any other internationally recognised reserve asset in convertible foreign currencies, including-
 - (i) the entitlement to make reserve tranche purchases from the International Monetary Fund or other international financial institution;
 - (ii) the holding by Sierra Leone of Special Drawing Rights of the International Monetary Fund;
- (d) bills of exchange and promissory notes, payable in convertible foreign currencies; and
- (e) debt securities issued or guaranteed by, and forward purchase or repurchase agreements concluded with or guaranteed by, foreign States or Central Banks or international financial institutions denominated and providing for payment in convertible foreign currencies.

(2) The Bank shall use its best endeavours to maintain the international reserves in a secure and liquid manner at a level which, in the opinion of the Bank, shall be adequate for the execution of its monetary and exchange rate policies and for the prompt settlement of the international transactions of Sierra Leone.

(3) Where the international reserves have declined or, in the opinion of the Bank, are in danger of declining to such an extent as to jeopardise the execution of the monetary or exchange rate policies or the prompt settlement of the international transactions of Sierra Leone, the Bank shall submit to Parliament a report on the international reserves position and the causes which have led or may lead to such a decline, together with recommendations that it considers necessary to remedy the situation.

(4) Until such time as, in the opinion of the Bank, the situation has been rectified, the Bank shall make such further reports and recommendations public as it thinks necessary or desirable.

PART IX -MONETARY AND OTHER OPERATIONS

52. (1) In promoting price stability the Bank shall pursue a monetary policy which serves the interest of Sierra Leone in accordance with the objective of the Bank. Monetary Policy.

(2) The monetary policy of Sierra Leone shall be formulated and implemented autonomously by the Bank.

53. (1) In order to conduct its operation and financial activities the Bank may open and maintain cash deposit accounts on its books for - Opening of accounts.

- (a) banks and other financial institutions made subject to the supervision of the Bank by this Act or any other enactment and public entities;
- (b) foreign banks, central banks, international financial institutions and, where appropriate, foreign government organisations and donor organisations.

(2) The Bank shall not open accounts on its books for individuals or enterprises except for its own staff and shall determine the conditions for opening accounts on its books.

(3) The Bank may open and maintain cash and security accounts on the books of-

- (a) banks and other financial institutions made subject to the supervision of the Bank by this Act or any other enactment;
- (b) central banks, foreign banks, depositories and international organisations.

(4) The Bank may open accounts for, accept deposits from and make credit available only to the Government, funds and institutions controlled by the Government, statutory bodies and licensed financial institutions in Sierra Leone approved by the Board and act as banker to those funds, licensed financial institutions and the other institutions.

Custodial
Facilities.

54. (1) The Bank may provide custodial facilities to financial institutions and the public at large for banknotes, coins and currencies upon payment of reasonable fees to cover its costs.

(2) The Bank shall determine the conditions for providing custodial facilities.

Open market
and credit
operations.

55. (1) In order to achieve the objective of the Bank and to carry out its functions the Bank may-

- (a) operate in the financial markets by buying and selling outright (spot or forward) or under repurchase agreement and by lending or borrowing claims and marketable instruments, as well as precious metals; and

- (b) conduct credit operations with banks operating in Sierra Leone, with lending based on adequate collateral.

(2) Where the Bank engages in open market operations under subsection (1) the Board shall determine the specification of the instruments and operations used for open market and credit operations, including the announcement of conditions under which the Bank stands ready to enter the transactions.

(3) The Board shall determine, by regulation, the type of instruments and collateral to be used for open market and credit operations and it shall announce under which conditions the Bank is ready to enter into such transactions.

56. (1) The Bank may require financial institutions to hold minimum reserves in Leones or in foreign currencies, on account with the Bank in pursuance of its objective of determining monetary policy.

(2) The reserves required to be held in the Bank by financial institutions under subsection (1) shall be the same for all banks for each category of liabilities.

(3) The Bank shall, by order, directive or guidelines establish the calculation and determination of the required minimum reserves, required to be held in the Bank by financial institutions under subsection (1).

(4) In cases of non-compliance with the requirements under subsection (3), the Bank may levy penalty interest or impose sanctions to comparable effect.

Other instruments of monetary control.

57. The Bank may determine the use of other operational methods of monetary control as it thinks fit.

Secured loans.

58. (1) The Bank may -

- (a) make adequately secured loans to, or have an ownership share or otherwise participate in, any organisation that is engaged in activities that are required or useful for the proper discharge of the functions and responsibilities of the Bank;
- (b) acquire, in the course of satisfaction of debts due to it, any interests or rights referred to in this Act but all the interests or rights so acquired shall be disposed of at the earliest suitable opportunity; and
- (c) establish staff retirement funds or similar arrangements for the benefit or protection of its staff.

(2) An activity referred to in this section shall be published by the Bank in the report referred to in paragraph (b) of subsection (1) of section 27.

Emergency liquidity assistance

59. (1) In exceptional circumstances, the Bank may on such terms and conditions as the Board may determine, grant financial assistance to a bank or deposit-taking institution licensed by the Bank or for a bank's benefit against penalty interest rates determined by the Bank and for periods not exceeding 91 calendar days that may be renewed following an explicit decision by the Bank for another period not exceeding 91 calendar days.

(2) The Bank shall provide such financial assistance taking into account information provided by its supervisory department on the basis of a program specifying the remedial measures that the bank concerned will be taking, provided, however, that no such commitment shall be made by the Bank unless -

- (a) the bank, in the opinion of the Bank, is solvent on a forward looking basis and can provide adequate collateral to support the loan, and the request for financial assistance is based on the need to improve liquidity; or
- (b) such assistance is necessary to preserve the stability of the financial system and the Minister has issued to the Bank a legally binding guarantee in writing securing the repayment of the loan.

(3) The renewal of credit operations granted under section 64 and this section the initial 91 calendar days shall require a Government guarantee in writing securing their repayment.

(4) The maximum renewal period shall be 91 calendar days upon which the credit operations shall be repaid.

(5) The Board shall determine the maximum value of the collateral deposited to secure credit operations granted or renewed under this section.

(6) Where, in the opinion of the Bank, the assisted bank did not implement the remedial measures, or that these measures did not achieve the results intended, the Bank shall take appropriate measures including administrative penalties.

(7) The Bank may apply more intrusive supervision and conditionality to assisted banks, as necessary, and following consultation between the relevant departments.

Prohibited operations.

60. (1) Except as otherwise specifically authorised by law the Bank shall not -

- (a) engage in commerce, purchase the shares of any corporation, including the shares of a financial institution, or otherwise have an ownership interest in a financial, commercial agricultural, industrial or other undertaking; or
- (b) acquire by purchase, lease, or otherwise any real rights in or to immovable property, except as it considers necessary or expedient for the provision of premises for the conduct of its administration and operations or similar requirements incidental to the performance of its functions.

PART X-RELATIONS WITH GOVERNMENT

Banker to Government.

61. (1) The Bank shall be the banker, fiscal agent and advisor to the Government on monetary and financial matters and shall be the depository of all Government funds.

(2) The Bank may, after consultation with the Minister, act in such capacities to Government institutions, agencies and local government bodies as the Minister may determine.

(3) The Minister may, on the advice of the Bank operate working balances and generally use the services of financial institutions as may be designated by the Bank from time to time.

(4) As banker to the Government the Bank shall -

- (a) receive, collect, pay and remit money, bullion and securities on behalf of the Government;
- (b) accept custody of all securities and other valuable objects belonging to the Government;

(5) As banker to the Government the Bank may-

- (a) pay interest on amounts deposited in any Government account in line with market conditions;
- (b) receive remuneration from the Government for services rendered by it under this section in line with market conditions.

(6) The Minister may request the Bank to render advice and to furnish information on matters relating to the objectives and functions of the Bank.

(7) It shall be the duty of the Bank to inform and advise the Minister concerning any matter, which in the opinion of the Bank is likely to affect the achievement of the objective of the Bank.

62. (1) The Bank shall serve as the depository and fiscal agent for the institution through which dealings is conducted with international financial institutions of which Sierra Leone is a member.

Depository and fiscal agent.

(2) The Governor or Deputy Governors or their designees shall represent the Bank in dealing with regional and international financial and monetary institutions.

(3) Without limiting the generality of section 61, the Bank may, on the terms and conditions it shall agree with the Minister, act as fiscal agent for the account of the Government and Government agencies, in the following matters:-

- (a) distribution of debt securities issued by them, or as registrar and transfer agent of the debt securities;
- (b) payment of principal and interest and other charges on such securities;
- (c) execution of payment transactions concerning their accounts at the Bank; and
- (d) such other matters as shall be consistent with the object for which the Bank is established.

Cooperation
with Govern-
ment.

63. (1) The Bank shall cooperate with the Government and any other public body in achieving its objectives.

(2) The Governor and Minister shall, as circumstances permit and at reasonable times, hold regular meetings on monetary and fiscal policies and other matters of common interest.

(3) The Bank shall submit periodic reports on the state of the economy to the Minister which may include recommendations for the attainment of the macro-economic objectives of the Government.

(4) The Bank shall within 3 months after the submission of the report under subsection (3), publish the report in the Gazette.

(5) The Bank may render advice to the Government on any matter which in its opinion is likely to affect the attainment of the object of the Bank.

(6) The Bank shall, at the request of the Government, provide the Government information with respect to the functions of the Bank, with the exception of specific information relating to supervised entities.

(7) The Bank shall, at the request of the Minister, provide data on the receipt by the Bank of funds from any source.

(8) The Minister shall, at the request of the Bank, provide the Bank information and documents for the purpose of carrying out the functions of the Bank.

64. (1) The Bank shall not, except provided in this section, grant any direct or indirect credit to an agency of Government or state owned entity with the exception of intra-days credits to secure the smooth functioning of the payment system.

Limit on
lending to
Government.

(2) An intra-day credit under subsection (1) shall be fully repaid before the end of the same day on which it is granted.

(3) Subsection (1) shall not apply to publicly-owned banks and other supervised publicly-owned entities, which shall be given the same treatment as privately-owned banks and other supervised privately-owned entities.

(4) The Bank may purchase Government securities strictly for monetary policy purposes but the purchases shall only be made in the secondary markets.

(5) The Bank may, if required to temporarily cover a deficit of the Government's current yearly budget make advances and loans to the Government on overdraft or in such other form as the Board may determine, and the total of the loans and advances shall, at no instance, exceed 5 percent of the Government's actual domestic revenue excluding privatisation receipts in the previous year's budget.

(6) Treasury bills and Government securities held by the Bank against repurchase agreements entered into with it by financial institutions shall be excluded from the total holdings of Government securities of the Bank where the repurchase is required to be effective within ninety-three days from the date of the agreement.

(7) An advance made under subsection (5) shall be repaid within 93 days from the end of the Government's financial year to which it relates; and where the advance remains unpaid after the due date, the Bank may not make further advances in any subsequent financial year unless the amounts due in respect of outstanding advance have been repaid.

(8) The Bank shall charge interest on advances granted under this section at prevailing market rates.

PART XI - MISCELLANEOUS

Bank to
issue orders.
etc.

65. (1) The Bank shall issue orders, directives or guidelines to bodies institutions or organisation under the regulatory authority of the Bank and the bodies , institutions or organisations shall comply with them.

(2) Orders, directives or guidelines issued by the Bank under subsection (1), shall be published in the Gazette and shall take effect on the day of publication.

(3) The Bank shall maintain records of any orders, directives or guidelines issued.

66. The Bank shall be exempted from -

Immunity
from
taxation.

(a) stamp duty under the Stamp Duty Act;

(b) customs duty on the importation of gold, silver coins, banknotes, and security papers;

(c) income tax from its profits;

(d) all other taxes, duties and levies from which Government and other public agencies are exempted by law.

67. (1) The Bank shall have a first ranking unconditional preferential right to satisfy each of its claims arising from the execution of its functions from any cash balances, securities and other assets that it holds for the account of a debtor concerned, whether as collateral to secure its claims or otherwise, at the time that the claim becomes due and payable.

Preferential
rights.

(2) The Bank may exercise its preferential right only by appropriating the cash balances by way of compensation and by selling securities and other assets without undue delay against a reasonable price and paying itself from the proceeds of the sale after deducting the costs associated with the sale.

(3) No court action shall be required, and no competing claim shall be permitted, to delay the exercise by the Bank of its preferential right in accordance with this section.

Judicial
review.

68. (1) No attachment or execution shall be issued against the Bank or its property, including gold, special drawing rights, currency, credits, deposits, securities and any proceeds before the issuance of a final judgment in any legal action before a court.

(2) The Bank may, in whole or in part, waive this protection, explicitly and in writing, except for its gold and the special drawing rights.

Prejudgment. **69.** In a court or arbitration proceeding against the Bank-

- (a) the court or arbitration body in determining its decision may examine whether the Bank acted unlawfully, or in an arbitrary or capricious manner in considering the facts and the relevant law;
- (b) a member of the Board, staff, or agent of the Bank, including a person previously holding such a position, shall not be liable for damages or acts or omissions in the course of their duties and responsibilities unless it is proven that the acts or omissions constitute intentional wrongful conduct or gross neglect;
- (c) the action in question shall continue without restriction during the period of an appeal and any further appeal or other judicial proceedings related to the appeal; and
- (d) the court or arbitration body shall be authorised, in appropriate cases, to award monetary damages to injured parties, but shall not enjoin, stay, suspend or set aside the actions of the Bank.

70. The Bank shall indemnify a member of the Board, staff or agent of the Bank against legal costs incurred in the defence of legal action brought against the staff or agent in connection with the discharge or purported discharge of official functions within the scope of his employment or engagement under this Act; but the indemnification shall not apply if the staff or agent has been convicted of an offence arising out of the activities that are covered by the legal action.

Indemnification
from legal
costs.

71. The Bank shall not be placed in liquidation except pursuant to an enactment passed in that behalf and in the manner that the enactment directs.

Liquidation.

72. (1) In performing its functions under this Act or any other enactment the Bank may require a person to furnish information and in such format as the Bank may specify.

Supply of
information.

(2) The Bank may request that the information provided under subsection (1) be verified by a suitably qualified third party approved by the Bank.

73. The Bank may participate in any arrangement, scheme, programme or initiative with any other Central Bank, monetary authority or international financial institution or authorities outside Sierra Leone to promote bilateral regional and international monetary, financial or economic co-operation.

International
cooperation.

PART XII-TRANSITIONAL PROVISIONS

74. Transfer of distributable earnings to the Government under paragraph (b) of subsection (1) of section 41 shall not be made until after all and accrued interest of Government securities (other than treasury bills purchased on the secondary market) outstanding at the date of adoption of this Act are fully amortized by the earnings which could otherwise have been distributed.

Outstanding
Government
securities.

75. (1) On the coming into operation of this Act, all members of the Board shall be deemed to have been appointed as members of the Board in accordance with this Act and shall continue to serve their remaining terms.

Appointment
of Members
of Board.

(2) At the end of the terms mentioned in subsection (1), any new appointment to the Board shall be made in accordance with this Act, except that the initial terms of office shall be for -

- (a) the Governor, a period of 5 years;
- (b) the Deputy Governors, a period of 5 years;
- (c) the other members of the Board, a period of 3 years respectively, staggered in the manner they were appointed.

Officials and staff of Bank. **76.** A person holding or deriving office by appointment under the other repealed Act shall be deemed to have been appointed or derived office under this Act

Repeal of Act No. 15 of 2011 **77.** (1) The Bank of Sierra Leone Act, 2011 (Act No. 15 of 2011) is hereby repealed.

(2) Notwithstanding the repeal of the Bank of Sierra Leone Act, 2011 rules, regulations , notices or other statutory instruments issued under the repealed Act shall continue to be in force until expressly revoked or cancelled.

Passed in Parliament this *31st day of May* , in the year of our Lord two thousand and nineteen.

PARAN UMAR TARAWALLY
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.

PARAN UMAR TARAWALLY
Clerk of Parliament.