

ACT

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THE NATIONAL REVENUE AUTHORITY ACT, 2002

ARRANGEMENT OF SECTIONS

Section

No.

PART I—PRELIMINARY

1. Commencement.
2. Interpretation.

PART II—ESTABLISHMENT OF NATIONAL REVENUE AUTHORITY

3. Establishment of National Revenue Authority.
4. Common seal.
5. Board of Directors.
6. Tenure of members of Board, etc.
7. Meetings of Board.
8. Disclosure of interest.
9. Immunity of members of Board, etc.
10. Committees of Board.
11. Standing orders.

PART III—FUNCTIONS OF AUTHORITY

12. Functions of Authority.
13. Repeal of section 3 of Act No. 5 of 1995.
14. Authority to review revenue laws
15. Power to delegate.
16. Independence of Authority.
17. Amendment of section 22 of Act No. 6 of 1982.
18. Organisation of Authority.

Section

No.

PART IV — EMPLOYEES OF AUTHORITY

19. Appointment of Commissioner-General.
20. Deputy Commissioner-General.
21. Secretary to Board.
22. Appointment of Commissioners and other officers.
23. Amendment of Act No. 8 of 2000.

PART V — FINANCIAL PROVISIONS

24. Funds of Authority.
25. Application of funds.
26. Investment of funds.
27. Revenue to be paid into Consolidated Fund.
28. Estimates of income and expenditure of Authority.
29. Borrowing powers of Authority.
30. Government to guarantee loans to Authority.
31. Accounts and audit of Authority.
32. Financial year of Authority.
33. Annual report.

PART VI — MISCELLANEOUS

34. Vesting of assets and liabilities, subsisting contracts, pending proceedings, etc.
35. Transfer of certain workers to Authority.
36. Construction and modification of laws.
37. Exemption from stamp duty, etc.
38. Regulations.

SIGNED this 13th day of September, 2002.

ALHAJI AHMAD TEJAN KABBAH,
President.



No. 11

2002

Sierra Leone

The National Revenue Authority Act, 2002 Short title.

Being an Act to establish the National Revenue Authority as a central body for the assessment and collection of national revenue, to provide for the administration and enforcement of specified laws, to make consequential amendments to certain laws relating to revenue 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

Commence-
ment.

1. This Act shall come into operation on a date to be fixed by the Minister by statutory instrument.

Interpretation.

2. In this Act, unless the context otherwise requires—

“Authority” means the National Revenue Authority;

“Board” means the Board of Directors referred to in section 5;

“Chairman” means the Chairman of the Board and includes an acting chairman;

“Commissioner-General” means the Commissioner-General appointed under section 19;

“financial year” means a period of twelve months corresponding with the Government’s financial year;

“Minister” means the Minister responsible for finance;

“revenue” means taxes, duties, fees, levies, fines or other monies charged or collected under the laws specified in the Schedule.

PART II—ESTABLISHMENT OF NATIONAL REVENUE
AUTHORITY

Establishment
of National
Revenue
Authority.

3. (1) There is hereby established a body to be known as the National Revenue Authority.

(2) The Authority shall be a body corporate with perpetual succession and power to acquire, hold and dispose of property, whether movable or immovable, to enter into contracts, to sue and be sued in its corporate name and, subject to this Act, to do all things which a body corporate may lawfully do.

Common seal.

4. (1) The Authority shall have a common seal, the affixing of which shall be authenticated by the signatures of—

- (a) the Chairman or other member of the Board generally or specifically authorised by the Board for that purpose; and
- (b) the Commissioner-General or other officer of the Authority authorised by the Board for that purpose.

(2) Every document purporting to be an instrument executed or issued by or on behalf of the Authority and to be sealed with the common seal of the Authority 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.

5. (1) The governing body of the Authority shall be a Board of Directors which shall, subject to this Act, have the control and supervision of the Authority.

Board of
Directors.

(2) Without prejudice to the generality of subsection (1), the Board shall be responsible for—

- (a) determining the grading, remuneration, recruitment, promotion and training of staff;
- (b) the establishment and administration of codes of conduct;
- (c) generally, the determination and formulation of policy for the Authority, but in particular the administrative, human resource and operational policies and procedures; and
- (d) setting targets and standards, including quality and operational output measures for revenue collection.

(3) The Board shall consist of the following members:—

- (a) a Chairman;

- (b) the Financial Secretary;
- (c) the Governor, Bank of Sierra Leone;
- (d) a tax specialist;
- (e) an economist;
- (f) a legal practitioner; and
- (g) the Commissioner-General.

(4) The Chairman shall be appointed by the President, subject to the approval of Parliament, from among persons with knowledge, integrity and practical experience in matters relevant to the functions of the Authority.

Tenure of
members of
Board, etc.

6. (1) The Chairman and other members of the Board except the Financial Secretary, the Governor, Bank of Sierra Leone and the Commissioner-General shall hold office for a period of three years and shall be eligible for re-appointment for three consecutive terms only.

(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 has been 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;
- (f) if he resigns his office by written notice to the Minister.

(3) Members of the Board, other than the Commissioner-General, shall be entitled to such remuneration, fees and allowances as the Board may, after consulting the Minister, determine.

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

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

(3) A majority of the 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 question which falls to be determined by the Board at any of its meetings shall be decided by a majority of the votes of the members present and voting.

(7) The Chairman or other person presiding shall have a casting vote where there is an equality of votes.

(8) 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.

(9) 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 decision by the Board.

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

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

Disclosure of interest.

8. (1) A member of the Board who has any interest, whether direct or indirect in any matter being considered or to be considered by the Board, shall disclose the nature of his interest to the Board and such disclosure shall be recorded in the minutes of the Board and such member shall not take part in any deliberation or decision of the Board relating to that matter.

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

Immunity of members of Board, etc.

9. (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 or purported exercise of his functions under this Act.

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

Committees of Board.

10. (1) The Board may, for the discharge of its functions, appoint one or more 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 Commissioner-General, 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.

11. Subject to this Act, the Board may make standing orders regulating— Standing orders.

- (a) the holding of meetings, the notices to be given for meetings and the conduct of proceedings at meetings;
- (b) the keeping of minutes of meetings and the custody, production and inspection of such minutes;
- (c) the custody and use of the common seal;
- (d) the manner in which cheques shall be issued on behalf of the Authority, and
- (e) any other matter pertaining to the internal operations or management of the Authority.

PART III—FUNCTIONS OF AUTHORITY

12. (1) The object for which the Authority is established is to strengthen the assessment and collection of the national revenue and the administration and enforcement of the laws relating to the national revenue. Functions of Authority.

(2) Without prejudice to the generality of subsection (1), it shall be the function of the Authority—

- (a) to administer and enforce the laws set out in the Schedule;
- (b) to make recommendation to Government for amendments and other improvements in the laws specified in the Schedule;
- (c) to formulate and implement plans for developing and maintaining an effective, fair and efficient revenue collection system;

- (d) to take such measures as may be necessary to improve the standards of attendance to the needs of taxpayers with a view to maximising the efficiency of revenue collection;
- (e) to advise the Government on matters of policy relating to revenue, whether or not arising from any law referred to in the Schedule;
- (f) to initiate, develop and sustain programmes for public education on the need for the payment of taxes and the consequences of non-payment and evasion of taxes;
- (g) to institute measures to counteract tax fraud and other forms of fiscal evasion;
- (h) to administer discipline and control over all members of staff;
- (i) to do such other things as are conducive to the attainment of the object stated in subsection (1).

(3) The Minister may after consultation with the Authority, amend the Schedule by statutory instrument.

(4) Where, in any enactment specified in the Schedule, power is conferred on any person or authority to make regulations or other statutory instrument such power shall be exercisable only after consultation with the Authority, notwithstanding anything in that enactment to the contrary.

13. Pursuant to paragraph (a) of subsection (2) of section 12, section 3 of the Sales Tax Act, 1995 is repealed.

14. The Authority shall for the purpose of carrying out its functions under this Act, keep under review the laws specified in the Schedule and identify amendments or modifications which may be made to any law in order to improve the administration of, and compliance with the laws specified in the Schedule.

Repeal of
section 3 of
Act No. 5 of
1995.

Authority to
review
revenue laws

15. The Authority may delegate to any of its employees or to any person or group of persons the authority to carry out on its behalf such duties and functions of the Authority as the Board may determine.

Power to delegate.

16. In the exercise of any of its functions under this Act, the Authority shall not be subject to the direction or control of any person or authority.

Independence of Authority.

17. Pursuant to section 16, section 22 of the Excise Act, 1982 is amended by the repeal of the words "subject to the direction and control of the Minister,".

Amendment of section 22 of Act No. 6 of 1982.

18. (1) The Authority may—

Organisation of Authority.

- (a) establish and maintain such departments, divisions, sections, branches and field offices;
- (b) devise or adopt such forms and procedures; and
- (c) make such other administrative arrangements,

as it may consider necessary or expedient for the efficient performance of its functions.

(2) Without prejudice to the generality of subsection (1), the Authority shall have the following departments:-

- (a) a research and development department, responsible for the research and development of the tax administration system, including innovations in the system and the establishment and maintenance of the appropriate management information system;
- (b) Board Secretary's Department, responsible for Board and legal affairs;
- (c) finance and administration department, responsible for matters pertaining to Parts IV and V;

- (d) an internal audit department, responsible for measuring, evaluating and reporting upon the effectiveness of the internal controls of the Authority, financial and otherwise, aimed at the efficient use of resources within the Authority.

PART IV — EMPLOYEES OF AUTHORITY

Appointment
of
Commissioner-
General.

19. (1) The Authority shall have a Commissioner-General appointed by the President, subject to the approval of Parliament, on such terms and conditions as may be specified in his letter of appointment.

(2) No person shall be appointed Commissioner-General unless he has —

- (a) formal qualification in any profession or discipline relevant or appropriate to the operation of the Authority; and
- (b) proven ability in public administration and financial management.

(3) The Commissioner-General shall be the chief executive officer of the Authority and shall be responsible for the implementation of the decisions of the Board.

(4) Subject to the general supervision and control of the Board, the Commissioner-General shall be responsible for —

- (a) the day to-day management of the Authority;
- (b) the administration, organisation and control of the other officers and staff of the Authority; and
- (c) the management of the funds, property and business of the Authority.

Deputy
Commissioner-
General.

20. (1) The Commissioner-General shall be assisted in the execution of his duties principally by a Deputy Commissioner-General who shall act in the absence of the Commissioner-General.

(2) The Deputy Commissioner-General shall be appointed by the Board, subject to such terms and conditions as the Board may determine.

21. (1) There shall be a Secretary to the Board who shall be appointed by the Board, subject to such terms and conditions as the Board may determine.

Secretary to Board.

(2) The Secretary shall be responsible for—

- (a) the administration of the day- to- day affairs of the Board under the general supervision of the Commissioner-General;
- (b) arranging the business of the Board, including meetings and the records of such meetings; and
- (c) performing such other duties as the Board may direct.

22. (1) The Board shall appoint Commissioners, Deputy Commissioners, Assistant Commissioners, an internal auditor and such other officers of similar grades as it may consider necessary for the efficient performance of the functions of the Authority.

Appointment of Commissioners and other officers.

(2) Subject to the directions of the Board, the Commissioner-General shall appoint members of staff below the rank or grade of the officers referred to in subsection (1).

(3) Subject to this Act, the terms and conditions of all persons employed by the Authority shall be determined by the Board.

(4) Public officers may be seconded or otherwise render assistance to the Authority but the Authority may request the withdrawal of any such seconded staff who is unable to carry out assigned functions in a manner satisfactory to the Authority.

23. Pursuant to section 22, the Income Tax Act, 2000 is amended by the repeal of section 163 thereof.

Amendment of Act No. 8 of 2000.

PART V—FINANCIAL PROVISIONS

24. (1) The funds of the Authority shall consist of—

Funds of Authority.

- (a) three per cent of the actual revenue collected annually;
- (b) a percentage to be specified from time to time by the Minister with the approval of Parliament, of the revenue actually collected each year in excess of the estimated revenue in the estimates of Sierra Leone for that year;
- (c) loans raised by the Authority with the approval of the Minister;
- (d) grants made to the Authority by any person or authority;
- (e) the proceeds of any investment made by the Authority; and
- (f) any other moneys to which the Authority may otherwise become entitled.

(2) The funds of the Authority specified in paragraph (a) of subsection (1) shall be payable to the Authority in equal quarterly instalments at or before the beginning of every quarter.

(3) The funds of the Authority specified in paragraph (b) of subsection (1) shall be payable to the Authority within one month after the end of the financial year.

(4) Any funds received by the Authority in respect of a financial year which are not expended by the end of that financial year shall be placed in a reserve fund to be expended subject to the budget of the Authority for the ensuing financial year.

Application of
funds.

25. The funds of the Authority shall be applied in meeting the following expenses:—

- (a) the remuneration, fees and allowances of the members of the Board;
- (b) the salaries, remuneration, fees, allowances, and, subject to the National Social Security and Insurance Trust Act, 2001, the pensions, gratuities and other retirement benefits of the employees of the Authority;

Act No. 5 of
2001.

- (c) the administrative expenses of the Authority other than the expenditure in paragraph (b);
- (d) repayment of the principal sums borrowed and sums required to be transferred to a sinking fund or otherwise set aside for the purpose of making provision for the redemption of stock or other securities or the repayment of other borrowed moneys;
- (e) interest on any loan raised by the Authority;
- (f) such sums as may be payable by the Authority to any person or authority under this Act or any other law;
- (g) rates, taxes and other levies, payable by the Authority under any law; and
- (h) any other expenditure incurred by the Authority in the performance of its functions, including the provision of forms for tax and other returns to be supplied free of charge to members of the public.

26. Any funds of the Authority not immediately required for meeting any obligation or the discharge of any function of the Authority, may with the approval of the Board, be invested to the best advantage of the Authority.

Investment of funds.

27. (1) Subject to subsection (2), all revenue collected by, or due and payable to the Authority under this Act shall be paid into the Consolidated Fund.

Revenue to be paid into Consolidated Fund.

(2) Notwithstanding subsection (1) or any other law, the Minister may from time to time, for the purpose of ensuring uninterrupted supply of funds to the Authority, authorise the Authority in writing to retain the percentage of the revenue referred to in paragraph (a) of subsection (1) of section 24 to meet its expenditure for the financial year concerned, as if the Authority were a department of Government under paragraph (c) of subsection (1) of section 114 of the Constitution.

Act No. 6 of 1991.

28. (1) The Commissioner-General shall, not later than one month before the end of each financial year, prepare and submit to the Board for its approval, estimates of the income and expenditure of the Authority for the next ensuing financial year and may at any time before the end of each financial year, prepare and submit to the Board for approval any estimates supplementary to the estimates for that financial year.

Estimates of income and expenditure of Authority.

(2) No expenditure shall be made out of the funds of the Authority unless that expenditure is part of the expenditure approved by the Board under subsection (1).

Borrowing powers of Authority.

29. (1) For the purpose of performing its functions and meeting its obligations under this Act, the Authority may, with the approval of the Board, borrow money or raise capital in any currency and from any source.

(2) The Authority may charge its assets, undertakings and income with the repayment of any money borrowed together with interest thereon, and may issue bonds or other securities in order to secure repayment of any money so borrowed.

Government to guarantee loans to Authority.

30. The Government may guarantee in such manner and upon such terms as it may think fit, the payment of the interest and principal, or either of them on any loan proposed to be raised by the Authority.

Accounts and audit of Authority.

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

- (a) balance sheet accounts;
- (b) income and expenditure accounts;
- (c) source and application of funds; and
- (d) financial estimates, particularly of the amount of revenue to be collected in the ensuing year.

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

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

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

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

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

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

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

(2) The annual report shall include the accounts and annual financial statement prepared under section 31 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.

PART VI—MISCELLANEOUS

34. (1) Subject to subsection (2), all property and assets which immediately before the commencement of this Act were vested in the Government for the use of the Department of Customs and Excise or the Income Tax Department, as the case may be, for the administration of any of the laws set out in the Schedule shall, with effect from the commencement of this Act and without any further assurance, vest in the Authority subject to all interests, liabilities, charges, obligations and trusts affecting such property or assets. Vesting of certain assets and liabilities, subsisting contracts, pending proceedings, etc.

(2) Except as is provided in subsection (1) in relation to property, all contracts, debts, obligations and liabilities of the Government on account of the Department of Customs and Excise or the Income Tax Department immediately before the commencement of this Act shall remain vested in the Government and may be enforced by or against the Government.

(3) All legal proceedings and claims which immediately before the commencement of this Act were pending in respect of revenue to which the laws set out in the Schedule apply shall be continued or enforced by or against the Authority in the same manner as they would have been continued or enforced if this Act had not been enacted.

Transfer of certain employees to Authority.

35. (1) With effect from the commencement of this Act, such employees of the Department of Customs and Excise and the Income Tax Department as shall be specified by the Minister in writing are transferred to the Authority without prejudice to any entitlement to pension, gratuity or other vested or accrued rights from their previous employment; and on such terms and conditions of service no less favourable as were applicable to them in their previous employment.

(2) Any person transferred to the Authority under subsection (1)—

- (a) shall be subject to the disciplinary control of the Authority and shall be governed by any code of conduct or discipline made by the Authority under section 38; and the Authority shall have the power to terminate the appointment of any person so transferred who is not able to perform assigned functions to the satisfaction of the Authority;
- (b) may accept to continue in the employment of the Authority, subject to such other terms and conditions of service as may be determined by the Board under section 22.

Construction and modification of laws.

36. With effect from the commencement of this Act—

- (a) any reference to the Comptroller of Customs and Excise or the Commissioner of Income Tax in any law specified in the Schedule or in any other law shall be construed as a reference to the Commissioner-General;
- (b) any reference to the Department of Customs and Excise or the Income Tax Department in any law specified in the Schedule or in any other law shall be construed as a reference to the Authority;
- (c) except as provided in paragraph (a), any reference to an officer of the Department of Customs and Excise or an officer of the Income Tax Department howsoever designated in the

laws specified in the Schedule or in any other law shall be construed as a reference to such other officer of the Authority.

37. The Authority shall be exempted from stamp duty payable under the Stamp Duty Act, and shall not be liable to any tax or duty for the acquisition or transfer of any asset or property. Exemption from stamp duty Cap. 274.

38. (1) The Authority may, by statutory instrument, make rules and regulations to give effect to this Act. Regulations.

(2) Rules or regulations made under subsection (1) may establish codes of conduct and discipline and regulate the appointment, promotion, transfer and dismissal of employees.

SCHEDULE

(Section 12)

LAWS RELATING TO REVENUE

1. Customs Act, Cap. 271
2. Entertainment Tax Act, 1971 (Act No. 17 of 1971)
3. Payroll Tax Act, 1972 (Act No. 16 of 1972)
4. Foreign Travel (Ticket) Tax Act, 1975 (Act No. 14 of 1975)
5. Customs Tariff Act, 1978 (Act No. 16 of 1978)
6. Excise Act, 1982 (Act No. 6 of 1982)
7. Restaurant Food Tax Act, 1989 (No. 6 of 1989)
8. External Telecommunications Act, 1995 (Act No. 2 of 1995)
9. Sales Tax Act, 1995 (Act No. 5 of 1995)
10. Income Tax Act, 2000 (Act No. 8 of 2000)

PASSED in Parliament this *10th* day of *September*, in the year of our Lord two thousand and two.

J. A. CARPENTER,
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 correctly printed copy of the said Bill.

J. A. CARPENTER,
Clerk of Parliament.