THE HUMAN RIGHTS COMMISSION OF SIERRA LEONE ACT, 2004

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SCHEDULE

SIGNED this 20th day of August, 2004

ALHAJI AHMAD TEJAN KABBAH,
President.

LS

No. 9 **2004**

Sierra Leone

The Human Rights Commission of Sierra Leone Act, 2004

Short title.

Being an Act to establish a commission for the protection and promotion of human rights in Sierra Leone and to provide for other related matters.

[26th August, 2004] Date of commencement.

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

PART I–PRELIMINARY

Interpretation.

1. In this Act, unless the context otherwise requires–

"Chairman" means the Chairman of the Commission;

"Commission" means the Human Rights Commission of Sierra Leone established by section 2;

Act No. 6 of 1991.

"Constitution" means the Constitution of Sierra Leone, 1991;

"Executive Secretary" means the Executive Secretary appointed under section 18;

"human rights" includes the rights relating to life, liberty, equality and dignity of the individual protected or guaranteed by the Constitution or embodied in the international conventions, treaties and other agreements to which Sierra Leone is a party;

"violation" includes a contravention, a negation and neglect or negligence by a public officer in the prevention of a violation;

"member" means a member of the Commission.

PART II–ESTABLISHMENT OF COMMISSION

Establishment of Commission.

2. (1) There is hereby established a commission to be known as the Human Rights Commission of Sierra Leone.

(2) The Commission shall be a body corporate, having perpetual succession and capable of acquiring, holding and disposing of any property, whether movable or immovable, and of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as bodies corporate may by law perform.

(3) The Commission shall have a common seal the use of which shall be authenticated by the signatures of the Chairman or the Vice-Chairman and the Executive Secretary or by any other members, designated in that behalf by the Commission.

Composition of Commission.

3. (1) The Commission shall consist of a Chairman, a Vice-Chairman and three other members all of whom shall be appointed by the President, subject to the approval of Parliament, after they have been selected in accordance with the procedures prescribed in the Schedule.

(2) The members of the Commission shall be appointed from among persons –

(a) of high moral probity who have so distinguished themselves in their respective fields as to command the respect of the public;

(b) of proven record of respect for, and interest in human rights;

(c) well-versed in the rights contained in Chapter III of the Constitution and familiar with the international conventions, treaties and other agreements relating to human rights:

Provided that the members shall include at least two lawyers and two women.

(5) The Commission may at any time co-opt any person to advise or otherwise assist the Commission at any of its meetings but the person coopted shall not vote on any matter for decision by the Commission.

(6) All acts, matters or things authorized or required to be done by the Commission shall be decided at a meeting where a quorum is present and the decision is supported by the votes of at least three members.

(7) Any proposal circulated among all members and agreed to in writing by three members shall be of the same force or effect as a decision made at a duly constituted meeting of the Commission and shall be incorporated in the minutes of the next succeeding meeting of the Commission:–

Provided that, if a member requires that such proposal be placed before a meeting of the Commission, this subsection shall not apply to such proposal.

(8) The Commission shall cause minutes of all of its meetings to be taken and kept as a public record.

PART III–FUNCTIONS OF COMMISSION

Functions of Commission.

7. (1) The object for which the Commission is established is the protection and promotion of human rights in Sierra Leone.

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

(a) investigate or inquire into on its own or on complaint by any person any allegations of human rights violations and to report thereon in writing;

(b) promote respect for human rights, through –

(i) public awareness and education programmes aimed at creating a culture of human rights in Sierra Leone;

(ii) providing human rights information, including locating within the Commission a national human rights resource and documentation centre;

(iii) publishing guidelines, manuals and other materials explaining the obligations of public officials in the protection of human rights;

(iv) effective co-operation with non-governmental organisations and other public - interest bodies engaged in the field of human rights;

(c) review existing legislation and advise the Government concerning compliance by such legislation with the obligations of Sierra Leone under international treaties or agreements;

(d) advise the Government concerning draft legislation, which may affect human rights;

(e) advise Government concerning preparation of periodic reports required by international human rights treaties or agreements to which Sierra Leone is a party;

(f) monitor and document violations of human rights in Sierra Leone;

(g) publish an annual report on the State of Human Rights in Sierra Leone.

Powers of Commission.

8. (1) For the purposes of any investigation under this Act, the Commission shall have–

(a) such powers, rights and privileges as are vested in the High Court of Justice or a judge thereof in a trial in respect of –

(i) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise; and

(ii) compelling the production of documents and other things; and

(iii) the issue of a commission or request to examine witnesses abroad;

and the Rules of Court shall, with the necessary modification, apply to the exercise of the powers, rights and privileges of the Commission conferred by this subsection;

(b) the power to issue or make orders or directions to enforce its decisions, including measures to protect the life and safety of an individual and free medical treatment where necessary;

(c) power to refer to the High Court for contempt any person who refuses, without justifiable cause, to comply with a decision, direction or order of the Commission within a specified time.

(2) The oath or affirmation referred to in paragraph (a) of subsection (l) shall be administered by the Chairman or any other member or staff of the Commission authorized in that behalf by the Chairman.

(3) Any person who is aggrieved by any decision of the Commission made in a report under paragraph (a) of sub-section (2) of section 7, may appeal to the Supreme Court against such decision.

Access to Government offices and information.

9. (1) A member of the Commission or any person authorized in that behalf by such member, shall have access to all government offices, facilities and places of detention, including prisons, police cells, remand homes and probation facilities, in order to investigate a human rights matter initiated by the Commission or brought to the attention of the Commission as well as access to any non-classified information in government documents.

(2) Where the President certifies that the giving of any information or the answering of any question or the production of any document or thing might prejudice the security or defence of Sierra Leone, the prevention, investigation or detection of offences, or the proceedings of Cabinet relating to matters of a secret or confidential nature, or that the disclosure would be injurious to the public interest, the Commission shall have the power to refer the matter concerned to the Supreme Court, which shall determine whether the document or other information shall be disclosed, produced or withheld.

(3) Subject to subsection (2), nothing in any law which authorizes or requires the withholding of any document, or the refusal to answer any question on the ground that the production of the document or the answering of the question would be injurious to the public interest shall apply to any investigation or inquiry by the Commission.

Duty of impartiality, etc.

10. (1) The Commission shall–

(a) be impartial and fair in the conduct of any investigation or inquiry under this Act;

(b) report in writing the result of the investigation or inquiry; and

(c) furnish in the report, the reasons for the conclusions reached or reported.

(2) In publishing the report of any investigation, the Commission shall have due regard to the rights of those affected, including their rights to privacy.

Payment of compensation to human rights victims.

11. It shall be lawful for the Commission in its report on an investigation, to recommend the payment of compensation for victims of human rights violations, their families or legal representatives and also to award costs in appropriate cases.

Amicus briefs by Commission.

12. The Commission may, where it finds it necessary, appoint a legal practitioner of not less than five years' standing, to intervene, with leave of the court, in legal proceedings in cases which involve human rights issues over which the Commission has competence but such intervention shall be restricted to issuing amicus curiae briefs dealing with the matter in question.

Government obligation to respond to remedial actions.

13. The Government shall respond publicly and within 21 days to the specific case as well as in the more general finding, conclusion, recommendation or other decision made by the Commission as the remedy for a violation of human rights.

Independence of Commission.

14. Except as otherwise provided in this Act, in the exercise of its functions under this Act, the Commission shall not be subject to the control or direction of any person or authority.

Commission's rules of procedure.

15. The Commission may, by statutory instrument, make rules of procedure, consistent with the rules of natural justice, for the conduct of investigations or inquiries into human rights, including-

(a) the filing of human rights complaints by victims, legal representatives or families of victims, state or non-state or any other party or member of the public;

(b) the admissibility of complaints;

(c) the proof of facts;

(d) examination of witnesses;

(e) representation by legal practitioners, and other related matters;

(f) the payment of any compensation under section 11 and the rendering of financial assistance, including legal aid, to indigent citizens of Sierra Leone who are victims of human rights violations.

Exclusion of jurisdiction.

16. The Commission's power of investigation under this Act shall not include the investigation of any matter–

(a) pending before, or already decided by a court of competent jurisdiction; or

(b) involving any human rights violation that occurred before the coming into operation of this Act.

Committees of Commission.

17. (1) For the efficient performance of its functions and so as to facilitate a thorough study and research into all the substantive issues within its jurisdiction, the Commission shall appoint at least four committees each headed by a member of the Commission well-versed in the subject-matter assigned to the committee concerned, including a committee for the promotion and protection of the human rights of women and children.

(2) A committee appointed under subsection (l) shall consist of persons with the relevant knowledge and experience in the subject matter assigned to the committee and may invite to its meetings specialists in various human rights fields either as resource persons or in such other capacity as the committee shall determine

(3) Any report issued by any committee of the Commission shall, after consideration and authorization by the Commission, be considered an official report of the Commission.

PART IV–ADMINISTRATIVE PROVISIONS

Executive Secretary and deputy.

18. (1) The Commission shall have an Executive Secretary who shall be appointed by the Commission after consultation with the Public Service Commission.

(2) The Executive Secretary shall hold office for a term of five years upon such terms and conditions as shall be determined by the Commission and shall be eligible for reappointment for one term only of another five years but no person shall be appointed Executive Secretary unless he has–

(a) formal qualification in any profession relevant or appropriate to the functions of the Commission; and

(b) such proven ability in public administration and management as the Commission may determine.

(3) The Executive Secretary shall not be removed from office, except for reasons which would justify his removal from the public service.

(4) The Executive Secretary shall be responsible to the Commission for–

(a) the day-to-day administration of the Commission;

(b) the supervision and discipline of the other staff of the Commission;

(c) the arrangement of the business and the recording and keeping of the minutes of the meetings of the Commission;

(d) the initiation and maintenance of high-level contacts or relations with local interest groups and international human rights bodies or institutions, and

(e) performance of such other functions as the Commission may assign to him.

(5) The Executive Secretary shall attend all substantive meetings and deliberations of the Commission but shall not be entitled to vote.

(6) In the performance of his functions under this Act, the Executive Secretary shall be assisted principally by a Deputy Executive Secretary who shall be appointed by the Commission upon such terms and conditions as shall be determined by the Commission.

Other staff of Commission

19. (1) The Commission shall have, in addition to the Executive Secretary and the Deputy Executive Secretary, such other staff, including a wide variety of professionals and support staff, as may be required for the efficient performance of the Commission's functions, the number of which shall be determined by the Commission, taking into account the budget at the disposal of the Commission.

(2) The Commission may delegate to the Executive Secretary power for the appointment of such grade or categories of staff as the Commission may determine.

Decentralization.

20. (1) The Commission shall, when funds become available therefor, establish offices in each provincial headquarters, headed by senior officials of the Commission designated by the Executive Secretary for the purpose.

(2) It shall be the responsibility of each provincial office to gather information on the human rights situation in the province, accept and process complaints for the consideration of the Commission and undertake, in collaboration with other interested parties, the human rights promotion activities in the province.

(3) One member of the Commission shall be charged with responsibility for coordinating the work of the provincial offices and shall, after consultation with the heads of the provincial offices and the Executive Secretary, ensure effective coordination between the provincial offices and the national headquarters.

Funds of Commission.

21. The activities of the Commission shall be financed by a fund consisting of–

(a) moneys appropriated by Parliament for the purposes of the Commission; and

(b) gifts, grants or donations from any person or authority but only if they are not likely to compromise the independence of the Commission.

Accounts and audit.

22. (1) The Commission shall keep proper books of account and proper records in relation to them in a form approved by the Auditor-General.

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

Financial year of Commission.

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

Annual report of Commission.

24. (1) The Commission shall, within three months after the end of each financial year, submit a report of its activities to the President and Parliament to be entitled "The State of Human Rights in Sierra Leone" which shall contain details of–

(a) the ways in which the fundamental rights and freedoms contained in the Constitution and in the international and regional agreements to which Sierra Leone is a party have been observed or violated;

(b) the steps taken by the Commission to respect, protect and fulfil human rights, including results of individual complaints investigated and interventions and recommendations made by the Commission or by any of its committees in respect of matters brought before them.

(2) Any report submitted under subsection (l) shall thereafter be published for the information of the public.

Amendment of Act No. 15 of 1994.

25. The National Commission for Democracy and Human Rights Act, 1994 is amended–

(a) by the repeal and replacement of the short title thereof with the following:–

"The National Commission for Democracy Act, 1994";

(b) by the repeal and replacement of the long title with the following:–

"Being an Act to establish the National Commission for Democracy and to provide for other related matters";

(c) in subsection (l) of section 3, by the repeal of paragraphs (e) and (f).

Regulations.

26. The Commission may, by statutory instrument, make regulations for giving effect to this Act.

SCHEDULE (Section 3 (1))

Procedure for the Appointment of Members of Commission.

The appointment of the members of the Commission shall follow the following procedure:–

The President, through the Attorney-General and Minister of Justice, shall invite nominations from the public. The list of nominees shall go through a selection panel comprising one representative from the Government and each of the following umbrella organizations;

(a) Inter-Religious Council;

(b) National Forum for Human Rights;

(c) Civil Society Movement;

(d) Council of Paramount Chiefs;

(e) Sierra Leone Women's Forum; and

(f) Sierra Leone Labour Congress.

The selection panel shall include at least two women. Each member of the selection panel shall short-list one candidate. The name of the 7 short-listed candidates shall be published in the Gazette and two weeks later, the selection panel shall invite the President to appoint 5 of the short-listed candidates for approval by Parliament.

In selecting persons for appointment by the President, the selection panel shall give consideration to equitable gender and regional representation. At least two members of the Commission should be women.

Members of the Commission must be people well-versed in the rights contained in Chapter III of the Constitution of Sierra Leone and familiar with international instruments relating to human rights. At least two of the members must be lawyers.

Once the five members of the Commission appointed by the President have been approved by Parliament their names shall be published in the Gazette.

Upon the appointment of the members of the Commission they shall assemble to elect by simple majority from among themselves a Chairman and Vice-Chairman.

Passed in Parliament this 30th day of July, in the year of our Lord two thousand and four.

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 correct printed copy of the said Bill.

J. A. CARPENTER,
Clerk of Parliament.