

ACT

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THE NATIONAL MINERALS AGENCY ACT, 2012

ARRANGMENT OF SECTIONS

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SIGNED this 26th day of April, 2012.

DR. ERNEST BAI KOROMA,
President.



No. 3



2012

Sierra Leone

The National Minerals Agency Act, 2012.

Short title.

Being an Act to establish the National Minerals Agency to promote the development of the minerals sector by effectively and efficiently managing the administration and regulation of mineral rights and minerals trading in Sierra Leone, including geological survey and data collection activities; to establish a National Minerals Agency Board to provide technical and other support to the agency and to provide for other related matters.

[] Date of commencement.

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

PART I—PRELIMINARY

Interpretation. 1. In this Act unless the context otherwise requires—

“Agency” means the National Minerals Agency established under section 2;

“Board” means the Minerals Agency Board established under section 3;

“Director-General” means the “Director-General” appointed under section 13;

“Director of Geological Survey” means the Director of Geological Survey referred to in the Mines and Minerals Act 2009 (Act No.12 of 2009);

“Director of Mines” means the Director of Mines referred to in the Mines and Minerals Act 2009 (Act No. 12 of 2009);

“GGDO” means the Government Gold and Diamond Office established in 1985 by the Government of Sierra Leone under the supervision of the Ministry of Mines and Mineral Resources;

“Minister” means the Minister responsible for mineral resources.

PART II—ESTABLISHMENT OF NATIONAL MINERALS AGENCY

Establishment of National Minerals Agency.

2. (1) There is hereby established a body to be known as the National Minerals Agency.

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

(3) The Agency shall have a common seal the use of which shall be authenticated by the signatures of –

(a) the Chairman or other member of the Board generally or specifically authorized by the Board for that purpose; and

(b) the Director-General or other officer of the Agency authorized by the Board for that purpose.

(4) Every document purporting to be an instrument executed or issued by or on behalf of the Agency and to be sealed with the common seal authenticated in the manner stated in subsection (3), shall be deemed to be so executed or issued without other proof unless the contrary is proved.

(5) In appropriate cases the common seal may be affixed to documents outside Sierra Leone

3. (1) There is hereby established a body to be known as the National Minerals Agency Board which shall be the governing body of the Agency. Establishment of Mineral Agency Board.

(2) The object for which the Board is established is to oversee the efficient operation of the Agency and in particular, the Board shall be responsible to—

(a) approve the operational budget of the Agency;

(b) establish strategic direction and setting performance targets;

(c) assess organizational performance both technical and financial;

(d) effectively enforce this Act and ensure its compliance;

- (e) ensure that the relevant operational policies in procurement and administrative procedures are adhered to;
- (f) determine the grading, remuneration, recruitment, promotion and training of staff;
- (g) approve the hiring and firing of the Director General and Directors of the Agency; and
- (h) do all the other things as will contribute to the attainment of the object of the Agency.

Composition of Board.

4. (1) The Board shall consist of a Chairman, who shall be appointed from among persons of the highest calibre of personal integrity and demonstrated professional knowledge and experience in mining matters related to the functions of the Agency and the following other Members-

- (a) Permanent Secretary, Ministry of Mineral Resources;
- (b) Financial Secretary, Ministry of Finance;
- (c) four other persons with professional knowledge and experience in law, accounting and finance, mining or geology, and human resource management, nominated by the Minister; and
- (d) the Director-General who shall be the Secretary and is a non-voting member.

(2) The Chairman and the four persons referred to in paragraph (c) of subsection (1), shall be appointed by the President and subject to the approval of Parliament.

5. (1) The Chairman and other members of the Board, appointed under paragraph (c) of sub-section (1) of section 4 shall hold office for a term of three years and shall be eligible for re-appointment for a further term of three years only. ^{Tenure of Board.}

(2) The Chairman may resign from office by written notice addressed to the President.

(3) The President may by letter addressed to a member revoke the appointment of that member.

(4) On the death or vacation of office of the Chairman or any other member of the Board referred to in paragraph (c) of subsection (1) of section 4, before the expiry of their respective term of office, the President may appoint a Chairman or a member for the remainder of the term of that member. ^{ActNo...of 2008.}

(5) A person shall cease to be a member of the Board on any of the following grounds-

- (a) absence from three consecutive meetings of the Board without reasonable excuse;
- (b) bankruptcy or insolvency;
- (c) conviction of an offence involving fraud or dishonesty;
- (d) proven misconduct; or
- (e) inability to perform the functions of his office as a result of infirmity of mind or body.

6. The Chairman and other members of the Board shall be paid fees or allowances as may be fixed by the Board with the approval of the Minister. ^{Remuneration of members.}

Meetings of Board.

7. (1) The Board shall hold its first meeting on a date and at a time to be determined by the Minister, after consultation with the Board; and after that, the Board shall meet for the dispatch of business at least once every three months.

(2) The Chairman shall preside at meetings of the Board and in his absence the members present shall elect one of their number to preside.

(3) The quorum for a meeting of the Board shall be five.

(4) The Chairman shall, at the request of a minimum of four other members of the Board convene an extraordinary meeting of the Board at the place and time determined by the Chairman.

(5) Decisions of the Board shall be made by a majority of the votes of the members present and where the votes are equal, the Chairman or other member presiding shall have a casting vote.

(6) Any proposal circulated among all members of the Board and agreed to, in writing, by five members shall be of the same force and effect as a decision made at a duly constituted meeting of the Board and be incorporated in the minutes of the next meeting of the Board:

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

(7) The Board may co-opt any person to attend and participate in its deliberation on any matter but such person shall not vote on any matter for decision by the Board.

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

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

8. (1) A member of the Board who has any interest whether direct or indirect, in any matter being considered by the Board shall disclose the nature of that interest to the Board and the disclosure shall be recorded in the minutes of the Board. Disclosure of interest.

(2) The member of the Board referred to in subsection (1) shall not take part in the deliberation or decision of the Board relating to the matter.

(3) Any member who fails to comply with subsection (1) or (2) shall be guilty of misconduct and shall be removed from the Board and liable for prosecution under the Section 45 of the Anti-Corruption Act of 2008. Act No. 12 of 2008.

9. (1) The Board may, for the discharge of its functions, appoint committees. Committees of Board.

(2) A committee shall consist of members of the Board or non-members or both.

(3) A committee shall submit a report of its proceedings at a time to be determined by the Board.

10. In the performance of its functions under this Act the Board shall not be subject to the control of any person or authority. Independence of Board.

PART III – FUNCTIONS OF THE AGENCY

11. (1) The object for which the Agency is established is to promote the development of the minerals sector by effectively and efficiently managing the administration and regulation of mineral rights and minerals trading in Sierra Leone, to provide technical and other support to the mineral sector including geological survey and data collection activities. Functions of Agency.

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

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of 2010.

- (a) administer and enforce the Mines and Minerals Act 2009, any other Acts related to the trade in minerals and related regulations;
- (b) make recommendations to the Minister for amendment and other improvements in the laws and regulations specified in paragraph (a) above;
- (c) advise the Minister on policy matters related to mining and natural resource governance, whether or not arising from any law referred to in paragraph (a) above;
- (d) formulate and implement plans and systems for managing the responsible development of the minerals sector and to promote the rights of communities.

Departments
of Agency.

12. (1) The Agency shall establish such departments, as it may think necessary, for the performance of its functions.

(2) Without prejudice to subsection (1), the Agency shall establish the following departments—

- (a) a Department of Mines responsible for all activities associated with administering mineral rights and monitoring mining operations;
- (b) a Department of Geological Survey responsible for facilitating and monitoring exploration and managing national geological information;
- (c) a Department of Precious Minerals Trading responsible for administering precious minerals trading licenses and certifying precious minerals exports;

- (d) a Department of Finance and Administration responsible for managing the Agency's budget, human resources, and reporting.

(2) Each department shall have divisions which shall be created by the Board on the recommendation of the Director-General.

PART IV – STAFF OF AGENCY

13. (1) The Agency shall have a Director-General who shall be selected in strict compliance with the procedures and processes in the Public Procurement Act, 2004 for the procurement of services, subject to approval by Parliament. Director-General.
Act No. 14 of 2004.

(2) The Director-General shall be a person of high integrity having qualification in any profession relevant or appropriate to the functions of the Agency, appointed on the terms and conditions as may be determined by the Board.

(3) The Director-General shall not be removed from office unless in violation of any terms or conditions of his contract or for any other reason that would justify his removal from Public Office.

(4) The Director-General shall be responsible to the Board for—

- (a) overseeing the activities of the Departments and the day-to-day administration and management of the Agency;
- (b) the formulation and implementation of operational policies, programmes and plans relating to the functions of the Agency as may be approved by the Board;
- (c) supervising employees of the Agency;
- (d) preparing and submitting operational reports and plans;

- (e) preparing annual budget and the timely submission of financial reports;
- (f) preparing the agenda, recording and maintaining minutes of the meetings of the Board; and
- (g) performing other duties specified in this Act or as the Board may determine.

Directors of Agency.

14. (1) Each Department shall be headed by a Director appointed by the Board in strict compliance with the procedures and processes for the procurement of services in the Public Procurement Act, 2004.

Act No. 14 of 2004.

(2) The Directors shall have such responsibilities and functions as may be assigned by the Director-General.

(3) Without prejudice to sub-section (2), the following Directors shall have the following responsibilities—

- (a) the Director of Mines, shall have such responsibilities and authority as assigned to the Director of Mines in the Mines and Minerals Act, of 2009;
- (b) the Director of Geological Survey, shall have such responsibilities and authority as assigned to the Director of Geological Survey in the Mines and Minerals Act, 2009;
- (c) the Director responsible for the Department of Precious Minerals Trading shall assure compliance with the Kimberly Certification Process Scheme and assume responsibilities and authority over all matters relating to

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Act No. 3 of 2010.

precious minerals trading in Sierra Leone including any laws related to the trade of precious minerals; and

- (d) the Director responsible for the Department of Finance and Administration shall be responsible for managing the annual budgeting process, procurement and assets, and human resource management.

15. (1) The Board shall, on the recommendation of the Director-General and on terms and conditions it may determine, appoint other staff to discharge the functions of the Agency.

Other staff of Agency.

(2) Public officers may be seconded or otherwise give assistance to the Agency.

(3) The Board may engage the services of consultants or advisers as it considers necessary for the performance of the functions of the Agency.

PART V – FINANCIAL PROVISIONS

16. (1) The Agency shall be financed by monies appropriated by Parliament for the purpose of the Agency.

Funds of Agency.

(2) The Agency may from time to time apply appropriated monies established under subsection (1)–

- (a) to the cost of administration of the Agency;
- (b) for reimbursing members of the Agency, agents or any committees set up by the Agency for such expenses as may be expressly authorized by the Agency in accordance with the rates approved by Government;

- (c) to the payment of salaries, fees or other remuneration, allowances, pension and gratuities payable to employees of the Agency; and
- (d) for and in connection with all purposes of this Act.

Financial year of Agency.

17. The financial year of the Agency shall be the same as the financial year of Government.

Revenues due to the Consolidated Fund.

18. All revenues collected by or due to the Agency shall be paid into a Special Treasury Account of the Consolidated Fund.

Accounts and audit.

19. (1) The Agency shall keep proper books of accounts and proper records in relation to the accounts and shall prepare within a period of three months after the end of each financial year a statement of its accounts in the form the Auditor-General may direct.

(2) The books and accounts of the Agency shall each be audited by the Auditor-General or an auditor appointed by the Auditor-General.

(3) A report of the audit shall be submitted to the Board and shall include a copy of the audited accounts together with the Auditor-General's report on it.

Annual report.

20. (1) The Director-General shall, within three months after the end of each financial year, submit for the approval of the Board, an annual report of the activities, undertakings, property and finances of the Agency for that year.

(2) An annual report shall include a copy of the audited accounts of the Agency together with the audit report on it.

(3) A copy of the annual report approved by the Board shall be submitted to the Minister not later than three months after the year to which the report relates and the Minister shall, as soon as possible but not later than three months after receiving the report, lay it before Parliament.

PART VI—MISCELLANEOUS

21. The Minister may, on the advice of the Board, by legislative Regulations, instrument, make Regulations—

- (a) providing for the establishment of committees for the control of and the administration of a particular mineral; and
- (b) generally for the effective implementation of this Act.

22. Upon the date of coming into operation of this Act the former GGDO shall be dissolved and—

Savings and transitional provisions.

- (a) all assets and liabilities of the former GGDO shall be transferred to and vest in the Agency without further assurance and the Agency shall have all powers necessary to take possession of, recover and deal with such assets and discharge such liabilities;
- (b) every agreement, whether in writing or not, and every deed bond or other instrument to which the former GGDO was a party or which affected the former GGDO, and whether or not of such a nature that the rights, liabilities and obligations thereunder could be assigned, shall have effect as if the Agency were a party thereto or affected thereby instead of the former GGDO and as if any reference, whether expressed or implied, therein to the former GGDO were substituted in respect of anything to be done on or after such date of coming into operation a reference to the Agency; and
- (c) Any proceedings pending immediately the date of coming into operation to which the former GGDO was a party shall be continued as if the Agency was a party thereto in lieu of the former GGDO.

Passed in Parliament this *29th* day of *March* , in the year of our Lord two thousand and twelve.

IBRAHIM S. SESAY,
Clerk of Parliament.

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

IBRAHIM S. SESAY,
Clerk of Parliament.