

ACT

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ENVIRONMENT PROTECTION AGENCY ACT, 2008

ARRANGEMENT OF SECTIONS

PART I-PRELIMINARY

Section

1. Interpretation

PART II-ESTABLISHMENT OF ENVIRONMENT PROTECTION AGENCY

2. Establishment of Environment Protection Agency.
3. Board of Agency.
4. Term of office of members of Board.
5. Functions of Board.
6. Remuneration of members of Board.
7. Filling of vacancies.
8. Meetings of Board.
9. Disclosure of interest.
10. Powers of Board.
11. Committees of Board.

PART III-FUNCTIONS AND MANAGEMENT OF AGENCY

12. Functions of Agency.
13. Agency not subject to any directions.
14. Executive Director.
15. Deputy Executive Directors.
16. Other staff of Agency.
17. Departments of Agency.

18. Consultants and experts to be engaged as required.
19. Provincial and district offices.
20. Funds of Agency.
21. Accounts and audit.
22. Financial year of Agency.

PART IV-ENVIRONMENTAL IMPACT ASSESSMENTS

23. Prohibition of certain activities.
24. Application for and issue of licences.
25. Agency to decide on need for environment impact assessments.
26. Applicant to prepare environmental impact assessment.
27. Public comments.
28. Executive Director to submit comments etc. to Board.
29. Director to issue licences.
30. Effect of licences.
31. Renewal of licences.
32. Appeal against decision .
33. Licence fees.
34. Cancellation, suspension or modification of licences.
35. Transferability of licences.
36. Register.
37. Agency to monitor projects.
38. Duties of owners of projects.
39. Identification of authorised officers.

PART V-OZONE DEPLETING SUBSTANCES

40. Interpretation.
41. Restriction on importation etc. of controlled substances.
42. Prohibition of importation of refrigerators, air conditioners etc. with chlorofluorocarbons.
43. Fire fighting system.

44. Prohibition of chlorofluorocarbons.
45. Forfeiture of imported or exported controlled substances and products.
46. Application for permit.
47. Agency to issue permit.
48. Customs verification of goods.
49. Agency to maintain register of importers and exporters.
50. Importers etc. to keep records of suppliers etc.
51. Storage facility and disposal of controlled substances to be approved by Agency.
52. Prohibition of venting of controlled substances into atmosphere.

PART VI—MISCELLANEOUS

53. Enforcement notice.
54. Power of Agency relating to enforcement notice.
55. Entry of premises.
56. Protection of officers.
57. Financial security.
58. Toxic and hazardous substances.
59. Notification to Agency.
60. Legal proceedings.
61. Annual reports.
62. Regulations.
63. Repeal and savings.

SCHEDULES

SIGNED this *11th day of August, 2008*

DR. ERNEST BAI KOROMA,
President.



No. 11



Sierra Leone

2008

THE ENVIRONMENT PROTECTION AGENCY ACT, 2008. Short title.

Being an Act to establish the Sierra Leone Environment Protection Agency, to provide for the effective protection of the environment and for other related matters.

[] Date of commencement.

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

PART 1—PRELIMINARY

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

“Agency” means the Sierra Leone Environment Protection Agency established by section 2;

“air” includes air within a building, vehicle, any enclosure, structure or the air space of Sierra Leone;

“airspace” means the airspace within the territorial limits of Sierra Leone;

“authorised officer” means an employee of the Agency authorised for a specified purpose;

“Board” means the Board of Directors established by section 3;

“discharge” includes deposit, emission or leakage;

“disposal” includes both land-based disposal and dumping in waters and airspace of Sierra Leone;

“effluent limitation” means any restriction established by the Agency on quantities, rates and concentration of chemical, physical, biological or other constituents which are discharged from point sources or other sources into the waters of Sierra Leone or on, or into the land.

“environment” includes land, air, water and all plants, animals and human beings living therein and the inter-relationship which exists among these or any of them;

“Executive Director” means the Executive Director appointed under section 14;

“licence” means an environmental impact assessment licence issued under section 29;

“Minister” means the Minister charged with responsibility for the environment and Ministry shall be construed accordingly;

“monitoring” includes the inspection, measurement, sampling or analysis of the discharge of a pollutant or of any environmental medium in any locality, whether periodically or continuously;

“offshore facility” means any facility of any kind located over, in, on, or under any of the waters of Sierra Leone;

“onshore facility” means any facility of any kind (including motor vehicles and rolling stock) located over, in or under any land within Sierra Leone other than submerged land;

“owner” includes—

- (a) in the case of a vessel the owner, operator or charterer of the vessel;
- (b) in the case of an onshore facility or an offshore facility, the owner or operator of such facility;
- (c) in the case of any abandoned offshore facility, the owner or operator of such facility immediately before its abandonment; and
- (d) in the case of a project, a person managing or controlling such project;

“pollution” means any natural, man-made or man-aided alteration of the chemical, physical or biological quality of the environment to the extent that is detrimental to the environment or beyond acceptable limits and pollutants shall be construed accordingly;

“project” means any activity which requires a licence under this Act;

“removal” means removal of hazardous substances from the air, land or water, including shorelines or the taking of such other action as may be necessary to minimize damage to public health or welfare, ecology and natural resources of Sierra Leone;

“standards” includes criteria and specifications;

“waters of Sierra Leone” means all water resources in any form, including atmospheric, surface and subsurface and underground water resources whether the water resources are in territorial waters, exclusive economic zone or any area under the jurisdiction of the Republic of Sierra Leone

PART II—ESTABLISHMENT OF ENVIRONMENT PROTECTION AGENCY

Establishment of Environment Protection Agency.

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

(2) The Agency shall be a body corporate, having perpetual succession and capable of acquiring, holding and disposing of any property, whether movable or immovable, 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 Agency shall have a common seal the use of which shall be authenticated by the signatures of the Chairman of the Board and the Executive Director or any other member of the Board designated in that behalf by the Board.

Board of Agency.

3. (1) The governing body of the Agency shall be a Board of Directors consisting of—

(a) a chairman who shall be a person who has considerable knowledge and experience in environmental matters;

(b) a representative each from the following Ministries and Unit not below the rank of Director:—

(i) Ministry of the Environment;

(ii) Ministry of Local Government;

(iii) Ministry of Mineral Resources;

(iv) Ministry of Marine Resources;

(iv) Ministry of Agriculture and Forestry;

(vi) Ministry of Tourism;

(vii) Ministry of Trade and Industry;

(viii) Ministry of Transport;

(ix) Ministry of Health;

(x) Petroleum Unit;

(c) three persons, at least one of whom shall be a woman, knowledgeable in commerce, finance and law; and

(d) the Executive Director who shall also act as secretary.

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

Term of office of members of Board.

4. (1) The Chairman and other members of the Board except the Executive Director, shall hold office for three years and shall be eligible for re-appointment for not more than one term.

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

- (a) inability to perform the functions of his office by reason of infirmity of mind or body;
- (b) proven misconduct;
- (c) if he becomes bankrupt or insolvent;
- (d) if he is convicted of 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 by written notice to the Minister; or
- (g) if he dies.

Functions of Board.

5. (1) Subject to this Act, the Board shall have the control and supervision of the Agency.

(2) The Board shall also provide such policy guidance and advice as will ensure the efficient implementation of the functions of the Agency and enhance the overall performance of the Agency.

Remuneration of members of Board.

6. The Chairman and the other members of the Board and persons co-opted by the Board under subsection (5) of section 8 shall be paid such remuneration, fees and allowances and shall be reimbursed by the Agency for any expenses incurred in connection with the discharge of their functions as the Board may determine.

7. (1) Where a person ceases to be a member of the Board under the circumstances specified in subsection (2) of section 4- ^{Filling of vacancies.}

- (a) the members of the Board shall, where the person is the Chairman, elect one of their number to act as Chairman until such time as another Chairman is appointed in his stead;
- (b) in the case of any other member, the Chairman shall arrange, subject to this Act, to have another person appointed to the Board.

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

8. (1) The Board shall hold its first meeting on such date and at such place as the Minister may, after consultation with the Board determine and thereafter, it shall meet for dispatch of business at such time and place as the Chairman may decide but shall meet at least once a month. ^{Meetings of Board.}

(2) At any meeting at which he is present, the Chairman shall preside and in his absence the members present shall elect one of their number to preside.

(3) The quorum at a meeting of the Board shall be seven including the Executive Director.

(4) Each member of the Board shall have one vote and in the case of equality of votes, the Chairman or other person presiding shall have a casting vote.

(5) The Board may co-opt any person to attend its meetings and provide technical or other advice to the Board or otherwise assist at its meeting but such person shall not vote on any matter for decision by the Board.

(6) Any proposal circulated among all members of the Board and agreed to in voting by a two-thirds majority of the members shall have the same force or effect as a decision made at a duly constituted meeting of the Board; but if a member requires that the proposal be placed before a meeting of the Board, this subsection shall not apply to the proposal.

(7) Subject to this Act, the Board shall regulate its meetings and procedure as it thinks fit.

Disclosure of interest.

9. (1) A member of the Board who has any interest direct or indirect, in any matter 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 the member shall not take part in any deliberation or decision of the Board relating to that matter.

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

Powers of Board.

10. (1) In the discharge of its functions, the Board may—

- (a) direct the Executive Director to furnish it with any information, report or other document which the Board considers necessary for the performance of its functions;
- (b) give instructions to the Executive Director in connection with the management and performance of the functions of the Agency.

Committees of Board.

11. The Board shall, in the performance of its functions establish such committees, consisting of members of the Board and non-members and perform such functions, as the Board may determine.

PART III—FUNCTIONS AND MANAGEMENT OF AGENCY

Functions of Agency.

12. Subject to this Act, the Agency shall perform the following functions:—

- (a) advise the Minister on the formulation of policies on all aspects of the environment and in particular make recommendation for the protection of the environment;
- (b) co-ordinate the activities of bodies concerned with the technical or practical aspects of the environment and serve as a channel of communication between such bodies and the Minister;
- (c) co-ordinate the activities of such bodies as it considers appropriate for the purposes of controlling the generation, treatment, storage, transportation and disposal of industrial waste;
- (d) secure, in collaboration with such persons as it may determine the control and prevention of discharge of waste into the environment and the protection and improvement of the quality of the environment;
- (e) collaborate and coordinate with such foreign and international bodies as the Agency considers necessary for the purposes of this Act;
- (f) issue environmental permits and pollution abatement notices for controlling the volume, types, constituents and effects of waste discharges, emissions, deposits or other source of pollutants and of substances which are hazardous or potentially dangerous to the quality of the environment or any segment of the environment;

- (g) issue notices in the form of directives, procedures or warnings to such bodies as it may determine for the purpose of controlling the volume, intensity and quality of noise in the environment;
- (h) prescribe standards and guidelines relating to ambient air, water and soil quality, the pollution of air, water, land and other forms of environmental pollution including the discharge of wastes and the control of toxic substances;
- (i) ensure compliance with any laid down environmental impact assessment procedures in the planning and execution of development projects, including compliance in respect of existing projects;
- (j) act in liaison and co-operation with government agencies, local councils and other bodies and institutions to control pollution and generally protect the environment;
- (k) conduct investigations into environmental issues and advise the Minister thereon;
- (l) promote studies, research, surveys and analyses for the improvement and protection of the environment and the maintenance of a sound ecological system;
- (m) initiate and pursue formal and non-formal educational programmes for the creation of public awareness of the environment and its importance to the economic and social life of Sierra Leone;
- (n) promote effective planning in the management of the environment;

- (o) develop a comprehensive database on the environment;
- (p) impose and collect environmental protection levies in accordance with this Act or regulations made under this Act;
- (q) coordinate and monitor the implementation of national environmental policies;
- (r) coordinate with Government Ministries, local councils and other agencies on matters relating to environmental protection and management;
- (s) collect and make available to the public or interested persons or bodies, through publications and other appropriate means and in cooperation with public or private organizations, environmental data and information;
- (t) promote the establishment of national environmental standards;
- (u) act as the focal point on all issues concerning the environment; and
- (v) perform any other function conferred on it under this Act.

13. Except otherwise provided in this Act, the Agency in the performance of its functions under this Act or any other enactment shall not be subject to the direction or control of any person or authority. Agency not subject to any directions.

14. (1) The Agency shall have an Executive Director who shall be appointed by the Board and approved by the Minister. Executive Director.

- (2) The Executive Director shall be a person with—
- (a) formal qualification in any profession relevant or appropriate to the functions of the Agency; and
 - (b) proven ability in public administration and management.
- (3) The Executive Director shall be responsible to the Board for—
- (a) the day-to-day administration of the Agency;
 - (b) the supervision and discipline of other staff of the Agency;
 - (c) the arrangement of the business and the recording and keeping of minutes of the meetings of the Board;
 - (d) the execution of the policies of the Board;
 - (e) performing such other duties as may be determined by the Board.

Deputy
Executive
Directors.

15. (1) The Executive Director shall be assisted by three Deputy Executive Directors who shall be in charge of —

- (a) field operations and extension;
- (b) planning, policy and research; and
- (c) finance and administration

respectively.

(2) A Deputy Executive Director shall have formal qualification and experience in the respective department.

(3) The Deputy Executive Directors shall be appointed by the Board on such terms and conditions as the Board may determine.

16. (1) In addition to the Deputy Executive Directors, the Board shall appoint such other staff as are required for the efficient performance of the functions of the Agency. Other staff of Agency.

(2) The Board may delegate to the Executive Director power of appointment of such grade or category of staff as it may determine.

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

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

- (a) Chemical Control and Management Department;
- (b) Information, Education and Communication Department;
- (c) Environmental Compliance and Enforcement Department;
- (d) Inter-Sectoral and International Cooperation Department;
- (e) Finance Department; and
- (f) Administration Department.

18. The Board may engage the services of such consultants or experts as it may consider necessary for the proper and efficient performance of the functions of the Agency. Consultants and experts to be engaged as required.

19. The Agency shall establish such provincial or district offices or both as it may consider necessary for the efficient performance of its functions. Provincial and district offices.

Funds of Agency. **20.** The activities of the Agency shall be financed by a fund consisting of—

- (a) moneys appropriated by Parliament for the purposes of the Agency;
- (b) monies generated by the Agency in the course of its activities; and
- (c) gifts or grants from donors.

Accounts and audit. **21.** (1) The Agency shall keep proper books of account and proper records in relation to the funds of the Agency and the books of accounts and records shall be in such form as the Auditor-General may approve.

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

Financial year of Agency. **22.** The financial year of the Agency shall be the same as the financial year of the Government.

PART IV—ENVIRONMENTAL IMPACT ASSESSMENTS

Prohibition of certain activities. **23.** (1) Except as otherwise provided in this Act and notwithstanding the provisions of any enactment, no person shall undertake or cause to be undertaken any of the projects set out in the First Schedule unless he holds a valid licence in respect of such project.

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding twenty-five million leones in the case of a citizen of Sierra Leone and ten thousand United States dollars in the case of a non-citizen or to a term of imprisonment not exceeding two years or to both the fine and imprisonment.

24. (1) Any person who wishes to undertake or cause to be undertaken any of the projects set out in the First Schedule shall apply to the Agency for a licence. Application for and issue of licences.

(2) An application shall be accompanied by a description of the project proposed to be undertaken.

25. (1) The Agency shall, within fourteen days of receiving an application decide whether an environmental impact assessment is required of the project. Agency to decide on need for environmental impact assessments.

(2) The matters set out in the Second Schedule shall be taken into consideration when a decision is being taken as to whether an environmental impact assessment is required in respect of any project.

(3) Where a decision has been taken that an environmental impact assessment is not required in respect of any project the Executive Director shall, in writing inform the applicant accordingly.

26. (1) An applicant shall, where a decision has been taken that a project so requires, prepare and submit to the Agency an environmental impact assessment in respect of the project. Applicant to prepare environmental impact assessment.

(2) An environmental impact assessment shall contain the information set out in the Third Schedule.

27. (1) The Agency shall, after receiving an environmental impact assessment, circulate it to professional bodies or associations, Government Ministries and non-governmental organisations for their comments. Public comments.

(2) Without prejudice to subsection (1), the Agency shall open the environmental impact assessment for public inspection and comments and shall give notice to that effect in two consecutive issues of the *Gazette* and two issues in a newspaper, except that in the case of a newspaper there shall be an interval of at least seven days between the first and second publications.

(3) Comments made under this section shall be submitted within fourteen days of the last publication in the *Gazette* or newspaper as the case may be, to the Executive Director.

Executive Director to submit comments etc. to Board.

28. (1) The Executive Director shall, after receiving the comments on an environmental impact assessment, submit the environmental impact assessment together with the comments to the Board for its consideration.

(2) The Board may, after considering the environmental impact assessment and the comments on it if any—

- (a) refer them back to the Executive Director with a direction to issue a licence on such terms and conditions as it considers appropriate;
- (b) require the applicant to furnish additional information as may be needed to determine the environmental impact of the activity; or
- (c) reject the environmental impact assessment where it is satisfied that the project and the alternatives proposed in the assessment will have significant adverse effect on the environment, people or society.

(3) An environmental impact assessment referred back to the applicant under paragraph (a) of subsection (2) for additional information shall be resubmitted within twenty-one days of the date of the reference failing which the application lapses.

(4) Where an environmental impact assessment has been rejected, the application in respect of the project shall be deemed to have been rejected.

Executive Director to issue licences.

29. Where an environmental impact assessment has been approved, the Board shall direct the Executive Director to issue a licence to the applicant in respect of the project.

30. An environmental impact assessment licence issued under this Act shall— Effect of licences.

- (a) be in the prescribed form;
- (b) authorise the licensee to undertake such activity as may be specified in it;
- (c) be valid for twelve months from the date of issue or such period as the Executive Director may determine; and
- (d) contain such conditions as may be necessary for the protection of the environment.

31. A licence may, at the expiration of the period specified in it be renewed by the Executive Director upon application by the owner of the project, for such further period as the Executive Director may determine. Renewal of licences.

32. Any person aggrieved by a decision to reject his application or not to renew his licence may appeal to the High Court within thirty days of the rejection or refusal to renew. Appeal against decision.

33. The Minister may, by statutory instrument prescribe fees for licences issued under this Act. Licence fees.

- 34.** (1) Where— Cancellation, suspension or modification of licences.
- (a) the terms and conditions of a licence are not being complied with or have been contravened; or
 - (b) there is a substantial change in the operations of a project resulting in an adverse effect on the environment,

the Executive Director may, after consultation with the Board—

- (i) cancel the licence;
- (ii) suspend the licence for such time as he thinks appropriate; or
- (iii) impose additional or modified conditions for the licence.

(2) The Executive Director shall notify the holder of a licence which has been cancelled, suspended or on which additional conditions have been imposed, of such cancellation, suspension or imposition of additional conditions.

(3) The Executive Director may, in addition to subsection (1) require the holder of a licence to take measures to abate such adverse effects on or remedy any damage to the environment where necessary.

(4) Any person aggrieved by a decision to cancel or suspend a licence may, within thirty days of the notification of the cancellation or suspension appeal to the High Court.

Transferability
of licences.

35. (1) Subject to this section, licences are not transferable.

(2) Where prior to the issue of a licence in respect of a project the ownership, control or management of that project changes, the previous owner and the new owner shall notify the Executive Director in writing within fourteen days of the transfer of ownership, control or management.

(3) Upon notification pursuant to subsection (2), the new owner shall be deemed to be the applicant for a licence.

(4) Where after the issue of a licence in respect of a project the ownership, control or management of that project changes, the previous owner and the new owner shall notify the Director of the transfer within fourteen days of the the change of ownership, control or management.

(5) The Executive Director shall, on due notification and fulfilment of relevant conditions by the new owner endorse the licence and the licence shall be deemed to have been transferred to the new owner upon such endorsement.

(6) Any person who, being the previous owner or new owner of a project fails, after a transfer, to notify the Executive Director as required in this section commits an offence and is liable on conviction to a fine not exceeding three million leones in the case of a citizen and one thousand five hundred United States dollars in the case of a non-citizen of Sierra Leone or to a term of imprisonment not exceeding one year or to both the fine and imprisonment and the licence in respect of that project shall be deemed cancelled at the expiration of the fourteen days period.

36. (1) The Executive Director shall maintain a register in which he shall record such particulars relating to licences issued under this Act.

(2) The Executive Director shall effect changes in particulars and rectify any clerical errors in the register or other document containing extracts from the register.

37. (1) The Agency shall monitor all projects in respect of which licences have been issued in order to assess their effect on the environment or ascertain compliance with this Act.

(2) For the effective exercise of the powers in subsection (1), the Executive Director or authorised officer may—

- (a) request from the owner of a project information or documentation pertaining to the project including any licence issued under this Act;
- (b) enter any premises where a project is being undertaken and inspect the project.

(3) Where the Executive Director or authorised officer has reasonable grounds to believe that an offence has been committed or is about to be committed against this Act, he may without a warrant—

- (a) enter, inspect and search any premises, vessel, vehicle or facility in which he has reasonable grounds to believe an offence has been or is being committed;
- (b) perform tests and take samples of any substances relating to such offence;
- (c) seize any document, item or substance which he has reasonable grounds to believe has been used in the commission of such offence or in respect of which an offence has been committed; or
- (d) arrest any person whom he suspects to have committed an offence.

(4) A receipt shall be given for anything seized under this section stating in it the grounds for the seizure.

(5) Any person arrested without a warrant under this section shall be taken to the nearest police station.

Duties of owners of projects.

38. (1) The owner of a project shall permit and assist the Executive Director or authorised officer to have full access to—

- (a) the project premises and the project whenever the Executive Director or authorised officer thinks necessary for the exercise of his powers under this Act; or
- (b) the project's records.

(2) Any owner who fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding two million leones or to a term of imprisonment not exceeding one year or to both the fine and imprisonment and in the case of a continuing offence to a further fine not exceeding Le100,000 for each day on which the offence continues.

39. (1) An authorised officer shall, when exercising any of the powers conferred by this Act on request, produce identification to show that he is an authorised officer. Identification of authorised officers.

(2) Notwithstanding the provisions of this Act, no person shall be deemed to have committed an offence under this Act where an authorised officer refuses or fails to comply with a request to produce identification pursuant to subsection (1).

PART V—OZONE DEPLETING SUBSTANCES

40. In this Part, unless the context otherwise requires— Interpretation

“air pollution” means a condition of the ambient air arising wholly or partly from the presence of one or more pollutants in the air that endangers the health, safety or welfare of persons or interferes with the normal enjoyment of life or property;

“ambient air” means the atmosphere within and outside a structure or within any underground space;

“controlled substance” include chlorofluorocarbons, other fully halogenated chlorofluorocarbons, halon, carbon tetrachloride, 1,1,1, trichloroethane, methyl bromide whether they are virgin, recovered, recycled or reclaimed but does not include any controlled substance—

- (a) which is in a manufactured product other than a container used for the transportation or storage of that substance;
- (b) originating from inadvertent or coincidental production during a manufacturing process, or from use as a processing agent which is present in chemical substance as trace impurities, or which is emitted during product manufacture or handling;

“controlled product” means a product that contains, is made with, is dependent on or designed to contain a controlled substance;

“chlorofluorocarbon” means a fully halogenated chlorofluorocarbon each molecule of which contains one, two or three carbonations in the categories set out in the Fourth Schedule ;

“halon” means an abrominated chemical related to a chlorofluorocarbon, used in fire fighting and having a very high ozone depleting potential set out in column III of the Fourth Schedule including their isomers;

“Protocol” means the Protocol on Substances that deplete the ozone layer adopted in Montreal, Canada in 1987.

Restriction on importation etc. of controlled substances.

41. (1) No person shall import or export any controlled substance or controlled product without a permit issued by the Agency.

(2) Subject to subsection (1), no person shall import or export a controlled substance or controlled product from or to any country that is not a party to the protocol.

(3) Where the controlled substance or controlled product is in transit to another country, no person shall sell or distribute or

dispose of or otherwise deal with it except in accordance with the permit issued under this section.

(4) Any person who contravenes subsection (1), (2) or (3) commits an offence and is liable on conviction to a fine not exceeding Le50,000,000.00 or to imprisonment for a term not exceeding two years or to both the fine and imprisonment.

42. (1) From the date to be appointed by the Minister by statutory instrument, no person shall import—

- (a) a refrigerator or air conditioner of the type specified in the instrument;
- (b) a vehicle fitted with an air conditioner or refrigerator unit unless the cooling unit of the vehicle is fitted with a chlorofluorocarbon – free coolant; and
- (c) an aerosol product which uses chlorofluorocarbon as gas or as propellant as specified in the instrument

Prohibition of importation of refrigerators, air conditioners etc with chlorofluorocarbons.

(2) Paragraph (c) of subsection (1) shall not apply to the importation of any medical aerosol.

43. (1) From a date to be appointed by the Minister by statutory instrument, no person shall import halon for fire fighting.

Fire fighting system.

(2) Subsection (1) shall not apply to the Sierra Leone Armed Forces, the Sierra Leone Police, the Sierra Leone Fire Force, the Sierra Leone Airports Authority and the Sierra Leone Ports Authority.

44. From the date to be appointed by the Minister by statutory instrument, no person shall use chlorofluorocarbon 11 as blowing agent or chlorofluorocarbon 12 as refrigerant in the manufacture of refrigeration equipment.

Prohibition of chlorofluorocarbon 11 and 12 as blowing agent and refrigerants.

Forfeiture of imported or exported controlled substance and products.

45. Any person who is convicted under section 41 shall, in addition to the penalty provided therein, forfeit to the Government the controlled substance or product imported or being exported.

Application for permit.

46. (1) Any person who wishes to import or export any controlled substance or controlled product shall apply in writing to the Agency for a permit in the manner set out in forms A and B of the Fifth Schedule respectively.

(2) An application for a permit under subsection (1) shall be signed—

- (a) in the case of a body corporate, by a Director or Secretary or such other officer or person authorized to do so; and
- (b) in any other case by the person making the application or by a person authorized to act on behalf of that person.

Agency to issue permit, etc.

47. (1) The Agency may issue a permit to import or export any controlled substance or controlled product where it is satisfied that the applicant has adequate and appropriate facilities and equipment to handle the controlled substance or controlled product without causing damage to the environment.

(2) A permit issued under subsection (1) shall be as set out in the Sixth Schedule.

(3) A permit issued under this section shall—

- (a) not be transferable; and
- (b) entitles the holder to only import or export the controlled substance or controlled product specified in the permit through the customs ports of entry and exit in Sierra Leone.

(4) A permit issued under this section shall expire on the 31st day of December of the year of issue and all imports relating to the permit shall arrive at the port of entry in Sierra Leone on or before 31st day of December of that year.

(5) The Agency may, if it is not satisfied with an application for a permit refuse to issue the permit to the applicant.

(6) The decision of the Agency and the reason for the rejection of the application shall be communicated in writing to the applicant.

(7) An applicant who is aggrieved by the refusal to issue a permit shall appeal to the High Court within thirty days of receipt of the communication in subsection (6).

(8) Any person who imports or exports a controlled substance or controlled product shall provide a copy of the permit, bill of lading and invoice to the authorized officer of the Agency who shall certify the quantity of the controlled substances imported or exported at the port of entry.

48. Any person who imports or exports controlled substances or controlled products shall, on request by a customs officer, tender the goods for verification as to whether they contain or are made with controlled substances or controlled products.

Customs verification of goods.

49. The Agency shall maintain a register of importers and exporters of controlled substances and controlled products.

Agency to maintain register of importers and exporters.

50. Any person who imports or exports any controlled substance or controlled product shall—

- (a) keep a record of names and addresses of persons or firms to whom the substance or product has been supplied or distributed and the amount of substances supplied or distributed to such persons or firm; and

Importers etc. to keep records of suppliers etc.

- (b) make such record available when requested by the Agency.

Storage facility and disposal of controlled substances to be approved by Agency.

51. (1) Any person who imports, exports, distributes or supplies any controlled substances shall provide such secure storage or facility as may be approved by the Agency for the storage of the substance.

(2) The Agency shall prepare guidelines for the disposal of controlled substances before or after the deadline for the phasing out of the controlled substances in Sierra Leone.

Prohibition of venting of controlled substances into atmosphere.

52. (1) No person shall, while installing, servicing, repairing or operating any equipment or product that contains or depends on any controlled substance, vent the controlled substance into the atmosphere.

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding four million leones or to a term of imprisonment not exceeding one year or to both the fine and imprisonment.

PART VI-MISCELLANEOUS

Enforcement notice.

53. (1) Where it appears to the Agency that the activities of any undertaking poses a serious threat to the environment or to public health, the Agency may serve on the person responsible for the undertaking, an enforcement notice requiring him to take such steps as the Agency thinks necessary to prevent or stop the activities.

(2) An enforcement notice shall specify—

- (a) the offending activity;
- (b) the steps required to be taken; and
- (c) the time within which the steps shall be taken.

(3) The Agency may, in an enforcement notice direct the immediate cessation of the offending activity where it considers that the circumstances so demand.

(4) Any person who acts contrary to an enforcement notice issued under this section commits an offence and shall be liable on conviction to a fine not exceeding Le50,000,000.00 or to imprisonment for a term not exceeding two years or to both the fine and imprisonment.

54. (1) Where a person to whom a notice has been served under subsection (1) of section 53 fails to comply with the directives contained in the notice within the stipulated time or such further period as the Agency may grant, the Agency may, without prejudice to a prosecution under subsection (4) of that section take such steps as it considers appropriate to ensure compliance with the notice.

Power of Agency relating to enforcement notice.

(2) A police officer, an officer of the Agency or any public officer authorized by the Minister may use such force as may be necessary for the purpose of ensuring compliance with the enforcement notice.

(3) Any person who hinders or obstructs any person acting under this section commits an offence and is liable on conviction to a fine not exceeding Le50,000,000.00 and or to imprisonment for a term not exceeding two years or to both the fine and imprisonment.

(4) Any amount reasonably incurred by the Agency or any institution to prevent or stop the offending activities may be recovered from the person responsible as a civil debt, unless a court considers that the amount was incurred unnecessarily.

55. (1) An authorised officer may at any reasonable time enter any premises for the purpose of ensuring compliance with this or any other enactment relating to the protection of the environment and shall, if required to do so by the person in charge of the premises, produce his authority to the person.

Entry of premises.

(2) Any person who assaults or obstructs an authorised person acting in the execution of his duty under subsection (1) commits an offence and is liable on conviction to a fine not exceeding Le50,000,000.00 or to imprisonment not exceeding two years or to both the fine and imprisonment

Protection of officers.

56. No person acting in pursuance of the functions conferred on him by this Act shall be subject to any civil or criminal liability in respect of that act, whether on the grounds of want of jurisdiction, mistake of law or fact or any other ground, unless he acted in bad faith and without reasonable cause.

Financial security.

57. (1) The Board may, by statutory instrument make regulations providing that persons responsible for specified projects shall take and maintain insurance or other appropriate financial security to guarantee payment of the compensation for damage caused as a result of the operations of the project or the payment for preventive measures or restorative action where necessary.

(2) Regulations made under this section shall specify the minimum amount of insurance or other appropriate financial security to be maintained in respect of specified projects, together with any other requirements regarding the period of cover and the conditions under which such cover may cease or the liability of the insurer may be avoided by reason of any act or omission on the part of the party insured.

Toxic and hazardous substances.

58. (1) The Board may prescribe activities or substances which shall be considered toxic or hazardous.

(2) The Agency shall take all necessary and appropriate measures to monitor, control and regulate the manufacture, sale, transportation, handling or disposal of toxic and hazardous substances, including toxic and hazardous wastes.

(3) The introduction or importation of toxic or hazardous wastes into Sierra Leone for storage or disposal by any means whatsoever is prohibited.

(4) The possession, introduction or importation into Sierra Leone of internationally banned chemicals or substances is prohibited.

(5) The discharge of any toxic and hazardous substance into the air or in, on or under the land and waters of Sierra Leone is prohibited.

(6) Any person who contravenes subsection (3), (4) or (5) commits an offence and is liable on conviction to a fine not exceeding fifty million leones or to a term of imprisonment not exceeding two years or to both the fine and imprisonment.

(7) Notwithstanding subsection (5) it shall be a defence if it is proved that the discharge was caused solely by a natural disaster or an act of war.

(8) Without prejudice to subsection (1), a court may declare an activity or substance to be hazardous where the court is satisfied on the evidence before it that the activity or substance has the potential of causing grave damage to the environment.

59. (1) Where a vessel or onshore or offshore facility is used or is involved in the commission of an offence under this Act, the owner or operator of the vessel, onshore or offshore facility shall—

Notification to Agency.

- (a) promptly notify the Agency or other relevant authority of the discharge;
- (b) take all possible measures in accordance with standard removal methods to minimize pollution;
- (c) promptly comply with such other directions as the Board may prescribe.

(2) An owner or operator of a vessel or facility who fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding forty million leones or to a term of imprisonment not exceeding two years or to both the fine and imprisonment.

Legal proceedings.

60. Where an offence has been committed by a company or by any member of a partnership, firm or business, every director, manager, secretary or other officer of the company directly connected with the project or any other member of the partnership or other person connected with the management of such firm or business shall be guilty of such offence unless he proves to the satisfaction of the court that—

- (a) he used all due diligence to secure compliance with the act; and
- (b) such offence was committed without his knowledge, consent or connivance

Annual reports.

61. (1) The Executive Director shall, within three months after the end of each financial year of the Board, submit for its approval an annual report of the activities, operations, property and finances of the Agency for that year.

(2) Subject to subsection (1), the report shall include a copy of the audited accounts of the Agency together with the audit report on the accounts.

(3) A copy of the annual report approved by the Board shall be submitted by the Board to the Minister not later than six-months after the end of the year to which it relates, and the Minister shall, as soon as possible, but not later than one month after receipt of the report lay it together with his comments on it before Parliament.

Regulations.

62. (1) Without prejudice to the other provisions of this Act, the Board may by statutory instrument make regulations for the implementation of the purposes of this Act.

(2) Regulations made pursuant to subsection (1) may provide for—

- (a) the licensing of any project or class or category of projects;
- (b) the criteria for the approval of environmental impact assessments;
- (c) the minimum amount of insurance or other appropriate financial security to be maintained in respect of specified activities or projects;
- (d) standards, guidelines or methods for preventing or minimising pollution;
- (e) offences against the regulations and penalties for such offences;
- (f) the training and certification of refrigeration technicians;
- (g) the training of custom officers and the police, and
- (h) any other matter which is required or authorised to be prescribed.

63. (1) The Environment Protection Act, 2000 is hereby repealed.

Repeal and savings.
Act No. 2
of 2000.

(2) Notwithstanding the repeal, anything done or any licence issued under the repealed Act shall be deemed to have been done or issued under this Act.

FIRST SCHEDULE**(Section 24)****PROJECTS REQUIRING ENVIRONMENTAL IMPACT ASSESSMENT LICENCES**

A licence is required for the projects whose activities involve or include the following:—

- (a) substantial changes in renewable resource use (e.g. conversion of land to agricultural production, forestry or to pasture land, rural development, timber production);
- (b) substantial changes in farming and fisheries practices (e.g. introduction of new crops, large scale mechanisation or use of chemicals in agriculture);
- (c) exploitation of hydraulic resources (e.g. dams, drainage and irrigation projects, water basin development, water supply);
- (d) infrastructure (e.g. roads, bridges, airports, harbours, transmission lines, pipelines, railways);
- (e) industrial activities (e.g. metallurgical plants, wood processing plants, chemical plants, power plants, cement plants, refinery and petro-chemical plants, agro-industries).
- (f) extractive industries (e.g. mining, quarrying, extraction of sand, gravel, salt, peat, oil and gas);
- (g) waste management and disposal (e.g. sewerage systems and treatment plants, landfills, treatment plants for household and hazardous waste);
- (h) housing construction and development schemes;
- (i) establishment of places of entertainment, motor repair garages and welding shops;
- (j) importation of second hand vehicles.

SECOND SCHEDULE**(Section 25)**

Factors for determining whether a project requires an environmental impact assessment—

- (a) the environmental impact on the community;
- (b) the location of the project;
- (c) whether the project transforms the locality;
- (d) whether the project has or is likely to have substantial impact on the ecosystem of the locality;
- (e) whether the project results in the diminution of the aesthetic, recreational, scientific, historical, cultural or other environmental quality of the locality;
- (f) whether the project will endanger any species of flora or fauna or the habitat of the flora or fauna;
- (g) the scale of the project;
- (h) the extent of the degradation of the quality of the environment
- (i) whether the project will result in an increase in demand for natural resources in the locality;
- (j) the cumulative impact of the project together with other activities or projects, on the environment.

THIRD SCHEDULE
(Section 26)

Contents of environmental impact assessment (EIA)

An EIA shall contain a true statement and description of—

- (a) the location of the project and its surroundings;
- (b) the principle, concept and purpose of the project;
- (c) the direct or indirect effects that the project is likely to have on the environment;
- (d) the social, economic and cultural effect that the project is likely to have on people and society;
- (e) the communities, interested parties and Government ministries consulted;
- (f) any actions or measures which may avoid, prevent, change, mitigate or remedy the likely effect on people and society;
- (g) any alternatives to the proposed project;
- (h) natural resources in the locality to be used in the project;
- (i) the plans for decommissioning of the project;
- (j) such other information as may be necessary for a proper review of the potential environmental impact of the project.

FOURTH SCHEDULE
(Section 40)

PART A: Group	Controlled Substances Substance	Ozone Depleting Potential
Group I		
	CFC ₁ ₃	(CFC-11) 1.0
	CF ₂ Cl ₂	(CFC-12) 1.0
	C ₂ F ₃ Cl ₃	(CFC-113) 0.8
	C ₂ F ₄ Cl ₂	(CFC-114) 1.0
	C ₂ F ₅ Cl	(CFC-115) 6.0
Group II		
	CF ₂ BrCl	(halon-1211) 3.0
	CF ₃ Br	(halon-1301) 10.0
	C ₂ F ₄ Br ₂	(halon-2402) 6.0
PART B:		
Group	Controlled Substances Substance	Ozone Depleting Potential
Group I		
	CF ₃ Cl	(CFC-13) 1.0
	C ₂ FCl ₅	(CFC-111) 1.0
	C ₂ F ₂ Cl ₄	(CFC-112) 1.0
	C ₃ FCl ₇	(CFC-211) 1.0
	C ₃ F ₂ Cl ₆	(CFC-212) 1.0
	C ₃ F ₃ Cl ₅	(CFC-213) 1.0
	C ₃ F ₄ Cl ₄	(CFC-214) 1.0
* These ozone depleting potentials are estimates based on existing knowledge and will be reviewed and revised periodically.		
	C ₃ F ₅ Cl ₃	(CFC-215) 1.0
	C ₃ F ₆ Cl ₂	(CFC-216) 1.0
	C ₃ F ₇ Cl	(CFC-217) 1.0

Group	Substance	Ozone Depleting Potential
Group II		
CCl ₄	carbon tetrachloride	1.1
Group III		
C ₂ H ₃ Cl ₃	1,1,1 – trichloroethane*	0.1
(Methyl chloroform)		

* This formula does not refer to 1,1,2 trichloroethane.

PART C: Controlled Substances			
		Number of Isomers	Potential
Group I			
CHFC ₁₂	(HCFC-21)**	1	0.04
CHF ₂ CL	(HCFC-22)**	1	0.055
CH ₂ FC1	(HCFC-31)	1	0.02
C ₂ HFC ₁₄	(HCFC-121)	2	0.04
C ₂ HF ₂ C ₁₃	(HCFC-122)	3	0.08
C ₂ HF ₃ C ₁₂	(HCFC-123)	3	0.06
CHC ₁₂ CF ₃	(HCFC-13)**	-	0.02
C ₂ HF ₄ C1	(HCFC-124)	2	0.04
CHFC1CF ₃	(HCFC-124)**	-	0.022
C ₂ H ₂ FC ₁₃	(HCFC-131)	3	0.05
C ₂ H ₂ F ₂ C ₁₂	(HCFC-132)	4	0.05
C ₂ H ₂ F ₃ C1	(HCFC-133)	3	0.06
C ₂ H ₂ FC ₁₂	(HCFC-141)	3	0.07
CH ₃ CFC ₁₂	(HCFC-141B)**	-	0.11
C ₂ H ₃ F ₂ C1	(HCFC-142)	3	0.07
CH ₃ CF ₂ C1	(HCFC-142b)**	-	0.065
C ₂ H ₂ FC1	(HCFC-151)	2	0.005
C ₃ HFC ₁₆	(HCFC-221)	5	0.07
C ₃ HF ₂ C ₁₅	(HCFC-222)	9	0.09
C ₃ HF ₃ C ₁₄	(HCFC-223)	12	0.08
C ₃ HF ₄ C ₁₃	(HCFC-224)	12	0.09
C ₃ HF ₅ C ₁₂	(HCFC-225)	9	0.07

Group	Substance	Number of Ozone Depleting Isomers	Potential
Group I			
CF ₃ CF ₂ CHC1 ₂	(HCFC-225a)**	-	0.025
CF ₂ C1CF ₂ CHC1F	(HCFC-225cb)**	-	0.033
C ₃ HF ₆ C1	(HCFC-226)	5	0.10
C ₃ H ₂ FC ₁₅	(HCFC-231)	9	0.09
C ₃ H ₂ F ₂ C ₁₄	(HCFC-232)	16	0.10
C ₃ H ₂ F ₃ C ₁₃	(HCFC-233)	18	0.23
C ₃ H ₂ F ₄ C ₁₂	(HCFC-234)	16	0.28
C ₃ H ₂ F ₅ C1	(HCFC-235)	9	0.52
C ₃ H ₃ FC ₁₄	(HCFC-241)	12	0.09
C ₃ H ₃ F ₂ C ₁₃	(HCFC-242)	18	0.13
C ₃ H ₃ F ₃ C ₁₂	(HCFC-243)	18	0.12
C ₃ H ₃ F ₄ C1	(HCFC-244)	12	0.14
C ₃ H ₃ FCL ₂	(HCFC-261)	9	0.02
C ₃ H ₃ F ₂ C1	(HCFC-262)	9	0.02
C ₃ H ₃ FC1	(HCFC-271)	5	0.03
Group II			
CHFBr ₂	1	1.00
CHF ₂ Br	(HBFC-22b1)	1	0.74
CH ₂ FBr	1	0.73
C ₂ HFB ₄	2	0.08
C ₂ HF ₂ Br ₃	3	1.8
C ₂ HF ₃ Br ₂	3	1.6
C ₂ HF ₄ Br	2	1.2
C ₂ H ₂ FBr ₃	3	1.1
C ₂ H ₂ F ₂ Br ₂	4	1.5
C ₂ H ₂ F ₃ Br	3	1.6
C ₂ H ₂ F ₄ Br ₂	3	1.7
C ₂ H ₃ F ₂ Br	3	1.1
C ₂ H ₃ FBr	2	0.1
C ₃ HFB ₆	5	1.5
C ₃ HF ₂ Br ₅	9	1.9
C ₃ HF ₃ Br ₄	12	1.8
C ₃ HF ₄ Br ₃	12	2.2
C ₃ HF ₅ Br ₂	9	2.0
C ₃ HF ₆ Br	5	3.3
C ₃ H ₂ FBr ₅	9	1.9
C ₃ H ₂ F ₂ Br ₄	16	2.1

Group	Substance	Number of isomers	Ozone depleting potential
Group I			
C ₃ H ₂ F ₃ Br ₃	...	18	5.9
C ₃ H ₂ F ₄ Br ₂	...	16	7.5
C ₃ H ₂ F ₅ Br	...	8	14.0
C ₃ H ₃ FBr ₄	...	12	1.9
C ₃ H ₃ F ₂ Br ₃	...	18	3.1
C ₃ H ₃ F ₃ Br ₂	...	18	3.1
C ₃ H ₃ F ₄ Br	...	12	4.4
C ₃ H ₄ FBr ₃	...	12	0.3
C ₃ H ₄ F ₂ Br ₂	...	16	1.0
C ₃ H ₄ F ₃ Br	...	12	0.8
C ₃ H ₅ FBr ₂	...	9	0.4
C ₃ H ₅ F ₂ Br	...	9	0.8
C ₃ H ₄ FBR	...	5	0.7

Group III			
CH ₂ BrCl	bromochloemethane	1	0.2

*Where a range of Ozone Depleting Potentials (ODPs) is indicated, the highest value in that range shall be used for the purposes of the Protocol. The ODPs listed as a single value have been determined from calculations based on laboratory measurements. Those listed as a range are based on estimates and are less certain. The range pertains to an isometric group. The upper value is the estimate of the ODP of the isomer with the highest ODP, and the lower value is the estimate of the ODP of the isomer with the lowest ODP.

**

Identifies the most commercially viable substances with ODP values listed against them to be used for the purposes of the Protocol.

PART D:
Controlled Substances

Group	Controlled Substance	Potential	Ozone Depleting
Group I			
CG ₅ Br	Methyl bromide	0.6	

FIFTH SCHEDULE
(Section 46)
FORM A

Application Form for Permit to import controlled substances/controlled products

(One application shall be used for each group of controlled substance)

Name of applicant:.....
 Address (business):.....
 Address (residential):.....
 Passport No:.....
 Company name:..... Address.....

 Nature of Business.....
 Telephone/fax/.....email:.....
 Company's certificate of incorporation No:.....
 ..Date.....
 Name of person authorized to act on behalf of applicant:.....
 Title/designation:.....
 Address:.....
 Telephone/Fax No:.....Email.....
 Cell Phone:.....
 Request for confidentiality of information: YES () NO ()
 Reasons:.....

Information concerning the controlled substances:

Group of substances:.....

 Country of origin/export:.....
 Quantity to be imported:.....
 Port of entry:.....
 Mode of transport/intended carrier:.....

Information concerning the supplier:

- (i) Name of supplier:.....
- (ii) Trade of the supplier:.....
- (iii) Full address of the supplier:.....
- (iv) Country of origin:.....
- (v) Country from which controlled substance or product is consigned.....
- (vi) Holder of the product trade mark:.....

DECLARATION:

Iof.....
 hereby declare that the information provided in this application is correct and that I am willing and able to use the controlled substance in compliance with all the relevant laws for the time being in force.

Signature.....Date.....

FORM B

APPLICATION FORM FOR A PERMIT TO EXPORT A CONTROLLED SUBSTANCE

Name of applicant:.....
 Address (business):.....
 Address (residential):.....
 Passport no:.....
 Company's name:.....
 Nature of business.....
 Telephone/fax:.....Email.....
 Company's certificate of incorporation No:.....
 Name of person authorized to act on behalf of applicant:.....
 Title:.....
 Address:.....
 Telephone/Fax No:.....Email.....
 Cell Phone:.....
 Request for confidentiality: YES () NO ()
 If yes, give reasons:.....

Information concerning the controlled substances

Party to which the controlled substance is being exported:.....
 Type of controlled substance:- (tick)
 Recovered:.....
 Recycled:.....
 Reclaimed:.....
 Used:.....

Controlled substance	Country of export	Amount (M.T.)	Proposed date of export
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DECLARATION:

Iof.....
 hereby declare that the information provided in this application is correct and that I am able to export the controlled substance in compliance with all the relevant laws for the time being in force.

Signature.....Date.....

**SIXTH SCHEDULE
 (Section 47)**

PERMIT TO IMPORT/EXPORT A CONTROLLED SUBSTANCE

Permit No:.....

Name:.....

Address:.....

is hereby permitted to import from/export to.....(Country of import) (Country of export) the following controlled substances:-

Substance/Product	Amount (Numeric Tonnes)
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This permit is valid fromday of.....to.....day of.....

.....
 Signature/official stamp

Passed in Parliament this *15th* day of *July*, in the year of our Lord two thousand and eight.

VICTOR A. KAMARA,
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.

VICTOR A. KAMARA,
Clerk of Parliament.