

PUBLIC NOTICE

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PUBLIC EMERGENCY REGULATIONS, 1998

CRIMINAL PROCEDURE AND EVIDENCE RULES, 1998

Short title.

IN EXERCISE of the powers conferred upon him by subsection (5) of Section 29 of the Constitution of Sierra Leone, 1991, the President hereby orders the making of the following Rules:—

1. Where at the trial on indictment of any person charged with an offence or of any other offence to which the Regulations relate, and that person—

Absence of accused after plea.

(a) had entered a plea of not guilty to the charge; and

(b) is represented by a legal practitioner,

the trial shall, after the plea, proceed and shall not be invalidated or adjourned merely because of the subsequent absence of that person at the trial.

2. At the trial of any person charged with an offence or of any other offence to which the Regulations relate, the verdict of not less than two-thirds of the original jury shall be held and received by the court as the verdict of the whole jury.

Action on verdict.

3. Where at the trial of any person charged with an offence or of any other offence to which the Regulations relate, a member of the jury dies or is discharged by the court as being, through illness or any other reason, incapable of continuing to act, the jury shall nevertheless be considered as remaining for the purposes of that trial properly constituted and the trial shall proceed accordingly.

Continuance of trial where a juror dies or becomes incapable.

Provided that the number of jurors shall not be reduced below nine.

Secondary
evidence
admissible.

4. At the trial of any person charged with an offence or other offence to which the Regulations relate, secondary evidence whether of audio or visual or documentary material, including photographs, shall be admissible in evidence if the original of that material cannot be traced or produced without undue delay or expense or is in the possession or control of the accused person or a third party and cannot be traced without undue delay or expense.

Written
statement by
accused.

5. A statement made in writing by an accused person and a photocopy thereof shall be admissible in evidence notwithstanding the absence of the original of that statement or of an earlier statement made by that accused person.

Voluntariness
as criterion
for
admissibility
of accused's
statement.

6. At the trial of any person charged with an offence or other offence to which the Regulations relate, in considering the admissibility of any statement made by that person, the only relevant consideration for the court shall be whether that statement was made freely and voluntarily, without the accused person being induced to do so by that statement by any promise of favour or by menaces or undue influence.

Bankers' 1874
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cable.

7. (1) The provisions of the Bankers' Books Evidence Act, 1874, shall not apply to the bank accounts of any person who has undertaken or entered into any financial transaction with any person purporting to act for and on behalf of the Government of Sierra Leone.

(2) Subject to sub-rule (1), the manager or other appropriate officer of any bank which holds an account for any person who has undertaken any financial transaction with any person purporting to act for and on behalf of the Government of Sierra Leone shall on the written request of the Attorney-General and Minister of Justice, directed to the manager or other appropriate officer of the said bank or financial institution—

- (a) furnish the Attorney-General and Minister of Justice with a duly certified extract and copy of any information kept by that bank or other financial institution relating to the account of that person; and

(b) freeze the operation of any account relating to that person or any other account held by that person at that bank or other financial institution.

(3) Any extract or other information furnished under this Rule shall, without more, be received as evidence in any court.

(4) For the purposes of this Rule, a person operates an account at a bank or other financial institution if he operates such an account in his own name or jointly with any other person or under a business name or in the name of a company.

(5) For the purposes of this Rule, a person enters into or undertakes a financial transaction with a person or institution purporting to act for and on behalf of the Government of Sierra Leone if he enters into any contract or agreement with such person or institution in his own name or jointly with any other person or in the name of a business or a company.

8. Where there is any money in the bank account of any person who has entered into or undertaken a financial transaction with any other person or institution purporting to act for and on behalf of the Government of Sierra Leone, such money shall be forfeited to the Government of Sierra Leone, unless that person shall show that that transaction was entered into in good faith and in the public interest and that the transaction was duly carried out on his part.

Funds to be forfeited to the Government of Sierra Leone.

9. (1) Where a person has been shown to have been responsible for any financial loss incurred by the Government of Sierra Leone, such loss shall be regarded as money due and owing to the Government of Sierra Leone by that person and the court shall for the purpose of recovering the same make an order—

Recovery of financial loss incurred by the Government.

(a) requiring that person to make good such loss by paying the amount of such loss into a special account to be kept at the Bank of Sierra Leone; or

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- (b) mandating the manager or other appropriate officer of a bank or other financial institution in possession or control of monies belonging to that person to pay such monies amounting to the loss in question into a special account to be kept at the Bank of Sierra Leone;
- (c) authorising an officer of the court, where the full amount of the loss cannot be satisfied from monies belonging to that person, to sell any personal or real property belonging to that person and to pay the proceeds of such sale, in satisfaction of the full amount of the loss into a special account to be kept at the Bank of Sierra Leone.

(2) A person, bank or other financial institution on which a court order is served, pursuant to this Rule, shall comply with that order, and shall be indemnified against any action or claim relating to the due compliance with that order.

Voidable transactions.

10. (1) Any transaction entered into by any person or institution with any person purporting to act for and on behalf of the Government of Sierra Leone shall be voidable at the instance of the Attorney-General and Minister of Justice.

(2) Any transfer of money or other property to or in the name of another person with the effect of preventing the Government of Sierra Leone from having access to such money or property under these Rules shall be voidable at the instance of the Attorney-General and Minister of Justice.

(3) Where any transaction has been declared void pursuant to sub-rule (1) or (2), any person who has received money or other property belonging to the Government of Sierra Leone as a result of any transaction entered into with any person purporting to act for and on behalf of the Government of Sierra Leone, or with the effect of preventing the Government of Sierra Leone from having access to such money or property shall refund such money or property to the Government of Sierra Leone, and in default thereof the provisions of these Rules shall apply accordingly.

11. These Rules shall apply to—

Application
of Rules.

- (a) all financial transactions entered into between a person and any other person purporting to act for and on behalf of the Government of Sierra Leone;
- (b) the trial of offences referred to in the Regulations;
- (c) the trial of offences charged in connection with the activities of the members of the Armed Forces Revolutionary Council;
- (d) the trial of a person charged in connection with the activities of the Armed Forces Revolutionary Council or as collaborating in any way with the Armed Forces Revolutionary Council;
- (e) any transaction entered into or undertaken, or any offence alleged to have been committed between the 25th day of May, 1997 and the date of the expiration of the Public Emergency Regulations, 1998:

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of 1998.

Provided that these Rules shall apply to acts or omissions done or occurring before the 25th day of May, 1997 and having a connection with the offences committed between the 25th day of May, 1997 and the 13th day of February, 1998 and activities of the members of the Armed Forces Revolutionary Council or its collaborators.

12. In these Rules unless the context otherwise requires—

Interpreta-
tion.

“financial transaction” includes any contract or other agreement entered into with monetary consideration by a person or institution in his own name or jointly with any other person or in the name of a business or a company;

“the Government of Sierra Leone” includes Public Corporations and other institutions established wholly or partly out of public funds;

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of 1998.

“the Regulations” mean the Public Emergency Regulations, 1998;

“trial” includes a trial by a court martial.

MADE this 8th day of April, 1998.

Issued under my hand,

ALHAJI AHMAD TEJAN KABBAH,
President.