

ACT

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THE SIERRA LEONE SMALL AND MEDIUM ENTERPRISES DEVELOPMENT AGENCY ACT, 2016

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SIGNED this *11th day of February, 2016.*

DR. ERNEST BAI KOROMA,
President.



No. 2



2016

Sierra Leone

The Sierra Leone Small and Medium Enterprises Development Agency Act, 2016 Short title.

Being an Act to provide for the establishment of the Small and Medium Enterprises Development Agency, to create a conducive environment within which Small and Medium Enterprises can thrive and operate, to provide for Sierra Leone's fiscal, monetary and banking policy, trade and industry, technology, marketing, infrastructural and institutional development, and 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 Small and Medium Enterprises Development Agency established by subsection (1) of section 2;

“Board” means the Sierra Leone Small and Medium Enterprises Development Board referred to in subsection (1) of section 3;

“Chairman” means the chairman of the Board;

“Chief-Executive” means the Chief-Executive appointed under section 13;

“enterprise” means-

- (a) any form of trade or manufacture, craft by hand or foot, cultivation of fruits, vegetables or flowers, livestock breeding, or activity approved as such by the Agency; and
- (b) a co-operative society but does not include an office or form of employment, or a religious or charitable institution;

“medium enterprise” means an enterprise which has an annual turnover of more than 100 million leones but not more than 500 million leones;

“Minister” means the Minister responsible for Trade and Industry, and ministry shall be construed accordingly;

“member” means a member of the Board and includes the chairman;

“officer” means the Chief-Executive and any person appointed as such under section 14;

“public sector agency” means any Ministry, government department, local authority or statutory body;

“registration certificate” means a registration certificate issued under section 26;

“relevant permit” means any licence, permit, approval or other authorisation required from a public sector agency under any enactment;

“small enterprise” means an enterprise which has an annual turnover of not more than 100 million leones;

“technical committee” means a technical committee referred to in subsection (4) of section 8.

PART II – ESTABLISHMENT OF THE SMALL AND MEDIUM ENTERPRISES DEVELOPMENT AGENCY

2. (1) There is hereby established a body to be known as the Sierra Leone Small and Medium Enterprises Development Agency. ^{Establishment of 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, 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 Agency shall have a common seal, the use of which shall be authenticated by the signatures of –

- (a) the Chairman or other members of the Board authorised either generally or specially in that behalf by the Board; and;

- (b) the Chief-Executive or some other person designated in that behalf by the Board.

Board of Agency.

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

- (a) a Chairman who shall be a person who has qualifications and proven experience in business, trade, industry and enterprise development; and
- (b) a representative from each of the following ministries, institutions, associations and enterprises—
 - (i) the agency or unit responsible for agribusiness and agro-processing in the Ministry of Trade and Industry;
 - (ii) Ministry of Finance and Ministry of Trade and Industry not below the position of Director;
 - (iii) Organisations dealing with traders;
 - (iv) Ministry of Youth and Employment;
 - (v) the Art and Craft Association;
 - (vi) the Sierra Leone Manufacturers Association;
 - (vii) the Sierra Leone Chamber of Commerce; and

- (c) two representatives of the private sector having extensive experience in business and enterprise development to be appointed by the Minister; and
- (d) the Chief-Executive who shall serve as secretary.

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

(2) No person shall be qualified to be a member of the Board if he is—

- (a) a Member of Parliament;
- (b) a member of the Board or Council of a local authority under the Local Government Act,

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

- (a) for his inability to perform the functions of his office by reason of infirmity of mind or body;
- (b) for proven misconduct;
- (c) if he becomes bankrupt or insolvent;
- (d) if he is convicted of an offence involving fraud or dishonesty;

- (e) if he fails to attend three consecutive meetings of the Board without reasonable cause; and
- (f) if he resigns his office by written notice to the Minister.

Meetings of Board .

5. (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 least once every month at the offices of the Agency and at such times as the Chairman may determine.

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

(3) A minimum of four members of the Board may, by notice in writing signed by them, request the Chairman to summon a special meeting of the Board for such purposes as may be stated in the notice.

(4) The Chairman or, in his absence, the member appointed to act in his stead shall summon a special meeting within five days of his receipt of the notice referred to in subsection (3).

(5) The quorum at any meeting of the Board shall be five.

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

(7) Any proposal circulated among all members and agreed to in writing by a two-thirds majority of all members shall be of the same force or effect as a decision made at a duly constituted meeting of the Board and shall be incorporated in the minutes of the succeeding meeting of the Board:

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

(8) The Board may co-opt any person to attend and participate in its deliberations on any matter but such person shall not vote on any issue of the Board.

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

(10) The Chief-Executive shall unless otherwise directed by the Board, attend every meeting of the Board and may take part in its deliberations, but shall not have the right to vote

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

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

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

7. (1) No action or other proceedings shall lie or be instituted against any member of the Board or member of a committee of the Board for or in respect of any act or thing done or omitted to be done in good faith in the exercise of his functions. Immunity of members of Board .

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

Committees of Board .

8. (1) The Board shall, for the discharge of its functions, appoint one or more committees to perform such functions as the Board may determine.

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

(3) Without prejudice to the generality of subsection (1), the Board shall appoint a technical committee consisting of such members of the Board, including the Chief-Executive, and performing such functions as the Board shall determine.

(4) The members of the technical committee shall include-

- (a) persons who have qualifications and proven experience in the relevant sector being the subject matter under consideration by the technical committee; and
- (b) such officers of a public sector agency as may be required for the purposes of the subject matter before the technical committee.

(5) A committee shall submit a report of its proceedings to the Board at such time as the Board shall determine.

Functions of Board .

9. (1) Subject to this Act, the Board shall have the oversight and supervision of the Agency, including the sound and proper financial management of the Agency.

(2) It shall also be the responsibility of the Board to provide such policy guidance and advice as will secure the efficient implementation of the functions of the Agency and enhance the overall performance of the Agency.

10. (1) The Chairman and other members of the Board shall be paid such remuneration, fees and allowances approved by the Minister and shall be reimbursed by the Agency for expenses incurred whilst discharging their functions, as the Board shall, with the approval of the Minister, determine. Remuneration of members of Board.

(2) Co-opted members of the board under section 8 of section 5 shall be paid such remuneration fees and allowances approved by the Minister and shall be re-imbursed by the Agency for expenses incurred in connection with the discharge of their functions. Remuneration of co-opted members.

11. (1) Where the Chairman or a member of the Board dies, resigns, is removed from office or is absent from Sierra Leone for a continuous period exceeding three months or is by reason of illness unable to perform the functions of his office for a continuous period of three months- Filling of vacancies .

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

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

PART III—FUNCTIONS OF AGENCY

Functions of Agency.

12. (1) The object for which the Agency is established is to promote a conducive business environment including an efficient and effective service delivery network in order to empower and develop Small and Medium Enterprises for growth, productivity and competitiveness.

(2) Notwithstanding the generality of subsection (1) the Agency shall—

- (a) design and implement development support programmes and schemes for Small and Medium Enterprises;
- (b) facilitate, assist and provide market access and business linkage opportunities to Small and Medium Enterprises in order to enable them compete successfully in national and international markets;
- (c) advise the Minister on policy issues relating to entrepreneurship promotion and development of Small and Medium Enterprises;
- (d) provide core support services, particularly entrepreneurship, development, business facilitation, counselling and mentoring services;
- (e) implement and operate a registration scheme for Small and Medium Enterprises and Small and Medium Industries;
- (f) facilitate access to industrial space, finance and other productive resources;

- (g) empower product specific and sector specific Small and Medium Enterprises and Small and Medium Industries to enhance their delivery capabilities;
- (h) co-ordinate with other support organisations and stakeholders in the fulfilment of its objectives;
- (i) facilitate networking and market linkages among Small and Medium Enterprises;
- (k) facilitate development of linkages by large enterprises and Small and Medium Enterprises;
- (l) promote technological and managerial capabilities of Small and Medium Enterprises;
- (m) ensure that benefits and assistance identified for Small and Medium Enterprises reach targeted institutions;
- (n) identify best practices and disseminate them to Small and Medium Enterprises;
- (o) organise and encourage participation of Small and Medium Enterprises in trade, industrial and entrepreneurship development; .
- (p) conduct surveys in the Small and Medium Enterprises sector and provide market intelligence for those enterprises including providing reports on various economic indicators;
- (q) design, implement, coordinate and monitor assistance programmes and projects provided for Small and Medium Enterprises;

- (r) collaborate with other local and international agencies dealing with Small and Medium Enterprises to develop the local Small and Medium Enterprises through skills enhancement programmes for the officers of the Agency including participation in seminars, workshops and other capacity building programmes;
- (s) facilitate and coordinate research relating to the development of Small and Medium Enterprises and Small and Medium Industries;
- (t) inform the public at large about entrepreneurship activities;
- (u) provide business incubator facilities for Small and Medium Enterprises and Small and Medium Industries;
- (v) devise and review policies relating to Small and Medium Enterprises; and Small and Medium Industries; and
- (w) co-ordinate entrepreneurship activities and initiatives of public sector agencies and of the private sector relating to Small and Medium Enterprises and Small and Medium Industries.

PART IV – ADMINISTRATIVE PROVISIONS

Appointment
of Chief
Executive.

13. (1) The Agency shall have a Chief-Executive who shall be the administrative head of the Agency and shall be appointed by the President subject to the approval of Parliament.

(2) A person appointed as Chief-Executive shall have proven knowledge of business, finance, project management, management of Small and Medium Enterprises or other related business disciplines.

14. The Chief-Executive shall be responsible to the Board for the performance of the following functions— Functions of
Chief-
Executive .

- (a) executing the policies of the Board in the control and management of the Agency;
- (b) ensuring that annual performance targets set by the Board are achieved ;
- (c) submitting to the Board, a report on the activities and finances of the Agency every (3) months;
- (d) selling or exchanging any property or making donations;
- (e) borrowing and lending money; and
- (f) entering into any contract which exceeds the prescribed amount applicable to the Agency under the Public Procurement Act.

15. (1) The Agency shall have, in addition to the Chief-Executive Officer, a secretariat consisting of a Secretary, Finance Officer, Administrative Officer and such other additional technical and administrative staff, as may be required for the efficient performance of the functions of the Agency. Other staff of
Agency.

(2) The Secretary and the other staff of the Agency shall be appointed by the Board in consultation with the Chief Executive, on such terms and conditions as the Board shall determine.

(3) The Agency shall delegate to the Chief-Executive Officer–

- (a) the power to appoint such other grade or categories of staff as the Agency may require for the performance of its functions;
- (b) the power to enter into agreements with other persons or bodies for and on behalf of the agency.

Secondment of public officers.

16. Public officers may at the instance of the Agency, be seconded or otherwise render assistance to the Agency but the Agency may request the withdrawal of any such seconded staff who is unable to carry out assigned functions in a manner satisfactory to the Agency.

Protection of officers.

17. No officer or employee of the Agency or any person acting on the directions of an officer or employee of the Agency shall be liable in respect of any matter or thing done by him in good faith.

Powers of Minister.

18. (1) The Minister may give such directions of a general nature to the Board, not inconsistent with this Act, as he considers necessary in the public interest, and the Board will comply with those directions.

(2) The Minister may require the Board to furnish any information or document in relation to the activities of the Agency and the Board shall supply such information or document.

Strategic, action plans of Agency.

19. (1) For the purposes of effectively attaining the objects of the Agency, the Chief-Executive shall prepare and submit to the Board for its approval a three or five year strategic plan as the board may direct and a detailed action plan every year.

(2) The strategic plan referred to in subsection (1) shall set out–

(a) the operational and business objectives of the Agency; and

(b) the strategies and policies which the Agency intends to adopt,

for the period specified in the plan.

(3) The detailed action plan shall contain-

(a) programmes implementation of the strategies and policies of the Agency;

(b) an operational, financial, human resource and performance management plan; and

(c) an evaluation process to monitor the achievements of the Agency for a period of one year.

PART V – FINANCIAL PROVISIONS

20. (1) The activities of the Agency shall be financed by funds consisting of – Funds of Agency.

(a) money appropriated from time to time by Parliament for the purposes of the Agency;

(b) money given to the Agency by way of gifts, endowments, bequest, grant or other contributions by persons and organisations for the purposes of the Agency;

(c) all returns on investment, if any;

(d) foreign aid and assistance from donor agencies;

(e) all other moneys which may, from time to time, accrue to the Agency.

(2) The funds of the Agency shall be applied only for the purposes of the approved budget of the Agency.

Accounts and
audit of
Agency.

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

- (a) balance sheet accounts;
- (b) income and expenditure accounts; and
- (c) source and application of funds;

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

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

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

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

- (a) any irregularity in the accounts;
- (b) any matter that are likely to adversely affect the operations of the Agency; and

(c) any other matter which, in his opinion, ought to be brought to the notice of the Agency.

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

23. (1) The Agency shall, within three months after the end of the financial year, submit to the Minister a report on the performance of its functions together with an audited statement of accounts during that year, its policy and programmes. Annual report.

(2) The annual report shall include the accounts and annual financial statement prepared under section 21 and the report of the audit thereon.

(3) The Minister shall lay copies of the annual report and audited statement before Parliament within two months after he has received the report.

(4) The Agency shall make copies of the report available to all stakeholders once it has been laid before Parliament.

24. (1) The Agency shall not later than 30th September in every year, submit to the Minister an estimate of its income and expenditure for the next financial year. Estimates.

(2) Subject to subsection (3), the Minister shall, before the beginning of every financial year, signify in writing his approval of the estimate for that financial year

(3) Where the Minister signifies his approval under subsection (2), he may approve only part of the expenditure under any item or direct the Agency to amend the estimate in respect of any item in such manner as he thinks fit.

PART VI –REGISTRATION OF SMALL AND MEDIUM ENTERPRISES

25. (1) A Small or Medium enterprise shall not benefit from any assistance offered or any scheme or programme operated by the Agency unless it is registered – Registration of Small and Medium Enterprises.

(a) with the Agency under this Act; and

(b) under the Business Registration Act, 2007.

(2) An application for the registration of a Small or Medium enterprise under paragraph (a) of subsection (1) shall be made to the Board, in such form and accompanied by such information and fees as the Agency shall by statutory instrument prescribe.

(3) Registration under the Business Registration Act, 2007 shall, for the purposes of this Act, be deemed to be registration under this section.

Issue of registration certificate.

26. (1) Where the Board approves an application under paragraph (a) of subsection (1) of section 25, it shall issue a registration certificate to the applicant, subject to such terms and conditions as it shall specify in the certificate.

(2) A registration certificate issued by the Board under subsection (1) shall remain valid unless it is cancelled by the board under section 27 and shall specify-

- (a) the proposed capital of the business;
- (b) the name and address of the business;
- (c) the nature of its business activity;
- (d) the estimated or actual work force of the business;
- (e) the terms and conditions attached to the certificate; and
- (f) such other information as the Board shall require.

Cancellation or variation of registration certificate.

27. (1) Subject to this section, the Board may cancel or vary the terms and conditions of a registration certificate where-

- (a) information is given to the Agency by the holder of the registration certificate that a business registered under this Act -
 - (i) has ceased to meet the criteria that qualifies it as a Small or Medium enterprise;

(ii) is false or misleading in any material particular;

(b) the holder of the registration certificate, without lawful excuse, fails to-

- (i) comply with any requirement of this Act or any regulations made under it; or
- (ii) pay any fee or charge levied under this Act or any regulations made under it;

(c) the holder of a registration certificate-

- (i) changes the name or address specified in the registration certificate; or
- (ii) intends to change the nature of the business activity specified in the registration certificate;

(d) the holder of a registration certificate ceases his operations either temporarily or permanently and notifies the Agency of the cessation.

(2) Before cancelling or varying a registration certificate, the Board shall, by notice in writing, within such reasonable time as it thinks fit, require the holder of the registration certificate to show cause why his registration certificate should not be cancelled or varied.

PART VII-MISCELLANEOUS PROVISIONS

28. (1) Any person who-

Offences.

- (a) contravenes this Act or any regulations made under it;
- (b) in any application made under this Act, makes a statement that is false or misleading in any material particular;
- (c) willfully obstructs or hinders an officer in the execution of his functions under this Act; or

- (d) without reasonable excuse, fails or refuses to give to an officer any information required of that person under this Act,

commits an offence and shall, on conviction, be liable to a fine not less than one million and not exceeding Fifty Million Leones (Le 50,000,000) or to both fine and imprisonment for a term not exceeding 2 years.

Regulations.

29. (1) The Minister may by statutory instrument make regulations as it considers necessary or expedient for giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), regulations may provide for—

- (a) the levying of fees and charges;
- (b) prescribing applications, forms, licences, permits, certificates, registers, returns and other forms that may be required for the purposes of the operation and management of Small and Medium enterprises;
- (c) the use of the name or logo of the Agency; and
- (d) prescription of the terms and conditions to be complied with by the holder of any licence or permit in respect of doing the business of Small and Medium enterprises;

(3) Regulations made under subsection (1) may provide penalties for any breach thereof, and may also provide different penalties in case of successive breaches or continuous breaches.

Passed in Parliament this *12th day of November 2015*, in the year of our Lord two thousand and fifteen.

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.