

BILL

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THE SIERRA LEONE RAILWAY DEVELOPMENT AND REGULATORY AUTHORITY ACT, 2024

ARRANGEMENT OF SECTIONS

PART I - PRELIMINARY

1. Interpretation.

PART II - THE SIERRA LEONE RAILWAY DEVELOPMENT AND REGULATORY AUTHORITY

2. Sierra Leone Railway Development and Regulatory Authority.
3. Sierra Leone Railway Development and Regulatory Authority Board.
4. Tenure of members.
5. Remuneration of members.
6. Meetings of Board.
7. Disclosure of interest.
8. Immunity of members.
9. Committees of the Board.
10. Functions of Board.

PART III - FUNCTIONS AND POWERS OF THE SIERRALEONE RAILWAY DEVELOPMENT AND REGULATORY AUTHORITY

11. Functions of Authority.
12. Power of Authority.

PART IV -ADMINISTRATIVE PROVISIONS

13. Director-General.
14. Functions of the Director-General.
15. Deputy Director-General
16. Functions of Deputy Director-General.
17. Company Secretary.
18. Other staff.
19. Divisions.

PART V -FINANCIAL PROVISIONS

20. Funds of authority.
21. Accounts and audit.
22. Financial year.
23. Annual report.

PART VI -MISCELLANEOUS PROVISIONS

24. Rules and Regulations.

No.



2024

Sierra Leone

A BILL ENTITLED

**THE SIERRA LEONE RAILWAY DEVELOPMENT
AND REGULATORY ACT, 2024**

Short title.

Being an Act to provide for the establishment of the Sierra Leone Railway Development and Regulatory Authority with the responsibility to develop and regulate railways and cable car transportation in Sierra Leone, to monitor and co-ordinate activities in the railway and cable cars sector, to administer enactments on railway and cable cars transportation and to provide for other related matters.

Date of com-
mencement.

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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-

"Authority" means the Sierra Leone Railway Development and Regulatory Authority established under section 2;

"Board" means the Sierra Leone Railway Development and Regulatory Authority Board established under section 3;

"Chairman" means the Chairman of the Board appointed under subsection (2), section 3;

"Director General" means the Director General appointed under section 13;

"Deputy Director General" means the Deputy Director General appointed under section 15;

"Minister" means the Minister responsible for transport;

"railway assets" include assets which are vested in the Authority by law and includes the land, network, rolling stock, plant, machinery, goods and other immovable or movable property of every description or kind, used or set aside for use in connection with or for the purpose of railway transportation and includes branches, extensions, siding, railway bridges, tunnels; stations, depots, wharves, railway equipment, stores or other things connected with railway or cable car and communications or signalling systems and related facilities and equipment used for cable railway purposes;

"railway" means a guided system designed for the movement of rolling stock that has the capability of transporting passengers or freight, on a track or cable and on land, underground or in the air, including a track on which the wheels of a vehicle may run a cable railway, the entire equipment, rolling stock, buildings, property, and system of tracks used in such a rail transport system, the organisation responsible for operating a railway network.

PART II - THE SIERRA LEONE RAILWAY DEVELOPMENT AND REGULATORY AUTHORITY

2. (1) There is hereby established a body to be known as the Sierra Leone Railway Development and Regulatory Authority.

(2) The Authority shall be a body corporate having perpetual succession and capable of acquiring, holding and disposing of 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 Authority shall have a common seal, the use of which shall be authenticated by the signatures of-

- (a) the Chairman or other member of the Board authorised either generally or specially by the Board in that behalf; and
- (b) the Director-General or some other person authorised by the Board in that behalf.

3. (1) The governing body of the Authority shall be a Board in which shall be vested, subject to this Act, the supervision of the Authority.

(2) The Board shall consist of a Chairman, who shall be a person who has considerable knowledge and experience in public transport administration or management, and the following other members -

- (a) the Director-General of the Authority;
- (b) a representative from each of the following institutions -
 - (i) the Ministry responsible for transport or railways;
 - (ii) the Ministry responsible for mining and mineral resources;
 - (iii) the Ministry responsible for finance;
 - (iv) the Ministry responsible for trade;
 - (v) the Sierra Leone Ports and Harbours Authority;
- (c) 2 persons with proven knowledge and experience in public transport administration or management.

(3) The Chairman and other members referred to in paragraph (c) of subsection (2), shall be appointed by the President on the recommendation of the Minister subject to the approval of Parliament.

Tenure of members.

4. (1) The Chairman and other members appointed under subsection (2) of section 3 shall hold office for a period of 3 years and shall be eligible for re-appointment for a further term of 3 years only.

(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) for proven misconduct;
- (c) if he becomes bankrupt or insolvent;
- (d) if he is convicted and sentenced for 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 his office by written notice to the Minister.

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

Remuneration of members.

6. (1) The Board shall meet for the dispatch of its business at least once every 3 months and at such times as the Chairman may determine.

Meetings of Board.

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

(3) A minimum of 5 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 behalf, shall summon a special meeting within 5 days of his receipt of the notice referred to in subsection (3).

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

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

(7) A 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 next succeeding meeting of the Board:

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

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

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

(10) Subject to this Act, the Board shall regulate its own procedure.

Disclosure
of interest.

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

(2) A member of the Board who contravenes subsection (1) commits a misconduct and shall be removed from the Board.

Immunity of
members.

8. (1) An action or other proceedings shall not lie or be instituted against a member of the Board or member of a committee of the Board for or in respect of an act or thing done or omitted to be done in good faith in the exercise of his functions under this Act.

(2) A member of the Board shall not be personally liable for a debt or obligation of the Authority.

Committees
of Board.

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

(2) A committee of the Board appointed under subsection (1), shall consist of members of the Board or non-members or both as the Board may decide.

(3) Without prejudice to the generality of subsection (1), the Board shall appoint an audit committee consisting of such members of the Board, excluding the Director-General and performing such functions as the Board may determine.

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

10. (1) Subject to this Act, the Board shall be responsible for Functions of Board.

- (a) the supervision of the Authority, including overseeing the sound and proper financial management of the Authority;
- (b) the provision of such policy guidance and advice that will secure the efficient implementation of the functions of the Authority and enhance the overall performance of the Authority.

PART III - FUNCTIONS AND POWERS OF THE SIERRA LEONE RAILWAY DEVELOPMENT AND REGULATORY AUTHORITY

11. (1) The Authority shall be responsible to-

Functions of Authority.

- (a) regulate railways and cable cars;
- (b) regulate and monitor the activities of licenses, concessionaires, and operators of railway;
- (c) promote the development and management of railway and railway services and cable car transportation;
- (d) hold, administer and improve railway assets;
- (e) implement and ensure compliance with this Act and any other legislation relating to railway and railway services and cable car transportation operations;

- (f) grant licences, concession and leases which are necessary for the operation of railways and railway services and cable car transportation;
- (g) exercise ownership rights over assets that are transferred to operators by the Government, through the Authority;
- (h) set and enforce safety and security standards for the construction and operation of railway and railway services and cable car transportation;
- (i) initiate, conduct, promote and encourage studies necessary for the growth and development of railways and cable cars including the development of master plans;
- (j) ensure collaboration with other public, private or international agencies necessary for the performance of its functions;
- (k) advise the Government on matters relating to the development and management of railway and railway services and cable car transportation;
- (l) carry out transactional functions necessary for the growth and sustainability of railway and railway services and cable car transportation;
- (m) investigate railway and cable car incidents and take such action thereon as may be appropriate;
- (n) co-ordinate the implementation of policies relating to rail transportation affairs and promote the integration of such policies into the national development plan;

- (o) in collaboration with such other public agencies and institutions, prevent rail source pollution and respond to environmental accidents;
- (p) liaise with other public bodies involved in rail and cable car transport for the purpose of harmonising activities in the railway and cable car transport industry;
- (q) do all such other things that will contribute to the attainment of the objective of the Authority.

12. (1) The Authority shall have power to -

Powers of Authority.

- (a) impose surface levy on railway and cable car operators, based on the procedure for the payment of the charge imposed prescribed by statutory instrument made by the Minister;
- (b) obtain information required for the performance of its functions under this Act, by notice in writing, requiring a person to give information in the form and manner and within the time specified in the notice.

PART IV - ADMINISTRATIVE PROVISIONS

13. (1) The Authority shall have a Director-General who shall be appointed by the President, on the recommendation of the Minister, subject to the approval of Parliament and upon such terms and conditions as the Board may, with the approval of the Minister, determine.

Director-General.

(2) A person shall not be appointed Director-General unless he has formal qualification in a profession, relevant or appropriate to the operations of the Authority.

(3) The Director-General shall hold office for a period of 5 years and shall be eligible for reappointment for another period of 5 years.

Functions
of Director-
General.

14. (1) The Director-General shall be the Chief Executive Officer of the Authority and shall be responsible for -

- (a) the day-to-day administration of the Authority;
- (b) the implementation of such operational policies, programmes and plans relating to the functions of the Authority as may be approved by the Board;
- (c) the supervision and discipline of other staff of the Authority;
- (d) the management of the funds, property, and business of the Authority; and
- (e) performing such other duties as the Board may determine.

Deputy
Director-
General.

15. (1) The Authority shall have a Deputy Director-General whom the Board shall, after consultation with the Minister, appoint.

(2) A person shall not be appointed Deputy Director-General unless he has formal qualification in a profession, relevant or appropriate to the operations of the Authority and a proven ability in public administration and management.

(3) The Deputy Director-General shall hold office for a period of 5 years and shall be eligible for reappointment for another period of 5 years only.

Functions
of Deputy
Director-
General.

16. The Deputy Director-General shall serve as the principal assistant to the Director-General in the administration of the Authority, carry out such duties as may be assigned to him by the Director-General and also act as Director-General in the absence of the Director-General.

Company
Secretary.

17. (1) The Authority shall have a Company Secretary who shall be a legal practitioner and designated Secretary to the Board.

(2) The Company Secretary shall be appointed by the Board, on such terms and conditions as the Board may determine and shall be responsible to -

- (a) arrange the business of the Board including meetings and recording minutes;
- (b) liaise between the Board and the management of the Authority; and
- (c) perform any other duties as the Board or the Director-General may determine.

18. (1) The Authority may, on such terms and conditions as other staff the Board may determine, appoint other employees required for the efficient discharge of its functions under this Act.

(2) The Authority may engage the services of consultants and advisers as it considers necessary for the efficient discharge of its functions.

19. (1) The Authority may, for the purpose of carrying out its functions under this Act, have such departments as the Board may, on the recommendation of the Director-General, approve.

(2) A department under subsection (1) shall be headed by a Director appointed by the Board on advice of the Director-General.

PART V - FINANCIAL PROVISIONS

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

- (a) monies appropriated from time to time by Parliament for the purposes of the Authority;
- (b) a levy per metric ton of cargo transported by rail as the Minister may, by statutory instrument prescribe;
- (c) fees from licences issued by the Authority;

- (d) monies given to the Authority by way of gifts, endowments, bequest, grant or other contributions by persons or organisations for the purposes of the Authority; or
- (e) other monies which may, from time to time, accrue to the Authority.

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

Accounts
and audit.

21. (1) The Authority shall keep proper books of account and 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, 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 Authority kept under subsection (1) shall, not later than 2 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 an auditor appointed by him shall be entitled to have access to all books of account, vouchers and other financial records of the Authority and to require such information and explanation thereon as he may think fit.

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

- (a) irregularities in the accounts;
- (b) matters that are likely to adversely affect the operations of the Authority; and

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

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

23. (1) The Authority shall, within 3 months after the end of the financial year, submit to the Minister an annual report on the performance of its functions during that year and on its policy and programmes. Annual report.

(2) An annual report submitted by the records under subsection (1), 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 before Parliament within 2 months after he has received the report.

(4) The Authority shall make copies of the report available to all stakeholders within 30 days once it has been laid before Parliament.

(5) There shall be attached to the report referred to in subsection (2) -

- (a) an audited statement of the Authority's financial position;
- (b) an audited statement of income and expenditure; and
- (c) such other information as the Authority may consider appropriate.

PART VI-MISCELLANEOUS PROVISIONS

24. The Minister may, by statutory instrument, make such Regulations as he may consider necessary or expedient to give effect to this Act. Regulations.

MEMORANDUM OF OBJECTS AND REASONS

The purpose of this Bill is to provide for the establishment of the Sierra Leone Railway Development and Regulatory Authority with the responsibility to develop and regulate railways and cable car transportation in Sierra Leone, to monitor and co-ordinate activities in the railway and cable cars sector, to administer enactments on railway and cable cars transportation and to provide for other related matters. The Bill is divided into 6 parts.

Part I -makes provision for the interpretation and definition of words used throughout the Bill.

Part II-provides for the Sierra Leone Railway Development and Regulatory Authority including the Sierra Leone Railway Development and Regulatory Authority Board.

Part III - specifies the functions and powers of the Sierra Leone Railway Development and Regulatory Authority.

Part IV-contains administrative provisions deals with the appointment of a Director-General and the Deputy Director-General, Company Secretary, other staff, divisions of the Sierra Leone Railway Development and Regulatory Authority.

Part V-contains financial provisions including, funds, accounts and audit of the Sierra Leone Railway Development and Regulatory Authority.

Part VI -Miscellaneous provisions contains the power to make Regulations.

MADE this day of , 2024.

ALHAJI FANDAY TURAY
Minister of Transport and Aviation

FREETOWN
SIERRA LEONE.