

SIGNED this 10th day of September, 2009

ERNEST BAI KOROMA,
President.

LS



No. 10

2009

Sierra Leone

The Chieftaincy Act, 2009.

Short title.

Being an Act to provide for the qualification, election, powers, functions and removal of a person as a Paramount Chief or chief and for other matters connected with chieftaincy.

/ / 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:—

“aspirant” means a person aspiring to become a candidate in a paramount chieftaincy and other sub-chieftaincy elections;

“chief” includes a chief, other than a Paramount Chief, a Headman and such other chief as is by customary law the Councillor or assistant of any Paramount Chief;

“Chieftain Council” has the same meaning as in the Chieftain Councils Act;

“Gazette List” means the latest list of a Chieftain Council appearing in the *Gazette* prior to a paramount chieftaincy election under this Act;

“Minister” means the Minister responsible for local government;

“Paramount Chief” means a chief who is not subordinate in his ordinary jurisdiction to any other chief but does not include an acting chief or a regent chief;

“taxpayer” in relation to a chieftain, is a member of the chieftain liable to local tax and in possession of a local tax receipt.

PART II—TIME FOR ELECTION OF NEW PARAMOUNT CHIEF

2. Not later than twelve months after a vacancy occurs in the office of Paramount Chief, whether by the death, removal or otherwise of the previous holder of the office, the Chieftain Councilors of the chieftain shall elect a new Paramount Chief for the chieftain in accordance with this Act and the customary law of the chieftain.

New
Paramount
Chief to be
elected within
twelve
months of
vacancy.

3. (1) Until the election of the new Paramount Chief, the Appointment Minister shall after consultation with the Chieftain Council, at the earliest, appoint a regent chief to oversee the administration of the chieftain in a caretaker capacity.

(2) Notwithstanding subsection (1), where the office of regent chief is, by the customary law of the chieftain, reserved to a person other than a person appointed by the Minister, that customary law shall apply to the appointment of the regent chief

(3) The term of office of a regent chief appointed under subsection (1) or subsection (2) shall not exceed twelve months.

(4) A regent chief is entitled to vote in the election of the new Paramount Chief but shall not openly take sides or canvass for any candidate.

4. (1) The Gazette List of a Chieftain Council shall be revised every three years but shall—

Revision of
Gazette List.

(a) be revised specially for the purposes of a paramount chieftaincy election to include the following office-holders:

- (i) regent chief;
- (ii) Chieftain Speaker;
- (iii) Section Chief;
- (iv) Court Chairman;

(v) Ceremonial Chief (where the paramount chieftaincy in the chieftain is by customary law linked with secret societies); and

(vi) Member of Parliament for the constituency in which the chieftain is situated.

(b) be published on three consecutive occasions for verification prior to the paramount chieftaincy election to which it relates.

(2) In addition to the office - holders specified in subsection (1), the revised Gazette List shall include a number of other Chieftain Councilors, each representing every twenty taxpayers in the chieftaincy, the number of taxpayers in the chieftaincy being determined every three years.

(3) Subject to paragraph (b) of subsection (1) of section 18, the election of a Paramount Chief shall not be invalidated by any irregularity in the revision of the Gazette List used for the election, but it is an offence for any person compiling that List to knowingly take into account an inflated number of taxpayers.

(4) The revision of the Chieftain Councilors list shall be undertaken by the office of the Provincial Secretary in collaboration with the Electoral Commission.

PART III - ELECTION PROCEDURES.

Declaration of Rights.

5. Before the polling day fixed for the election of a Paramount Chief, a Declaration of Rights meeting shall be convened by the Provincial Secretary, for the purpose of-

- (a) the identification of the Chieftain Councilors entitled to vote at the election; and
- (b) establishing the claim of persons to be qualified to stand as candidates in the election; and
- (c) affording the Provincial Secretary the opportunity to explain to all parties their responsibilities under this Act.

6. (1) At the Declaration of Rights meeting, every person intending to vote in the paramount chieftaincy election shall establish his identity as a member of the Chieftain Council by-

- (a) reference to his name on the Gazette List;
- (b) his being identified as such member by the Section Chief, Town Chief, or, as the case may be, the Village Headman in the locality which he represents in the Chieftain Council; and
- (c) producing to the Declaration Officer, his current local tax receipt which shall bear the endorsement and stamp of the Chieftain Administration.

(2) Where the chieftaincy concerned is an amalgamated chieftaincy, the Declaration Officer shall ensure that the conduct of the election of a Paramount Chief for that chieftaincy is done on a rotational basis and further ensure that this is complied with.

7. (1) In any paramount chieftaincy election, the Government responsibility of the Government is limited to only the facilitation of the process so as to ensure that the election is conducted in a fair and transparent manner.

(2) No government Minister or other official, and no political party, whether collectively or otherwise, shall promote or show support or preference for the candidature of any particular contestant in a paramount chieftaincy election.

8. (1) A person is qualified to stand as a candidate in a paramount chieftaincy election if-

Qualification for election as Paramount Chief.

(a) he was born in wedlock to a rightful claimant in a recognized ruling house in the chiefdom; or

(b) where tradition so specifies, he or she has direct paternal or maternal lineage to a rightful claimant in a recognized ruling house, whether born outside wedlock or not.

(2) For the purposes of subsection (1), a recognized ruling house is one that has been established and in existence as such at independence on 27th April, 1961.

Disqualification for election as Paramount Chief.

9. Notwithstanding the provisions of any enactment, a person is not qualified to stand as a candidate in a paramount chieftaincy election if—

- (a) he is a regent chief of the chiefdom concerned;
- (b) he has been convicted by any court for an offence involving fraud, dishonesty, theft, violence or rape for which he has not been pardoned;
- (c) in the case of a person who has been removed or has been required to resign from the office of Paramount Chief for conduct inconsistent with good governance, five years have not elapsed from such removal or resignation; or
- (d) he is the adopted child of the person from whom he claims to be qualified.

Provincial Secretary to be Declaration Officer.

10. For every paramount chieftaincy election, the Provincial Secretary shall be the Declaration Officer.

11. (1) For every paramount chieftaincy election, two Paramount Chiefs shall be appointed by the Minister as Assessor Chiefs as follows:—

(a) one from within the district and the other from outside the district where the new Paramount Chief is to be elected; and

(b) the chiefdom outside the district must have customs and traditions similar to those of the chiefdom.

(2) The Government shall meet the transport and living expenses of the Assessor Chiefs but the people of the chiefdom may, through the regent chief, accord to the Assessor Chiefs any normal traditional and customary courtesies, in addition.

12. (1) The functions of the Assessor Chiefs shall be—
Functions of Assessor Chiefs.

- (a) to advise and assist the Declaration Officer in the conduct of the elections;
- (b) to advise the Chiefdom Councillors on the importance of their decision to elect a new Paramount Chief;
- (c) to ensure that the traditions and customs of the chiefdom are respected and upheld during the conduct of the elections; and
- (d) to endorse the Attestation Document referred to in section 16.

(2) Where at any stage of the conduct of an election there is any disagreement regarding any matter—

- (a) between the Assessor Chiefs; or

- (b) between the Assessor Chiefs and the Provincial Secretary.

any of the disagreeing Assessor Chiefs under paragraph (a) and the Assessor Chiefs under paragraph (b), as the case may be, may submit a separate report on the matter to the Minister.

PART IV – CANDIDATES AND DECLARATION OF RESULT

Aspirant candidates.

13. (1) At the Declaration of Rights meeting of the Chiefdom Councilors convened under section 5, any person aspiring to be a candidate in the election shall formally declare his intention to the Declaration Officer and produce to him his receipt for the non-refundable aspirant fee of Le150,000 payable to the Chiefdom Treasury by all aspirants.

(2) Any aspirant or Chiefdom Councilor may object on stated grounds to the title claim of an aspirant.

(3) Any objection under subsection (2) shall be defeated and the aspirant shall qualify to stand as a candidate to contest in the election if the aspirant's candidature is supported by the Declaration Officer, the Assessor Chiefs and by two-thirds of the Chiefdom Councilors present and voting by secret ballot.

(4) Where an objection made under subsection (2) is upheld, the aspirant shall be disqualified from standing as a candidate.

Requirements of candidates. shall –

14. (1) Every candidate in a paramount chieftaincy election shall –
- (a) pay a non-refundable candidature fee of Le250,000; and
 - (b) choose a symbol from a list of symbols presented by the Electoral Commission and supply to the Commission a recent photograph both for the use of the Commission for the printing of ballot papers.

(2) In the contest for the paramount chieftaincy, it shall be the responsibility of each candidate to establish his claim to the satisfaction of the Chiefdom Councilors present, the Declaration Officer and the Assessor Chiefs.

15. (1) In any paramount chieftaincy election, a Declaration candidate shall be declared duly elected if he obtains 55% or more of the votes cast.

(2) Where there are several candidates in a paramount chieftaincy election and none of them obtains 55% of the votes cast in the first ballot, the candidate or candidates with the least votes will be eliminated, leaving the two candidates with the highest votes to contest a second ballot, in which the candidate who obtains a simple majority shall be declared duly elected.

(3) Where there are only two candidates in a paramount chieftaincy election, the candidate who polls the simple majority of votes shall be declared duly elected, and in the event of a tie, a second ballot shall be conducted and the candidate who obtains a simple majority shall be declared duly elected.

(4) Where there is only one candidate, an election shall still be conducted in order for the Chiefdom Councilors to demonstrate their acceptance or otherwise of that candidate, by a simple majority of votes cast.

16. (1) Upon the election of a new Paramount Chief, all the Chiefdom Councilors who voted in the election, shall sign a document to be known as the Attestation Document, signifying their agreement to recognize the newly elected Paramount Chief and to obey his lawful orders and instructions.

(2) Every Attestation Document shall be endorsed by the appropriate Provincial Secretary and the Assessor Chiefs.

17. The recognition of the election of a Paramount Chief takes place after the Government has, on the recommendation of the Minister, accepted the joint report of the Provincial Secretary and the Electoral Commission on the conduct of the election and such recognition shall be by –

(a) the presentation of the Staff of Office by the President or any person deputed by him in that behalf and

(b) the publication of the election in the *Gazette*.

Challenge of election of Paramount Chief.

18. (1) The validity of the election of any person as a Paramount Chief may be challenged by any candidate or Councillor of the Chiefdom Council within seven days after the declaration of the result of the election by a petition addressed to the High Court on the ground that—

(a) the person so elected—

(i) is not qualified under section 8;

(ii) is disqualified under section 9;

(iii) was elected on the basis of any claim of a materially false nature under subsection (2) of section 14; or

(b) the election was otherwise improper.

(2) A declaration by the High Court that the election of a Paramount Chief is not valid shall be without prejudice to anything done by the Paramount Chief before the declaration.

PART V—REMOVAL OF PARAMOUNT CHIEFS

Removal of Paramount Chief.

19. A Paramount Chief may be removed from office by the President for any gross misconduct in the performance of the functions of his office if after a public inquiry conducted under the chairmanship of a Judge of the High Court or a Justice of Appeal or a Justice of the Supreme Court, the Commission of Inquiry makes an adverse finding against the Paramount Chief, and the President is of the opinion that it is in the public interest that the Paramount Chief should be removed.

20. (1) In appointing the Commissioner under section 19, the President may, in his discretion, appoint one or more assessors to the Commissioner.

(2) Subsection (3) of section 147 of the Constitution shall, apply to the appointment of the Commissioner and section 148 of the Constitution shall also apply to the powers, rights and privileges of the Commissioner and assessors appointed under section 19.

21. (1) Until the conclusion of the inquiry referred to in section 19, the Paramount Chief who is the subject of the inquiry shall be suspended from office, and pursuant to subsection (4) of section 72 of the Constitution, the President shall remove the Paramount Chief from office, if from the report of the inquiry referred to in section 19, the President is satisfied that the allegations made against the Paramount Chief have been proved.

(2) Section 149 of the Constitution shall apply to the making and publication of the report of the inquiry referred to in subsection (1).

(3) The removal of any Paramount Chief under subsection (1) shall be published in the *Gazette*.

PART VI—CHIEFDOM SPEAKERS AND OTHER SUB-CHIEFS

22. (1) The Chiefdom Speaker shall be the principal assistant to the Paramount Chief and shall be appointed by the Paramount Chief after consultation with his Chiefdom Committee from outside the ruling house of the Paramount Chief.

(2) In amalgamated chiefdoms, any agreement on Chiefdom Speakership, shall be honoured by all concerned.

(3) The Paramount Chief shall inform the Minister about the appointment of the Chiefdom Speaker for the endorsement of Government.

Election of
Section
Chiefs.

23. (1) A Section Chief shall be elected by the Chiefdom Councilors in the Section in accordance with the customs and traditions of that Section of the Chiefdom.

(2) A candidate who obtains a simple majority of the votes cast shall be declared elected.

(3) If the Minister is satisfied with the conduct of the election, the newly elected Section Chief shall be formally recognized by the publication of the election in the *Gazette*.

Election of
Town
Chiefs.

24. (1) A Town Chief shall be elected by the taxpayers in the town in accordance with the customs and traditions of that Town within the chiefdom.

(2) A candidate who obtains a simple majority of the votes cast shall be declared elected.

(3) If the Minister is satisfied with the conduct of the election, the newly elected chief shall be formally recognized by the publication of the election in the *Gazette*.

PART VII—REMOVAL OF CHIEFDOM SPEAKER AND SUB-CHIEFS

Removal of
Chiefdom
Speaker.

25. (1) The Chiefdom Speaker and other sub-chiefs who, by customary law, are the Councilors or assistants of a Paramount Chief shall be subordinate in their ordinary jurisdiction to the Paramount Chief.

(2) A Paramount Chief who is dissatisfied with the conduct of his Chiefdom Speaker shall notify the Chiefdom Committee with the grounds of his dissatisfaction; and if upon investigating the matter, the Chiefdom Committee finds the Speaker culpable, it shall advise the Chiefdom Administration to remove the Speaker for a new Speaker to be appointed by the Paramount Chief.

26. (1) Where the Paramount Chief, whether of his own accord or upon the complaint of the majority of the Chiefdom Councilors in a section is dissatisfied with the conduct of any Section Chief, he shall notify the Chiefdom Committee with the grounds of his or their dissatisfaction; and if upon investigating the matter, the Chiefdom Committee finds the Section Chief culpable it shall so advise the Chiefdom Administration which shall remove the Section Chief, subject to the right of appeal to the Minister whose decision shall be final.

Removal
of other sub-
chiefs.

(2) An appeal under subsection (1) shall be lodged with the Provincial Secretary within fourteen days who shall institute an administrative investigation into the matter and submit his findings to the Minister for final decision.

(3) A majority of the taxpayers from that town, village or section who are dissatisfied with the conduct of their Town or Village Chief shall, through their Section Chief, notify the Chiefdom Committee with the grounds of their dissatisfaction; and if upon investigating the matter the Chiefdom Committee finds the conduct of the Town or Village Chief to be not in the interest of peace, order and good government, it shall so advise the Chiefdom Administration which shall remove the Town or Village Chief.

27. The removal of the Chiefdom Speaker and the other sub-chiefs under this Part shall be published in the *Gazette*.

Removal of
Chiefdom
Speaker and
other sub-
chiefs to be
published.

PART VIII—MISCELLANEOUS

28. The polling at any paramount chieftaincy election shall be supervised by the Electoral Commission whose decision on any electoral issue shall be final.

Electoral
Commission
to supervise
elections.

29. (1) Subject to this Act, the functions of a Paramount Chief shall include the following:—

Functions of
Paramount
Chiefs.

- (a) supervise the collection of local tax and assist the appropriate authority in the collection of other lawful taxes to which the members of his chieftdom are subject;
- (b) use his best ability to prevent the commission of offences within his chieftdom and to maintain order and good government within his chieftdom,
- (c) preserve or promote, as appropriate, and serve as, the guardian of the customs and traditions of his chieftdom;
- (d) to all intents and purposes to serve as an agent of development in his chieftdom; and
- (e) to supervise the election of sub-chiefs in his chieftdom.

(2) A Paramount Chief may for the purpose of his functions under subsection (1) use his best ability to secure the making of appropriate bye-laws by the Chieftdom Council under section 16 of the Chieftdom Councils Act.

Cap. 61

Retrieval of
Staff of
Office.

30. (1) Not later than one month after the death or removal of a Paramount Chief, the Provincial Secretary or an officer deputed by him in that behalf, shall retrieve the Staff of Office from the family of the Paramount Chief or from him, as the case may be.

(2) Any person who—

- (a) refuses or fails without reasonable cause to hand over the Staff of Office when required to do so pursuant to subsection (1), or
- (b) in any way obstructs the Provincial Secretary or other officer deputed by him in the performance of any function under subsection (1),

commits an offence and is liable on conviction to a fine not exceeding Le5,000,000 or to a term of imprisonment not exceeding two years.

31. (1) Any person who—

Offence and
penalty.

- (a) administers any secret oath to any Chieftdom Councillor to vote for any person; or
- (b) in connection with the claim of any person to being a chief, makes any statement which he knows to be false or which he has no reason to believe to be true;

(c) contravenes subsection (3) of section 4 or section 7,

commits an offence.

(2) An offence under subsection (1) shall be punishable by a fine not exceeding Le5,000,000 or by a term of imprisonment not exceeding two years.

32. Sections 5 and 25 of the Provinces Act are hereby repealed. Amendment of Cap. 60.

Passed in Parliament this *18th* day of *June*, in the year of our Lord two thousand and nine.

VICTOR 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 KAMARA,
Clerk of Parliament.