

PART XIV-DUTIES OF ALICENSEE

- 79. Provision of essential service.
- 80. Protection of subscriber information.
- 81. Reports and restriction on access to documents.

PART XV- TRANSFER OF OWNERSHIP

- 82. Transfer of control of licence.

PART XVI-ECONOMIC REGULATIONS

- 83. Regulation on Implementation of access etc.
- 84. Non-discrimination principle.
- 85. Regulation on Implementation.
- 86. Fair Competition.

PART XVII-INTERCONNECTION

- 87. Interconnection
- 88. Negotiation process
- 89. Registration of interconnection agreement
- 90. Reference interconnect offer
- 91. Public reference interconnection offer
- 92. Dispute on interconnection
- 93. Determination of interconnection terminal rates
- 94. Interconnect liabilities

PART XVIII -ACCESS

- 95. Access agreement
- 96. Dispute on access

PART XIX-CO-LOCATION AND INFRASTRUCTURE

- 97. Co-location
- 98. Co-location and infrastructure of sharing request
- 99. Co-location and infrastructure agreement
- 100. Dispute on access
- 101. Unbundled access to local loop
- 102. Supervision by the Authority

THE NATIONAL COMMUNICATIONS AUTHORITY ACT, 2022

ARRANGEMENT OF SECTIONS

Section.

PART I-PRELIMINARY

- 1. Interpretation

PART II-ESTABLISHMENT OF THE NATIONAL COMMUNICATIONS
AUTHORITY

- 2. Establishment of the National Communications Authority
- 3. Common seal
- 4. Board of Directors
- 5. Disqualification of Board members
- 6. Tenure of Board members
- 7. Remuneration and expenses
- 8. Meetings of the Board
- 9. Disclosure of interest
- 10. Immunity of Board members

PART III-FUNCTIONS OF THE AUTHORITY

- 11. Functions of the Authority
- 12. Powers of the Authority
- 13. Independence of the Authority
- 14. Committees of the Board
- 15. Transparency
- 16. Consultations

PART IV-STAFF OF THE AUTHORITY

- 17. Appointment of Director-General
- 18. Functions of Director-General
- 19. Deputy Director-General
- 20. Other staff
- 21. Confidentiality

PART V-FINANCIAL PROVISIONS

22. Funds of the Authority
23. Accounts and audit of Authority
24. Financial year of Authority
25. Annual Report

PART VI -FUNCTIONS OF THE MINISTER

26. Functions of the Minister

PART VII-COMPLAINTS AND DISPUTE RESOLUTION

27. Complaints
28. Dispute resolution mechanism.
29. Hearing of matters.
30. Orders of the Authority.
31. Judicial review.
32. Appeal.

PART VIII- COMPLIANCE ORDER AND ENFORCEMENT

33. Compliance order
34. Sanctions

PART IX-LICENSING REGIME

35. Regulating communications services.
36. Licence requirement.
37. Exemption.
38. Types of services.
39. General license conditions.
40. Licence fees.
41. Modification.
42. Transfer of licence.
43. Suspension or revocation of licence.
44. Renewal of licence.
45. Publication of licence.

PART X-DECLARATION REGIME

46. Declaration.
47. Content of declaration.
48. Procedure for registration.
49. Modification of initial conditions.
50. Transfer of the services declared.

PART XI-INDIVIDUAL LICENCE

51. Scope of an individual licence
52. Categorisation of individual licence
53. Technology neutrality
54. Limitation on number of individual licence
55. Issuing individual licence
56. Application for individual licence
57. Procedure for the grant of individual licence
58. Issuance of a licence
59. Individual licence fees
60. Standard terms and conditions of individual licence

PART XII-CLASS LICENCE

61. Scope of a class licence
62. Application for a class licence
63. Registration under a class licence
64. Refusal of registration
65. Register
66. Class licence fees
67. Standard Terms and conditions of class licence
68. New class licence

PART XIII-SCOPE OF UNIFIED LICENCE

69. Scope of unified licence
70. Technology neutrality
71. Licence ownership
72. Limitation on number of unified licence
73. Issuing unified licence
74. Application for a unified licence
75. Procedure for gant of licence
76. Issuance of licence
77. Unified licence fees
78. Standard terms and conditions of unified licence

- 178. Appeal
- 179. Quality of service
- 180. Investigation and inquiry
- 181. Penalty for breaching terms and conditions

PART XXXV-OFFENCES RELATING TO ELECTRONIC COMMUNICATION

- 182. Operating without a licence
- 183. Failure to pay
- 184. Unlawful intercept
- 185. Disclosure of content
- 186. Sabotage and theft
- 187. Interference of transmission

PART XXXVI-OFFENCES RELATING TO BROADCASTING USING
SPECTRUM FREQUENCY

- 188. Unauthorised use of broadcast spectrum
- 189. Failure to pay broadcast fees

PART XXXVII-GENERAL OFFENCES

- 190. Unauthorised use of data
- 191. General offences
- 192. Initiation of court action
- 193. Abetting or attempting to commit an offence

PART XXXIII-MISCELLANEOUS PROVISIONS

- 194. Regulations
- 195. Transitional provision
- 196. Repeal and savings

PART XX-OBLIGATION OF DOMINANT MARKET PLACE

- 103. Obligation of dominant market player
- 104. Completion rules

PART XXI-ESSENTIAL FACILITY

- 105. Essential facility
- 106. Open access to essential facilities
- 107. General conditions on access
- 108. Access to facility
- 109. Submission of information
- 110. Dispute regarding access to facility
- 111. Protection of communication infrastructure

PART XXII-ROAMING

- 112. National roaming
- 113. International roaming
- 114. Dispute on roaming

PART XXIII-EASEMENT

- 115. Access to private land

PART XXIV-TARIFF

- 116. Tariff
- 117. Authority to approve tariff
- 118. Review of tariffs and charges
- 119. Accurate records relating tariffs to be kept

PART XXV-COMPLIANCE

- 120. Investigation by the Authority
- 121. Offences relating to tariff

PART XXVI-MANAGEMENT OF RADIO FREQUENCY SPECTRUM,
GEOSTATIONARY ORBIT AND RADIO TRANSMISSION

- 122. Principle of efficient spectrum management
- 123. Powers of the Authority on spectrum management
- 124. Spectrum committee
- 125. National frequency allocation plan

- 126. Assignment
- 127. Duration of an assignment
- 128. Assignment fees
- 129. Assignment renewal
- 130. Modification suspension and withdrawal
- 131. Frequency co-ordination
- 132. Enforcement
- 133. Failure to obtain assignment
- 134. Radio transmitters
- 135. Diplomatic mission

PART XXVII-MANAGEMENT OF NUMBERING RESOURCES

- 136. Regulating electronic communications
- 137. National numbering plan
- 138. Assignment of numbers
- 139. Reservation
- 140. Numbering capacity
- 141. Renewal of reservation
- 142. Decision of Authority on reservation
- 143. Assignment of numbers
- 144. Conditions for assigning of numbering capacity
- 145. Reservation and assignment fees
- 146. Delegation to outside operators
- 147. Transfer of resources
- 148. Revocation and withdrawal

PART XXVIII-STANDARD OF ELECTRONIC COMMUNICATIONS EQUIPMENT

- 149. Technical and performance standards
- 150. Approval of equipment connected to network

PART XXIX-CONSUMER PROTECTION

- 151. Protection of consumers
- 152. Obligation of a licensee
- 153. Preferential or differential tariffs
- 154. Rights of consumers
- 155. Protection of personal data

PART XXX-UNIVERSAL ACCESS AND SERVICE

- 156. Scope of universal access and service
- 157. Components of universal services

PART XXXI-UNIVERSAL ACCESS DEVELOPMENT FUND

- 158. Universal Access Development Fund
- 159. Board of Trustees
- 160. Duration of membership
- 161. Functions of the Board
- 162. Fund Administration
- 163. Immunity of member of the Fund
- 164. Functions of Fund Administration
- 165. Universal Access and Service Levy
- 166. Powers of the Fund

PART XXXII-IMPLEMENTATION OF UNIVERSAL SERVICE

- 167. Identification of Projects to fund
- 168. Selection of universal licence licensee
- 169. Term and conditions
- 170. Tariff
- 171. Non-payment of levy
- 172. Use of proceeds of the fund

PART-XXXIII-OBLIGATION OF UNIVERSAL SERVICE LICENSEE

- 173. Accounting obligations
- 174. Reporting
- 175. Failure to comply with obligations

PART XXXIV-ENFORCEMENT AND OFFENCES

- 176. Monitoring and enforcement
- 177. Regulatory sanctions

- (a) a person under the age of 18 engaged in sexually suggestive or explicit conduct;
- (b) a person appearing to be under the age of 18 engaged in sexually suggestive or explicit conduct; or
- (c) realistic images representing a person under the age of 18 or appearing to be under the age of 18 engaged in sexually suggestive or explicit conduct;

“class licence”	means the authorization granted by the Authority to any legal entity meeting the applicable terms and conditions, and which obliges the legal entity in question to obtain an explicit decision from the Authority before exercising rights deriving from the document, and to communicate information about the service concerned as necessary to ensure proper compliance with the applicable terms and conditions;
“closed user group service”	means a supplementary service or a service feature that allows users to form groups with restricted access;
“computer system”	means a device or a group of interconnected or related devices, one or more of which, pursuant to a program, performs the automatic processing of data;
“consultation”	means an engagement at which advice or views are exchanged.
“consumer”	means any individual or organisation who who uses or requests a publicly available electronic communications service for purposes outside of his trade, business or profession;
“content”	means information in the form of speech or other sound, data, text or images, whether still or moving, except where transmitted in private communications;

ACT

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SIGNED this 6th day of September, 2022.

DR. JULIUS MAADA BIO,
President.



No. 16



2022

Sierra Leone

THE NATIONAL COMMUNICATIONS AUTHORITY ACT, Short title.
2022.

Being an Act to establish the National Communications Authority and to provide for the licensing and regulation of electronic communications operators and other related matters.

[]

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

PART I – PRELIMINARY

Interpretation. 1. In this Act, unless the context otherwise requires -

“access” means making available facilities or services of any licensee under defined conditions, on either an exclusive or non-exclusive basis, for the purpose of providing communications services, including access to-

- (a) network elements and associated facilities, which may involve the connection of equipment by fixed or non-fixed means, and includes access to the local loop and to facilities and services necessary to provide services over the local loop;
- (b) physical infrastructure, including buildings, cable engineering networks, ducts and masts and poles;
- (c) relevant software systems, including operational support systems;
- (d) number translation facilities, or to systems offering equivalent functionality;
- (e) fixed and mobile networks, in particular for roaming;
- (f) conditional access systems for digital television services; or
- (g) virtual network services.

“allocation”

means the allocation of a given scarce resource for the purpose of its use by one or more communications services under given conditions;

“apparatus”	means equipment, an instrument, or any other object for use in the provision or the reception of communications services, and includes a fitting to or accessory of the equipment, instrument or object;
“Authority”	means the National Communications Authority established under section 2;
“Board”	means the Board of the National Communications Authority established under Sub-Section 1 of section 4;
“Board of Trustee”	means the Universal Access Development Fund Board of Trustees;
“broadcasting service”	means any service that consists of broadcasting and which is conveyed through an electronic communications network, but does not include: <ol style="list-style-type: none"> (a) a service that provides only data or text, with or without associated still images; (b) a service in which the provision of audio-visual material or audio material is incidental to the provision of that service; or (c) a service or a class of service that the Authority may prescribe as not falling within this definition.
“business purpose”	means an objective that supports or advances the business goals and missions of the company.
“Chairman”	means the Chairman of the Board of the National Communications Authority
“child pornography”	means any material that visually depicts images of-

“frequency spectrum service”	means a service involving the transmission, emission or reception of radio waves for specific communications purposes;
“Fund”	means the universal access Development Fund established under section 158 of this Act;
“Fund Administrator”	means the Fund Administrator appointed under section 162 sub-section 1;
“gateway”	any mechanism for providing a network access to another network;
“Gazette”	means the Sierra Leone Gazette;
“Government”	means the Government of Sierra Leone;
“gross income”	means the total income derived from all sources of a person before any deduction or allowance
“individual licence”	means the written authorization granted to a legal entity by the Authority and which grants that entity specific rights or imposes specific obligations in addition to the rights and obligations attached to class licences and which obliges the legal entity in question to obtain an explicit decision from the Authority before exercising rights deriving from such document and to communicate information about the service concerned;
interconnection”	the physical and virtual connection of separate telephone networks to allow users of those networks to communicate with each other. Interconnection ensures interoperability of services and increases end users’ choice of network operators and service providers;
“interconnection agreement”	means an agreement entered into, between licensees in relation to the interconnection of their services;

“content provider”	means any individual or legal entity broadcasting content accessible in Sierra Leone.
“country code top level domain”	means a top-level domain (ccTLD) name on the Internet that is reserved for a country or territory;
“coverage area”	means the area in which a communications service is intended to be received;
“data”	means the raw material of information that refers to, or represents, conditions, ideas or objects
“data controller”	means a person who, acting alone or in common with other persons, determines the purpose for which and the manner in which any personal data are, or are to be processed and thus, controls and is responsible for keeping and using personal data and collects, collates, processes or stores personal data;
“data subject”	means the person who is the subject of data collected by the data controller;
“data subject’s consent”	means any freely given specific and informed indication by which the data subject signifies his or her agreement to personal data relating to him or her being processed;
“designated population”	means individuals, households, groups, communities or institutions determined by the Authority from time to time to be the target beneficiaries of universal access and service;
“digital”	means any type of information that can be output, transmitted and interpreted as individual bits of binary information (the use of the numbers 0 and 1), using electrical or electromagnetic signals that can be modulated to convey specific content;

“digital certificate”	means a record issued by the Authority for the purpose of supporting an electronic signature that: <ol style="list-style-type: none"> (a) purports to confirm the identity or other significant characteristics of the person who holds a particular key pair; (b) names or identifies the person to whom it is issued; (c) contains the public key of the person to whom it is issued; and (d) is signed by a responsible officer of the Authority;
“Director General”	means the Director General appointed under Section 17;
“security forces”	includes the Armed Forces of the Republic of Sierra Leone, and the Police Force
“dispute resolution mechanism”	means a structured dispute mechanism that addresses disputes or grievances that arise between two or more parties engaged in business, legal or societal relationships;
“ECOWAS”	means the Economic Community of West African States;
“electronic commerce”	means any transaction that takes place online between buyer and seller.
“electronic communications”	means a service normally provided for remuneration which consists wholly or mainly in the conveyance of signs, signals, images, sounds, data or intelligence of any nature on electronic communications networks, including telecommunications services and transmission services in networks used for broadcasting;

“electronic message”	means any communications created, sent, received or stored by electronic means, such as (but not limited to) computerised data exchange system, electronic mail system, instant messaging;
“electronic records”	means records communicated and maintained by electronic means;
“electronic signature”	means data in electronic form affixed to or logically associated with other electronic data that may be used to identify the signatory in relation to the electronic message and to indicate the signatory’s approval of the information contained in the electronic message;
“end user”	means the individual or organization that originates or is the final recipient of information carried over a network (i.e. the consumer).
“financial services”	means any service of a financial nature, including all insurance and insurance-related services, and all banking and other financial services;
“frequency”	the rate at which electrical current alternates, usually measured in Hertz. It is also used to refer to a location on the radio-frequency spectrum, such as 800, 900 or 1800 MHz;
“frequency allocation”	means the reservation of one or more radio frequency bands for a particular use or for particular uses in a country ;
“frequency assignment”	means the reservation of one or more radio frequencies for use by a particular entity in accordance with the national frequency plan of a country;
“frequency spectrum licence”	radio communications authorization of a specified kind at a specified frequency, or in any specified frequency band or bands, and which may include spectrum assignments ;

“processing of personal data”	means any operation or set of operations performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, as well as blocking, erasure or destruction;
“public broadcasting service”	means any broadcasting service provided by Sierra Leone Broadcasting Corporation or another State-owned enterprise;
“public communications by electronic ”	means any signs, signals, texts, images sounds or messages of whatever nature that are not private correspondence, available to the public or to a certain category of public by electronic communications means;
“roll out”	means to manage and support the installation, commissioning, integration, and testing and acceptance of the network element component comprising a telecommunications network;
“service provider”	means person licensed under this Act;
“spectrum”	means the radio-frequency spectrum used as a transmission medium for cellular radio, radio paging, satellite communication, broadcasting and other services over the airwaves;
“station”	means a transmitter, receiver, a combination of transmitters and receivers, or any accessory thereto, which is used or intended to be used for radio communications;
“subscriber”	means any individual or entity who has entered into a contract with an authorised provider of a communications service in order to obtain any communications services;

“intermediary service providers”	means any person or entity that provides electronic communications services consisting of- <ul style="list-style-type: none"> (a) providing access to electronic communications networks, (b) storing or (c) transmitting information through electronic communications networks;
“international gateway”	means any facility through which electronic communications can be sent between the domestic networks of one country and another;
“Leones (Le)”	means leones in the old currency;
“licence”	means a written authorization granted by the Authority under this Act;
“licence area”	means the geographical area specified in a licence;
“licensee	means the holder of a licence issued under this Act;
“local loop”	means the system used to connect the subscriber to the nearest switch. It generally consists of a pair of copper wires, but may also employ fibre-optic or wireless technologies;
“Member”	means a member of the Authority;
“Minister”	means the Minister responsible for Communications;
“Ministry”	means the Ministry of Information and Communications;
“multimedia”	means the presentation of more than one medium, typically images, sound and text in an interactive environment

“national frequency plan”	includes: (a) a table of frequency allocations for all bands below 3,000 GHz, taking into account the ITU table of allotments, in as far as such allotments have been adopted and agreed upon by a State, which may include designations of certain utilisations; and (b) a plan for the migration of systems and equipment of existing users within specific frequency bands, as applicable, including frequency bands for security services to various frequency bands;
“national numbering plan”	means the numbering plan prepared and managed by the Authority for use in connection with the supply of information and communications services in Sierra Leone;
“network unbundling”	providing access to, or making available, some or all of the disaggregated elements or functions of a network for interconnecting carriers to use in serving their own customers;
“new entrant”	means an operator that has been in operation for less than 1 (one) year and with license not more than 2 years.
“number”	means a series of digits indicating an electronic communications originating or termination point, comprising the information necessary in order to route calls from an originating source to a termination point;
“number portability”	means the ability of a customer to transfer an account from one service provider to another without requiring a change in number;
“online public communications”	means any transmission, upon individual request, of digital data, signs, signals, texts, images, sounds or messages of whatever nature that are not private correspondence, by electronic communications means that enable a reciprocal exchange of information between the issuer and the receiver;

“open standard”	means any protocol for communications, interconnection or exchange, and any format of interoperable data whose technical specifications are public and to which access is not restricted;
“operating principle”	means the codes, instruments or documents prescribed by the Board of Trustees for the implementation of specific universal access and service programs and projects;
“operator”	means any juridical person operating an electronic communications network that is open to the public, or providing an electronic communications service to the public;
“operator having significant market power”	means holding, either on its own or in conjunction with other legal entities, a position equivalent to a dominant position, example a company that has a significant capacity to act in a manner independent of its competitors, its customers and ultimately consumers;
“personal data”	means any information relating to an identified individual or who may be directly or indirectly identifiable by reference to an identification number or one or several elements related to his physical, physiological, genetic, psychological, cultural, social, or economic identity;
“predatory pricing”	means a deliberate strategy of driving competitors out of the market by setting very low prices or selling below the operator’s long run incremental costs of delivering the service;
“private network”	a network based on leased lines or other facilities, which are used to provide telecommunications services within an organization or within a closed user group as a complement or a substitute to the public network;

PART II-ESTABLISHMENT OF THE NATIONAL
COMMUNICATIONS AUTHORITY

Establishment
of National
Communications
Authority.

2. (1) There is hereby established a body to be known as the National Communications Authority. (NatCA)

(2) The Authority shall be a body corporate with perpetual succession and power to acquire, hold and dispose of property, whether movable or immovable, enter into contracts, sue and be sued in its corporate name and subject to this Act do all things which a body corporate may lawfully do .

Common
seal.

3. (1) The Authority shall have a common seal the affixing of which shall be authenticated by the signatures of –

- (a) the Chairman or other member of the Board generally or specifically authorised by the Board for that purpose; and
- (b) the Director-General or other officer authorised by him for that purpose.

(2) Every document purporting to be an instrument executed or issued by or on behalf of the Authority and to be sealed with the common seal of the Authority authenticated in the manner stated in subsection (1) shall be deemed to be so executed or issued without further proof unless the contrary is proved.

(3) In appropriate cases the seal may be affixed to documents outside Sierra Leone.

Board of
Directors

4. (1) The governing body of the Authority shall be a Board of Directors which shall exercise direction and supervision over the Authority. The Board shall consist of the following members-

- (a) a Chairman appointed by the President ,subject to the approval of Parliament and such person shall possess high integrity, extensive knowledge and practical experience in matters relevant to the functions of the Authority ;

“tariff”

means schedule of rates and regulations governing the provision of ICT services;

“telecommunications”

means a transmission, emission or reception of signs, signals, writing, images, sounds or intelligence of any nature by wire, radio, optical or other electro-magnetic systems, whether or not such signs, signals, writing, images, sounds or intelligence have been subjected to rearrangement, computation or other processes by any means in the course of their transmission, emission, or reception;

“telecommunications
network”

any installation or group of installations that means provides for the transmission or routing of telecommunications signals, and for the exchange, control and management of information relating thereto, between the network’s originating and termination points;

“telecommunications
service”

means a service, usually provided on fee- paying basis, that consists wholly or primarily of transmitting or routing signals over telecommunications networks, or a combination of those functions, including transmission services over networks used for broadcasting, but which excludes services consisting of providing content with the aid of telecommunications networks or services, or of exercising editorial responsibility with respect to such content;

“television
broadcasting
service”

means a broadcasting service consisting of the transmission of visual images or other visible signals, with or without accompanying sounds, where the visual images are such that their sequences are seen as moving pictures;

“traffic dumping”	means the practice by operators of selling products below costs or significantly below market prices and flooding the market with product prices that are very low and often considered unfair;
“type approval”	means an act granted to a product that meets a minimum set of regulatory, technical and safety requirements;
“unified licence”	means the written authorization granted to a legal entity by the Authority and which grants that entity specific rights or imposes specific obligations in addition to the rights and obligations attached to class licences and which obliges the legal entity in question to obtain an explicit decision from the Authority before exercising rights deriving from such document and to communicate information about the service concerned;
“Universal Access Development Fund”	means the Universal Access Development Fund established under Section 158;
“Universal Access”	means access of 100% by a designated population that can obtain, at the minimum, public access to quality and affordable communication systems and services;

“Universal Service”	means any service of a specified quality that the Government desired to be available, affordable and accessible throughout Sierra Leone, to an individual, household or institution, including the provision of - <ul style="list-style-type: none"> (a) public voice telephony; (b) internet access ;or (c) other services by which people can access efficient, affordable and modern communication systems and services
“Universal Service projects”	means the specific micro level implementation activities related to each universal service program;
“Un-Served Area”	means a geographic area where no designated level of universal access is currently available;
“value-added network services”	means telecommunication services provided over public or private networks which, in some way, add value to the basic carriage, usually through the application of computerized intelligence;
“vessel”	means any ship, boat, air-cushioned vehicle or floating rig or platform used in any form of operations at sea, or any other description of a vessel;

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

(11) Subject to this Act the Board shall regulate its own proceedings.

Disclosure of Interest.

9. (1) A member of the Board who has any interest whether direct or indirect in any matter being 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.

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

Immunity of Board Members.

10. (1) No action or other proceeding shall lie or be instituted against any member of the Board for or in respect of any act done in good faith in the exercise of his functions under this Act.

(2) No member of the Board shall be personally liable for any debt or obligation of the Authority emanating from transactions expressly done in good faith in the exercise of his functions under this Act.

PART III-FUNCTIONS OF THE AUTHORITY

Functions of the Authority.

11. (1) The object for which the Authority is established is to regulate and monitor communications services.

(2) Notwithstanding the generality of subsection (1) the Authority shall perform the following functions -

- (a) progressively foster the development of information and telecommunications technology;

- (b) a representative of a consumer organization appointed by the President subject to the approval of Parliament;

- (c) a representative of a civil society organization appointed by the President subject to the approval of Parliament;

- (d) four other members at least two of whom shall be women appointed by the President and subject to the approval of Parliament and such members shall collectively possess knowledge, qualification and experience in the field of economics, telecommunications, information technology, accounting, engineering, law or business management;

- (e) a representative of the Ministry not below the rank of Director who shall be an ex-officio member with no voting rights; and

- (f) the Director-General who shall be the Secretary to the Board with no voting rights.

(2) A person who is appointed as a member of the Board shall be a citizen of Sierra Leone.

5. A person shall not be appointed as a member of the Board if that person – Disqualification of Board members.

- (a) is a member of Parliament;

- (b) is a mayor, chairman or councillor of a local council;

- (c) is a minister or deputy minister;

- (d) has any interest in an information and communications technology enterprise;

- (e) has an interest in a licence issued under this Act ;
- (f) has either direct or indirect financial interest in a licensee

Tenure of Board members

6. (1) The Chairman and members appointed under paragraphs (b), (c) and (d) of subsection (1) of section 4 shall hold office for a period of 4 years and shall be eligible for reappointment for not more than one term of 4 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 office by reason of infirmity of mind or body;
- (b) proven misconduct;
- (c) convicted and sentenced for an offence involving fraud or dishonesty;
- (d) being bankrupt or insolvent;
- (e) failure to attend three consecutive meetings of the Board without reasonable excuse;
- (f) resignation from office by submitting a written notice to the President.

(3) On the death, resignation or removal from office of the Chairman or any other member of the Board the President shall appoint another person to serve the remainder term of the Chairman or the other member.

Remuneration and Expenses.

7. The Chairman and other members of the Board shall be paid remuneration and allowances as are commensurate with those paid to members of statutory bodies as Parliament may determine.

8. (1) The Board shall meet for the dispatch of its business at least once every three months at a time and place determined by the Chairman; ^{Meetings of the Board .}

(2) The Chairman shall preside at every meeting of the Board if present and in his absence the members present shall appoint a member from among themselves to preside at the meeting.

(3) A majority of the members of the Board may by notice in writing signed by them request the Chairman to summon a special meeting of the Board for the purpose stated in the notice.

(4) The Chairman or in his absence the member appointed to act on his behalf shall summon a special meeting within 5 days of receipt of the notice referred to under subsection (3)

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

(6) Any question which fails to be determined by the Board at any of its meetings shall be decided by a majority of the votes of the members present and voting

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

(8) Any proposal circulated among all members and agreed to in writing by a two-thirds majority of 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 meetings of the Board provided that if a member requires that such proposal be placed before a meeting of the Board, this subsection shall not apply to such proposal.

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

- (b) invest the funds of the Authority that are not immediately required for the performance of its functions and ensure the judicious use of the funds;
- (c) publish information that is relevant to its functions and activities in a manner that it considers appropriate;
- (d) promote and where necessary, fund the training of persons in the communications industry;
- (e) undertake research and development work related to its functions;
- (f) impose a fine on a person who unlawfully possesses, installs, connects or operates any communications equipment or apparatus, or unlawfully provides or performs any communications services; and
- (g) classify communications services and licenses.

(2) The Authority may confiscate any apparatus which is possessed, installed, connected or operated unlawfully.

Independence of the Authority.

13. (1) Subject to this Act, the Authority shall exercise its functions independently of any person or body.

(2) Except as otherwise provided for in this Act the Authority shall not be subject to the direction or control of any entity or authority.

Committees of the Board.

14. The Board may for the discharge of its functions appoint one or more committees consisting of members of the Board or non-members, or both, to perform such functions and to report thereon to the Board when the Board may determine

- (b) grant licences for the provision of ICT services and ensure compliance with the terms and conditions of the licences;
- (c) monitor and supervise the international communications gateways or appoint a third-party agent to monitor and manage all international communications gateways in Sierra Leone;
- (d) regulate and monitor the ICT sector in Sierra Leone;
- (e) establish the protection of data on computer files and their transmission and to safeguard the secrecy of electronic communications in collaboration with all operators and service providers;
- (f) coordinate the protection of essential ICT active and passive infrastructure facilities in Sierra Leone;
- (g) ensure fair competition amongst licensees, operators of communications networks and service providers of public communications;
- (h) investigate and resolve disputes-
 - (i) relating to harmful interference with radio frequency;
 - (ii) amongst operators and end-users relating to rates, billings , services provided and to facilitate relief where needed amongst the users and service providers or operators;
 - (iii) with respect to facilities sharing, interconnection , co-location of passive and active infrastructure ; and

- (iv) in cases where further redress is lacking for disputing licensed operators or service providers of public communications service;
- (i) establish quality of service indicators and reporting requirements for service providers and operators;
- (j) establish the national numbering plan and assign numbers to operators of communications networks and service providers of public communications;
- (k) support the implementation of the Universal Access Policy;
- (l) ensure access, interconnection and interoperability of public communication networks;
- (m) maintain a register of operators;
- (n) maintain a database of subscribers;
- (o) ensure operators' obligations for the expansion of coverage of electronic communications services ;
- (p) issue general rules on the determination of applicable rates and charges;
- (q) ensure the safety and quality of all electronic communications services and goods, and for that purpose, determine technical standards for electronic communications networks and the connection of consumer equipment to electronic communications networks and health issues, such as the exposure to electromagnetic radiations;

- (r) maintain standards for electronic communication equipment and establish procedures for type approval regime in order to grant approval for equipment and to ensure that type approval procedures are adhered to;
- (s) develop and manage the national frequency allocation plan;
- (t) protect the interests of consumers, purchasers and other users of electronic communications services;
- (u) establish training standards for communications operators and service providers and monitor the implementation of the training standards;
- (v) ensure compliance with national and international communications standards and obligations laid down by international communications agreements and treaties to which Sierra Leone is a party, and issuing certificates of compliance in relation thereto; and
- (w) undertaking all necessary measures to perform the functions of the Authority specified in this Act.

12.
powers-

- (1) The Authority shall have the following Powers of the Authority.
 - (a) enter into a contract for the supply of goods and services;

- (d) such money as is from time to time allocated to the Authority by Parliament;
- (e) the proceeds from the Authority selling any assets or equipment to which it has title;
- (f) loans obtained from reputable financial institutions.

(2) The Authority may charge fees in respect of publications, seminars, documents, and other services provided by the Authority.

(3) The money of the Authority that is not immediately required to perform its functions may be invested on deposit with any bank or financial institution in Sierra Leone.

(4) The money accruing to the Authority shall be divided as follows-

- (a) eighty eight percent (88%) for the financing of the activities of the Authority;
- (b) two percent (2%) to be allocated to the Universal Access Development Fund created under section (158) of this Act; and
- (c) ten percent (10%) to be paid into the Consolidated Fund for appropriation by Parliament.

Accounts and
Audit of
Authority.

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

- (a) balance sheet accounts;
- (b) income and expenditure accounts;

15. The Authority shall be open and transparent in its operations and in this regard shall undertake the following -

- (a) inform the public through the print or electronic media of national circulation of any publication made under this Act within four weeks of the publication in the Gazette and the Authority's website;
- (b) publish on its website any approved report.

16. (1) Where the Authority intends to take a decision in accordance with this Act, the Authority may consult any interested party, and in this regard shall give the interested party an opportunity to comment on the proposed decision within a period specified by the Authority.

(2) The Authority shall publish its consultation procedures and shall establish a single information point through which all consultations can be accessed.

(3) The results of any consultation launched publicly by the Authority shall be made available by the Authority, through such means as the Authority considers appropriate in the circumstances, except in the case of information that the Authority considers to be confidential.

PART IV-STAFF OF THE AUTHORITY

17. (1) The Authority shall have a Director-General who shall be appointed by the President subject to the approval of Parliament.

(2) A person shall not be appointed as a Director - General unless that person has relevant knowledge, qualification and at least 5 years experience in either telecommunications, information technology, economics, finance, law or administration

Consultations

Appointment
of
Director-
General

(3) The Director-General shall hold office for a period of five years and shall be eligible for re-appointment for another period of five years

Functions of
Director-
General.

18. The Director-General shall be the head of administration and shall be responsible for -

- (a) the day-to-day administration and management of the Authority;
- (b) the formulation and implementation of such operational policies, programmes and plans relating to the functions of the Authority as may be approved by the Board;
- (c) determining and providing the operational needs of the Authority, subject to the approval of the Board;
- (d) recording and keeping the minutes of the Authority in a book kept for that purpose;
- (e) supervising and disciplining staff of the Authority; and
- (f) performing such other duties as the Board may determine.

Deputy
Director
General.

19. (1) The Authority shall have a Deputy Director General who shall be appointed by the President.

(2) The qualification required for a Director – General under subsection (2) of section 17 shall apply to a Deputy Director -General

(3) The Deputy Director -General shall hold office for a period of five years and shall be eligible for re- appointment for another period of five years.

(4) The Deputy Director-General shall be the principal assistant to the Director -General and shall act in the absence of the Director-General and perform any other functions determined by the Board.

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

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

21. (1) Members of the Board, members of staff, consultants, advisers or subcontractors shall sign a confidentiality agreement before commencing any duty at the Authority. Confidentiality

(2) No person shall publish or disclose to any entity the contents of any documents, communications or information which has come to the person's knowledge while performing duties under this Act unless the person has written consent given by or on behalf of the Board

(3) Any person who contravenes this section commits an offence and is liable on conviction to a fine not less than Le25,000,000.00 or to a term of imprisonment not less than 2 years or to both the fine and imprisonment

(4) In addition to the fine and imprisonment imposed under subsection (3) the person who contravenes this section shall be liable to be dismissed or the contract awarded to him cancelled.

PART V-FINANCIAL PROVISIONS

22. (1) The activities of the Authority shall be financed by a fund consisting of the following- Funds of the
Authority.

- (a) fees and other moneys payable to the Authority under this Act and regulations;
- (b) fines payable to the Authority in respect of breaches of licence terms, conditions and obligations;
- (c) grants or donations received by the Authority;

(2) The Authority shall determine the periods that are reasonably necessary for the fair and adequate presentation of the matter by the respective parties and the Authority may require those matters to be presented within respective periods so determined.

(3) The Authority may require evidence or arguments to be presented in writing, and may decide the matters upon which it will hear oral evidence or arguments.

(4) Each party to a matter shall be entitled to appear at the hearing and may be represented by a legal practitioner or any other individual who is competent to assist that party in the presentation of the matter.

Orders of the Authority.

30. After hearing complaints under this Act the Authority may make an order-

- (a) requiring a party to supply goods or services within specified periods;
- (b) requiring a party to supply goods or services under specified terms and conditions;
- (c) requiring a party to pay the costs of the other party in the dispute;
- (d) requiring a party to pay the costs of an expert person appearing at the hearing, or for producing documents;
- (e) dismissing a complaint;
- (f) imposing financial sanctions;
- (g) for specific performance;
- (h) for refunds;
- (i) appointing trustees; or
- (j) for such other relief as may be deemed necessary and reasonable

(c) source and application of funds; and

(d) financial estimates, particularly of the amount of revenue to be collected in the ensuing year

(2) The accounts of the Authority kept under subsection (1) shall be audited by the Auditor General or any 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 Authority and to require any information and explanation as he may think fit.

(4) The Authority 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 Authority .

(5) The Auditor-General or the auditor appointed by him shall submit to the Authority a report on the audited accounts and the financial statement 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) other matter which in his opinion ought to be brought to the notice of the Authority.

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

Financial year of Authority.

Annual report.

25. (1) The Authority shall within 3 months after the end of each financial year submit to the Minister for approval an annual report of the activities, undertakings, properties and finances of the Authority for that year.

(2) An annual report shall include a copy of the audited accounts of the Authority together with the audit report.

(3) Not later than 3 months after the year to which the report relates, the Minister shall lay the approved report before Parliament.

PART VI-FUNCTIONS OF THE MINISTER

Functions of the Minister .

26. The Minister may issue to the Authority policy guidelines of a general nature relating to the provisions of this Act including the formulation of the general policy of the ICT sector in consultation with the Authority and other stakeholders in the sector as provided for in this Act.

PART VII-COMPLAINTS AND DISPUTE RESOLUTION

Complaints

27. (1) The Authority shall investigate any complaint referred to it if the complaint-

- (a) is a matter to which the Authority relates;
- (b) is not frivolous or vexatious.

(2) The Authority shall hear and determine the following matters-

- (a) disputes between licensees of communications services;
- (b) disputes between licensees and the public involving alleged breaches of the Act or regulations or rules or licences;

(c) complaints between licensees and consumers;

(d) objections to agreements between licensees; and

(e) claims by a licensee for a change in rates payable for any services.

(3) Where it appears to the Authority at any time during or after its investigation that the licensee has not considered the complaint, or has not considered it adequately, the Authority may revert the complaint to the licensee with the request that the licensee should consider or reconsider the complaint,

(4) The Authority may make representations to the licensee on behalf of the complainant, or to the complainant on behalf of the licensee, as the Authority sees fit.

(5) For the purposes of dealing with consumer complaints, the Authority shall establish a complaints unit that shall be responsible for receiving and making follow up on complaints from consumers.

(6) The Authority shall by statutory instrument make rules on handling complaints and applicable proceedings.

28. The Authority shall apply dispute resolution mechanism in resolving disputes under this part.

Dispute resolution Mechanism.

29. (1) Where the Authority receives a complaint it shall within a period not exceeding 14 days after the receipt of the complaint commence investigation of the matter, hear, receive and consider statements, arguments and evidence made, presented or tendered

Hearing of Matters.

- (a) exemption circumstances;
- (b) criteria of eligibility for exemption; and
- (c) the application process for issuing exemptions to the licence requirement.

(2) The requirement to hold a licence under section 36 shall not apply to the following –

- (a) the acquisition or operation by any person for his own use, of a telecommunications network in which all the network equipment is;
 - (i) situated on a single set of premises in a single occupation ;
 - (ii) in a vessel, aircraft or vehicle mechanically cooped together;
 - (iii) not connected to any public network within Sierra Leone
- (b) communications networks of the national armed forces, security services and other essential services, except that applications for the assignment of frequencies in shared bands shall be submitted to the Authority through the office of the President;
- (c) closed user group services; and
- (d) any telecommunications service that has been declared to be licence-free under the authorization or declaration regime.

(3) Notwithstanding the exemption granted under this section licensees shall comply with all other applicable provisions of this Act or statutory instruments made under the Act

31. The decision or direction of the Authority that is the subject matter of judicial review may be suspended until such a decision is upheld or expressly reversed in a final judgment or order of the High Court. Judicial Review.

32. Any person aggrieved by the decision of the Authority may appeal to the High Court. Appeal

PART VIII-COMPLIANCE ORDER AND ENFORCEMENT

33. (1) Where the Authority is satisfied that an entity has Compliance Orders.
- (a) contravened any provision made under this Act or statutory instruments made under the Act;
 - (b) failed to comply with the terms and conditions of a licence

it may issue a compliance order on the entity

(2) A compliance order may require an entity to refrain from the conduct that is in contravention of this Act or any statutory instruments made under this Act or to take actions required to comply with this Act or statutory instruments.

- (3) A compliance order shall -
- (a) be in a written form;
 - (b) be served on the entity against whom it is made;
 - (c) specify the grounds for making the order;
 - (d) outline the conduct the entity should refrain from;
 - (e) outline the actions the entity should comply with ;

- (f) be enforceable by the Authority or by an order of a court.

Sanctions. **34.** (1) The Authority may take any appropriate action for any failure by the licensee to comply with.

- (a) this Act;
- (b) decisions taken to ensure the implementation of this Act; and
- (c) terms and conditions of a licence.

(2) Where there is no remedy within the time limit set in the compliance order the Authority in accordance with the gravity of the offence shall –

- (a) order that a complainant should be compensated where the compliance breach cause damage to another person ;
- (b) impose a penalty not exceeding 2% of the licence fees and 4% of the licence fees where the same offence is repeated.

(3) The decision of the Authority under subsection (2) shall be published.

(4) Where an entity has been convicted of an offence under this Act by a court anyone who suffers loss or damage as a result of the offence may be compensated by the entity for such loss or damage

PART IX-LICENSING REGIME

Regulating communications services. **35.** (1) The Authority shall regulate electronic communications networks and electronic communications services

(2) Conditions imposed by the Authority in regulating electronic communication networks and electronic communications services shall be non- discriminatory, relevant, transparent and justified in relation to the targeted network or service.

(3) The Authority shall create conditions for the effective competition in the communications sector and conditions to prevent abuse of market power by licensees.

(4) The Authority shall issue licence for the following reasons-

- (a) promoting the development of the communications sector ;
- (b) creating effective competition; and
- (c) removing barriers to the development of all market segments.

36. (1) Subject to this Act no entity or person shall - Licence Requirement.

- (a) provide electronic communications services;
- (b) operate an electronic communications network;
- (c) operate a radio frequency

unless the entity or person holds a licence issued by the Authority under this Act.

(2) Any entity or person who contravenes subsection (1) commits an offence and is liable to a fine equivalent to the licence fees applicable to the type of service provided or a term of imprisonment not less than two (2) years, or to both a fine and imprisonment.

37. (1) The Authority shall by statutory instrument make Exemption rules or regulations dealing with-

(h) is the subject of any order made by a competent court or tribunal for its compulsory winding-up or dissolution;

(2) Where the Authority has grounds for the suspension or revocation of a licence, it shall give written notice to the affected licensee to show cause why the licence should not be suspended or revoked.

(3) The time limit for the affected licensee to respond to the written notice shall not be more than 14 days after receipt of the written notice under subsection (3)

(4) The affected licensee shall within the stipulated period make a written submission to the Authority

(5) The Authority after receipt of the written submission shall consider the submission and make its final determination on the suspension or revocation of the licensee.

(6) In determining whether to suspend or revoke a licence, the Authority shall consider the severity and persistence of the offences committed and the extent to which any person other than the licensee is likely to sustain loss or damage as a result of the suspension or revocation.

(7) Where the licensee does not respond to the written notice or the Authority determines that the affected licensee failed to show cause why his licence should not be suspended or revoked the Authority shall proceed to suspend or revoke the licence.

(8) The suspension or revocation of a licence shall take effect from the date of the Authority's final determination under subsection (8)

(9) When the suspension or revocation of a licence takes effect the Authority shall as soon as practicable publish a notice on the suspension or revocation in at least one national daily newspaper

38. (1) The Authority shall be responsible for issuing and determining the types of services under this Act that require – ^{Types of services}

(a) declaration;

(b) authorization or

(c) licences

(2) The Authority shall issue the following forms of licence-

(a) individual licence;

(b) class licence;

(c) unified licence; and

(d) any other form

(3) Where a frequency spectrum is required the applicant shall comply with the requirement of an application for a frequency spectrum licence stipulated under this Act or regulations made under this Act.

39. (1) A licence issued by the Authority under this Act shall – ^{General licence Conditions.}

(a) be issued to the applicant after payment of the appropriate initial licence fees;

(b) contain the terms and conditions of the licence; and

(c) be valid for a period stipulated in the licence

(2) A licence issued under this Act shall take effect on the date the licence is issued.

(3) The terms and conditions of a licence may relate to the following –

- (a) specific requirements;
- (b) rights and obligations relating to interconnection, access and facility sharing, or;
- (c) any other matter the Authority deems necessary

(4) For the purpose of exercising the functions conferred upon it under this Act the Authority may require the operator to submit to it any document, accounts, estimates, returns or any other information in a stipulated manner and within a prescribed time which shall be reasonable.

Licence Fees.

40. (1) A licensee shall pay the fees prescribed by the Authority under this Act or statutory instruments made under this Act and such fees may include –

- (a) an initial licence fee payable before the licence is issued;
- (b) an annual fee in an amount specified in statutory instruments made under this Act;
- (c) a fee in respect of the assigned frequency where applicable;
- (d) a fee in respect of assigned numbering resources where applicable;
- (e) any other fees or levies, including but not limited to a contribution to the Universal Access Development Fund as may be required from time to time by any statutory instrument applicable to licensees.

Modification

41. (1) The conditions of any licence may be fixed at the time the licence is officially delivered.

(2) The Authority may modify the conditions of any licence in objectively justified cases.

(3) Where it becomes necessary to modify the conditions of any licence, the Authority shall give the licensee an advance notice of not less than six (6) months of any modifications before they are implemented.

42. A licence granted under this Act shall not be transferable unless the licensee obtains a written authorization from the Authority. Transfer of licence.

43. (1) Subject to this Act the Authority may suspend or revoke a licence where the licensee – Suspension or Revocation of licence.

- (a) fails to comply with the provisions of this Act or statutory instruments made under this Act;
- (b) fails to comply with the terms and conditions of the licence;
- (c) fails to comply with lawful orders given by the Authority
- (d) gives information to the Authority which is false or misleading;
- (e) enters into receivership or liquidation;
- (f) takes any action for its voluntary winding up or dissolution;
- (g) enters into any scheme of arrangement, other than for the purpose of reconstruction or amalgamation upon terms and within a period as may previously have been approved in writing by the Authority;

PART XI-INDIVIDUAL LICENCE

Scope of an Individual Licence.

- 51.** The following services shall require an individual licence-
- (a) operating a public electronic communications network or providing public electronic communications services requiring the use of radio network frequencies or numbering resources;
 - (b) providing public fixed line or mobile telephony services;
 - (c) operating or providing networks for the supply of national or international transmission capacities;
 - (d) deploying physical infrastructure to support wireless or fixed line telephony or broadband communications service;
 - (e) providing broadcasting services; and
 - (f) any other service the Authority stipulates in a notice published in the Gazette and its website to require a licence

Categorization of individual licence.

- 52.** (1) The Authority may issue various categories of individual licences which shall include the following –

- (a) Infrastructure-only licences, which permits licensees to build, own and operate extensive infrastructure to support all forms of electronic communications services, but precludes licensees from delivering communications services to unlicensed service providers or end-users;
- (b) Infrastructure-based licences, which permits the licensee to:-

(10) Any delay or failure to publish the notice of suspension or revocation shall not affect the validity of the suspension or revocation .

(11) The Authority may restore the licence when the licensee remedies the situation that gave cause for the suspension

44. (1) Where a licensee wishes to renew his licence he shall submit to the Authority an application for renewal in the prescribed form 6 months before the expiration of the current licence. Renewal of a Licence.

(2) The Authority may renew a licence on the following grounds-

- (a) the licensee continues to meet the eligibility criteria under this Act;
- (b) the licensee continues to be financially and technically capable of meeting the licensee's obligations under this Act, and any other related laws; and
- (c) the licensee has not, during the term of the licence, repeatedly and considerably breached the provisions of this Act, statutory instruments made under the Act and the terms and conditions of the licence

45. The Authority shall publish in the Gazette , its website and any other media the types of services that require Publication of Licence.

- (a) individual licence;
- (b) class licence;
- (c) authorization
- (d) declaration
- (e) unified licence

PART X-DECLARATION REGIME

Declaration

46. (1) An entity or person who wishes to resell on a small scale, electronic communications service, the commercial operation of the value-added services and provide internet services shall not be required to submit a declaration of the offer to the Authority.

(2) An entity or person who wishes to resell on a large scale electronic communications service, the commercial operation of the value added services and provide internet services shall submit a declaration of the offer to the Authority.

(3) For the purpose of this section declaration means the act of registering an electronic communication activity with the Authority by an electronic communications network operator or electronic communication service provider who is not required to obtain a licence from the Authority but the Authority shall assess the technical feasibility of the business and assess any risks to customers.

Content of Declaration

47. (1) A declaration submitted to the Authority shall contain the following information –

- (a) the list and kind of services offered;
- (b) the arrangements for commencing the service;
- (c) the geographical coverage of services in the country;
- (d) the conditions of access by their customers; and
- (e) the rates or tariffs to be charged to users.

(2) For non-infrastructure-based resellers of existing

licensed services or value-added services, the Authority may also require a description of the services as well as a description of the ways in which resale will be carried out and the geographical area where the services will be resold in order to ensure consumer protection

48. (1) Within two months of acknowledging receipt of the declaration, the Authority shall ensure that the proposed services are in compliance with the existing regulatory framework. Procedure for Registration.

(2) Where a declarant complies with the existing regulatory framework the Authority shall issue a certificate of registration to the declarant after payment of the declaration fees.

(3) Where a registration is refused, the Authority shall issue to the declarant a written notice stating the reasons for the refusal.

49. (1) Where a declarant intends to change the initial conditions of the declaration it shall notify the Authority of the proposed changes one month prior to the intended date of implementation of the changes. Modification of Initial conditions.

(2) Where the Authority is satisfied with the submission contained in the notification referred to under subsection (1) it shall authorize proposed changes and if it is not satisfied it shall reject the proposed changes.

50. (1) Where a declarant intends to transfer the services to another entity or person it shall notify the Authority of the proposed transfer. Transfer of the Services declared

(2) Where the Authority is satisfied with the submission contained in the notification referred to under subsection (1) it shall authorize the transfer and if it is not satisfied it shall reject the proposed transfer.

- (f) arrangements for the payment of the fee referred to in Section 59;
- (g) the duration of the licence and conditions for its renewal.

(4) The call for tender referred to under paragraph (a) of subsection (2) shall establish the conditions of access and interconnection to public electronic communications networks and the conditions for leasing components of those networks required for the establishment of the new network or for providing the services covered by the call for tender.

Application
for Individual
licence.

56. (1) An entity or person that wishes to operate any electronic communications network or facility or to offer electronic communications services or operate frequencies shall submit an application to the Authority or, upon invitation by the Authority through the organisation of a call for tenders, apply for an individual licence in the manner prescribed in the tender documents.

(2) The Authority shall publish the notice of the submission of application in the Gazette and its website and -

- (a) invite interested persons to apply and submit written representations in relation to the application within the period stipulated in the notice;
- (b) set out the proposed licence conditions that shall apply to the licence;
- (c) give interested persons an opportunity to submit written responses to any representations submitted under paragraph (a) by an applicant ;
- (d) may conduct a public hearing in relation to any application for an individual licence.

- (i) deliver all types of communications services to any segment of consumers in the market;
- (ii) build, own and operate a communications network infrastructure in any part of the country ;and
- (iii) secure rights to the full spectrum of dedicated frequencies needed exclusively or otherwise to provide its intended services

(c) Service-based licence which permits a licensee to-

- (i) deliver all types of communications services to any segment of customers in the market;
- (ii) build, own and operate a limited scope of network infrastructure ;and
- (iii) secure rights to a limited spectrum of dedicated frequencies needed exclusively to provide their intended services.

(d) Infrastructure and service-based licence which permits licensee to build, own and operate electronic communications network system or facility for its own use in delivering services to its consumers or end-users ;

(2) The following information shall be stipulated under a licence –

- (a) the duration of the licence;
- (b) the frequency spectrum allocated to each licence;

- (c) the type and geographical coverage of permitted infrastructure for each licence

Technology neutrality.

53. (1) Subject to subsection (2) a service provider holding an individual licence shall deliver its range of services using any form of technology it deems suitable to improve the quality of services provided to its consumers and end-users,

(2) A service provider shall notify the Authority before introducing new technologies in the delivery of its services and if the Authority approves it shall issue a written approval to the service provider.

(3) The Authority shall by statutory instrument make regulations dealing with the notification and approval process referred to under subsection (2)

Limitation on number of Individual licence.

54. (1) The Authority may limit the number of individual licence for any category of electronic communications services, the establishment and operation of electronic communications infrastructure, only to the extent required to guarantee the efficient use of the scarce resources and minimise duplication of infrastructure.

(2) Where the Authority intends to limit the number of individual licences granted it shall

- (a) give due consideration to the need to maximise advantages for users and facilitate the development of competition;
- (b) give interested parties the opportunity to express their opinion on any planned limitation;
- (c) establish its decision to limit the number of individual licences, as well as the justification for that decision, in the Gazette and on its website

- 55.** (1) The issuance of individual licence shall be based on Issuing individual Licence.
- (a) unsolicited expression of interest and application by a person or body; and
 - (b) a public tender by the Authority.
- (2) Where the Authority wishes to issue a new individual license subject to paragraph (b) of subsection (1), the Authority shall –
- (a) organise a call for tenders;
 - (b) establish the terms of reference;
 - (c) describe the process for evaluating and selecting the successful candidate

(3) The terms of reference referred to under paragraph (b) of subsection (2) shall at minimum include the following-

- (a) the types of networks required and conditions for establishing the network;
- (b) the types of services required and conditions for providing the service;
- (c) the coverage area of the service and the implementation schedule;
- (d) the radio frequencies and blocks of numbers allocated, along with the conditions of access to elevated points belonging to the public domain;
- (e) the minimum professional and technical qualifications along with the financial guarantees required of applicants; the conditions for operating the service, including those relating to the provision of universal and the principle of equality of treatment of users;

- (a) the licence fees set out under section 40; and
- (b) any other fees determined by the Authority

Standard terms and conditions of individual licence.

60. (1) The Authority shall ensure that an individual licence as far as practicable has standardized terms and conditions.

(2) Where there are differences in an individual licence the differences shall be for justifiable reasons and shall be included in the specific terms and conditions.

PART XII-CLASS LICENCE

Scope of a Class licence.

61. The following services shall require a class licence-

- (a) operating or providing independent networks through the public domain;
- (b) providing electronic communications services except for those subject to the regime of an individual licence or declaration;
- (c) any other service determined by the Authority published in the Gazette and its website

Application for a class Licence.

62. An applicant for a class licence shall submit the following information in order to show that it can fulfill the terms and conditions attached to the licence-

- (a) a certificate of incorporation or registration;
- (b) a statement of amount of the financial resources the applicant intends to invest over time, with indication of the sources of such funds;
- (c) proof of the technical ability of the applicant to operate such an electronic communications service;

(3) An applicant for an individual licence shall submit the following information in the form of a business plan for the proposed services –

- (a) a certificate of incorporation or registration;
- (b) a statement of registration as a corporate body;
- (c) a list and description of existing licences in which the applicant has at least 10 % participation;
- (d) legal confirmation of the compliance of existing operators' licences;
- (e) shareholding structure;
- (f) a technical proposal for the services, including coverage plans and indicators, planning and development of the system including connection, numbering and addressing issues and proposed quality of service;
- (g) proof of the applicant being financially capable, such as an audited list and description of financial statements, annual reports, or detailed description of financial backing;
- (h) proof of the applicant's electronic communications operating and management expertise; and
- (i) any other information as the Authority may require.

(4) Any applicant for an electronic communications licence using frequency bands that are competitive shall in addition to the requirements under subsection (3), submit the following information –

- (a) a network plan and configuration for deployment;
- (b) technical specifications and manuals of equipment to be used; and
- (c) a list and description of products and services to be offered.

(5) An applicant whose authorization or licence has been suspended or revoked within or outside Sierra Leone shall not apply for a licence

Procedure for the grant of individual Licence.

57. (1) The Authority shall acknowledge receipt of the application within 7 days of receiving the application.

(2) The Authority may make its decision to grant or reject an application for a licence within 90 days of receipt of the application

(3) Where the Authority requires further details or information in respect of an application, it may within thirty (30) days of receiving the application request for further details or information

(4) The choice of the successful applicant shall be based on objective criteria made known to the applicants in advance.

(5) On completion of the evaluation process, the Authority shall in writing notify the successful or unsuccessful applicant of the results of the application

(6) Where an application is rejected the Authority shall in the notice referred to under sub-section (5) stipulate the reasons for rejecting the application

(7) Where the Authority refuses an application, it shall within ninety (90) days of receiving the application issue the applicant a written notice-

- (a) stating the reason for the refusal ; and
- (b) providing the applicant with an opportunity to correct and resubmit the application.

58. (1) An individual licence shall be granted on the basis of objective, non-discriminatory, transparent, proportionate and detailed selection criteria. Issuance of a Licence.

(2) During the selection process the Authority shall take into account the need to facilitate the development of competition and maximise advantages for users.

(3) In taking a decision under subsection (2), the Authority shall take into account whether-

- (a) the financial resources of the applicant are adequate;
- (b) the electronic communications network in relation to which the application is made is technically suitable for the service intended to be rendered;
- (c) the applicant is financially and technically capable of meeting the obligations and the terms and conditions of the licence;
- (d) the applicant and, if a company, any promoter, director or other officer thereof has not been convicted of any offence, involving fraud or dishonesty;
- (e) the application complies with the provisions of this Act; and
- (f) it is in the public interest to grant the licence.

59. The individual licence fees shall include -

Individual licence Fee.

- (a) internet services,
- (b) internet Telephony;
- (c) internet protocol television (IPTV);
- (d) broadband services;
- (e) triple play; and
- (f) quad play

(5) A unified licensee shall provide its services on wireline or wireless media with full mobility, limited mobility, and fixed wireless access.

Technology
neutrality

70. A service provider holding a unified licence shall-

- (a) deliver its range of services using any form of technology it deems suitable to improve the quality of services provided to its consumers and end-users; and
- (b) notify the Authority before introducing new technologies in its delivery service.

Licence
Ownership

71. (1) A licensee shall not hold any other licence for services covered under the scope of a unified licence.

(2) Where the licensee obtains any other license by way of acquisition or merger, the licence so obtained shall be migrated and merged to the License free of charge.

- (d) a detailed listing and description of the proposed service(s) it intends to deliver in the market;
- (e) a technical project specifying the equipment to be used, network and technology systems design, including proof of type approval of own equipment to be used;
- (f) an indication and description of the infrastructure and network facilities proposed to be deployed for the services proposed to deliver ;
- (g) any other information that the Authority may require to enable comprehensive assessment of the application.

63. (1) An applicant for a class licence shall prior to undertaking an activity applied for, file with the Authority a completed version of the appropriate class licence registration form.

Registration
under a class
licence.

(2) The Authority shall by statutory instrument make rules or regulation determining the format of class licence registration forms .

(3) The Authority shall notify the applicant whether its application is successful or not within two (2) months after receipt of the application.

64. (1) The Authority may refuse an application for registration of a class licence if-

Refusal of
registration.

- (a) the applicant has failed to comply with the eligibility requirements or the terms and conditions of the licence;
- (b) the registration does not contain the information prescribed by the Authority;
- (c) the applicant is in contravention of this Act or any related legislation in relation to other licences that the applicant may hold; or
- (d) the registration contains false or misleading information, or misrepresentations of fact.

(2) Where a registration is refused, the Authority shall review the process and within thirty (30) calendar days of receipt of the application for registration notify the applicant in writing -

- (a) stating the reasons for the refusal; and
- (b) providing the applicant with an opportunity to correct and resubmit the registration.

Register

65. (1) The Authority shall maintain a register which shall be made available to the general public for inspection

(2) The Authority shall, at least once annually, and every time it grants a licence, update and publish the license register indicating-

- (a) the names and contact details of all registered licensees;
- (b) the scope of the services for which the licence is provided; and
- (c) the applicable licence terms and conditions.

66. The class licence fees shall include-

- (a) the licence fees set out under section 40; and

- (b) any other fees determined by the Authority

Class licence fees.

67. A class licence issued by the Authority shall include standards licence conditions.

Standard terms and conditions of class licence.

68. (1) The Authority may at any time announce the establishment of a new class licence

New class licence.

(2) The Authority shall after giving reasonable notice repeal an existing licence.

(3) The licence fees referred to under Section 66 shall apply to any new class licence.

PART XIII-UNIFIED LICENCE

69. (1) The Authority shall issue a unified licence to successful applicants operating any type of public electronic communications networks;

Scope of unified licence.

(2) The unified licensee providing the service shall utilize any type of equipment and product that meet the relevant standards set by International standardization bodies recognised by the Authority.

(3) A unified licensee shall have the right to operate all services detailed under individual and class licences .

(4) A unified licensee shall in addition to the other services provide the following services-

- (g) proof of the applicant being financially capable, such as an audited list and description of financial statements, annual reports, or detailed description of financial backing;
- (h) proof of the applicant's electronic communications operating and management expertise; and
- (i) any other information as the Authority may require.

(4) Any applicant for a unified licence using frequency bands that are competitive shall in addition to the requirements under subsection (3), submit the following-

- (a) a network plan and configuration for deployment;
- (b) technical specifications and manuals of equipment to be used; and
- (c) a list and description of products and services to be offered.

(5) Applicants whose authorization or licence has been suspended or revoked in or outside Sierra Leone shall not apply for a licence.

Procedure for grant of licence.

75. (1) The Authority shall acknowledge receipt of a grant of licence application within 7 days of receipt of the application.

(2) The Authority shall make a decision to either grant or reject an application for a licence within ninety (90) days of receiving the application.

(3) Within thirty (30) days of receiving the application, the Authority may request further details or information in respect of the application.

(3) All existing licences held by a licensee for the services covered under the scope of the unified license shall be merged to the unified license free of charge.

72. (1) The Authority may limit the number of unified licences it issues to the extent required to guarantee the efficient use of the scarce resources and minimise duplication of infrastructure. Limitation on number of unified licence.

(2) Where the Authority intends to limit the number of unified licences it issues the Authority shall-

- (a) give due consideration to the need to maximise advantages for users and facilitate the development of competition;
- (b) give interested parties the opportunity to express their opinion on any planned limitation; and
- (c) publish its decision to limit the number of unified licences, as well as the justification for that decision, in the Gazette and on the website

73. (1) The Authority shall issue a unified licence based on the following - Issuing unified licence.

- (a) an unsolicited expression of interest and application by a person or body; and
- (b) a public tender by the Authority.

(2) Where the Authority wishes to issue a new unified licence, the Authority shall-

- (a) organise a call for tenders;
- (b) establish the terms of reference and describe the process for evaluating and selecting the successful candidate

(3) The call for tender referred to under paragraph (a) of subsection (2) shall establish the conditions for the following -

- (a) access and interconnection to public electronic communications networks;
- (b) leasing of components of network required for the establishment of the new network ;and
- (c) providing services covered by the call for tender.

Application for a unified licence.

74. (1) Any entity that wishes to -

- (a) operate any electronic communications network or facility;
- (b) offer electronic communications services ;or
- (c) operate frequencies

shall submit an application to the Authority or upon invitation by the Authority through the organisation of a call for tenders, apply for an individual licence in the manner prescribed in the tender documents.

(2) The Authority shall publish information on the availability of applications in the Gazette and its website and

- (a) invite interested persons to apply and submit written representations in relation to the application within the period specified in the notice;
- (b) set out the proposed licence conditions that will apply to the licence;
- (c) give interested persons an opportunity to submit written responses to any representations submitted by an applicant under paragraph (a); and
- (d) may conduct a public hearing in relation to any application for a unified licence.

(3) An applicant for a unified licence shall submit the following information in the form of a business plan for the proposed services—

- (a) a certificate of incorporation or registration;
- (b) a statement of registration as a corporate body;
- (c) a list and description of existing licences in which the applicant has at least 10 % participation;
- (d) legal confirmation of the compliance of existing operators' licences;
- (e) shareholding structure;
- (f) a technical proposal for the services, including coverage plans and indicators, planning and development of the system including connection, numbering and addressing issues and proposed quality of service;

(4) The Authority may, for the purposes of preserving confidentiality, restrict access to documents or information indicated as confidential that is requested by any person, except required by court order or legally competent person.

(5) Where the Authority receives any information designated as confidential and a member, employee or agent of the Authority discloses the contents of the confidential document to a person not authorised to receive such information, the member, employee or agent commits an offence.

PART XV-TRANSFER OF OWNERSHIP

Transfer of control of licence.

82. (1) A licensee shall not transfer the control of a licence to another entity or person within 3 years of issuance of the licence or before rolling out.

(2) A licensee shall give prior notification to the Authority of any future direct or indirect changes to its ownership or control.

(3) A licensee shall obtain the Authority's prior written approval for any-

- (a) transfer of ownership and control that would result in the direct or indirect ownership of 25% or more of the issued voting share capital of the licensee changing hands; and
- (b) change in ownership of the licensee's issued voting share capital that results in a change to the composition of one-quarter of the licensee's board of directors.

(4) On completion of the evaluation process, the Authority shall notify the successful or unsuccessful applicant of the results of the application in writing, giving reasons why the application was rejected.

76. (1) The Authority shall grant a unified licence on the basis of objective, non-discriminatory, transparent, proportionate and detailed selection criteria. Issuance of licence.

(2) In any selection, the Authority shall take into account the need to facilitate the development of competition and maximise advantages for users.

(3) In taking a decision under subsection (2) of section 75, the Authority will take into account whether-

- (a) the financial resources of the applicant are adequate;
- (b) the electronic communications network in relation to which the application is made is technically suitable for the service intended to be rendered;
- (c) the applicant is financially and technically capable of meeting the obligations and the terms and conditions of the licence;
- (d) the applicant and, if a company, any promoter, director or other officer thereof has not been convicted of any offence, involving fraud or dishonesty;

- (e) the application complies with the provisions of this Act; and
- (f) it is in the public interest to grant the licence.

unified
licence fees

77. A unified licence fees shall include-

- (a) the licence fees set out under section 40; and
- (b) any other fees determined by the Authority as applicable to individual licence.

Standard
terms and
conditions of
unified
licence.

78. (1) Subject to subsection (2) the Authority shall ensure that unified licences have standardised terms and conditions.

(2) Any difference in a unified licence shall be for justifiable reasons and shall be included in the specific terms and conditions.

PART XIV-DUTIES OF A LICENSEE

Provision of
essential
service.

79. (1) A communications services licensee shall provide without discrimination-

- (a) emergency service, with priority routing, necessary as stipulated in this Act or in statutory instruments made under this Act and this essential service duty shall only be applicable to voice calls;
- (b) customer care services, enabling any subscriber to obtain assistance regarding such things as accessing services, setting up calls and remedying faults; and

- (c) other services as may be reasonably determined by the Authority and published in the Gazette and on the website.

(2) A licensee referred to under this section shall provide essential services in accordance with the terms and conditions of its licence.

(3) The following essential services shall be provided free-of-charge-

- (a) emergency service calls; and
- (b) customer care centres for remedying faults.

80. (1) A licensee shall not disclose a subscriber's information in its possession except on demand made by the Authority or by a court order. Protection of
Subscriber
information.

(2) The Authority shall by statutory instrument make regulations for the management of subscriber information and the terms and conditions for releasing a subscriber's information.

81. (1) A licensee shall submit to the Authority annual Reports and any other periodic report as may be required the Authority. Reports and
restriction on
access to
documents.

(2) A licensee who fails to submit any document required under this section commits an offence and is liable to a fine equivalent to the licence fees applicable to the type of service provided and twice the fee where the incident is repeated.

(3) A licensee shall clearly mark as "confidential" documents and information submitted to the Authority which it deem to be of a confidential nature or contain trade secrets provided such information or documents are not available in the public domain

PART XVII – INTERCONNECTION

Interconnection. **87.** (1) At the written request of an electronic communications service licensee, another electronic communications service licensee shall be obliged to interconnect and negotiate in good faith the terms of an agreement for interconnection with regard to electronic communications networks for the purposes of enabling the provision of electronic communications services to consumers.

(2) Any interconnection request of an electronic communications service licensee made pursuant to subsection (1) shall include the following

- (a) the type of interconnection required;
- (b) the technical requirements based on the technical standard of interconnection provision;
- (c) the date for which interconnection is required; and
- (d) the estimate of the interconnection capacity required.

Negotiation process

88. (1) The parties to an interconnection agreement shall negotiate the technical and commercial terms in a fair, transparent and balanced manner.

(2) The Authority shall by statutory instrument make rules or regulations regarding the interconnection process ensuring that interconnection is treated as a commercial transaction between the parties

(3) The interconnection agreement shall be in writing and shall set out the contractual terms and conditions agreed by the parties, including, but not limited to the–

PART XVI-ECONOMIC REGULATIONS

83. The Authority shall by statutory instrument make regulations on the implementation of access, interconnection, co-location and infrastructure sharing, interconnection agreements and framed tariffs Regulation on Implementation of access etc.

84. Where an operator enters into any commercial agreement that involves providing services by one operator to another, the operator providing the services shall apply equivalent conditions in equivalent areas and shall provide services and information to other parties under the same conditions and with the same quality as for their own services or those of their own subsidiaries or affiliates. Non discrimination principle.

85. (1) In the exercise of its powers under this part the Authority shall ensure fair competition. Regulation on Implementation.

(2) The operation of electronic communications networks shall be done under fair competition conditions, in accordance with the applicable legislation in Sierra Leone.

(3) The fair competition conditions referred to under subsection (2) shall prevent operators from adopting or maintaining anti-competitive practices such as –

- (a) cross subsidization , predatory pricing and traffic dumping;
- (b) the use of information acquired besides competitors for the purpose of unfair competition;
- (c) measures regarding networks’ exploitation which can affect competitors’ networks’ quality of service; or

(d) abuse of dominant position.

Fair
competition

86. (1) The Authority shall conduct market analysis at least once every three years

(2) After conducting a market analysis under subsection (1) the Authority shall, not later than 31st December of that year publish in the Gazette and its website a list of the following-

- (a) all retail and wholesale electronic communications markets that in the Authority's opinion require prior regulatory control ; and
- (b) licensees deemed to hold a dominant position for each identified electronic communications market.

(3) The Authority shall deem a licensee to hold a dominant position in a given electronic communications market for a given year where in its opinion the licensee acting alone is able to profitably and materially restrain or reduce competition for the communications market.

(4) The Authority shall deem licensees to hold joint dominant position in a given electronic communications market for a given year where, in its opinion, the licensees together are able to adopt a common policy on the market because of factors giving rise to a connection between them and to act independently of their competitors and consumers to a considerable extent for the electronic communications market for the year concerned.

(5) The Authority may by notice published in the Gazette and its website, modify any list published under subsection (2) for the remainder of the calendar year concerned

(6) The Authority shall notify the public through the Gazette and its website about the modification under sub section 5 four weeks before modifying the list

(7) The Authority may by statutory instrument make rules or regulations of the following-

- (a) criteria to be used when determining a dominant position;
- (b) defining communications market; and
- (c) determining whether a licensee holds a dominant position

- (5) The Authority may-
- (a) impose appropriate conditions on the implementation of the terms and conditions for the interconnection agreement;
 - (b) order that the requirements and the offer meet legal requirements;
 - (c) oblige the parties to agree on an arrangement and enter into an interconnection agreement.

Determination of Interconnection terminal rates. **93.** The Authority shall by statutory instrument make rules on the terminal rates to be applied by all licensees when negotiating an interconnection agreement using the long run incremental model or determined on international best practice models

Interconnect liabilities. **94.** Where a licensee goes into administration interconnect liabilities owed to other operators shall receive precedence over other liabilities

PART XVIII -ACCESS

Access agreement. **95.** (1) An Infrastructure-only based network licensee may install, maintain and operate electronic communications equipment and facilities for the purposes of operating that infrastructure, provided that any permits or licences required from the Authority to install, maintain and prepare such equipment and facilities have been obtained.

(2) The licensee shall submit to the Authority the list of network elements in the facility as and when demanded by the Authority.

(3) A licensee shall have the right to request and negotiate in good faith any commercial agreement for access or for the purposes of producing communications services to the public.

- (a) interconnection location between the two networks;
- (b) the interconnection costs;
- (c) the interconnection terminal rates referred to under Section 94; and
- (d) maintenance fees.

(4) Interconnection costs shall remain cost-oriented and transparent.

(5) The total period of negotiation shall not exceed ninety (90) days.

(6) In the event of a refusal, the interconnection provider shall notify the other party of its decision, and the reasonable and legitimate grounds for the decision.

(7) An electronic communications services licensee shall refuse an interconnection request on the following legitimate grounds-

- (a) the interconnection request is unreasonable;
- (b) the network or application services licensee would be prejudiced;
- (c) the interconnection would cause irreparable damages to the property of the licensee;
- (d) the requesting party is engaged in anti-competitive behaviour such as traffic dumping, predatory pricing and other anti-competitive practices or
- (e) the Authority thinks granting such interconnection request is inapplicable.

(8) Where an electronic communications service licensee fails to reach an agreement within ninety (90) days, the matter may be referred by either of the licensees to the Authority for examination and determination, which may order the licensees to interconnect their electronic communications networks on such reasonable terms as it may prescribe.

(9) The refusal of an interconnection request shall be approved by the Authority.

Registration of interconnection agreement.

89. (1) The Authority shall maintain a register of all interconnection agreements entered into between electronic communications services and the Authority;

(2) The register referred to under sub-section (1) shall contain the following—

- (a) the names of the parties;
- (b) a general description of the matter governed by the agreement; and
- (c) the effective date and duration of the agreement.

(3) The terms and conditions of an agreement shall not be indicated in the register

(4) Interconnecting licensees shall submit to the Authority all interconnection agreements for registration within fourteen (14) days after the agreements are signed.

(5) The Authority may request modifications to the terms of the agreement and the final version shall be re-submitted to the Authority for registration.

(6) The Authority shall register an agreement reached under this section within fourteen (14) days after receipt of the agreement.

(7) The Authority may by statutory instrument make rules prescribing any matter considered necessary for inclusion in interconnection agreements.

90. (1) The Authority shall publish a clear and transparent procedure governing approval of the reference interconnect offer (RIO) of operators possessing significant market power. Reference Interconnect Offer.

(2) Offers referred to under subsection (1) shall be as detailed as possible in order to facilitate smooth interconnection contract negotiations.

(3) The Authority may impose transparency obligations in line with international best practices.

91. The reference interconnection offer approved by the Authority shall be made available on the Authority's website Public reference Interconnection Offer.

92. (1) Where an interconnection negotiation period lapses and no agreement is concluded, or where a dispute arises with the electronic communications service licensees, an aggrieved party may file a petition to the Authority to address the disputes using the dispute resolution mechanism that the affected parties wish to adopt. Dispute on interconnection.

(2) The aggrieved party shall provide the Authority with all relevant documentation concerning the negotiation, relevant issues and draft interconnection agreements and within thirty (30) days from the petition date, the other party shall provide its response and additional documentation, if it deems it necessary.

(3) The parties shall submit any information that the Authority may request.

(4) Based on the information provided or collected, the Authority shall proceed to resolve the issue and pending negotiation within forty (40) days from receiving all the relevant documentation.

(5) Based on the information provided or collected, the Authority shall assist the parties in reaching an agreement within a reasonable period of time upon receiving all the relevant information.

(5) An appeal against the decision of the Authority shall be heard by the High Court

PART XIX CO-LOCATION AND INFRASTRUCTURE

Co-location.

97. (1) An electronic communications Infrastructure-only network services licensee that intends to install facilities on, over or under public or private land, or to take advantage of such land, shall, upon written request with respect to access, co-location and infrastructure sharing of communications facilities, use its best reasonable endeavours to negotiate in good faith and enter into a co-location or sharing agreement.

(2) An infrastructure-only provider shall co-locate and share communications facilities on a first-come- first-served basis.

(3) The infrastructure-only provider shall share facilities and co-locates with others on principles of impartiality and non-discrimination.

Co-location and Infrastructure sharing request.

98. (1) Upon request from a qualified licensee the infrastructure-only provider shall use its best reasonable endeavours to provide the requesting party with a co-location or infrastructure sharing offer, providing relevant details and substantial information to facilitate a feasibility study on its network to implement the infrastructure sharing.

(2) The infrastructure-only provider shall provide the requesting party with the information under subsection (1) within ninety (90) days from receiving a relevant request.

(3) An infrastructure-only provider may refuse the co-location or sharing of network facilities on the following legitimate grounds-

(4) When requested in writing by another licensee, every infrastructure-only based electronic communications network services licensee shall negotiate an agreement for the purposes of enabling the provision of communications services to the public.

(5) An electronic communications network services licensee may refuse an access request on the following legitimate grounds-

- (a) the access request being unreasonable;
- (b) the space available is insufficient to implement such access with respect to existing and planned installations in its strategy and business plan;
- (c) the electronic communications network services licensee would be prejudiced;
- (d) the access would cause irreparable damage to the property of the licensee; or
- (e) the electronic communications network services licensee is unable to agree to commercially satisfactory agreement with another licensee

(6) Any refusal of an access request shall be reported to the Authority.

(7) Where the parties fail to reach an agreement, either party may refer the matter to the Authority for mediation and determination within a reasonable period not exceeding 90 days

(8) The Authority may assist the parties in reaching a mutually acceptable agreement to allow access to its electronic communications networks on default terms and conditions as prescribed by the Authority from time to time.

(9) Any electronic communications network service licensee that has been deemed to hold a dominant position in a given electronic communications market for the year in question, shall offer access to requesting licensees, for the purposes of enabling the provision of communications services to the public.

(10) Any electronic communications network service licensee shall, for the purposes of enabling the provision of communications services to the public, offer access to requesting licensees-

- (a) on reasonable and non-discriminatory terms and conditions, in particular in respect of price;
- (b) of the same technical quality as the technical quality provided on its own electronic communications network or, as the case may be, for its own communications services.

(11) An access agreement between parties shall not be implemented unless filed with the Authority.

(12) The Authority may, from time to time, issue guidelines on any matter considered necessary for inclusion in access agreements.

(13) The Authority shall maintain a register of all access agreements, which shall contain-

- (a) the names of the parties to the agreement;
- (b) general description of the matter governed by the agreement ; and
- (c) the date of the agreement.

(14) The register referred to under subsection (13) shall –

- (a) not indicate the terms and conditions of any agreement;
- (b) be open to public inspection, subject to such procedures and fees as may be prescribed by the Authority.

(15) Any information obtained by either party to an access agreement as a result of negotiations, and which was previously unknown to the party obtaining it and not publicly available when obtained, may only be used for the purposes for which it was supplied for as long as the information remains publicly unavailable.

96. (1) In the event–

Dispute on access.

- (a) the access negotiation period exceeds sixty (60) days and no agreement is concluded;
- (b) dispute arises between the parties-

any party may make a request to the Authority to mediate the dispute using the dispute resolution mechanisms that the affected parties are willing to adopt.

(2) The petitioner shall provide the Authority with all relevant information concerning the negotiation, issues, and draft agreements.

(3) Within thirty (30) days from the date of the petition, the other party shall provide its response and any additional information it deems necessary.

(4) The Authority may request additional information from any of the parties, who shall submit such information to the Authority within seven (7) days from the request.

(2) The Authority shall impose changes on the reference offer for unbundled access to the local loop and related facilities, including price, where such changes are justified.

(3) The Authority may, where justified, intervene at its own initiative in order to ensure non-discrimination, fair competition, economic efficiency and maximum benefit for customers.

PART XX - OBLIGATION OF DOMINANT MARKET PLAYER

Obligation of Dominant Market player.

103. (1) The Authority may impose obligations on any licensee found to be a dominant market player in accordance with section 87 and is engaging in any behaviour that the Authority reasonably deems to be anti-competitive.

(2) A dominant market player shall –

- (a) publicly make available information regarding interconnection , access and infrastructure sharing;
- (b) submit to the Authority its technical and price offers relating to interconnection , access and infrastructure sharing;
- (c) modify its offers to comply with this Act;
- (d) have a separate account for interconnection, access and infrastructure sharing costs , fees and any other business activities sufficiently detailed to allow the Authority to identify all the elements of revenue and costs, together with the basis for their calculation;
- (e) comply with any other obligation determined by the Authority.

- (a) the request of co-location or infrastructure sharing is unreasonable;
- (b) the space available is insufficient to implement such access with respect to existing and planned installations in its strategy and business plan;
- (c) the market strategy of the infrastructure provider would be prejudiced;
- (d) the infrastructure sharing would challenge the capacity provided through the infrastructure, leading to harmful interferences;
- (e) the infrastructure sharing would cause irreparable damage to the property or the interoperability of the infrastructure;
- (f) the infrastructure has been in operation for less than 3 (three) years.

(4) A refusal under subsection (3) shall be made in writing and shall state the reasons for the refusal.

99. (1) The co-location and infrastructure sharing agreement shall set out the contractual obligations and conditions agreed by the parties and shall be submitted to the Authority for registration. Co-location and infrastructure agreement.

(2) The agreement referred to in subsection (1) shall be in writing and shall include the following-

- (a) the scope and specification of the facilities to be provided;
- (b) the service level and maintenance facilities;
- (c) the charges for the facilities;

- (d) the technical specifications;
- (e) the financial conditions of payment;
- (f) the provision of co-location for facilities;
- (g) the duration, re-negotiation and review of the agreement;
- (h) disputes resolutions procedures; and
- (i) any other condition deemed necessary.

(3) The infrastructure-only provider shall treat any party requesting co-location or infrastructure sharing on a non-discriminatory basis, and with no less favourable conditions than the offer provided to similar infrastructure acquirers.

Dispute on access.

100. (1) In the event—

- (a) the co-location and infrastructure sharing negotiation period exceeds a reasonable period of time not exceeding 90 days and no agreement is concluded; or
- (b) a dispute arises between the parties

either of the parties may request the Authority to assist in the resolution of the dispute using the dispute resolution mechanisms that the affected parties are willing to adopt.

(2) The petitioner shall provide the Authority with all relevant documentation concerning the negotiation, issues, and drafts of the agreements.

(3) Within thirty (30) days from the date of the petition, the other party shall provide its response and any additional information it deems necessary.

(4) The Authority may request for additional information from any of the parties, who shall submit the information to the Authority within fourteen (14) days from receipt of the request

(5) Based on the information provided or collected, the Authority shall arbitrate the issue within forty (40) days from receiving all relevant information.

101. (1) Electronic communications infrastructure-only network services licensees shall publish and keep updated a reference offer for unbundled access to their local loops and related facilities. Unbundled access to local loop.

(2) The offer referred to in subsection (1) shall be sufficiently unbundled so that the beneficiary shall not have to pay for the network elements of facilities that are not necessary for the supply of its services, and shall contain a description of the components of the offer, associated terms and conditions, including charges.

(3) Electronic communications network services licensees shall endeavour to meet reasonable requests from other licensees to access their local loops and related facilities on transparent, fair and non-discriminatory conditions.

(4) Requests shall be refused on the basis of objective criteria, relating to technical feasibility, commercial feasibility or the need to maintain network integrity.

(5) Where access is refused, the aggrieved party may submit the case to the dispute resolution procedure referred to in section 101.

(6) Electronic communications network services licensees shall charge prices for unbundled access to the local loop and related facilities set on the basis of cost-orientation.

102. (1) The Authority shall ensure that charging for unbundled access to the local loop fosters fair and sustainable competition. Supervision by the Authority.

Access to facility.

109. (1) The Authority shall by a written request require a person in control of access to an essential facility to prepare and disclose the pertinent information regarding the operations, and the terms and conditions regarding any aspect of its operations which are duly licensed by the Authority.

(2) The Authority shall direct any person in control of access to an essential facility to submit the pertinent information referred to under subsection (1) within fourteen (14) days after receipt of the request from the Authority.

Dispute regarding access to facility.

110. Where a dispute arises regarding any obligation stipulated under this Part either of the parties may request the Authority to address the dispute.

Protection of communication infrastructure.

111. (1) No individual or licensee shall willfully or otherwise damage, destroy, impair or remove any communications facility or installation from its position without authorisation from the Authority

(2) Any individual or licensee that contravenes this section commits an offence and shall be liable on conviction to a fine to be determined by the Authority which shall exceed the value of the damaged installation or equipment

(3) The Authority shall by statutory instrument, after consultation with the Minister make regulations to give effect to this section

PART XXII -ROAMING

National roaming .

112. (1) The Authority shall encourage operators to offer national roaming to new entrant, at commercially agreed rates for voice only service, whenever it is technically possible to do so.

(2) National roaming shall not replace the coverage obligations undertaken in the framework of mobile service licensing by new entrants

104 . (1) If it appears to the Authority that a licensee is–

Competition rules.

(a) taking or intends to take any action that may constitute abuse of a dominant position in relation to the provision of any communications service; or

(b) unfairly placing another licensee engaged in communication activities at a competitive disadvantage in relation to that licensee

the Authority may order the licensee to cease or refrain from taking or continuing the action.

(2) Prior to making the order under subsection (1) the Authority shall give the licensee engaged in unfair competition activities an opportunity to make representations,

PART XXI -ESSENTIAL FACILITIES

105. (1) Fundamental characteristics of an essential facility shall be as follows-

Essential facility.

(a) operators shall have access as it is essential for providing electronic communications services; or

(b) it shall not be possible for new entrants to replicate.

106. (1) The following shall constitute a list of essential facilities-

Open access to Essential Facilities.

(a) cable landing station;

(b) earth station ;

(c) international gateway;

- (d) terrestrial fibre optic cables;
- (e) main distribution frame;
- (f) undersea based fibre optic cables
- (g) public telecommunications towers

(2) The essential facility operator shall grant access on objective, transparent, non-discriminatory and efficient terms.

(3) Access to the essential facilities shall be set on the basis of cost-orientation plus, and subject to additional terms and conditions defined under regulations.

(4) Any refusal to grant access without providing justifiable reasons shall not be approved by the Authority.

(5) Refusal by an essential facility operator to grant access on transparent, objective, non-discriminatory and economically efficient terms where there is spare capacity shall be an abuse, unless the operator can demonstrate technical justification or provide that it prejudices its interests.

(6) Refusing to reserve capacity to potential new entrants without evidence that the capacity is required shall not be deemed to be an abuse.

General conditions for _
essential facility

107. A person in control of access to an essential facility shall

- (a) provide fair and non-discriminatory access on terms that are transparent, objective and economically efficient;
- (b) negotiate in good faith any matter relating to access with a person who makes a written request;

(c) not withdraw or impair the nature of access if the access has been granted;

(d) apply the same conditions in similar circumstances to any person who requests access on the same conditions and the same quality it provides to itself, its subsidiaries, related parties or persons possessing financial interest

108. (1) An entity or person wishing to access an essential facility shall submit a letter requesting access to the person in control of access to the essential facility. Request to access Essential facility.

(2) An entity or person who submits a letter requesting access under subsection (1) shall at the same time of submitting the letter to the person in control of the essential facility submit a copy of the letter requesting access to the Authority.

(3) A person in control of access to an essential facility shall respond to a letter requesting access within ten (10) working days of receipt of the letter.

(4) The response referred to under subsection (3) shall stipulate the following—

- (a) the commencement date for access to the essential facility;
- (b) the terms and conditions of access;
- (c) associated facilities; and
- (d) any other related matter.

(5) The person in control of access to an essential facility shall submit a copy of the response letter to the Authority at the same time it submits the letter to the applicant.

PART XXIV -TARIFF

Tariff.

116. (1) The Authority shall set and regulate the tariffs payable for telecommunications services rendered by public telecommunications operators.

(2) A public telecommunications operator shall not offer services unless he submits a written proposal to the Authority stating the tariffs payable.

(3) The prices shall-

- (a) be transparent, based on objective criteria, and non-discriminatory;
- (b) guarantee equal treatment;
- (c) not contain discounts that unreasonably prejudice the competitive opportunities of other licensees providing applications services to the public;
- (d) be sufficiently clear to enable end-users to determine the description of the service, the details relating to the nature of the services and the applicable fees; and
- (e) be in accordance with any floor price that may be set by the Authority.

(4) The authority-

- (a) shall regulate national and international voice and data traffic, as well as short messaging service counts;
- (b) together with the bank of Sierra Leone may regulate communications value-added services including non-bank-led money services initiated and terminated on communications platforms and may prescribe in applicable instrument such as guidelines, levies or charges as may be determined from time to time

Authority to Approve a Tariff.

117. (1) The tariff proposals submitted to the Authority under subsection (2) of section 116 shall become effective 30 days after submission to the Authority unless the Authority issues notice of modification to the operator.

(3) The Authority shall ensure that the national roaming contract is freely negotiated between operators on a bilateral basis, and the operators provide consumers with relevant information about national roaming tariffs.

(4) The Authority shall ensure that national roaming offers are fair and non-discriminatory.

(5) The Authority shall publish specific national roaming guidelines to help establish tariff and technical conditions and provide information on national roaming contracts, in consultation with the market players.

113. The Authority shall-

International roaming.

- (a) ensure that existing operators offer international roaming services at an affordable price, based on the ECOWAS Regional Roaming Regulations;
- (b) ensure the widest possible compatibility between mobile systems in terms of roaming, and shall take into consideration when awarding mobile licences in the region;
- (c) study roaming prices charged in the region;
- (d) consult with the players concerned with a view to arriving at reasonable tariffs to allow the greatest possible number of roaming users in the region to utilise the networks under the best price and quality conditions;
- (e) identify operators engaged in applying prohibitive prices;
- (f) consult with the national competition authority, if any;

- (g) allow prepaid subscribers to use roaming at reasonable tariffs;
- (h) ensure consumers are informed about roaming charges in a clear, detailed and transparent manner; and
- (i) draw the necessary conclusions from international best practice.

Dispute on roaming.

114. (1) In the event -

- (a) the roaming negotiation period exceeds two months and no agreement is concluded; or
- (b) a dispute arises between the parties

either of the parties may request the Authority to address the dispute

(2) The petitioner shall submit to the Authority all relevant documents concerning the negotiation, issues, and drafts of agreements.

(3) Within twenty-one (21) days from the date of the petition, the other party shall provide its response and any additional information it deems necessary.

(4) The Authority may request for additional information from any of the parties, who shall submit the information to the Authority within seven (7) days of receipt of the request.

(5) Based on the information provided, the Authority shall arbitrate the issue within forty (40) days on receipt of all relevant information.

(6) The Authority may-

- (a) impose appropriate conditions on the implementation of the terms and conditions of the roaming agreement;
- (b) inspect whether the requirements and offer meet the legal requirements;
- (c) oblige the parties to agree on an arrangement and enter into the roaming agreement.

PART XXIII-EASEMENT

115. (1) A facility services licensee may for the purposes of enabling the provision of any communications service to the public shall subject to this Act and any other relevant law enter upon any public or private land to-

- (a) survey the land or any portion of it;
- (b) construct, erect, place, maintain, examine, alter or remove any line, pole or radio link installation;

(2) The facility services licensee shall apply to the relevant Authorities with jurisdiction over the private and public land or property to request that the Authority order the proposed entry or undertake the proposed acquisition under the applicable land laws.

(3) Payment for the use of land in the provinces shall cover all rates including property rates and other financial obligations imposed for the use of the land which shall be as follows-

- (a) 70% to the land owners;
- (b) 10% to the local council;
- (c) 20% to the Paramount Chiefs as custodians of the Land

- (b) prescribing fees for the use of the radio frequency spectrum;
- (c) governing harmful interference with other frequency spectrum users; and
- (d) developing and managing the national frequency allocation plan.

Spectrum Committee. **124.** (1) The Minister shall establish a committee to be known as the National Spectrum Committee.

(2) The National Spectrum Committee shall comprise the following members-

- (a) the Director General of the Authority who shall be the Chairman;
- (b) a representative from the Board of the Authority;
- (c) a representative from the Ministry responsible for aviation ;
- (d) a representative from the Ministry responsible for defence;
- (e) a representative from the Independent Media Commission; and
- (f) a representative from the Ministry responsible for Information and Communications.
- (g) director responsible for engineering and infrastructure at the Authority, who shall be Secretary to the Committee.

(3) The National Spectrum Committee shall be responsible for-

(2) The tariff proposals shall contain all relevant information concerning the costing for the rates or services, including deposits and other non-recurring charges, monthly charges and terms and conditions applicable to the provision of services including rights and remedies available to consumers in the event of unauthorised charges or other disputes or claims over billing or provision of services.

(3) Notice of the submission shall be published by the Authority in the Gazette and its website inviting consumers to comment on the reasonableness or otherwise of the tariffs.

(4) If, after thirty (30) days, the Authority has not issued a notice of modification to the operator, the Authority shall be deemed to have approved the proposals and shall publish them in the Gazette and its website as the tariffs chargeable by the operator.

(5) Where the Authority and the operator fail to reach an agreement on the proposed tariff and any modification proposed by the Authority the operator may appeal to a tribunal of three (3) persons appointed by the Chief Justice.

(6) The tribunal referred to under subsection (5) shall comprise.

- (a) a Judge of the High Court or any person qualified to be appointed as a Judge of the High Court who shall be the chairman of the tribunal;
- (b) an accountant; and
- (c) a telecommunications engineer

(7) The tribunal shall make its decision within thirty (30) days of the lodgement of the appeal.

(8) Any operator who fails to lodge an appeal within thirty (30) days after the date of the disagreement referred to under subsection (5) shall be deemed to have abandoned his tariff proposal and accepted modification proposed by the Authority and the Authority shall publish the modified tariff as the approved tariff.

(9) All tariff proposals approved under this Act shall become effective from the date of the approval.

(10) Every public telecommunications operator shall make the tariffs approved under this section available to the public.

Review of tariffs and charges.

118. (1) The Authority shall review the tariffs for public telecommunications services if such review is warranted by any rapid changes in the cost of living index and foreign exchange rates

(2) In reviewing the tariffs, the Authority shall take all relevant factors into consideration including-

- (a) a reasonable return on capital and accumulation of adequate reserves for expansion and up-gradation of services;
- (b) optimization of usage and growth of network;
- (c) usage by, value to, and capacity to pay off different classes of customers;
- (d) the need for cross-subsidization such as between different parts of the network, between urban and rural and between business and residential customers;
- (e) consumer price index and rate of foreign exchange; and
- (f) views of the public telecommunications operators and a cross section of customers.

119. (1) Every public Telecommunications Operator shall keep accurate records of all relevant information contained in the tariff proposals submitted under sub section (2) of section 117. Accurate records relating tariffs to be kept.

(2) An operator shall not charge for services anything higher than the approved tariffs nor proposed for approval tariffs that are below the true cost of such services as determined in accordance with the accepted accounting guidelines or principles established for the industry.

PART XXV -COMPLIANCE

120. The Authority may on its own motion or following a complaint made by any party Investigate the tariffs set up by a licensee for the purposes of ensuring compliance. Investigation by the Authority.

121. A person who contravenes any provision of this Act related to the tariff regulation commits an offence and is liable to a fine equivalent to the applicable license fees. Offences relating to a tariff.

PART XXVI-MANAGEMENT OF RADIO FREQUENCY SPECTRUM, GEOSTATIONARY ORBIT AND RADIO TRANSMISSION

122. (1) The Authority shall manage the spectrum in an economically efficient manner. Principle of efficient Spectrum management.

(2) The Authority shall ensure that all class of users are encouraged to make optimum use of the spectrum they occupy.

123. (1) The Authority shall manage the frequency spectrum through the allocation and assignment of use of frequencies. Powers of the Authority on Spectrum Management.

(2) The Authority shall by statutory instrument make regulations and rules subject to applicable international treaties and agreements-

- (a) governing the allocation, assignment and use of frequencies;

strength of emissions from each station and from the equipment in it.

(13) Where applicable, any frequency spectrum assignment issued under this section shall be issued at the same time as any associated communications licence.

(14) A licensee shall not transfer any frequency.

(15) The Authority may reserve certain bands of radio-frequencies for exclusive use by the public for various communications and other non-business appliances of a purely private nature, working with a short range not exceeding 458 metres between terminal yards, without the need for a specific assignment.

(16) Spectrum frequency assignment for Government shall be exempted from the auction process.

(17) Assignment under subsection (16) shall be made by the Authority

Duration of an assignment.

127. The duration of an assignment shall be provided for under the specific terms and conditions of the frequency spectrum assignment.

Assignment fees.

128. (1) The Authority shall issue rules determining the applicable-

- (a) initial fees payable for filing individual assignment application forms; and
- (b) annual assignment fees.

(2) The assignment fees shall reflect the actual administrative costs involved for the Authority and shall be reviewed by the Authority from time to time.

129. The Authority shall renew a frequency spectrum

- (a) setting strategic direction for spectrum policy nationally and internationally;
- (b) overseeing the civil and defence spectrum and ensuring the optimal use of the radio spectrum in collaboration with the Authority;
- (c) making appropriate recommendations to the Authority or the Minister of Defence, as the case may be, on the issue of the defence spectrum respectively; and
- (d) deciding on the position that Sierra Leone takes in conferences related to international spectrum.

(4) The National Spectrum Committee shall in collaboration with the Authority determine and manage spectrum auction processes before an assignment is made.

125. (1) The Authority shall develop a national frequency allocation plan which shall-

National frequency allocation plan.

- (a) be divided into a number of frequency bands that the Authority deems appropriate for the purpose of regulating communications under this Act;
- (b) designate one or more bands to be used primarily by the Government for national security matters;
- (c) specify the general purpose for which any other band may be used;
- (d) include such other matters as the Authority deems necessary in order to give full effect to the national frequency allocation plan.

(2) The Authority may, with prior consultation with assignees, revise, amend, suspend or revoke the national frequency allocation plan, and shall issue a public notice to that effect.

Assignment. **126.** (1) The Authority may designate the bands of the frequency spectrum to be used under a frequency spectrum assignment and the bands of frequency spectrum to be used without a frequency spectrum assignment.

(2) An entity shall not undertake activities requiring a frequency spectrum assignment without the appropriate assignment from the National Spectrum Committee in collaboration with the Authority, in the prescribed manner and form, and upon payment of the prescribed fee.

(3) All frequency spectrum shall be assigned following an auction process.

(4) A frequency shall be assigned individually by the National Spectrum Committee in collaboration with the Authority –

- (a) in accordance with the national frequency allocation plan;
- (b) in a transparent and non-discriminatory manner.

(5) Any person intending to undertake activities covered by a frequency spectrum assignment shall prior to undertaking such activities, apply to the Authority for such assignment.

(6) A frequency band shall be subject to a restricted granting auction process developed by the National Spectrum Committee in collaboration with the Authority

(7) The National Spectrum Committee in collaboration with the Authority shall allocate the frequency band in accordance with the restricted auction process referred to under sub-section (6)

(8) The National Spectrum Committee shall apply the principles of transparency, objectivity and impartiality during the assignment process.

(9) The National Spectrum Committee in collaboration with the Authority shall issue rules defining the standard assignment conditions of a frequency spectrum assignment

(10) The National Spectrum Committee in collaboration with the Authority shall determine and impose reasonable terms and conditions for any frequency spectrum assignment .

(11) When assigning frequencies, the National Spectrum Committee in collaboration with the Authority shall take into account-

- (a) the availability of frequencies;
- (b) the fair distribution of the available frequencies;
- (c) the technical characteristics of the equipment involved ;and
- (d) its capacity to interconnect with other communications equipment and networks

(12) The Authority shall in the public interest, have the power to-

- (a) classify radio stations; and
- (b) designate standards of equipment to be used with respect to the external sharpness or

- (b) seal the premises;
- (c) seize the equipment being used for illegal purposes; or
- (d) make any other order it deems necessary.

(4) The Authority may authorise, in writing, any other entity to carry out on its behalf the functions set out under subsection (1) or (2) of this section, provided that the conditions stipulated under subsections (1) and (2) are complied with.

(5) Nothing in this section shall give any entity a right to enter into a private residence for the purpose of inspecting apparatus or equipment not designed or adapted for the emission of frequencies.

Failure to obtain assignment.

133. (1) A person or entity that uses one or more frequencies without having first obtained any relevant individual assignment, commits an offence and is liable on conviction to a fine not less than twenty-five million Leones and to a term of imprisonment not less than two (2) years or to both the fine and imprisonment.

(2) Anyone who uses frequencies without obtaining a relevant individual frequency spectrum assignment commits an offence and is liable on conviction to a fine not less than twenty-five million Leones and to a term of imprisonment not less than two (2) years.

(3) Notwithstanding subsections (1) and (2) a person who contravenes or fails to comply with the conditions imposed under an assignment granted under this Act in relation to the use of frequencies shall have the assignment revoked.

Radio transmitters.

134. (1) No person or entity shall possess, establish or operate a radio transmitter, including a radio transceiver unless that person or entity has an individual specific assignment issued by the Authority.

assignment, if the assignee-

Assignment
Renewal.

- (a) continues to meet the eligibility requirements set out for communications licence applicants;
- (b) in the Authority's opinion, continues to be financially and technically capable of meeting its statutory and regulatory obligations, as well as the obligations to be set out in the assignment concerned; or
- (c) has not, during the current term of the assignment, committed a material breach of its provisions.

130. (1) The Authority may subject to this Act or any relevant law-

Modification
Suspension
and
withdrawal.

- (a) amend the terms and conditions of a frequency spectrum assignment;
- (b) suspend a frequency spectrum assignment; or
- (c) withdraw a frequency spectrum assignment.

(2) The Authority may exercise the powers conferred on it by subsection (1) where the holder of an assignment-

- (a) fails to make proper and efficient use of frequencies assigned to it; or
- (b) has failed to comply with the provisions of this Act or regulation or rules made under this Act, or the terms and conditions of its assignment.

(3) Before modifying, suspending or withdrawing any frequency spectrum assignment under this section, the Authority shall notify the assignee concerned in writing

- (a) stating that it proposes to act in the manner as specified in the notice and, as regards paragraph
- (b) of subsection (2) setting out any compensation payable for any damage caused thereby;
- (b) specifying the time, being not less than six (6) months from the date of serving notice on the assignee, within which written representations in respect of the proposed actions may be made.

(4) Upon receipt of any representation referred to under subsection (3), the Authority shall give due and proper consideration to the representation and may -:

- (a) reject the representation;
- (b) amend the proposed actions or compensation payable in accordance with the representation or otherwise;
- (c) issue a written direction to the assignee requiring that, within a time that the Authority may specify, the proposed actions specified in the notice be brought into effect, or to carry out such actions as subsequently amended by the Authority.

Frequency coordination.

131. (1) Frequency spectrum assignees shall in good faith co-ordinate their respective frequency usage with other assignees in order to:-

- (a) avoid harmful interference among frequency spectrum assignees;
- (b) ensure efficient use of any applicable frequency band;
- (c) allow the provision of cost-efficient services.

(2) Where frequency spectrum assignees are unable or unwilling to co-ordinate in good faith as stipulated under subsection (1), the Authority shall intervene and resolve the dispute.

(3) The Authority shall issue rules governing the co-ordination referred to under subsection (1), which may include a process for the resolution of disputes among frequency spectrum assignees on an expedited basis.

132. (1) The Authority may require anyone who it has reasonable cause to believe is an entity required to hold a frequency spectrum assignment under this Act to produce the assignment. Enforcement.

(2) Where the Authority is authorised by a warrant issued by a magistrate court, an authorised officer accompanied by a police officer, may, at any reasonable time, enter premises that are owned or occupied by an entity that the Authority has reasonable cause to believe is-

- (a) using frequencies in contravention of this Act;
- (b) causing harmful interference with other communications.

(3) Where an authorised officer has entered or searched the premises and has reasonable cause to believe that an offence under this Act has been committed, or is about to be committed, the Authority may-

- (a) suspend the operation of the illegal activity;

- i. the services and applications that use the numbering capacity;
 - ii. technical network elements and their relationship;
 - iii. routing principles to be implemented;
 - iv. future numbering capacity needs;
 - v. charging principles if the applicant considers it useful;
 - vi. principles that the applicant intends to follow in allocating the routing capacity obtained for end-users
- (c) the applicant shall demonstrate that it has no viable technical or commercial alternative to operate its services and applications without the requested number capacity;
 - (d) changes overtime for the information relating to paragraph (b) of subsection (2);
 - (e) the applicant shall demonstrate that it has complied with this Act

(3) The applicant shall be evaluated by the Authority on the basis of the following criteria-

- (a) sound management of numbering capacity;
- (b) the need for sufficient numbering capacity to meet future needs;
- (c) the work needed to achieve optimum compatibility between the numbering plans of different applicants;

(2) The Authority shall issue the assignment based on conditions and in consideration of any payment it deems fit except that-

- (a) very low power transmitters, including transceivers (up to a range of 458 metres), operating in the frequency band reserved for use by the public and meant for purely private communications, pleasure or non-business appliances shall not require an assignment;
- (b) radio transceivers forming part of customer terminals operating in conjunction with a subscription to a public radio telecommunications networked and operated by an operator under a licence under this Act, shall not require a separate assignment.

135. (1) Notwithstanding any provision of this Act to the contrary, a diplomatic mission in Sierra Leone which intends to operate a radio communications station may apply to the Authority through the ministry responsible for foreign affairs for the required facilities referred to in subsection (2). Diplomatic mission.

(2) The facilities referred to under subsection (1) shall be granted by the Authority on the following conditions-

- (a) the government of the diplomatic mission concerned provides reciprocal facilities to the Government of Sierra Leone where required; and
- (b) the power output of the transmitter is not higher than necessary for transmitting to the State to which the diplomatic mission belongs, and is in any case not more than 5 kilowatts.

(3) Subject to subsections (1) and (2), a station installed by a diplomatic mission shall operate in accordance with the appropriate rules of the International Telecommunications Union.

(4) The diplomatic mission shall communicate to the Authority through the ministry responsible for foreign affairs the date for the installation of the equipment.

(5) An inspection of any station installed by a diplomatic mission in Sierra Leone shall be carried out by the Authority subject to a reciprocal arrangement between the Government of Sierra Leone and the diplomatic mission concerned.

PART XXVII - MANAGEMENT OF NUMBERING RESOURCES

Regulating electronic communication.

136. The Authority shall regulate all electronic communications numbering and ensure efficient use by-

- (a) developing a national numbering plan, allocating numbers, and monitoring compliance; and
- (b) maintaining a national electronic communications numbering register for all assigned numbers.

National numbering plan.

137. (1) The Authority shall develop a national numbering plan for the efficient use and assignment of numbers.

(2) The national numbering plan shall consist of a scheme of identification to ensure that electronic communications are correctly and efficiently directed to the point of reception for which they are intended.

(3) The Authority shall maintain and manage a record of the status of all number ranges, codes and blocks of numbers comprising the national numbering plan in a central data numbering database system.

(4) The Authority may revise, vary or revoke the national numbering plan, and shall issue a public notice to that effect.

138. The numbers and blocks of numbers shall be assigned following reservation by the Authority for a limited duration of time, corresponding to the operational lifetime of the service or application. Assignment of numbers.

139. (1) The Authority shall examine all applications to reserve numbering capacities that meet the following conditions- Reservation.

- (a) the application shall be addressed to the Authority in written form, signed by, or on behalf of, the applicant wishing to operate the numbering capacity;
- (b) the applicant shall be a natural person or legal entity, and shall provide details of positions and credentials;
- (c) the application shall indicate the name and complete address of the applicant, along with a business address in Sierra Leone;
- (d) fees to cover the costs for processing the application shall be paid in advance;
- (e) the application shall contain all the information specified under subsection (2)

(2) To allow the Authority to process the application in accordance with the criteria set out under subsection (1), the applicant shall provide, free of charge, the following information, which shall be considered as confidential-

- (a) a clear list of the type and amount of numbering capacity desired;
- (b) a detailed description of-

(6) The restricted granting procedure referred to under subsection (5) shall be based, as far as possible, on an objective criteria.

(7) The Authority shall inform the applicant of the objective criteria before the start of the restricted granting procedure.

(8) The Authority may include standard assignment conditions for any assignments of numbers.

(9) In respect of any assignment of numbers, the Authority may determine and impose reasonable terms and conditions including, without limitation, as regards the area for which the assignment is valid.

(10) Where applicable, the Authority may make an assignment at the same time as any associated communications licence.

Conditions for assigning numbering capacity.

144. (1) The Authority shall assign numbering capacity if during the reservation period numbering capacity is put into service for the declared purpose.

(2) The date on which numbering capacity is put into service shall be communicated to the Authority at least fourteen (14) days in advance.

(3) The assignment of numbering capacity shall remain valid if the following conditions are met-

- (a) the assigned numbering capacity is used exclusively for the purposes indicated in the initial application;
- (b) sub-assignment to end-users is controlled by the original applicant;
- (c) annual fees are paid;

(d) existing reservations;

(e) the potential for satisfying developments in the ECOWAS zone and internationally;

(f) the potential for satisfying the relevant international agreements, recommendations and standards;

(g) technical limitations and concrete implementation;

(h) the impact on the numbering plans of other applicants;

(i) fees, if any;

(j) routing questions;

(k) issues relating to tariffing principles;

(l) geographical issues;

(m) possible alternatives;

(n) end-user interests, including ease of use;

(o) specified needs of emergency services;

(p) commercial impact.

(4) The numbering capacity shall be reserved when the Authority approves an application.

(5) The numbering capacity shall be assigned to the initial applicant, and for the purposes specified in the application.

(6) The date on which the application becomes official shall be considered as the date of reservation.

numbering capacity.

140. (1) Where two or more applicants request the same numbering capacity, the first to file a valid application shall have priority.

(2) Where more than one valid application is filed on a given day for the same numbering capacity, the Authority shall carry out mediation to allocate primary rights, secondary rights, and tertiary rights.

Renewal reservation.

141. (1) A reservation may be renewed each year by submitting a valid new application at least one (1) month before the existing reservation expires.

(2) When the extension is accepted the original reservation date shall be maintained as the official reservation date.

Decision of Authority on reservation.

142. (1) The Authority shall notify a reservation applicant of its decision not later than two months after receiving the application.

(2) The two months deadline referred to under subsection (1) shall be extended by the length of time that the applicant needs to modify the application.

(3) The extension referred to under subsection (2) shall not exceed one month.

(4) If the applicant does not modify his application within the additional one month referred to under subsection (3) the Authority shall annul the application.

(5) Where the Authority considers that the application is incomplete, or wishes to have additional information or explanations, it shall inform the applicant to complete the application process or provide the additional information.

(6) Where the Authority refuses to grant a reservation, it shall provide reasons for the refusal.

(7) Where an application is refused the applicant shall not be entitled to any reimbursement.

143. (1) The Authority shall under objective, transparent and non-discriminatory conditions, assign prefixes and numbers or number blocks to an operator who has submitted his application and has paid the required fee to cover the cost of managing the numbering plan and controlling its utilization. Assignment of Numbers.

(2) The Authority shall assign assigned numbers individually-

(a) in accordance with the national numbering plan;

(b) in a transparent and non-discriminatory manner.

(3) Any person intending to undertake activities covered by an assignment shall apply for the assignment prior to undertaking such activities.

(4) The Authority shall issue assignments to a person or entity that fulfils the eligibility requirements under this Act, and who, in the Authority's opinion, is financially and technically capable of meeting its legislative and regulatory obligations and the obligations to be set out in the individual assignment concerned.

(5) Where the Authority considers that a number or block of numbers should be subject to a restricted granting procedure, the Authority shall not assign that number or block of numbers, except in accordance with a restricted granting procedure to be set out by the Authority,

(6) A resource for which revocation or withdrawal has been pronounced shall become free but it may not be reassigned until the expiration of one month unless it is requested by the former assignment holder.

(7) Where the resource is withdrawn for reason of unsatisfactory utilisation, pursuant to subsection (6), the resource may not be assigned again until at least the expiration of one month, regardless of the applicant.

PART XXVIII-STANDARD OF ELECTRONIC COMMUNICATION EQUIPMENT

Technical and Performance standards.

149. (1) The Authority shall establish and publish technical and performance standards relating to electronic communications equipment appliances and devices in regard to the manufacture, import, sale, shipment and use of such equipment, appliances or devices to be used for connection to an electronic communications network in Sierra Leone.

(2) In establishing the standards, the Authority shall

- (a) where appropriate, seek submissions from other interested parties, in particular those entities likely to be most affected by the publication of such standards; and
- (b) take due account of any relevant standards prescribed by international organisations of which Sierra Leone is a member.

(3) The Authority shall by statutory instrument make rules relating to technical standards for equipment connected to an electronic communications network.

Approval of equipment connected to network.

150. (1) Subject to subsection (2) a licensee shall not use any equipment for connection to any electronic communications network unless the Authority approves the type of equipment.

(d) the applicant maintains statistics on the percentage of assigned capacity that is being used, and periodically provides them to the Authority in accordance with rules which it has established.

(4) Applications for numbering capacity for six (6) months or less may be treated as having lower priority, and may not be extended.

(5) Numbers assigned numbers on a long-term basis, may be changed or withdrawn for operational reasons.

145. (1) The Authority shall determine the level of processing fees charged for the reservation of numbering capacity, depending on the type of numbering requested. Reservation and assignment fees.

(2) Fees shall be determined in a transparent and non-discriminatory manner, according to objective and published criteria.

(3) The Authority shall determine the annual fees for the assignment of numbering capacity, depending on the type of numbering requested.

(4) Fees shall be determined in a transparent and non-discriminatory manner, in accordance with objective and published criteria.

(5) Where the numbering capacity is assigned in portions, the annual fee shall be reduced proportionately.

(6) The Authority shall set a deadline for the payment of the fees referred to under subsection (3) in the year for which they are due.

(7) For the year in which the numbering capacity is assigned, fees shall be reduced proportionally to the number of complete months that remain in the calendar year on the date the

assignment is made, and the fees shall be paid within fourteen (14) days of that date.

(8) The Authority shall fix the penalty charged for overdue fees.

(9) The level of penalty shall be calculated on the basis of the number of days by which payment is overdue.

(10) The withdrawal of numbering capacity that was previously reserved or assigned shall not entail any entitlement to any indemnity or reimbursement of some or all of the fees referred to under this Act.

Delegation to outside operators.

146. (1) The holder of a numbering resource may entrust an outside operator with the distribution of that resource to the final consumers.

(2) A distinction shall be made between the operator holding the assignment for the resource and the delegated outside operator who distributes the resource to final consumers.

(3) An outside operator shall be involved if the following conditions are met-

- (a) the delegated operator shall have declared to the Authority the activity that is necessary for the operation of the resource in question; and
- (b) the operator holding the assignment shall have notified the Authority in writing, about the resource or resources to be put at the disposal of the delegated operator, along with a description of the service that is to be provided via the resource or resources.

(4) The notification referred to under paragraph (b) of subsection (3) shall have been made before any legal provisions on delegation come into force between the operator holding the assignment and the delegated operator

(5) In the case of resources assigned by block, delegation may involve the entire resource or an entire portion .

(6) The operator holding the assignment shall remain responsible for compliance with all obligations associated with the assignment of the resource.

(7) The operators involve in delegation shall guarantee portability for end-users.

147. An application for an allocated resource to be transferred shall be submitted to the Authority by the new beneficiary of allocation and accompanied by a signed consent of the original operator holding the resources that is the subject of transfer. Transfer of resources.

148. (1) An assignment may be revoked or withdrawn in any manner stipulated under this section . Revocation and Withdrawal.

(2) Where revocation takes place at the request of the holder he shall inform the Authority in writing by registered letter accompanied by a copy of the request for cancellation letter.

(3) The resource shall stop being subject to fees as of the day the letter is received.

(4) The holder shall be notified of the revocation of the decision to assign the resource in question .

(5) Where resources are not used in a manner that conforms to the conditions of their assignment and utilisation, or if a significant part of the resource remains unused, the Authority may withdraw the numbers.

- (g) privacy of communications;
- (h) the right to complain and to be heard about quality, delay, quantity and tariff with regard to the nature of the electronic service provided;
- (i) compensation equivalent to the exact loss suffered in case service is denied or interrupted due to an act or omission of the service provider, unless during force majeure and not consequential or future loss;
- (j) a regular statement of charges payable for the service received;
- (k) access to consumer protection associations in Sierra Leone to the Authority for redress of his grievances, if he fails to get satisfaction from the operator.

Protection of
Personal data.

155. (1) A licensee or any authorized business providing communications services may collect, store or use personal data for a purpose which is lawful, specific and explicitly defined.

(2) Any licensee, person or entity that is involved in the collection, storing or processing of personal data shall not process personal data, unless-

- (a) the individual whose personal data is being collected, consents to the processing for one or more specified purposes;
- (b) the processing is necessary for the following-
 - (i) the performance of a contract to which the data subject is a party or in order to take steps at the request of the data subject before entering into a contract;

(2) The Authority shall determine the type of equipment that does not require approval.

(3) Subject to applicable procedures and fees, the Authority shall, at the request of any licensee, equipment manufacturer or equipment supplier, conduct type approval tests and issue type approval certificates in respect of electronic communications equipment intended for use in Sierra Leone.

(4) Where the equipment has been approved for use by any other recognised international competent body, the documents issued by that international body shall be submitted to the Authority for proof of such prior approval.

(5) Where the equipment or operations of postal services relate to electronic or technological advancement, the general provisions of this Act shall apply

PART XXIX-CONSUMER PROTECTION

151. (1) For the purpose of this Act the Authority shall protect the interest of consumers, purchasers and other users of communications services in respect of the- Protection of
Consumers.

- (a) price charges;
- (b) quality and variety of services provided;
- (c) terminal equipment supplied;
- (d) awareness;
- (e) complaint handling; and
- (f) quality of service.

(2) The Authority may by statutory instrument make regulations dealing with protection of consumers

Obligation of licensee.

152. (1) In respect of their specific service and provisions contained in this Act or statutory instruments made under this Act a licensee shall-

- (a) enter into a service contract with consumers at the commencement of providing the service stipulating the services to be provided, the rights and obligations of the parties and the applicable remedies available to the customer and both parties shall attest to the agreement
- (b) meet the standards of quality of service as the Authority may specify;
- (c) establish corresponding service level agreements applicable to each service it offers to the public and the contract should be submitted to the Authority for its approval;
- (d) honour all terms under its service level agreements
- (e) address consumer complaints satisfactorily with the utmost priority

(2) Mobile network services shall be deemed to have complied with paragraph (b) of subsection (1) by publishing the terms and conditions on its website and as much as possible, on sales materials .

(3) Where a dispute arises between a consumer and a licensee on the interpretation of a service level agreement that has not been submitted to the Authority for approval prior to the dispute or complaint and the dispute is submitted to the Authority for resolution, the decision of the Authority shall prevail over the provisions in the service contract.

(2) A licensee that contravenes this Section is liable to a fine to be determined by the Authority.

153. (1) Where a licensee for the purpose of running promotions to increase access or usage of its services seeks to offer preferential or differential tariffs, subject to complying with the floor price, the Authority shall grant permission subject to—

- (a) clearly stating the objective of the promotion;
- (b) the tariff differentials that shall apply from the normal market conditions; and
- (c) the duration of the promotion

(2) On demand by a consumer a licensee shall provide the consumer with a detailed invoice regarding the communications services provided.

154. A consumer shall be entitled to the following— Rights of consumers.

- (a) a statement of his rights and obligations;
- (b) a prior notice, individual or public, with regard to any change in tariffs;
- (c) the right to be notified about planned interruption or termination of services;
- (d) a copy of a periodically updated directory where applicable;
- (e) the right to opt out of unsolicited electronic messages;
- (f) instructions for the use of the service and a statement of his rights and obligations;

- (c) the absence of infrastructure coverage;
- (d) any barriers to the use of available services;
- (e) the commercial viability of network facilities of communications services in particular areas or communities.

(3) The Authority shall ensure the implementation of universal service as the minimum set of services of specified quality to which end-users have access at an affordable price in light of specific national conditions in Sierra Leone.

(4) The Authority shall indicate to the Minister the remote communities that are not served or are under-served.

PART XXXI-UNIVERSAL ACCESS DEVELOPMENT FUND

Universal
Access
Development
Fund.

158. (1) There is hereby established a fund to be known as the Universal Access Development Fund.

(2) The sources of financing the Universal Access Development Fund shall come from the following—

- (a) a service levy, set by the UADF on all licensed service providers and shall be calculated on the licensee's annual gross income as declared for tax purposes not later than 31st March;
- (b) money allocated by Parliament;
- (c) grants, subsidies, donations;
- (d) gifts and subscriptions from the Government or any entity;
- (e) competitive minimum subsidy auctions;

- (ii) compliance with any legal obligation to which the controller is subject;
- (iii) to protect the vital interests of the data subject or another person;
- (iv) the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;
- (v) the performance of any task carried out by a public authority;
- vi. the exercise, by any person in the public interest, of any other functions of a public nature;
- (vii) the legitimate interests pursued by the data controller or data processor by a third party to whom the data is disclosed, except if the processing is unwarranted in any particular case having regard to the harm and prejudice to the rights and freedoms or legitimate interests of the data subject; or
- (viii) the purpose of historical, statistical or scientific research.

(3) Any person or business that is involved in the collection, storing or processing of personal data shall ensure that personal data is-

- (a) processed in accordance with the right of privacy of the data subject;

- (b) processed lawfully, fairly and in a transparent manner in relation to any data subject;
- (c) collected for explicit, specified and legitimate purposes and not further processed in a manner incompatible with those purposes;
- (d) adequate, relevant, limited to what is necessary in relation to the purposes for which it is processed;
- (e) accurate and, where necessary, kept up to date, with every reasonable step being taken to ensure that any inaccurate personal data are erased or rectified without delay;
- (f) kept in a form which identifies the data subjects for no longer than is necessary for the purposes which it was collected;
- (g) only released to a third party only with the consent of the data subject; and
- (h) not transferred outside Sierra Leone, unless there is adequate proof of adequate data protection laws by the recipient jurisdiction.

(4) The Authority shall by statutory instrument after consultations with the Ministry and other relevant stakeholders make regulations in order to give effect to this section.

PART XXX-UNIVERSAL ACCESS AND SERVICE

Scope of Universal access and service.

156. (1) Universal service shall include access to communications services in accordance with the quality **access** offered to the population of Sierra Leone despite its geographic location and based

on affordable tariffs, conditions and without the distortion of competition.

(2) Universal service shall consist of the following–

- (a) access to the public fixed line or mobile telephone network services;
- (b) access to mobile or fixed wireless or fixed line internet services;
- (c) access to emergency communications remaining accessible on a free basis;
- (d) any other services relating to ICT that the Ministry may include, in consultation with the Universal Access Development Fund established under section 158.
- (e) facilitating access to digital services in economically non-viable areas.

(3) The Authority shall establish the obligations to be respected in terms of implementing universal services.

157. (1) The Authority shall define for the attention of UADF the expected components of universal services and the remote community area that are not served or are under-served, Components of universal services.

(2) In determining these components and areas referred to under sub-section (1), the Authority in collaboration with UADF shall consider the following–

- (a) the level of competition in particular areas or communities;
- (b) the availability of services in particular areas or communities;

- (f) formulate the annual operating principles of the Fund;
- (g) prepare and submit annual report to be submitted to the Board of Trustees and the Minister under regulation 8; and
- (h) perform any other functions necessary for the attainment of the object of the Fund.

165. (1) There shall be charged on a service provider, in accordance with section 158 sub-section (3) of the Act, a universal access and service levy on his annual gross income as declared for tax purposes at any rate not later than 31st March.

Universal
Access and
Service Levy.

(2) A universal access and service levy under sub-section (1) shall be paid annually, on the 31st day of March, at the commencement of the financial year of Government.

(3) A licensee who fails to pay a universal access and service levy under sub-section (1)-

- (a) commits an offence and is liable to a penalty not less than 25% of the levy; and
- (b) shall be ineligible for the renewal of his licence under section 44 of the Act.

166. (1) The Universal Access Fund shall manage and administer the Universal Access Fund that shall be used to fund universal access and service.

Powers of the
Fund.

(2) The Universal Access Development Fund shall be in charge of the following-

- (f) public access projects designed to generate income for long-term financial self-sustainability;
- (g) funds allocated to the Universal Access Development Fund under section 22 sub section 4 (b).

(3) Notwithstanding the generality of subsection (2), the Universal Access Development Fund shall mainly be supported by a service levy.

159. (1) The Governing Body of the Fund shall be a Board, to be known as the Board of Trustees which shall comprise of the following-

- (a) the Director-General National Communications Authority who shall be Chairman;
- (b) one representative from Mobile Network Operators (MNOs);
- (c) one representative from the Internet Service Provider, representing Service Providers;
- (d) the Permanent Secretary, Ministry of Information and Communication;
- (e) the Financial Secretary;
- (f) one member representing consumer interests;
- (g) one member of a civil society organisation specializing in information and telecommunication; and
- (h) the Fund Administrator, Secretary to the Board with no voting rights.

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

160. The members specified in paragraphs (a), (c), (f) and (d) of section 159 shall each hold office for a period of three years and shall be eligible for re-appointment for another term of three years only.

161. (1) The Board shall, subject to this Act, have control and supervision of the Fund, provide policy guidelines and advice that will secure the efficient implementation of the object of the Fund.

(2) Notwithstanding the generality of sub section one,, the Board shall be responsible to-

- (a) provide strategic policy guidance for the implementation of the Fund;
- (b) Oversee and provide broad policy directions for the management of the Fund and universal service programs;
- (c) approve the disbursement of funds from the Fund;
- (d) establish and ensure compliance with procedures for disbursement of funds from the Fund;
- (e) monitor and evaluate the Fund projects;and
- (f) perform any other function incidental to the object of the Fund.

162. (1) The Fund shall have a Fund Administrator to be known as the Chief Executive Officer who shall be appointed by the President from amongst persons with proven knowledge, qualification and at least five years experience in either Telecommunications, Information Techonology, Economics, Finance, Law or Administration.

(2) The Fund shall have, in addition to the Fund

Administrator, other technical and administrative staff, as may be required for the efficient performance of the functions of the Fund.

(3) An officer or employee of the Fund or any person acting on the directions of an officer or employee of the Fund shall not be liable in respect of any matter or thing done by him in good faith under this Act.

163. No action or other proceeding shall lie or be instituted against any member of the Fund for or in respect of any act done in good faith in the exercise of his functions under this Act.

Innunity of members of the Fund.

164. (1) The Fund Administrator shall be responsible for the collection and disbursement of the funds in accordance with these regulations and to provide overall leadership in the conduct and management of the day to day business or activities of the Fund.

Functions of Fund Administration.

(2) Notwithstanding the generality of sub section (1), the Fund Administrator shall be responsible to-

- (a) establish administrative mechanisms, systems and structures for proper management of the Fund;
- (b) develop specific indicators of communications access;
- (c) apply a competitive selection process for identifying of pprojects to be funded;
- (d) develop appropriate socio-economic criteria for identifying the geographical areas, population groups, institutions and organizations that may be eligable to benefit from the Fund;
- (e) develop criteria for evaluating project proposals for funding;

PART XXXIII-OBLIGATION OF UNIVERSAL SERVICE
LICENSEE

Accounting obligation. **173.** A licensee duly selected and benefiting from the Universal Access Development Fund shall keep books and accounts, and maintain proper records of its operations in accordance with accepted accounting standards.

Reporting. **174.** (1) A duly selected licensee shall provide, on an annual basis within six (6) months after the end of the government financial year, a report on the accounts and targets reached as stated in the terms and conditions of the licence, and shall provide in particular:

- (a) a copy of the report to the Universal Access Development Fund on the performance audit carried out during the year up to the provision of the report; and
- (b) information on the implementation of the universal services.

(2) At the request of the Universal Access Development Fund, accounts shall be audited annually by an entity registered as an independent auditor.

Failure to comply with obligations. **175.** A failure by the selected licensee to comply with its obligations in terms of universal service implementation shall be an offence and the selected licensee shall be liable to a fine not less than the subsidy received from the Fund.

PART XXXIV-ENFORCEMENT AND OFFENCES

Monitoring and enforcement **176.** (1) The Authority shall monitor and enforce the licensee's compliance with this Act, statutory instruments made under this Act and the terms and conditions of the licence.

- (a) setting out the operations to be undertaken to ensure universal services;
- (b) defining annual and multi-annual universal access programmes and budgets, as well as activity plans to be submitted;
- (c) defining, planning and co-ordinating the implementation and monitoring of the universal access and universal service;
- (d) designating one or more licensees to be in charge of the universal service or components of the universal service;
- (e) promoting and supporting digital literacy and skills development programmes;
- (f) identifying, approving, scheduling and financing private sector and local community investments in universal service provision projects; and
- (g) conduct of research and other relevant studies in information technologies.

PART XXXII-IMPLEMENTATION OF UNIVERSAL SERVICE

167. The Fund Administrator shall, for the purpose of identifying the projects to be funded by the Fund, give priority to-

- (a) efficient, self-sustaining projects, that will expand access to communication systems and services on their own initiative and with minimal funding; Identification of projects to Fund.
- (b) projects that are not economically feasible without support of the Fund; and

- (c) projects necessary to create adequate economic incentives for investors.

168. (1) The Universal Access Development Fund shall select and designate one or more licensees to be in charge of providing universal services components in order to have a satisfactory coverage area in Sierra Leone.

Selection of
universal
licence
licensee.

(2) The Universal Access Development Fund shall select a licensee after a tender based on technical and financial conditions, and if applicable, the net cost of service provision based on the principle of fair and equitable selection process.

(3) The Universal Access Development Fund shall be in charge of drafting and launching the appropriate tender to ensure universal service in Sierra Leone.

(4) Notwithstanding subsection (2), where the Universal Access Development Fund fails after a tender to select a licensee, it shall designate subject to the approval of the Board of Trustees that one or more licensees shall ensure the implementation of universal services.

169. (1) Where the licensee holds a licence the Universal Access Development Fund shall set out in the specific terms and conditions the obligations relating to the provisions of the components of the universal service that needs to be undertaken.

Terms and
conditions.

(2) The licence and specific conditions of the selected licensee shall state financial estimates and figures with regards to the implementation of the universal service, the targets to be met and it shall-

- (a) specify appropriate equipment, goods or services to be supplied;
- (b) deal with how the provider fulfils its universal service obligations;

- (c) set out appropriate conditions for supplying universal services in various selected areas.

(3) The implementation of the conditions referred to under subsection (2) shall remain transparent, non-discriminatory and public.

170. The Authority shall ensure that providing the universal services shall be made on affordable tariffs that are accessible to all.

171. A failure by a licensee to pay a levy imposed on him shall be an offence and the licensee shall be held liable to pay a fine of 25% of the levy. Tariff.

172. The proceeds of the Universal Access Development Fund shall be used to- Non-payment of levy.

- (a) offer subsidies on a competitive basis to licensees in order to provide them with an incentive to provide universal access in areas that are uneconomic or only marginally viable without subsidies; Use of proceeds of the Fund.
- (b) provide other financial incentives and assistance;
- (c) meet administrative expenses associated with the execution of the duties, functions and responsibilities, management, publication and independent audit costs of annual reports of the Universal Access Development Fund and these expenses shall not exceed a certain amount, to be determined in regulations; and
- (d) conduct research and consultancy assignments related to universal access.

(6) Unless otherwise ordered by the High Court, the decision of the Authority shall remain in force-

- (a) during the period referred to under subsection (4); or
- (b) while the appeal of the licensee is under consideration by the High Court.

Penalty for breaching terms and conditions.

181. Where after due inquiry, the Authority is satisfied that the licensee has breached a term or condition of its licence, which requires a fine as specified under 176 sub-section 4 (d) the licensee shall be liable to a fine not exceeding 2% of the license fees and 4% of the license fees where the same offence is repeated.

PART XXXV-OFFENCES RELATING TO ELECTRONIC COMMUNICATION

Operating without licence.

182. (1) Any person who constructs, own, makes available or operates an electronic communications network without a relevant licence, commits an offence and shall be liable on conviction to a fine equivalent to double the license fee and to a term of imprisonment not exceeding 4 years or to both the fine and imprisonment..

(2) Any person who provides a communications service without having first obtained a relevant licence, and any person who connects to an unapproved terminal equipment, commits an offence and is liable on conviction to a fine equivalent to double the license fee and to a term of imprisonment not exceeding 4 years or to both the fine and imprisonment

(2) In carrying out its monitoring and enforcement mandate under subsection (1), the Authority shall, at its own initiative, or pursuant to any inquiry made under this Act-

- (a) carry out investigations;
- (b) carry out inspections;
- (c) request information from the licensees, including reports;
- (d) carry out technical audits;
- (e) take any other action deemed necessary for the purposes of this provision.

(3) The Authority shall give the licensee thirty (30) days to respond to an inquiry regarding an alleged contravention.

(4) Where, after due inquiry, the Authority is satisfied that the licensee has breached a provision of this Act, statutory instruments made under this Act or a term or condition of its licence, it shall take any appropriate sanction under Section 181, inform the licensee of its decision, in writing, and may-

- (a) require the licensee to remedy the breach;
- (b) order the licensee to pay compensation;
- (c) order the licensee to account for the profits made out of the breach;
- (d) order the licensee to pay a fine;
- (e) suspend the licensee's licence;
- (f) revoke the licensee's licence;

- (g) make any other order the Authority may deem appropriate.

Regulatory sanctions.

177. Notwithstanding any criminal sanctions provided under this Act, the Authority may impose regulatory sanctions for any contravention of this Act or statutory instruments made under this Act.

Appeal.

178. (1) A licensee aggrieved by a decision of the Authority may within 30 days of receiving the order appeal to the High Court,

(2) Unless the decision of the Authority is suspended by an order of the high court, such a decision shall remain in force-

- (a) during the period referred to in subsection (1); or
- (b) while the appeal of the licensee is under consideration by the High Court.

Quality of service.

179. (1) The Authority shall receive periodic reports on the quality of service as may be specified by the Authority, stating the level of service quality it achieved in the previous quarter.

(2) The reports referred to under subsection (1) may be merged with other reports provided under this Act.

(3) The Authority shall by statutory instrument make rules on the following-

- (a) the regulation of quality of service of the licensee in line with ITU standards;
- (b) the necessary quality of service parameters and acceptable service levels;
- (c) monitor compliance with the prescribed quality of service parameters; and

- (d) auditing the quality of service reports submitted by licensees.

(4) The Authority shall issue guidelines to licensees, which shall contain the following-

- (a) quality of service parameters;
- (b) details of monitoring of the quality of service compliance;
- (c) reporting requirements;
- (d) any other information deemed necessary by the Authority.

180. (1) The Authority may investigate any complaint made to it concerning activities undertaken under a licence, or appoint an independent entity to carry out an investigation into the complaint. Investigation and inquiry.

(2) Pursuant to its monitoring power, the Authority may investigate, at its own motion, any suspicion of a breach by any licensee of its obligations under this Act, or the applicable rules and regulations.

(3) In all enquiries under this Section, the Authority shall give the licensee fourteen (14) days in which to respond to an allegation levelled against it.

(4) Where, after due inquiry, the Authority is satisfied that the licensee has breached a term or condition of its licence, it shall notify the licensee of the fact, in writing, and may order any regulatory sanctions.

(5) Any licensee aggrieved by the decision of the Authority made under subsection (4) may appeal to the High Court within thirty (30) days of receiving the order.

- (a) a member of the Authority, an employee of the Authority or authorised by the Authority; or
- (b) a licensee, an employee of a licensee or authorised by a licensee-

commits an offence and is liable on conviction to a fine not less than SLL 50 Million or to a term of imprisonment not less than three (3) years.

- (2) Any licensee who-
 - (a) fails to comply with an order, directive or public notice issued by the Authority in the exercise of its functions under this Act;
 - (b) refuses, delays or fails to produce any documents or other information relating to electronic communications services and networks and statements of audited accounts which may be required to be produced under this Act;
 - (c) knowingly or without reasonable grounds for believing the same to be true, furnishes a document or other information that is false or misleading in any material aspect, whether upon demand or otherwise;

183. Any person who intentionally uses an electronic communications service of a licensee without paying any applicable charge commits an offence and is liable on conviction to a fine not less than SLL 150 Million and to a term of imprisonment not less than five (5) years. Failure to pay.

184. (1) A licensee operating an electronic communications network or providing an electronic communications service, who intentionally intercepts, interferes with the contents of, or modifies any message sent as part of the electronic communications service, commits an offence and is liable on conviction to a fine not less than SLL 1 billion and to a term of imprisonment not less than five (5) years or to both a fine and imprisonment. Unlawful intercept

185. A licensee, its employees, or agents who discloses other than in accordance with this Act the content of a message as part of an electronic communications service or information about a user, or who misuses an electronic communications service, commits an offence and is liable on conviction to a fine not less than SLL 1 billion Leones or a term of imprisonment not less than five (5) years or to both a fine and imprisonment. Disclosure of content.

186. (1) Any person who sabotages or steals any infrastructure equipment commits an offence and is liable on conviction to a fine not less than two (2) times and not more than four (4) times the cost of the equipment and to a term of imprisonment not less than three (3) years. Sabotage and Theft.

(2) Any person who is found in possession of stolen infrastructure commits an offence and is liable on conviction to a fine not less than two (2) times and not more than four (4) times the cost of the equipment and to a term of imprisonment not less than three (3) years.

(3) Any person who unlawfully destroys or damages electronic communications infrastructure equipment commits an offence and is liable on conviction to a fine not less than two (2) times and not more than four (4) times the cost of the equipment and to a term of imprisonment not less than three (3) years .

Interference
of transmi-
ssion.

187. (1) Any person who willfully causes, interferes with or obstructs the transmission or reception of any electronic communications commits an offence and is liable on conviction to a fine not less than SLL 50 Million and to a term of imprisonment not less than three (3) years .

(2) In addition to the criminal sanctions provided under subsection (1), the Court may order forfeiture to the Authority of any electronic communications equipment or other material in relation to or in connection with the means by which the offence was committed.

PART XXXVI-OFFENCES RELATING TO BROADCASTING
USING SPECTRUM FREQUENCY

188. Any person who provides broadcasting services without authorization of the spectrum frequency commits an offence and is liable on conviction to a fine up not less than SLL 50 Million or to a term of imprisonment not less than three (3) years. Unauthorized use of broadcast spectrum.

189. Any person who provides broadcasting services and who has not paid the prescribed fees commits an offence and is liable on conviction to a fine not less than SLL 50 Million or to a term of imprisonment not less than (3) years Failure to pay Broadcast Fees .

PART XXXVII-GENERAL OFFENCES

190. (1) Any Unauthorised collection, storage, use or transmission by a communications entity or licensee of subscriber information or such personal records shall be an offence under this Act and shall be liable on conviction to a fine not less than 50 million Leones or to a term of imprisonment not less than 3 years or both the fine and imprisonment. Unauthorized use of data.

(2) The Ministry shall, in consultation with the Authority in public safety and national security, develop regulations for the purpose of giving effect to this section

191. (1) Any person who falsely holds himself out to be- General offences.

(2) Any agreement, contract, document, licence, or permission made, granted or approved under applicable legislation prior to the commencement of this Act, may be reviewed by the Authority, within six (6) months of such commencement, in order to be in compliance with this Act.

(3) Any frequency assignment made under any applicable law prior to the commencement of this Act shall continue in force as if made under this Act, provided that:

- (a) the information relating to frequency assignment shall be made available to the Authority; and
- (b) any conditions generally contained in a frequency licence applicable to such an assignment, if made under this Act, shall be complied with.

(4) Any equipment approval duly given under applicable legislation prior to the commencement of this Act shall continue in force as if given under this Act.

(5) Any person who, immediately before the commencement of this Act, engaged in electronic communications services without a licence and wishes to continue such operations, shall apply for a licence under this Act within three (3) months of such commencement, and, if he has not secured a licence, shall cease operations within six (6) months of such commencement.

- (d) publishes or otherwise discloses any information in contravention of any provision of this Act;
- (e) hinders the Authority from carrying out any of its mandates;
- (f) resists, hinders or obstructs an officer of the Authority or any other entity who acts in compliance with the provisions of this Act to enter or inspect any premises or to stop and search any vehicle or to examine any books, accounts or other records or to otherwise comply with his or her duties and rights under this Act; or
- (g) refuses, delays or fails to comply with any order, prohibition, direction, demand, requirement or notice lawfully made, served, published or otherwise given under this Act-

commits an offence and is liable on conviction to a fine not less than the license fee or to a term of imprisonment not less than five (5) years or to both such fine and imprisonment.

(3) Subject to the specific penalties set out elsewhere in this Act, any person who contravenes or fails to comply with a provision of this Act commits an offence and is liable to a fine not less than SLL50 Million and to a term of imprisonment not less than three (3) years.

(4) Anyone who, without lawful excuse, contravenes or fails to comply with any term or condition expressed in an individual licence or assignment that the entity holds, or a class licence or assignment that the entity is acting under, including, without limitation, in respect of due dates for fee payments, commits an offence and is liable on conviction for each breach, to a fine up to not less than the license fee.

Initiation of court action.

192. Any consumer of communications services and products, any recognised consumer organisation, or any aggrieved entity may initiate court action against any licensee for offences against genuine grievances committed against them, provided that the consumer or consumer organisation has previously filed a complaint with the Authority, and is not satisfied with the decision of the Authority.

Abetting or attempting to commit an offence.

193. Any person who abets the commission of an offence punishable under this Act or attempts to commit any offence, commits an offence and shall be liable on conviction to a fine not less than 50 million leones or to a term of imprisonment not less than 3 years or to both the fine and imprisonment.

PART XXXVIII-MISCELLANEOUS PROVISIONS

194. (1) The Authority may after consultations with the Minister make regulations to implement the provision of this Act

(2) Notwithstanding subsection (1) the regulations may provide for the following-

- (a) any matter that under this Act is required or permitted to be prescribed;
- (b) the content of service level agreements;
- (c) the protection of consumers of the services provided under this Act;
- (d) the manner in which the Authority may exercise any power to perform any duty or function under this Act;
- (e) any other matter that the Minister considers necessary or expedient to give effect to the objects of this Act

195. (1) All existing licenses issued under the National Telecommunications Act 2006 Act shall, unless otherwise expressly provided in this Act or in any other written law, continue and be deemed to have been made, granted or approved by the Authority under the provisions of this Act. Transitional provision.

when that agreement or arrangement was entered into, and shall be deemed to have complied with this Act;

- (d) employees of the National Telecommunications Commission shall be transferred to the Authority.
- (e) employees of the Universal Access Development Fund as provided for in the Telecommunications Act, 2006 shall continue to be employees of the Universal Access Development Fund as provided for in this Act.

Passed in Parliament this 22nd *day of June*, in the year of our Lord two thousand and twenty two.

PARAN UMAR TARAWALLY
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.

PARAN UMAR TARAWALLY
Clerk of Parliament.

(6) Any person who contravenes this section commits an offence and is liable to a fine not less than the license fee for the type of services provided or to imprisonment for a term not less than one year.

196. (1) Subject to subsection (2) the Telecommunications Act 2006 is hereby repealed. Repeal and savings.

(2) Notwithstanding the repeal of the Telecommunications Act 2006 any order, proclamation or regulations made under the National Telecommunications Act and in existence at the commencement of this Act shall continue in existence unless revoked

(3) On the commencement of this Act—

- (a) all property, assets, rights and interests of the National Telecommunications Commission shall be the property, assets, rights and interests of the Authority;
- (b) all obligations and liabilities subsisting against the National Telecommunication Commission shall continue to subsist against the Authority;
- (c) any agreement on investment entered into by the National Telecommunication Commission shall have effect as if this Act was in operation