

No.

2023



Sierra Leone

A BILL ENTITLED

THE NATIONAL MINERALS AGENCY ACT, 2023

Short title.

Being an Act to provide for the continuance of the National Minerals Agency, to provide for a more efficient and effective administration of the Agency and regulation of the mineral sector as provided for in the Mines and Minerals Development Act 2023, and to provide for other related matters.

[] Date of commencement.

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

ACT

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THE NATIONAL MINERALS AGENCY ACT, 2023

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PART I – PRELIMINARY

- Interpretation. 1. In this section, unless the context otherwise requires -
- "Agency" means the National Minerals Agency referred to in section 2;
- "Board" means the National Minerals Agency Board under subsection (1) of section 3;
- "Directorate" means a Directorate referred to in subsection (1) of section 13;
- "Directorate of Communications" means the Directorate responsible for communications established under paragraph (e) of subsection (1) of section 13;
- "Directorate of Technology and Information Management" means the Directorate responsible for the effective management of knowledge, technology and geo-scientific data and information of the Agency established under paragraph (f) of subsection (1) of section 13;
- the Directorate responsible for managing the Agency's budget, human resources and financial reporting established under paragraph (d) of subsection (1) of section 13;
- "Director-General" means the "Director-General" appointed under section 14;
- "Directorate of Geological Survey" means the Directorate responsible for facilitating and monitoring exploration and managing national geological information established under paragraph (b) of subsection (1) of section 13;

"Directorate of Mines" means the Directorate responsible for all activities associated with managing the administration of mineral rights and monitoring mining operations established under paragraph (a) of subsection (1) of section 13;

"Directorate of Precious Minerals Trading" means the Directorate responsible for managing and administering precious and semi-precious minerals trading and certifying precious and semi-precious minerals exports established under paragraph (c) of subsection (1) of section 13;

"Kimberly Process Certification Scheme" means the Kimberly Certification Process established in 2003 to ensure that diamond purchases are not financing violence by rebel movements and their allies seeking to undermine legitimate governments by preventing conflict diamonds from entering the mainstream rough diamond market under United Nations General Assembly Resolution 55/56;

"Minister" means the Minister responsible for mines and mineral resources.

PART II- CONTINUATION OF THE NATIONAL MINERALS AGENCY

2. (1) There shall continue in existence the body known as the National Minerals Agency. Continuation of the National Minerals
- (2) The Agency is a body corporate having perpetual Agency. succession and capable of acquiring, holding and disposing of property whether moveable or immoveable, and of suing and being sued in its corporate name and, subject to this Act, of performing all acts as bodies corporate may by law perform.
- (3) The Agency shall have a common seal, the use of which shall be authenticated by the signatures of -

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

(4) Every document purporting to be an instrument executed or issued by or on behalf of the Agency and to be sealed with the common seal of the Agency authenticated in the manner stated in subsection (3), shall be deemed to be so executed or issued without other proof unless the contrary is proved.

(5) In appropriate cases the common seal of the Agency may be affixed to documents outside Sierra Leone

National
Minerals
Agency
Board

3. (1) There shall be a National Minerals Agency Board which shall be the governing body of the Agency and shall function and operate under the control and supervision of the Minister.

(2) The object of the Board is to oversee the efficient and effective operation of the Agency and shall be responsible to-

- (a) approve the operational budget of the Agency;
- (b) establish strategic direction and setting performance targets for the Agency;
- (c) assess the Agency's performance, both technical and financial;
- (d) ensure that the relevant statutory and operational policies in procurement and administrative procedures are adhered to;
- (e) approve the recruitment, grading, remuneration, promotion and dismissal of the Directors of the Agency;

- (g) take all lawful action necessary to contribute to the attainment of the object of the Agency;

4. (1) The Board shall consist of a Chairman, who shall be appointed from among persons of the highest calibre of personal integrity and demonstrated professional knowledge and experience in mining matters and the following other Members-

- (a) the Permanent Secretary, Ministry of Mines and Mineral Resources;
- (b) the Financial Secretary, Ministry of Finance;
- (c) the Representative of Office of the Attorney-General;
- (d) four other persons with professional knowledge of and experience in law, accounting and finance, mining or geology, and human resource management, nominated by the Minister at least two of whom shall be women

(2) The Director-General who shall be the Secretary to the Board without voting right.

(3) The Chairman and the persons referred to in paragraph (d) of subsection (1), shall be appointed by the President subject to the approval of Parliament.

5. (1) The Chairman shall hold office for a term of 3 years and shall be eligible for re-appointment for a further term of 3 years only.

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

Composition
of Board.

Tenure of
members.

- (b) for proven misconduct;
- (c) if he becomes bankrupt or insolvent;
- (d) if he is convicted and/or sentenced for an offence involving fraud, dishonesty or corrupt practices; or
- (e) if he fails to attend 3 consecutive meetings of the Board without reasonable excuse.

Filling of vacancies.

6. Where the Chairman or a member of the Board dies, resigns, is removed from office or is absent for 3 consecutive meetings without reasonable excuse or is by reason of illness unable to perform the functions of his office for a continuous period of 3 months -

- (a) in the case of the Chairman, the members of the Board shall elect one of their members to act as Chairman until such time as the Chairman resumes his office or another is appointed in his stead; and
- (b) in the case of the member, the Chairman shall notify the Minister who shall, subject to this Act, take steps to fill the vacancy.

Remuneration of members.

7. The Chairman and other members of the Board shall be paid fees or allowances as may be fixed by the Board with the approval of the Minister, based on sitting fees of other Boards in the public sector.

Meetings of Board.

8. (1) The Board shall meet for the dispatch of its business at least once every 3 months at the offices of the Agency or such other place and at such time as the Chairman may determine.

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

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

(3) The quorum for a meeting of the Board shall be 5.

(4) The Chairman shall, at the request of a minimum of 4 other members of the Board, convene an extraordinary meeting of the Board at the place and time determined by the Chairman.

(5) Decisions of the Board shall be made by a majority of the votes of the members present and where the votes are equal, the Chairman or other member presiding shall have a casting vote.

(6) A proposal circulated among all members of the Board and agreed to, in writing, by 5 members shall be of the same force and effect as a decision made at a duly constituted meeting of the Board and be incorporated in the minutes of the next meeting of the Board:

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

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

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

(9) Subject to this Act, the Board shall regulate the procedure at its meetings.

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 that interest to the Board and the disclosure shall be recorded in the minutes of the Board.

Disclosure of interest.

(2) The member of the Board referred to in subsection (1) shall not take part in the deliberation or decision of the Board relating to the matter.

(3) Any member who fails to comply with subsection (1) or (2) shall be guilty of misconduct and shall be removed from the Board and liable for prosecution.

Committees.
of Board.

10. (1) The Board may, for the discharge of its functions, appoint committees.

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

(3) A committee shall submit a report of its proceedings at a time to be determined by the Board.

Independence
of
Board and
Minister's
Power of
Direction

11. Subject to this Act, the Board shall be a semi-autonomous Body provided that the Minister may in writing give directions of a general policy nature to the Board concerning its operations in relation to any matter appearing to affect the public interest and the Agency shall comply with such directions.

PART III - FUNCTIONS OF THE AGENCY

Functions of
Agency.

12. (1) The object for which the Agency is established is to provide for a more efficient and effective administration and regulation of the mineral sector by ensuring that all mineral rights holders comply with the provisions of the Mines and Minerals Development Act 2023 and regulate minerals trading in Sierra Leone, including geological surveys and geodata management and to provide for other related matters.

(2) Without prejudice to the generality of subsection (1), it shall be the function of the Agency to -

- (a) enforce the Mines and Minerals Development Act 2023 and any other Acts related to the trade in minerals and regulations;

(b) make recommendations to the Minister for amendment and other improvement in the laws and regulations specified in paragraph (a) above

(c) advise the Minister on technical and operational policy matters related to mining and natural resource governance whether or not arising from any law referred to in paragraph (a) above;

(d) Make recommendations for the formulation and implementation of plans and systems for managing the responsible development of the mineral sector;

(e) provide technical and other support to the mineral sector including geological survey and data collection activities;

(f) provide specialised mines and minerals related commercial services.

13. (1) The Board shall, on the recommendation of the Director-General, create such directorates, as may be necessary for the performance of the functions of the Agency, including -

Directors of
Agency.

(a) the Directorate of Mines, responsible for all activities associated with administering mineral rights and monitoring mining operations;

(b) the Directorate of Geological Survey, responsible for facilitating and monitoring exploration and managing national geological information;

- (c) the Directorate of Precious Minerals Trading, responsible for the administration of precious mineral trading licences and certification of precious mineral exports;
- (d) the Directorate of Finance and Administration, responsible for the management of the budget and financial reporting of the Agency;
- (e) the Directorate of Communications, responsible for communications and public information on matters related to the Agency; and
- (f) the Directorate of Technology and Information Management, responsible for the effective management of knowledge, technology and geo-scientific data and information of the Agency

(2) A Directorate of the Agency shall be headed by a Director and shall have such divisions as may be necessary for the performance of the functions of the Agency.

PART IV - STAFF OF AGENCY

Director-General.

14. (1) The Agency shall have a Director-General who shall be the administrative head of the Agency and shall be appointed by the President nominated by the Board in consultation with the Minister, subject to the approval of Parliament.

(2) The Director-General shall be a person of high integrity having qualification in any profession relevant or appropriate to the functions of the Agency, with not less than 15 years of relevant work experience, appointed on the terms and conditions as may be determined by the Board.

(3) The Director-General shall be responsible to-

- (a) Perform such regulatory functions as provided for in the Mines and Minerals Development Act 2023
- (b) supervise and oversee the activities of the Directorates and the day-to-day administration and management of the Agency;
- (c) Make recommendations to the Minister for the formulation of operational policies, plans, programmes and projects relating to the functions of the Agency as may be approved by the Board;
- (d) Implement, monitor and evaluate the operational policies, plans, programmes and projects relating to the functions of the Agency as may be approved by the Board;
- (e) may take custody of mineral resources, minerals and mineral products declared by a court to be forfeited to the Government, with prior approval of the Minister; and
- (f) dispose of mineral resources, minerals and mineral products forfeited to the Government, as shall be directed by the Minister.

(4) Without derogating from subsection (3), the Director-General shall be responsible to the Board for -

- (a) preparing and submitting operational reports and plans;
- (b) preparing annual budget and the timely submission of financial reports;

- (c) preparing the agenda, recording and keeping minutes of the meetings of the Board; and
- (d) performing other duties specified in this Act or as the Board may determine.

Deputy
Director-
General.

15. (1) The Agency shall have in addition to the Director-General a Deputy Director-General who shall be appointed by the President nominated by the Board in consultation with the Minister, subject to the approval of Parliament.

(2) The Deputy Director-General shall be a person of high integrity having qualification in any profession relevant or appropriate to the functions of the Agency, with not less than 10 years of relevant work experience, appointed on the terms and conditions as may be determined by the Board.

Directors of
Agency.

16. (1) A Director of the Agency shall be appointed by the Board in strict compliance with the procedures and processes for the procurement of services in the prevailing Public Procurement Act and shall have such responsibilities and functions specified in subsection (1) of section 13 or as may be assigned to him by the Director-General. A Director, may have a Deputy as approved by the Board. neral and Directors, may have a Deputy as approved by the Board.

(2) Without prejudice to the generality of subsection (1),-

- (a) The Directorate of Mines shall be responsible for -
 - (i) carrying out investigations and inspections necessary to ensure compliance with Mines and Minerals Development Act 2023; and

- (ii) advising holders of mineral rights on proper and safe mining methods.

(b) The Directorate of Geological Survey shall be responsible for -

- (i) advising the Director-General on allgeological matters;
- (ii) undertaking geological mapping of Sierra Leone;
- (iii) undertaking reconnaissance and exploration operations to locate mineral deposits;
- (iv) the compilation, p u b l i c a t i o n anddissemination of geology and mineral resources data and information; and
- (v) the maintenance of such laboratory, library and record facilities as may be necessary for the discharge of his functions.

(c) The Directorate of Precious Minerals Trading shall be responsible for -

- (i) ensuring compliance with the Kimberly Process Certification Scheme; and
- (ii) administration and supervision of all matters relating to precious and semi-precious minerals trading in Sierra Leone; and

- (d) The Directorate of Finance and Administration shall be responsible for managing the annual budgeting process, procurement and assets, management.
- (e) the Directorate of Communications shall be responsible for -
 - (i) Develop and manage implementation of an appropriate communication strategy for the Agency.
 - (ii) Plan, direct and coordinate the Agency's communications and information services.
 - (iii) Make recommendations to the Minister for the formulation of communication policies and procedures.
 - (iv) Prepare reports and other records, and provide information to the public, subject to any confidentiality restrictions.
- (f) the Director of Technology and Information Management, shall be responsible for -
 - (i) providing secure and effective management of the Agency's geo-scientific data and information assets;
 - (ii) providing up-to-date knowledge and advice to the Director-General to ensure relevant data and information are available to fulfil the Agency's needs and responsibilities;

- (iii) overseeing the development, operation and continuous maintenance of a library serving the Agency and the general public;
 - (iv) ensuring the archiving of business and geo-scientific information and safeguarding such as a valuable national asset;
 - (v) maintaining sound institutional knowledge within the Agency
 - (vi) providing support to both internal and external stakeholders on all data and information needs.
- (3) Without prejudice to subsection (2), the following Directors shall support the Director-General in the following responsibilities -
- (a) the Director of Mines or an authorised officer may, at all reasonable times, enter upon any land, reconnaissance, exploration and mining area or mine or any premises or workings thereon or thereunder to -
 - (i) generally inspect such areas, premises or workings and examining reconnaissance, exploration, mining operations or the treatment of minerals or mineral products being carried out there;
 - (ii) ascertain whether the provisions of the Mines and Minerals Development Act 2023 and related regulations are being complied with;

- (iii) take soil samples or specimens of rocks, ore, concentrates, tailings, minerals or mineral products situated in any reconnaissance, exploration, small-scale mining or large-scale mining area for the purpose of examination or assay;
- (iv) break up the surface of the land for the purpose of ascertaining the rocks or minerals or mineral product within or under them;
- (vi) dig up any land and fix any post, stone, mark or object to be used in the survey of such land;
- (vii) enter into or upon any land through which it may be necessary to pass for the purpose of carrying out surveys but in the case of a sacred bush, any such entry shall be with the permission of the local authority concerned;
- (viii) maintain and manage a Mining Cadastre System;
- (ix) approve mining work programmes;
- (x) examine books, accounts, vouchers, documents or records of any kind required to be kept under the Mines and Minerals Development Act 2023 and related regulations made under it or the terms and conditions of any mineral right, permit or licence and taking copies of such books, accounts, vouchers, documents, records or databases;

- (xi) obtain such other information as he may deem necessary;
- (xii) prepare reports, including an annual report and other records, and provide data to the public, subject to any confidentiality restrictions;
- (xiii) carry out investigations and inspections necessary to ensure compliance with the Mines and Minerals Development Act 2023;
- (xiv) conduct pre-shipment inspection for all bulk mineral exports; and
- (xv) advise holders of mineral rights on proper and safe mining methods.
- (b) The Director of Geological Survey shall-
 - (i) give advice to the Director-General on all geological matters;
 - (ii) undertake the geological mapping of Sierra Leone;
 - (iii) approve reconnaissance and exploration work programmes;
 - (iv) undertake reconnaissance and exploration operations with a view to locating mineral deposits;
 - (v) compile, publish and disseminate data and information concerning the geology and mineral resources of Sierra Leone;
 - (vi) maintain such laboratory, library and record facilities as may be necessary for the discharge of his functions.

- (vii) enter any reconnaissance, exploration, artisanal small-scale mining or large-scale mining area;
 - (viii) take soil samples or specimen of rocks, ore, concentrates, tailings or minerals situated in any reconnaissance, exploration, artisanal small-scale mining or large-scale mining area for the purpose of examination or assay;
 - (ix) break up the surface of the land for the purpose of ascertaining the rocks or minerals within or under them;
 - (x) dig up any land and fix any post, stone, mark or object to be used in the survey of such land; and
 - (xi) enter into or upon any land through which it may be necessary to pass for the purpose of carrying out surveys but in the case of a sacred bush, any such entry shall be with the permission of the local authority concerned.
- (c) The Director responsible for the Directorate of Finance and Administration shall manage the annual budgeting process, procurement and assets
- (d) The Director responsible for the Directorate of Precious Minerals Trading shall, in compliance with the Kimberly Process Certification Scheme, assume responsibilities and authority over all matters relating to -

- (ii) monitoring and inspection of the trade in precious and semi-precious minerals throughout Sierra Leone, including the inspection of records of licence holders and compiling, for the purposes of a n a l y s i s a n d publication, annual statistics regarding on precious and semi-precious minerals production;
 - (v) ensuring that the Directorate provides good service delivery in the trade, import, export, cutting, polishing and beneficiation of precious minerals including observance of all national and international treaties, conventions, protocols and Agreements.
- (4) A Director may, subject to the approval of the Director-General, delegate any of his functions and duties to such officer in the Agency as the Director may deem fit.
- 17.** (1) The Board shall, on the recommendation of the Director-General and on such terms and conditions as it may determine, appoint other staff to discharge the functions of the Agency.
- (2) Public officers may be seconded or otherwise give assistance to the Agency.
- (3) The Board may, on the recommendation of the Director-General, engage the services of consultants or advisers as it considers necessary for the performance of the functions of the Agency.

Other staff
of Agency.

PART V - FINANCIAL PROVISIONS

Funds of Agency. **18.** (1) The activities of the Agency shall be financed by a consisting of -

- (a) monies appropriated by Parliament for the purposes of the Agency;
- (b) monies given to the Agency by way of gifts, bequests, grants or other contributions by persons and organisations for the purposes of the Agency; and
- (c) all other monies which may, from time to time, accrue to the Agency.

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

Financial year of Agency. **19.** The financial year of the Agency shall be the same as the financial year of Government.

Revenue due Consolidated Fund. **20.** (1) All revenues collected by or to the Agency shall be paid Consolidated into a Single Treasury Account of the Consolidated Fund.

Provided that the following revenues shall not be paid into the Single Treasury Account of the Consolidated Fund-

- (a) monies accruing to the Agency in the course of its operations;
- (b) minerals and trading rights application fees;
- (c) monitoring fees and precious mineral valuation fees; and

(d) regulatory fees, fines and other monetary sanctions imposed by the Agency.

(2) Revenues raised under paragraphs (a, b, c, and d.) of subsection 1 shall be shared between the Ministry and the Agency as follows:

- (i) The Ministry 30%
- (ii) The Agency 70%

21. (1) The Agency shall keep proper books of accounts and proper records in relation to the accounts and shall prepare within a period of three months after the end of each financial year a statement of its accounts in the form the Auditor-General may direct. Account and audit.

(2) The books and accounts of the Agency shall each be audited by the Auditor-General or an auditor appointed by the Auditor-General.

(3) A report of the audit shall be submitted to the Board and shall include a copy of the audited accounts together with the Auditor-General's report on it.

22. (1) The Director-General shall, within three months after the end of each financial year, submit for the approval of the Board, an annual report of the activities, undertakings, property and finances of the Agency for that year. Annual report.

(2) An annual report shall include a copy of the audited accounts, where available, of the Agency together with the audit report on it.

(3) A copy of the annual report approved by the Board shall be submitted to the Minister not later than three months after the year to which the report relates and the Minister shall, as soon as possible but not later than two months after receiving the report lay it before Parliament.

PART VI-MISCELLANEOUS

Regulations. **23.** (1) The Minister may, by statutory instrument, make Regulations for the effective implementation of this Act.

Repeal and savings. **24.** (1) The National Minerals Agency Act, 2012 (Act No. 3 of 2012) is hereby repealed.

(2) All licences, certificates, orders, rules and other statutory instruments made under the National Minerals Agency Act, 2012(Act No. 3 of 2012) shall remain in force until their expiration or are expressly repealed.

MADE this day of ,2023

MUSA TIMOTHY KABBA
Minister of Mines and Mineral Recourses

FREETOWN,
SIERRA LEONE