

SIGNED this 26th day of July, 1985

SIACA STEVENS,
President

No. 3

1985

Sierra Leone

The Constitution (Amendment) (NO. 2) Act, 1985

Short title.

Being an Act to amend the Constitution of Sierra Leona, 1978
(Act No. 12 of 1978)

[29th July, 1985]

Date of
Commence-
ment.

BE IT ENACTED by the President and Members of Parliament in this present Parliament assembled, as follows-

1. The Constitution of Sierra Leona, 1978 (Act No.12 of (1978) in this Act referred to as "the Constitution" is hereby amended by the substitution for subsection (7) of section 23 thereof of the following new subsection-

Constitu-
tion
amended.

"(7) A Presidential Election shall take place-

- (a) where the office of President is to become vacant by effluxion of time and the President continues in office after the beginning of the period of four months ending with the date when his term of office would expire by effluxion of time, during the first three months of that period;
- (b) in any other case, during the period of three months beginning with the date when the office of President becomes vacant:

Provided that where the office of President becomes vacant during a period when Parliament is dissolved, the

Presidential Election shall be held and completed before the election of Members of Parliament."

Section 25 of Constitu-amended. 2. For subsection (1) of section 25 of the Constitution there is hereby substituted the following new subsection-

"Tenure of office of President, etc. 25 (1)The person elected to the office of President shall, unless he sooner dies or resigns or unless he ceases to hold office by virtue of section 30 or section 31 of this Constitution, hold that office for a period of seven years and until the person elected President at the next following Presidential Election assumes office, except that no one President shall hold office for more than two consecutive terms:

Provided that in relation to the term of the President which commenced with the day of commencement of this Constitution by virtue of subsection (4) of section 21 of this Constitution, the period of seven years referred to in this subsection shall be deemed to read as if it were reference to a period of seven years and six months."

Section 29 of Constitution replaced. 3. For section 29 of the Constitution there is hereby replaced. the following new section-

"Temporary exercise of functions of President. 29 (1)Where the holder of the office of President is absent from Sierra Leone or is for any reason unable to perform the functions conferred upon the President by this Constitution, those functions shall be exercised-

- (a) by the First Vice-President, or
- (b) where there is no First Vice-President considers that he is for any reason unable to discharge the functions of the office of President, by the Second Vice-President or such other Minister as may be appointed by the Cabinet.

(2) Where the office of President becomes vacant, then until the election of assumption of the office of the next President, the functions conferred upon the President by this Constitution shall be exercised by a President Council comprising the following persons-

- (a) the Speaker, who shall be Chairman,
- (b) the National Administrative Secretary of the Recognised Party, and
- (c) the Solicitor-General

(3) Any person required to exercise the functions of the President under subsection (1) of this section and also, any member of the President Council shall, before embarking upon the exercise of the functions of the office of the President, take and subscribe the oath referred to in subsection (3) of section 25 of this Constitution.

(4) The First Vice-President, the Second Vice-President or a Minister or any member of the Presidential Council shall not, by reason of his exercising the functions of the office of President or by reason of his being a member of the Presidential Council, vacate his seat in, or be disqualified for election to Parliament.

(5) Neither a person exercising the functions of the President under subsection (1) of this section nor the Presidential Council shall dissolve Parliament."

4. For section 30 of the Constitution there is hereby substituted the following new section-

"Mental or physical incapacity.

30 (1) Where the Cabinet has resolved that the question of the mental or physical capacity of the President to incapacity. discharge the functions conferred on him by this Constitution ought to be investigated and has informed the Speaker accordingly,

Section 30 of Constitution replaced.

the Speaker shall, in consultation with the Head of the Medical Service of Sierra Leone, appoint a Board consisting of not less than five persons selected by him from among persons qualified as medical practitioners under the laws of Sierra Leone.

(2) The Board appointed under subsection (1) of this section shall enquire into the matter and make a report to the Speaker stating the opinion of the Board whether or not the President is, by reason of any infirmity of mind or body, incapable of discharging the functions conferred on the President by this Constitution.

(3) Where the Cabinet has resolved that the question of this mental or physical capacity of the President to discharge the functions conferred on him by this Constitution ought to be investigated in accordance with the provisions of subsection (1) of this section, the President shall, as soon as another person assumes the office of President, cease to perform those functions and until the Board submits its report, those functions shall be exercised in accordance with subsection (1) of section 29 of this Constitution.

(4) Where the Board reports that the President is incapable of discharging the functions conferred on him by this Constitution by reason of infirmity of mind or body, the Speaker shall certify in writing accordingly, and thereupon, the President shall cease to hold office and a vacancy shall be deemed to have occurred in the office of President and subsection (2) of section 29 of this Constitution shall apply.

(5) Upon receipt of the report of the Board referred to in subsection (4) of this section, the Speaker shall-

(a) if Parliament is then sitting
or has been summoned to meet,

within five days communicate the report to Parliament.

(b) if Parliament is not then sitting (and notwithstanding that it may be prorogued), summon Parliament to meet within twenty-one days after the receipt by the Speaker of the report of the Board and communicate the report of the Board to Parliament.

- (6) For the purposes of this section
- (a) the Cabinet may act notwithstanding in its membership or the absence of any member;
 - (b) a Certificate by the Speaker that the President is by reason of mental or physical infirmity, unable to discharge the functions of the office of President conferred on him by this Constitution, shall, in respect of any period for which it is in force, be conclusive and shall not be enquired into in any court."

5. Section 31 of the Constitution is hereby amended as follows-

Section 31 of Constitution amended.

- (a) by the substitution for subsection (5) thereof of the following new subsection-

"(5) Where the Tribunal reports to Parliament that it finds that the particulars of any allegation specified in the motion have been substantiated, Parliament may, in secret session, on a motion supported by the votes of not less than two-thirds of all the Members of Parliament, resolve that the President has been guilty of such violation of the Constitution or, as the case may be, such gross misconduct as is incompatible with his continuance in office as President; and where Parliament

so resolves, the President shall thereupon, cease to hold office and a vacancy shall then be deemed to have occurred in the office of President and subsection (2) of section 29 of this Constitution shall apply accordingly.”;

(b) by the repeal of subsection (6) thereof.

6. For subsection(8) of section 45 of the Constitution there is hereby substituted the following new subsection-

Section 45 of Constitution amended.

“(8) Notwithstanding the provisions of paragraph (b) of subsection (1) of this section-

(a) a person mentioned in that paragraph shall not be disqualified from being a Member of Parliament if he is appointed as such by the President under paragraph (c) of subsection (1) of section 43 of this Constitution;

(b) a person who has been appointed and has served as a Member of Parliament under the said paragraph (c) of subsection (1) of section 43 for a period not less than seven years shall not be disqualified for election as a Member of Parliament by virtue of the said paragraph (b) of subsection (1) of this section.”

7. Section of the Constitution is hereby amended by the repeal of subsection (4) thereof.

Section 85 of Constitution amended.

8. Paragraph (a) of subsection (10) of section 156 of the Constitution is hereby amended by the substitution for the proviso to that paragraph of the following new proviso-

Section 156 of Constitution amended.

“Provided that nothing in this subsection shall apply to the power to issue a certificate conferred by paragraph (b) of subsection (6) of section 30 of this Constitution.”

**Passed in Parliament this 24th day of July, in the year of our
Lord one thousand nine hundred and eighty-five.**

**R. C. O. GILPIN-JACKSON, J.P.,
Clerk of Parliament.**