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THE NATIONAL DRUGS CONTROL ACT, 2008

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PART I—PRELIMINARY

Interpretation.

1. (1) In this Act unless the context otherwise requires—

“analogue” means any substance not listed in any Schedule to this Act, and whose chemical structure is substantially similar to any drug whose psychoactive effects are simulated by such substance;

“analyst” means a person designated as such under section 45;

“approved treatment centre” includes a hospital, nursing home, hostel, health facility or other institution designated from time to time by the Minister as an approved treatment centre to provide treatment for drug abusers or drug dependent persons;

“Attorney-General” means the Attorney-General and Minister of Justice;

“authorised person” means—

- (a) an officer, servant or agent of the National Drug Law Enforcement Agency authorised by the Executive Director to exercise any power or to perform certain duties under this Act;
- (b) a member of the Sierra Leone Police; or
- (c) a customs officer;

“cannabis” means any part of the cannabis plant (including the seeds and leaves) from which cannabis resin has not been extracted;

“cannabis plant” means any plant of the genus cannabis;

“cannabis resin” means the separated resin, whether crude or purified, obtained from the cannabis plant;

“coca bush” means the plant of any of the species *Erythroxylon*;

“controlled chemical” means such substance as the Minister may prescribe;

“controlled delivery” means the investigative technique of allowing an unlawful or suspect consignment of a drug, an analogue, a chemical, an innocuous substitute substance, an item of controlled equipment or controlled material or property believed to be derived directly or indirectly from any offence, to pass into, through or out of Sierra Leone under the supervision of an authorised person, with a view to gathering evidence to identify any person involved in any serious offence, or to facilitate prosecution of that offence;

“controlled equipment” means such equipment as the Minister may prescribe;

“controlled material” means such material as the Minister may prescribe;

“convention State” means a party to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988;

“court” means the High Court;

“cultivate” includes planting, sowing, scattering the seed, growing, nurturing, tending or harvesting, and also includes the separation of opium, coca leaves, cannabis and cannabis resin from the plants from which they are obtained;

“prohibited drug” means a substance listed in the First Schedule;

“property” means real or personal property of every description, whether situated in Sierra Leone or elsewhere and whether tangible or intangible, and includes an interest in such property;

“property derived from an offence” means any property derived or realized directly or indirectly from a serious offence and includes, on a proportional basis, any other property into which any property derived from an offence is successively converted, intermingled or transformed, as well as income, capital or other economic gain derived or realized from such converted, intermingled or transformed property;

“record” means any material on which data is recorded or marked and which is capable of being read or understood by a person, computer system or other device;

“risk drug” means a substance listed in the Third Schedule;

“serious offence” means—

- (a) an offence under Part III;
- (b) an offence under any other enactment in force in Sierra Leone the maximum penalty for which is death or imprisonment for a term of not less than twelve months;
- (c) an offence under a law of a foreign State, in relation to acts or omissions, which, had they occurred in Sierra Leone, would have constituted an offence for which the maximum penalty is death or imprisonment for a term of not less than twelve months;

(a) administration of the drug to him results in the person demonstrating impaired control in relation to the use of that drug, or drug-seeking behaviour suggesting such impaired control; or

(b) cessation of the administration of the drug is likely to result in the person experiencing symptoms of mental or physical distress or disorder;

“encapsulating machine” means any device which is used to fill shells, capsules or other containers with a drug or analogue in whatever physical form;

“foreign State” means any country other than Sierra Leone and every constituent part of such country, including a territory, dependency or protectorate, which administers its own laws relating to drugs, analogues, controlled equipment and controlled materials;

“high-risk drug” means a substance listed in the Second Schedule;

“inspector” means any person appointed inspector under section 26;

“institution” means a hospital, nursing home or other institution used for the accommodation, treatment and care of persons suffering from physical or mental conditions;

“International Drug Control Convention” means—

- (a) the Single Convention on Narcotic Drugs done at New York on 30 March 1961, as amended by the 1972 Protocol amending the Single Convention done at Geneva on 25 March 1972;
- (b) the Convention Against Psychotropic Substances done at Vienna on 21 February 1971;
- (c) the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances done at Vienna on 20 December 1988; and
- (d) any other international convention or protocol or other instrument amending an international convention relating in whole or in part to drugs, controlled chemicals or controlled equipment to which Sierra Leone may become party after the commencement of this Act;

“manufacture” in relation to a drug, analogue, controlled chemical or controlled material includes—

- (a) carrying out any process by which such drug, analogue, controlled chemical or controlled material is produced;
- (b) formulating, preparing, mixing, extracting, refining, compounding or packing such drug, analogue or controlled chemical;
- (c) transforming such drug, analogue or controlled chemical into another drug, analogue or controlled chemical; and
- (d) making a drug into dosage form;

- Act No. 12 of 1994. “medical practitioner” means any person who is registered and entitled under the Medical and Dental Practitioners’ Act, 1994 to practice the profession of medicine;
- “Minister” means the Minister of Internal Affairs;
- “minor” means an individual who is below the age of eighteen years;
- “opium poppy” means the plant of the species *Papaver somniferum*;
- Act No. 12 of 2001. “pharmacist” has the meaning assigned to it in the Pharmacy and Drugs Act, 2001;
- “place” includes any land (whether vacant, enclosed or built upon, or not), and any premises;
- “practitioner” means a dentist, medical practitioner or veterinary surgeon, and any person who is entitled under the laws of Sierra Leone to practice any other profession whose members may lawfully prescribe, dispense or administer any drug;
- “premises” includes the whole or any part of a structure, building, aircraft, vessel or vehicle;
- “preparation” means a solution or mixture in whatever physical state, containing a drug or a controlled chemical;
- “prescription” means a written direction by a practitioner that a stated amount of a drug be dispensed for the person named in it or for the treatment of an animal;
- “proceedings” means any procedure conducted by or under the supervision of a judge, magistrate or judicial officer however described in relation to any alleged or proven offence or property derived from such offence and includes an inquiry, investigation or preliminary or final determination of facts;

- (g) taking such measures that may ensure effective collaboration with government bodies, agencies and non-governmental organizations wherever situate and carrying on functions wholly or partly analogous to those of the Agency;
- (h) improving international co-operation against drug trafficking and precursor trafficking by land, sea and air;
- (i) encouraging and strengthening co-operation between the office of the Attorney-General, the Sierra Leone Police, the National Revenue Authority, Immigration Department, Ministries of Social Welfare, Health, Transport and Aviation, Internal Affairs, local councils, Prisons Department, other law enforcement agencies and non-governmental organizations, in addressing issues of drug control, reducing drug abuse and its primary causes, and combating illicit drug supply and drug-related crimes;
- (j) enforcing and duly administering the provisions of this Act including receiving, investigating or referring to the appropriate authority, any complaint of a suspected or an alleged offence under this Act;

(2) An investigation under paragraph (j) of subsection (1) may be carried out in relation to any of the following matters:—

- (a) the nature, location and value of any property suspected on reasonable grounds to be wholly or partly property derived from an offence under this Act; and

“Sierra Leone aircraft” means an aircraft that is—

- Act No. 3 of 2008.
 - (a) registered in Sierra Leone or exempted from registration, under the Aviation Act, 2008;
 - (b) owned wholly or partly by or in the possession or control of the Government of Sierra Leone or any local council; or
 - (c) owned by or in the service of the Sierra Leone Armed Forces including an aircraft that is being commanded by or piloted by a person in the course of his duties as a member of that Force;
 - (d) registered in a foreign State, and leased to a person ordinarily resident or having a principal place of business, in Sierra Leone;

“Sierra Leone ship” means—

- Act No. 3 of 2003.
 - (a) a ship registered or exempted from registration, under the Merchant Shipping Act, 2003;
 - (b) an unregistered ship that has a Sierra Leone nationality;
 - (c) a ship that belongs to the Sierra Leone Armed Forces;
 - (d) a ship that is owned by the Government of Sierra Leone or by a local council; or
 - (e) a ship that is held by any person on behalf of or for the benefit of the State;

“supply” includes sale, consignment, dispatch, transport, delivery, distribution, dispensing and an offer to supply;

“tableting machine” means any device which may be used to compact or mould a drug or analogue into a solid tablet;

“toxic chemical inhalant” means a substance listed in the Fourth Schedule;

“transit” means the physical transfer of any drug, analogue, controlled chemical or controlled material into and out of the territory of Sierra Leone without undergoing any customs process or procedure in Sierra Leone and where Sierra Leone is neither its country of origin nor destination;

“treatment” includes medical treatment, therapy or admission to an education or rehabilitation programme, which is aimed at-

- (a) preventing drug abusers from further abusing drugs; and
- (b) assisting drug-dependent persons to overcome their drug dependence;

“under cover operations” means operations for the purpose of providing a person who may have committed, is about to commit or is committing a serious offence an opportunity to manifest evidence thereof;

“veterinary surgeon” means any person who is registered and entitled under the laws of Sierra Leone to practice the profession of veterinary medicine;

PART II—ESTABLISHMENT OF THE NATIONAL DRUG LAW ENFORCEMENT AGENCY

Establish-
ment of
National Drug
Law Enforce-
ment
Agency.

2. (1) There is hereby established a body to be known as the National Drug Law Enforcement Agency (hereafter referred to as “the Agency”)

(2) The Agency shall be headed by the Executive Director.

3. (1) The Agency shall, in addition to any other functions conferred on it by this Act, have responsibility for— Functions of Agency.

- (a) providing leadership in and coordinating all issues relating to drug control, eradicating drug abuse and the primary causes of drug abuse, illicit drug supply and drug-related crime;
- (b) coordinating all drug-related regulatory, enforcement and prosecution functions conferred on any person or authority by any enactment;
- (c) developing and effectively implementing the national drug control strategy;
- (d) ensuring that decisions of the Advisory Council are implemented;
- (e) facilitating cooperation and the timely exchange of information between regulatory, law enforcement, criminal justice, demand reduction, scientific and technical agencies in Sierra Leone and abroad, relating to drug and precursor control, demand reduction and drug-related crime;
- (f) collecting, collating and disseminating information on drug and drug-related issues to public and private sector agencies and organizations and the wider community, and the conduct of research, analysis and education geared towards the prevention and eradication of drug abuse;

Prohibition of possession and use of drugs, etc.

- 8.** A person who, without lawful authority—
- (a) buys, sells, possesses or has under his control, any drug or uses any drug by smoking, inhaling, sniffing, injecting or otherwise introduces the drug into his body; or
 - (b) injects any person with or in any manner administers a drug to any person;

commits an offence and is liable on conviction to imprisonment for a term not less than five years.

Prohibition of acquisition of property derived from drug offence.

- 9.** (1) A person who knowingly—
- (a) acquires, possesses or uses property that is derived from any offence under this Part; or
 - (b) converts or transfers property derived from any offence under this Part,

commits an offence and is liable on conviction to a fine not less than twenty million leones or to a term of imprisonment for a term not less than five years or to both the fine and imprisonment.

(2) In addition to the penalty prescribed in subsection (1), the property shall be forfeited to the State.

Prohibition of possession of equipment for manufacture of drugs, etc.

- 10.** A person who, without lawful authority—
- (a) possesses any material or substance listed in the Second Schedule or otherwise, intended to be used in or for manufacture or cultivation of drugs;
 - (b) manufactures, transports or distributes any material or substance listed in the Second Schedule or otherwise, intended to be used in or for the manufacture or cultivation of drugs;

- (b) the affairs of any person or entity, to determine the manner and circumstances in which that person or entity acquired, used, controlled or disposed of such property.

(3) Subject to the general or specific direction of the Attorney-General, the Agency may—

- (a) take charge of the conduct of proceedings against any person in respect of any offence under this Act;
- (b) institute and conduct proceedings before any court in Sierra Leone with a view to the restraint, confiscation or forfeiture of any property being the proceeds or instrumentality of any offence under this Act.

(4) For the purpose of inquiring into and ascertaining whether property is the proceeds of or an instrumentality of an offence under this Act, the Agency may, by notice in writing require any person to furnish it within such period as is specified in the notice, such relevant information, returns, accounts, books or other documents in the custody of such person as the Agency may consider fit and proper within the circumstances.

(5) A person who fails to comply with a requirement under subsection (4) commits an offence and is liable on conviction to a fine not less than twenty million leones or to imprisonment for a term not less than five years or to both the fine and imprisonment.

4. (1) The Executive Director of the Agency, shall be appointed by the President subject to the approval of Parliament. Executive Director and other staff of Agency.

(2) The Executive Director shall be a person of high personal probity.

(3) The Executive Director shall hold office for a term of three years and thereafter shall be eligible for re-appointment for another term only.

(4) As head of the Agency, the Executive Director shall have responsibility for—

- (a) the effective performance of its duties and the proper exercise of the powers of the Agency;
- (b) the day-to-day management of the affairs of the Agency;
- (c) the administration, organization and control of the other staff of the Agency.

(5) In addition to the Executive Director, the Agency shall have such other staff including investigators and prosecutors as may be required for the efficient performance of its functions.

(6) The Agency may, from time to time, employ such other persons as the Executive Director may consider necessary to assist it in the performance of its functions.

(7) The staff of the Agency shall be public officers.

(8) Other public officers may be seconded or called upon to render assistance to the Agency.

(9) The Executive Director shall not later than three months after the end of every year, submit to the President and lay before Parliament a report of the activities of the Agency in that year.

Advisory Council.

5. (1) There is hereby established a body to be known as the Advisory Council.

(2) The Advisory Council shall consist of a chairman and such other members as may be appointed by the President subject to the approval by Parliament

(3) The members of the Advisory Council shall hold office for a term of three years and thereafter shall be eligible for re-appointment for another term only.

(4) A member of the Advisory Council may resign his office by writing addressed to the President.

(5) The members of the Council shall be paid such allowances as may be stated in their letters of appointment.

(6) The Advisory Council shall appoint a person to serve as secretary to the Council.

6. (1) The Advisory Council shall—

Functions of Advisory Council

- (a) provide strategic guidance to the Agency in the discharge of its functions and to other institutions having functions similar to those of the Agency;
- (b) review and where appropriate recommend revision to the national drug strategy and ensure its effective implementation; and
- (c) upon request, advise the President on matters relating to this Act.

(2) The Advisory Council shall regulate its proceedings.

PART III—DRUG ABUSE, DRUG TRAFFICKING AND RELATED OFFENCES

7. A person who, without lawful authority—

- (a) prepares, extracts, manufactures, produces, or cultivates a prohibited drug;
- (b) collects, transports, imports, exports, transships or transmits any prohibited drug;
- (c) supplies, administers, sells, exposes or offers for sale or otherwise deals in or with any prohibited drug.

Prohibition of manufacture, cultivation, importation and exportation of drugs, etc.

commits an offence and is liable on conviction to life imprisonment.

- (b) the offence was committed–
- (i) by a health professional or person responsible for combating drug abuse or drug trafficking–
 - (ii) in a teaching or educational institution, a hospital or health care institution, a social service facility or in other places to which school children or students resort for educational, sports or social activities, or in the immediate vicinity of such establishments and premises; or
 - (iii) in a penal or correctional institution or a military, police, customs or any other law enforcement establishment;
- (c) the drug was supplied or offered to a minor, a mentally handicapped person or a person undergoing medical treatment, or whether the use of the drug by such person was facilitated by another;
- (d) the drug supplied caused death or seriously impaired the health of another person.

Suspension of sentences.

14. Where a person who has been convicted of an offence under this Part is a first offender, the court may suspend the whole or part of the penalties imposed on the person, on such terms and conditions as appear to be necessary to ensure that the person does not re-offend, if it is in the interests of justice and not contrary to the broader public interest, to make such order.

- (c) engages in the organization, management or financing of any offence under this Part; or
- (d) engages in any activity for the purpose of establishing or promoting any enterprise relating to drugs,

commits an offence and is liable on conviction to a term of five years imprisonment and the equipment, material or substance shall be confiscated to the State.

11. A person who, without lawful authority, uses, transfers the possession of, sends or delivers to any person or place, transports, transmits, alters, disposes of or otherwise deals with, in any manner, any property or proceeds of any property with intent to conceal, disguise or convert that property or those proceeds knowing that all or part of that property or of those proceeds was obtained or derived directly or indirectly as a result of–

Prohibition of laundering proceeds derived from drug offence.

- (a) the commission of an offence under this Act; or
- (b) an act elsewhere which if it had occurred in Sierra Leone would have constituted an offence under this Act,

commits an offence and is liable on conviction to a fine not less than thirty million leones or to a term of imprisonment not less than ten years.

12. (1) Where a person has been convicted of an offence under section 8 the court may in addition to the penalty prescribed for that offence, make an order requiring the offender to undergo measures such as treatment, education, aftercare, rehabilitation or social reintegration.

Additional orders.

(2) Where a minor has been convicted of an offence under section 8, the court may order as an alternative to the penalty prescribed for that offence, that the minor undergoes treatment, education, aftercare, rehabilitation or social reintegration, as the circumstances may determine.

(3) Where the court in sentencing a person convicted under section 8 finds that having regard to the unaggravated nature of the offence or any special circumstances relating to the offence or the offender, the imposition of the prescribed penalty would be harsh or unconscionable, it may sentence the offender to a lesser term of imprisonment or impose a fine of not less than five million leones.

(4) Where a non-citizen or citizen of Sierra Leone by naturalization has been convicted of an offence under this Part, the court may, in addition to the penalty prescribed for that offence, make an order for—

- (a) the withdrawal or cancellation of the person's visa or citizenship; and
- (b) the prohibition from re-entry into or deportation from Sierra Leone, of that person.

(5) Where a person is convicted of an offence under this Part, the court may in addition to the penalty prescribed for that offence, confiscate or forfeit any equipment or property which is the subject matter of the offence or which has been used for the commission of the offence.

(6) No conveyance used for the commission of the offence shall be forfeited if the offence was committed by a person other than the owner or person in charge of the conveyance and it is proved to the court that the use of such conveyance for the commission of the offence was without the knowledge or consent of the owner or person in charge of the conveyance and was not due to any neglect, default, or lack of reasonable care by the owner or person in charge of the conveyance.

(7) In making an order for forfeiture, the court may give—

- (a) directions for the purpose of determining any dispute as to the ownership of or other interest in the property or any part thereof;

(b) directions as to the disposal of the property; and

(c) such other directions as it may think fit.

(8) On an application by a person in respect of whose property a forfeiture order has been made under this Part, the court may order that a sum determined by the court to be the value of the property, be paid by that person to the court and upon payment of that sum the property shall be returned to him.

13. In determining the nature and extent of any penalty to be imposed in relation to any person convicted of an offence under this Part, the court shall take into account whether— Grounds for aggravation.

- (a) the person convicted-
 - (i) belonged to an organized criminal syndicate;
 - (ii) participated in other illegal activities facilitated by the offence;
 - (iii) used violence or arms;
 - (iv) committed the offence in the exercise of a public office or public duty;
 - (v) added any substance to the drugs which aggravated their danger to a user;
 - (vi) made use or took advantage of a minor or mentally handicapped person in committing the offence; or
 - (vii) is in a state of recidivism: and any convictions pronounced abroad shall be taken into account in establishing recidivism.

Agency staff to exercise police powers.

25. The Attorney-General may, by statutory instrument, make regulations—

Act No. 7 of 1964.

Act No. 12 of 2001.

- (a) authorizing designated staff of the Agency to exercise the powers conferred on police officers under the Police Act, 1964 and the Pharmacy and Drugs Act, 2001 in respect of investigations, arrests, detention, entry and search and seizure, subject to such restrictions as are stated in the instrument; and
- (b) conferring on the staff of the Agency, such other powers as may be necessary for the effective implementation of this Act.

Appointment of inspectors.

26. (1) The Minister may designate any staff of the Agency as an inspector for the purposes of this Act.

(2) An inspector shall perform such duties as the Minister may direct.

(3) The Minister shall cause to be issued to an inspector an identity card bearing the name and a recent photograph of the inspector and authorization to perform the duties of inspectors under this Act.

Duty to account for drugs, controlled chemicals and equipment.

27. (1) Notwithstanding anything to the contrary in any enactment, a person who is registered or holds a licence or permit issued under the Pharmacy and Drugs Act, 2001 for the control, supply, manufacture or in any way dealing with a drug, controlled chemical, controlled equipment or material shall, when required to do so in writing by an inspector, provide the inspector with a statement in writing, signed and dated by the person accounting for each drug, controlled chemical or item of controlled equipment or material in his possession at any time since registration or the grant of the licence, or permit, as the case may be.

15. An attempt or conspiracy to commit an offence or aiding, abetting, counseling or procuring the commission of an offence under this Part shall be punishable as if the offence had been committed.

Attempts, conspiracy, aiding, abetting etc.

16. A person who, being in Sierra Leone assists in or induces the commission outside Sierra Leone of an offence punishable under the law of a foreign State relating in whole or in part to the control of any drug, analogue, controlled chemical, controlled equipment or controlled material, commits an offence.

Assisting in commission of offence abroad.

17. In any proceedings under this Part, the burden of proving that an act was done with lawful authority shall be on the accused person.

Burden of proof.

PART IV—TREATMENT AND REHABILITATION OF OFFENDERS

18. The Minister shall establish treatment assessment panels comprising four persons appointed by the Minister, two of whom shall be a legal practitioner and a medical practitioner respectively and the other two persons having extensive knowledge of the psychological, physical and social problems connected with the abuse of drugs and analogues.

Treatment assessment panels.

19. (1) Where a person is convicted of an offence under this Act and the court considers that the person may have been—

Treatment orders.

- (a) under the influence of a drug or analogue at the time of the commission of the offence; or
- (b) motivated to commit the offence by a desire either to use the drug or analogue or obtain resources to enable its use,

the court may order that the person submits himself for assessment by a treatment assessment panel.

(2) Where the panel recommends that the person undergoes treatment at an approved treatment centre, the court may—

- (a) order that the person, during a period of two years or such shorter period as the court may specify, submit himself to the treatment specified in the order or for such other treatment as directed from time to time by the panel; and
- (b) specify conditions relating to the supervision of the person, including attendance at a treatment centre, and periodic attendance before a treatment assessment panel for review and evaluation of treatment and progress.

Suspension of penalties.

20. Where the court makes an order under paragraph (a) of subsection (2) of section 19, it may also order that any or all of the penalties prescribed for the offence in question be suspended.

Discharge of penal provisions.

21. Where a person completes treatment ordered under paragraph (a) of subsection (2) of section 19 to the satisfaction of a treatment assessment panel, and within two years from the date of his conviction, commits no further offence under this Act, or any other related enactment, any order made under this Act –

- (a) shall be deemed to be fully served and discharged in respect of that person in relation to the offence in respect of which it was made; and
- (b) in relation to any other offence, may be discharged by order of the court if it is satisfied that it is in the public interest to

make such an order, following consideration of a report of a treatment assessment panel that the person is fit to return to everyday responsibilities and functions.

22. (1) Where a person fails to complete the course of treatment ordered to the satisfaction of the treatment assessment panel, the court may, on the recommendation of the panel, revoke the order of suspension made under section 20. Revocation of suspension order.

(2) Where a suspension order made under section 20 is revoked, any time spent in treatment shall count as time towards the discharge of any relevant orders made under this Act.

23. Any person who, without reasonable excuse, refuses or fails to— Offences in relation to treatment orders.

- (a) comply with a treatment order;
- (b) inform the authority in charge of a treatment centre attended by the person pursuant to a treatment order of any change in that person's address; or
- (c) appear before a treatment assessment panel as ordered,

commits an offence and is liable on conviction to a fine not exceeding five million leones or to a term of imprisonment not exceeding two years or to both the fine and imprisonment.

PART V – ADMINISTRATION, COMPLIANCE AND ENFORCEMENT

24. For the purposes of this Act, the Agency shall be the focal point and shall take a lead role in all investigations concerning drugs, analogues, controlled chemicals, controlled materials and controlled equipment in Sierra Leone. Agency to serve as focal point.

- (c) require the occupier of the premises to produce any drug register, book, record or document or to give to the inspector any information in his possession relating to such treatment or accommodation;
- (d) exercise any of the powers referred to in paragraphs (c) to (k) of subsection (2) of section 28 which, for the purposes of this section shall apply *mutatis mutandis* to the centre.

Inspectors to produce authority.

30. (1) An inspector exercising any powers conferred under section 28 or 29 shall produce his identity card issued under subsection (3) of section 26, to the person in charge of any place entered for the purposes of inspection pursuant to this Act.

(2) Where an inspector fails or refuses to produce his identity card, the occupier of the premises shall not be obliged to comply with any requirement of the inspector.

Obstruction of inspectors, etc.

31. A person who, without reasonable excuse—

- (a) obstructs or hinders an inspector in the exercise of the powers or performance of the duties of inspectors under this Act; or
- (b) refuses or fails to comply with a reasonable request of an inspector who has entered any premises in accordance with this Act,

commits an offence and is liable on conviction to a fine not less than two million leones or to a term of imprisonment not less than twelve months or to both the fine and imprisonment.

Application for warrant.

32. (1) Where the Executive Director or a police officer not below the rank of Assistant Inspector General of Police has reasonable grounds to believe that a person has committed an offence or is about to commit an offence under this Act, the Executive Director or the police officer may apply to the court for the a warrant.

(2) Any person who fails or refuses or neglects to comply with a requirement under subsection (1) commits an offence and is liable on conviction in the case of an individual to a fine not less than ten million leones and in the case of a body corporate to a fine not less than hundred million leones.

28. (1) Subject to section 30, an inspector may at any time during ordinary business hours with such assistance and force as is reasonably necessary enter any premises or place at which a person who is registered or who holds a licence or permit under the Pharmacy and Drugs Act, 2001, carries on any activity, to ascertain whether this Act is being complied with.

Exercise of powers by inspectors.

Act No 12 of 2001

(2) Upon entry into any premises or place pursuant to subsection (1), an inspector may—

- (a) require the occupier of the premises to state his name and address;
- (b) inspect the premises or place in order to ascertain whether this Act, or a term or condition of any licence or permit granted under the Pharmacy and Drugs Act, 2001 has been or is being complied with;
- (c) examine any label, advertising material, register, record, book, electronic data or other document therein relating to any drug, controlled chemical or item of controlled equipment or material;
- (d) make an extract from any register, record, book or document or take a copy thereof, and require from any person having the custody of any register, record, book or document, an explanation of an entry in the register, record, book or document;

Act No 12 of 2001

- (e) open and examine any receptacle or package found in that place in which a drug, analogue, controlled chemical or item of controlled equipment may be found;
- (f) examine anything found in that place that is used or may be capable of being used for the manufacture, packaging or storage of a drug, analogue, controlled chemical or item of controlled equipment or material;
- (g) use or cause to be used any computer system at that place to examine any electronic data referred to in paragraph (c) or (f), and reproduce any document from the data or cause it to be reproduced in the form of a print-out or other output;
- (h) take anything referred to in paragraph (c) or (f) for examination or copying;
- (i) use or cause to be used to make copies of any document any copying equipment found at that place;
- (j) examine any substance found in that place and take, for the purpose of analysis, such samples thereof as are reasonably required;
- (k) seize and detain anything which, in the opinion of the inspector, is connected with, or may provide proof of a contravention of this Act, or a term or condition of any licence or permit granted under the Pharmacy and Drugs Act, 2001, or which the inspector believes on reasonable grounds is necessary for the purpose of ensuring compliance with this Act.

(3) Where an inspector seizes and detains any substance suspected to be a drug, analogue, controlled chemical or item of controlled equipment or material, he may direct that it be kept or stored at the place where it was seized or be removed to any other suitable place.

(4) Where an inspector determines that for the purpose of ensuring compliance with this Act it is no longer necessary to detain a substance reasonably suspected to be a drug, controlled chemical or item of controlled equipment or material under paragraph (k) of subsection (2), he shall notify in writing, the owner or other person in charge of the place where it was detained, of that determination and, on being issued a receipt therefore shall return the substance to that person.

(5) Where in the ordinary course of duty, an inspector is of the opinion that an offence is being or has been committed under this Act, he shall immediately report that fact to the Executive Director and provide such further lawful assistance as may be reasonably necessary for the purpose of any investigation or proceeding relating to such offence.

29. (1) Subject to section 30, an inspector may at any reasonable time, with such assistance as is reasonably necessary enter the premises of an approved treatment centre.

Inspection of
approved
treatment
centres

(2) Upon entering an approved treatment centre, an inspector may—

- (a) inspect the premises and any facilities provided at or equipment used at the premises for or in connection with the provision of treatment or accommodation at the centre;
- (b) inspect any drug register, book, record or document kept on the premises relating to such treatment or accommodation;

- (c) placing a tracking device on board the vehicle, vessel, aircraft or other means of transport;
- (d) allowing any person who has possession or custody of a drug, analogue, controlled chemical, item of controlled equipment or material or other thing to enter or leave Sierra Leone.

(3) Where the Executive Director or a police officer not below the rank of Assistant Inspector-General of Police suspects on reasonable grounds that any person has committed or is about to commit an offence under this Act, he may give approval in writing for—

- (a) undercover operations to be carried out for a specified period; and
- (b) specified persons or classes of persons to carry out or participate in the undercover operations for the purpose of gathering evidence in Sierra Leone or elsewhere, relating to the commission of the offence.

(4) An approval shall not be given unless the Executive Director or a police officer not below the rank of Assistant Inspector-General of Police—

- (a) suspects on reasonable grounds that any person, whose identity may or may not be known, has committed, is committing or is about to commit an offence under this Act;
- (b) is satisfied on reasonable grounds that the proposed undercover operations—
 - (i) are properly designed to provide the suspect with an opportunity to manifest or provide evidence of that offence; and

(2) An application under subsection (1) shall be made for any of the following purposes:—

- (a) monitoring, intercepting and recording the communications of a person;
- (b) monitoring and recording the conduct and movements of a person;
- (c) the performance of any function under this Act;

(3) An application for a warrant shall specify—

- (a) the facts relied upon to justify the belief;
- (b) that the urgency of the matter is such that it would be impracticable to carry out the investigation using normal investigative procedures and processes or that in the absence of a warrant, it is likely that information critical to the investigation would not be obtained;
- (c) where the purpose is to intercept a communication—
 - (i) the type of communication proposed to be intercepted;
 - (ii) the type of information, records, documents or things proposed to be obtained; and
 - (iii) the identity of the person, if known, whose communication is proposed to be intercepted or who has possession of the information, records, documents or things proposed to be obtained;

- (d) the person or class of persons to whom the warrant is proposed to be directed;
- (e) a general description of the place where the warrant is proposed to be executed, provided a general description of that place can be given;
- (f) any previous application made in relation to a person referred to in subparagraph (iii) of paragraph (c), the date on which the application was made and the decision of the judge to whom the application was made.

(4) In issuing a warrant, the judge shall specify the period not exceeding thirty days during which the warrant is to be in force and such period may be extended if it is in the interest of justice and not contrary to the public interest to do so.

Effect of warrant.

33. (1) A warrant issued under section 32 shall authorise every person or class of persons to whom it is issued to exercise the powers specified in the warrant for any of the purposes set out in subsection (2) of section 32.

(2) In addition, the warrant shall authorise the provision of reasonable assistance to the person exercising the powers specified in the warrant by any person where the person to be assisted is exercising the powers in accordance with the warrant.

Admissibility of evidence obtained under warrant.

34. Notwithstanding any enactment to the contrary, evidence obtained pursuant to and in accordance with a warrant issued under section 32—

- (a) shall be admissible in any proceedings relating to an offence under this Act;
- (b) may be communicated to any competent authority—

- (i) in Sierra Leone, for the purpose of an investigation or proceeding relating to a serious offence; or
- (ii) outside Sierra Leone, for the purpose of a legal assistance request, made or received under Part VI.

35. (1) Where the Executive Director or a police officer not below the rank of Assistant Inspector General of Police suspects on reasonable grounds that any person has committed, or is about to commit, an offence under this Act, he may give approval in writing for—

Undercover and controlled delivery operations.

- (a) a controlled delivery to be carried out; and
- (b) specified persons or classes of persons to carry out or participate in the controlled delivery.

(2) Notwithstanding any enactment to the contrary, the activities which may be undertaken in the course of and for the purposes of a controlled delivery may include—

- (a) allowing any vehicle, vessel, aircraft or other means of transport to enter or leave Sierra Leone;
- (b) allowing any—
 - (i) drug, analogue, controlled chemical or controlled equipment or material or other thing in or on the vehicle, vessel, aircraft or other means of transport; or
 - (ii) property believed to be derived directly or indirectly from any offence,

to enter or leave Sierra Leone, or be delivered or collected in Sierra Leone;

- (b) anything that he believes on reasonable grounds to contain or conceal such a drug, analogue, controlled chemical or item of controlled equipment or material or thing;
- (c) anything that he believes, on reasonable grounds, to be property derived from a serious offence: or
- (d) anything that he believes on reasonable grounds will afford evidence in respect of an offence under this Act.

Search or seizure without warrant in emergencies.

39. (1) An authorised person may exercise any of the powers in subsections (2) and (3) of section 38 without a warrant if the conditions for issuing a warrant under subsection (1) of that section exist and he believes on reasonable grounds that—

- (a) it is necessary to do so in order to prevent the concealment, loss or destruction of anything connected with an offence; and
- (b) the circumstances are of such seriousness and urgency as to require the immediate exercise of the power without the authority of a warrant issued under subsection (1) of section 38 or of an order of the court.

(2) An authorised person acting under subsection (1) may—

- (a) search any person or the clothing that is being worn by, and property in the apparent control of a person whom he suspects to be carrying anything connected with an offence; or

- (ii) will not give rise to an undue risk that any person not involved in criminal activities would be encouraged to commit a criminal offence they would otherwise not have contemplated.

(5) The Executive Director or a police officer not below the rank of Assistant Inspector-General of Police may from time to time renew an approval given under subsection (3) for periods not exceeding six months.

(6) The Executive Director or a police officer not below the rank of Assistant Inspector-General of Police shall within twenty eight days of giving or renewing an approval, give a copy of the instrument of approval or renewal to the Attorney-General.

(7) Any drug, analogue, controlled chemical, controlled equipment, controlled material or other thing imported into Sierra Leone in the course of an approved undercover operation or controlled delivery shall, when no longer required for the purposes of the due enforcement of this Act, be liable to be dealt with as if it were a prohibited import for the purposes of the Customs Act.

Cap. 271.

(8) Notwithstanding any enactment to the contrary, an authorised participant in an undercover operation or a controlled delivery shall not incur criminal liability for taking part in such operation or delivery in accordance with the terms of approval.

36. (1) Notwithstanding any enactment to the contrary, where the Executive Director suspects on reasonable grounds that any consignment by mail may contain evidence of the commission of a serious offence, the Executive Director may give approval in writing to an authorized person to carry out at any time inspections in the postal services in order to detect that consignment, and if found, to detain it for further investigation.

Monitoring of mails.

(2) The Court may, upon application by a competent authority and if satisfied that there are reasonable grounds to believe

that any consignment detected and detained under subsection (1) may contain evidence of the commission of a serious offence, order an authorized person to—

- (a) open the consignment; and
- (b) if such evidence is found on opening the consignment, to seize and detain it until further order of the court.

Access to computer systems.

37. (1) Where it appears to the court that a computer system in the custody of any person contains data which may be relevant to proving an offence under this Act, the court may order the person having custody or control of that system to give any authorised person, access to that data.

(2) Any person who, without reasonable excuse, refuses or fails to—

- (a) give access as ordered; or
- (b) provide reasonable assistance to enable the data to be retrieved and recorded,

commits an offence and is liable on conviction to a fine not less than five million leones or to a term of imprisonment not less than five years or both the fine and imprisonment and in the case of a body corporate to a fine not less than hundred million leones.

Search warrants.

38. (1) Where a court is satisfied that there are reasonable grounds to believe that there is in any place—

- (a) a drug, analogue, controlled chemical or item of controlled equipment or material in respect of which this Act has been contravened;
- (b) anything in which such a drug, analogue, controlled chemical or item of controlled equipment or material is contained or concealed;

(c) any property derived from a serious offence;
or

(d) any other thing that will afford evidence in respect of an offence under this Act,

the court may issue a warrant empowering an authorized person at any time, or at such time as the court may specify in the warrant, to enter the place, search for the drug, analogue, controlled chemical, item of controlled equipment or material or thing and if found, seize it.

(2) An authorised person who executes a warrant under subsection (1) may—

(a) enter any place named or described in the warrant and search the place for things of the kind described in the warrant;

(b) search any person found at or in the place, or any person whom he reasonably believes to be about to enter or to have recently left the place, and any clothing that the person is wearing, or property in the apparent control of the person that the authorized person believes on reasonable grounds, to be connected with the offence;

(c) seize anything of the kind described in the warrant found as a result of the search.

(3) An authorised person who executes a warrant issued under subsection (1) may seize, in addition to the things specified in the warrant—

(a) any drug, analogue, controlled chemical or item of controlled equipment or material in respect of which he believes on reasonable grounds that this Act has been contravened;

Collection and processing of evidence at seizures.

44. (1) The authorised person in charge at a seizure scene shall ensure that any material evidence is collected and processed, and in particular that any seized drug, analogue or controlled chemical is properly marked for identification, weighed, counted, sampled, sealed, labeled and, until destroyed or otherwise disposed of in accordance with section 47, preserved for evidentiary purpose.

(2) The authorised person in charge of the seizure shall also prepare a report of the seizure as soon as possible but not later than seven days after seizure, which report shall include particulars of—

- (a) the time, place and date of seizure;
- (b) the identity of the authorised person who carried out the seizure and all persons present at the place;
- (c) the circumstances in which the seizure took place;
- (d) a description of the vehicle, vessel, place or person searched and the location where the substance was found;
- (e) a description of the substance found;
- (f) a description of packaging, seals, and other identifying features;
- (g) a description of quantity, volume and units and the measurement method employed;
- (h) all subsequent movements of the seized substance; and
- (i) any other prescribed matter.

- (b) enter and search any place at or in which he believes on reasonable grounds, that anything connected with an offence is situated; and
- (c) seize any object that he finds in the course of that search or at or in that place.

(3) An authorised person may, for the purpose of this section, detain any person whom he believes on reasonable grounds, is carrying without lawful authority or reasonable excuse, anything connected with an offence under this Act.

(4) An authorised person may, for the purposes of this section, stop any vehicle, vessel or aircraft where he believes on reasonable grounds, that anything connected with an offence is in the vehicle, vessel or aircraft.

(5) Any person aggrieved by the seizure of anything under this section by an authorised person may appeal to the court.

(6) Upon hearing an application under subsection (5), the court may—

- (a) confirm the seizure; or
- (b) order the release of the thing seized to the applicant,

subject to such conditions as to the security and continued preservation of the thing as the court thinks fit.

40. (1) An authorised person may for the purposes of this Part, search the clothing that a person is wearing and may remove or require the person to remove any clothing that he is wearing. Search of persons and clothing.

(2) A person shall not be searched under this Act except by an authorised person of the same sex.

Search of
internal body
cavity.

41. (1) Where an authorised person has reason to believe that a person is transporting any drug or analogue by concealing it inside his body and the person refuses to submit to a medical examination, he may detain the person for a period not exceeding seventy two hours, pending the obtaining of an order of the court under subsection (2).

(2) Where the court is satisfied that there are reasonable grounds to believe that a person is transporting any drug or analogue by concealing it inside his body and the person has refused without reasonable cause to submit to a medical examination, the court may issue an order—

- (a) directing the person to submit forthwith to such medical examination including X-ray or other tests as may be reasonably necessary to establish whether the person is transporting a drug or analogue inside his body;
- (b) authorising the person to be taken in custody by an authorised person to any place stated in the order for the purpose of having the medical examination carried out; and
- (c) authorising any medical practitioner to carry out such examination and to provide such medical treatment as may be reasonable and appropriate in the circumstances.

(3) A person who without reasonable excuse, refuses or fails to submit to a medical examination as directed by order made under subsection (2) commits an offence and is liable on conviction to a fine not exceeding ten million leones or imprisonment for a term not less than two years or to both the fine and imprisonment.

Temporary
detention of
suspects.

42. Any person other than a person suspected on reasonable grounds of having committed an offence under this Part, may be arrested and detained for a period not exceeding 72 hours.

43. (1) Subject to subsection (2), where it appears to any authorised person on reasonable grounds, that cannabis plants, coca bushes or opium poppy or any other plants that are a drug are—

Power to
destroy
cannabis and
other
unlawful
crops.

- (a) growing in the wild; or
- (b) being cultivated unlawfully,

he may, without a warrant and with such assistance and force as is reasonably necessary enter any place on or in which such plants are growing and cause them to be uprooted and destroyed.

(2) The powers to uproot and destroy under subsection (1) shall not be exercised unless the authorised person believes, on reasonable grounds, that in all the circumstances—

- (a) reasonable samples and other evidence have been collected to properly establish the identity and location of the plants under unlawful cultivation; and
- (b) it appears necessary to the authorised person to exercise the powers forthwith, in order to prevent other persons known or unknown from-
 - (i) unlawfully harvesting, removing, concealing or using the plants; or
 - (ii) endangering the life or safety of the authorised person or any other person,

before the plants can be safely seized, secured and disposed of in accordance with normal investigative practices.

(6) Subject to this section, in any prosecution for an offence under this Act, a certificate or report—

- (a) purporting to be signed by the person in charge of carrying out a disposal order made under subsection (3) or (4) and two witnesses to the disposal; and
- (b) stating that the substance, the subject of the order, has been disposed of in accordance with the order,

shall be admissible in evidence.

(7) In the absence of evidence to the contrary, a certificate or report admissible under subsection (6) is proof of the statements contained in it, without proof of the signature, expertise or official designation of the person appearing to have signed it.

Special enforcement powers.

48. (1) The powers conferred on authorised persons in sections 49, 50 and 51 shall be exercisable in relation to any ship described in paragraph (c) of subsection (3) of section 50 for the purposes of detecting and taking appropriate action in respect of offences under Part III.

(2) The powers referred to in subsection (1) shall not be exercised outside the seaward limits of the territorial sea of Sierra Leone except with the authority of the Minister of Defence who shall not give such authority unless he is satisfied that—

- (a) in the case of a ship of a Convention State, that the State—
 - (i) requested assistance of Sierra Leone for the purposes of detecting possible serious criminal offences and taking appropriate action; or

(3) The authorized person in charge of an investigation following a seizure shall ensure that all items of evidentiary value are stored in appropriate conditions for the prevention of loss, theft or any other form of misappropriation, as well as accidental or accelerated deterioration.

45. The Minister may designate any appropriately qualified and experienced person or class of persons in Sierra Leone or elsewhere as an analyst for the purposes of this Act. Designation of analysts.

46. (1) As soon as possible but not later than seven working days after counting and weighing any significant quantity of seized substances, samples shall be taken for scientific analysis, in duplicate. Sampling and analysis of bulk seizures.

(2) Any samples taken under subsection (1) shall be signed or otherwise marked for identification by the person in charge of the seizure and any other person present when it is taken.

47. (1) If scientific analysis of a sample indicates that the seized substance is a drug, analogue, or controlled chemical, the person in charge of the seizure shall forthwith forward a copy of any scientific analysis report to the Director of Public Prosecutions and the Executive Director. Early disposal of seized drugs, etc.

(2) Where following receipt of the report referred to in subsection (1) and after due consultation with the Minister, the Director of Public Prosecutions is of the opinion—

- (a) that proceedings are likely to be brought against any person whether or not the identity of that person is known;
- (b) that physical preservation of all the seized substances is not necessary for the purposes of any actual or contemplated proceedings under this Act;

- (c) that the substances may properly and lawfully be used, in Sierra Leone for medical or scientific purposes, or in small amounts for the training of personnel responsible for carrying out functions under this Act; or
- (d) that the substances cannot be safely, securely or conveniently stored until the final determination of proceedings,

the Director of Public Prosecutions shall apply to the court for an order directing the disposal of a part of the seized substances or samples as he certifies are not necessary to retain for the purposes of the due administration of justice.

(3) Where the Director of Public Prosecutions has made an application for a disposal order under subsection (2) in relation to a seizure, and the court is satisfied that—

- (a) the seized substances are illegal property liable to forfeiture under this Act;
- (b) the provisions of this section relating to the taking and analysis of samples have been complied with;
- (c) sufficient samples have been taken, analyzed and preserved to enable all material questions relating to the seized substances to be properly determined in any actual or contemplated proceedings under this Act; and
- (d) any suspect or accused person in relation to the seizure has had reasonable opportunity to have samples independently analyzed at that person's expense,

the court shall order and supervise the public disposal of the seized substances or samples as the court certifies need not be retained, for the purpose of the due administration of justice.

(4) Where, in relation to any seized drug, analogue or controlled chemical, and after reasonable investigative efforts, the Director of Public Prosecutions is—

- (a) of the opinion that proceedings are not likely to be brought against any person for the reason only that no suspect has been identified or located; and
- (b) satisfied that sufficient samples have been taken, analyzed and preserved to enable all material questions relating to the seized substances to be properly determined should any suspect be ultimately identified and proceedings be brought,

the Director of Public Prosecutions may order the disposal of such part of the seized substances or samples as he certifies are not necessary to retain for the due administration of justice.

(5) Substances subject to an order under subsection (3) or (4) shall be disposed of only—

- (a) by delivery to the Minister, for use exclusively in meeting the lawful medical, scientific or training needs of Sierra Leone; or
- (b) by incineration, or such other safe means of destruction as the Minister may direct provided that the disposal be done in the presence of at least three witnesses, consisting of the Registrar of the Pharmacy Board or his representative, an officer of the Agency and a police officer not below the rank of Assistant Inspector-General of Police.

Factual presumptions relating to possession of drugs and analogues.

54. If in the prosecution of a person for an offence under this Act, it is proved that a drug or analogue was found-

- (a) within the immediate vicinity of the accused; or
- (b) on any animal, vehicle, vessel, or aircraft, and that the accused was at the time on or in charge of, or that he accompanied, the animal, vehicle, vessel, or aircraft,

it shall be presumed, until the contrary is proved, that the accused was found in possession of the drug or analogue.

Factual presumption of purpose.

55. For the purposes of this Act, a person shall be deemed to have engaged in conduct whether by act or omission, for a particular purpose, if the person engaged in the conduct for purposes that included that purpose, and that purpose was a substantial purpose.

Proof of street or market value of drug etc.

56. For the purposes of this Act, it shall be competent for any authorised person who is carrying out or has recently carried out, duties relating to the investigation of offences under Part III, to give evidence in any proceedings under this Act as to the street or market value in Sierra Leone of any drug, analogue or controlled chemical, and as to the demand for, availability of and other circumstances pertaining to its sale, supply or distribution, and the court may give such probative weight to that evidence, as it thinks fit.

Factual presumption relating to samples.

57. If in any prosecution for an offence under this Act it is proved that a sample which was taken from any substance possesses particular properties, it shall be presumed, until the contrary is proven, that the substance possesses the same properties.

Proof of continuity of possession of exhibits.

58. (1) In any proceedings under this Act, continuity of possession of any exhibit tendered as evidence may be proved by testimony given under oath or by a statutory declaration of the person claiming to have had it in his possession.

(ii) authorised Sierra Leone to act for that purpose: or

- (b) in the case of a ship of no nationality or a ship that is assimilated under the international law of the sea to a ship of no nationality, it is appropriate to do so.

(3) The Minister of Defence shall impose such conditions or limitations on the exercise of the powers-

- (a) in a case to which paragraph (a) of subsection (2) applies, as may be necessary to give effect to any conditions or limitations imposed by that State; and

- (b) in any other case, as may be appropriate.

(4) The Minister of Defence may, either on his own initiative or in response to a request from a Convention State, authorise a Convention State to exercise, in relation to a Sierra Leone ship, powers corresponding to those conferred on authorized persons under sections 49, 50 and 51 but subject to such conditions or limitations, if any, as he may think fit.

(5) Subsection (4) is without prejudice to any agreement made, or which may be made, on behalf of Sierra Leone whereby Sierra Leone undertakes not to object to the exercise by any other State in relation to a Sierra Leone ship, of powers corresponding to those conferred on authorised persons under sections 49, 50 and 51.

(6) The powers conferred on authorised persons under sections 49, 50 and 51 shall not be exercised in the territorial sea of any State other than Sierra Leone without the authority of the Minister of Defence, who shall not give such authority unless that State has consented to the exercise of those powers.

(7) A certificate purporting to be issued by or on behalf of the government of any State to the effect that the importation or exportation of a drug is prohibited by the law of that State shall be evidence, and in Sierra Leone conclusive evidence, of the matters stated in the certificate.

Power to stop, board, divert and detain ship.

49. (1) For the purpose of this Part, an authorised person may stop a ship, board it and, if he thinks it necessary for the exercise of his functions, require it to be taken to a port in Sierra Leone and detain it there.

(2) Where an authorised person is exercising his powers with the authority of the Minister of Defence pursuant to this section and sections 48, 50 and 51, he may require the ship to be taken to a port in the convention State in question or, if that State has so requested, in any other State willing to receive it.

(3) The authorised person may require the master or any member of the crew to take such action as may be necessary, for the purposes mentioned in subsection (2).

(4) If an authorised person detains a vessel, he shall serve on the master a notice in writing stating that it is to be detained until the notice is withdrawn by the service on the master of a further notice in writing signed by that person.

(5) Notwithstanding any enactment to the contrary, where an authorised person has seized any ship in the exercise of his powers under this Part, the ship may be brought into Sierra Leone and dealt with in accordance with this Act or any other enactment.

Power to search and obtain information.

50. (1) An authorised person may search the ship, anyone on it, and anything on it including its cargo.

(2) An authorised person may require any person on the ship to give information concerning himself or anything on the ship.

(3) Without prejudice to the generality of subsections (1) and (2), an authorised person may—

- (a) open any container;
- (b) make tests and take samples of anything on the ship;
- (c) require the production of documents, books or records relating to the ship or anything on it;
- (d) take photographs or copies of anything whose production he has power to require.

51. If an authorised person has reasonable grounds to suspect that a serious offence under Part III has been committed on the ship, he may—

Powers in respect of suspected offence.

- (a) arrest without warrant anyone whom he has reasonable grounds to suspect has committed an offence; and
- (b) seize and detain anything found in the ship which appears to him to be evidence of the commission of the offence.

52. (1) An authorised person may take with him aboard a ship to assist in the exercise of powers conferred under this Part, any other person and such equipment or materials as he thinks fit.

Assistance in the exercise of functions.

(2) A person whom an authorised person takes to assist, may perform any of that person's functions, but only under the supervision of the authorised person.

53. An authorised person shall, if required by any other person in relation to whom he wishes to exercise any power or carry out any function under this Act, produce evidence of his authority.

Evidence of authority.

- (b) disclose to any other person either the identity of any person who is the subject of such an investigation or any details of such an investigation.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not less than twenty million leones or to a term of imprisonment not less than five years or to both the fine and imprisonment.

Obstruction of authorised persons, etc.

65. A person who—

- (a) intentionally obstructs an authorised person in the performance of his functions under this Part;
- (b) refuses or fails without reasonable excuse to comply with the requirement made by an authorized person in the performance of his functions; or
- (c) in purporting to give information required by an authorised person for the performance of his functions—
- (i) makes a statement he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular; or
- (ii) intentionally refuses or fails to disclose any material information,

commits an offence and is liable on conviction in the case of an individual, to a fine not less than ten million leones or imprisonment for a term not less than five years or to both the fine and imprisonment, and in the case of a body corporate, to a fine not less than one hundred million leones.

(2) Where a statutory declaration of a person is offered as proof of continuity of possession under subsection (1), the court may require the person to appear before it for examination or cross-examination in respect of the issue of continuity of possession.

59. A copy of any record of a ministry, department, agency, local council or other body established by or pursuant to an enactment, or of any statement containing information from the records kept by the ministry, department, agency, local council or other body, purporting to be certified by an official having custody of that document or those records, is admissible in evidence in any prosecution for an offence under this Act, and in the absence of evidence to the contrary, is proof of the facts contained in the document, without proof of the signature or official designation of the person purporting to have certified it.

Admissibility of official records.

60. (1) Subject to this section, in any prosecution for an offence under this Act, a certificate or report purporting to be signed by an analyst and stating that an article, sample or substance has been submitted to, examined and analyzed by the analyst and stating the results of the analysis or examination, is admissible in evidence.

Proof of certificate or report of scientific analysis.

(2) In the absence of evidence to the contrary, a certificate or report admissible under subsection (1) is proof of the statements contained in it, without proof of the signature, expertise or official designation of the person appearing to have signed it.

(3) Without limiting the generality of subsection (1), the certificate or report may include a statement in relation to a drug, analogue or controlled chemical, as to—

- (a) when and from whom it was received;
- (b) what, if any identifying labels or other things accompanied it;
- (c) what container it was in;

- (d) its description and weight;
- (e) if it, or any portion of it, was analyzed—
 - (i) the name of the method of analysis;
 - (ii) the results of the analysis, including its identity, drug or chemical content; and
- (f) how it was dealt with after handling by the analyst, including details of—
 - (i) the quantity retained;
 - (ii) the name of the person, if any, to whom any retained quantity was given; and
 - (iii) measures taken to secure any retained quantity.

(4) The party against whom a certificate or report is produced under subsection (1) may, with leave of the court, require the attendance of the analyst for the purpose of cross-examination.

(5) Unless the court otherwise orders, no certificate or report shall be received in evidence under subsection (1), unless the party intending to produce it has, before the trial, given to the party against whom it is intended to be produced, reasonable notice of that intention, together with a copy of that certificate or report.

Proof that Sierra Leone is party to a Drug Control Convention.

- 61.** A certificate by the Attorney-General stating that—
- (a) an international drug control convention entered into force for Sierra Leone on a specified date; and
 - (b) as at the date of the certificate, the convention remains in force in Sierra Leone is,

for the purpose of any proceedings under this Act, conclusive evidence of those facts.

62. A certificate purporting to be issued by or on behalf of a foreign State to the effect that the import or export of a drug, controlled chemical, controlled equipment or controlled material is prohibited by the law of that State shall for the purpose of any proceedings under this Act, be *prima facie* evidence of the matters stated in that certificate.

Proof of prohibited import or export of drug, etc. under foreign law.

63. Any person who—

- (a) unlawfully interferes with, uses, takes or disposes of any seized substance or any sample thereof; or
- (b) unlawfully interferes with or falsifies the results of any analysis with the intention of interfering with the proper course of justice,

Offence of interfering etc. with evidence.

commits an offence and is liable on conviction, in the case of an individual to a fine not less than ten million leones or to a term of imprisonment not less than five years or to both the fine and imprisonment and in the case of a body corporate to a fine not less than one hundred million leones.

64. (1) Except for the purposes of the due administration and enforcement of this Act, no person shall, without lawful authority or reasonable excuse—

Tipping-off.

- (a) disclose to another person who is the subject of an investigation in respect of an offence alleged or suspected to have been committed by that person under this Act, the fact that he is subject to such an investigation or any details of the investigation; or

- (c) postpone the request, wholly or partly on the ground that to grant the request immediately would be likely to prejudice the conduct of an investigation or proceeding in Sierra Leone.

Limitation on compliance with requests.

71. The Attorney-General shall not comply with a request if the action sought by the request is contrary to the Constitution of Sierra Leone.

Nature of requests.

72. (1) The Attorney-General may request a foreign State to—

- (a) obtain information, documents or other articles for the purpose of an investigation or proceeding under this Act;
- (b) obtain evidence or documents or other articles produced in evidence in the foreign State;
- (c) obtain and execute search warrants or other lawful instruments authorising a search for things believed to be located in that foreign State, which may be relevant to investigations or proceedings in Sierra Leone, and if found, seize them;
- (d) locate or restrain any property believed to be the proceeds of serious crime and located in the foreign State;
- (e) confiscate or forfeit any property believed to be located in the foreign State, which is the subject of a confiscation order or forfeiture order made under this Act;
- (f) transmit to Sierra Leone any confiscated or forfeited property or any proceeds realized from the property or any relevant evidence, documents, articles or things;

66. No suit, prosecution or other legal proceedings shall lie against the Government, the Agency, an authorised person or any other person in respect of anything done by or on behalf of the Government, Agency or person, with due diligence and in good faith, in the exercise of any power or the performance of any function under this Act. Protection of authorised persons etc.

67. (1) An inspector or authorised person who maliciously— Abuse of authority.

- (a) enters or searches or causes to be entered or searched any place, person or clothing of that person, or property under the control of a person;
- (b) seizes the property of a person on the pretext of seizing or searching for any drug, analogue, controlled chemical or item of controlled equipment or material or other property liable to be forfeited under this Act, or of seizing any record, article or other thing liable to be seized under this Act; or
- (c) detains, searches or arrests any person,

commits an offence and is liable on conviction to a fine not less than ten million leones or to a term of imprisonment not less five years or to both the fine and imprisonment.

(2) A person who maliciously gives false information leading to the arrest of another person or a search being made pursuant to this Act commits an offence and is liable on conviction to a fine not less than ten million leones or to a term of imprisonment not less than five years or to both the fine and imprisonment.

68. (1) Subject to subsection (3), a witness in any proceedings under this Act shall not be obliged— Protection of informers.

- (a) to disclose the name or address of any informer who has given information with respect to an offence under this Act, or of any person who has assisted in detecting, investigating or otherwise assisting with respect to the due administration or enforcement of this Act; or
- (b) to answer any question if the answer to it would lead, or would tend to lead, to the disclosure or discovery of the name, address or identity of such informer or person, if the informer or person is not a witness in the proceedings.

(2) If any record which is in evidence or liable to inspection in any proceedings contains an entry in which the informer or other person is named or described or which might lead to the disclosure or discovery of the identity of the informer or the person, the court shall cause all the entries to be concealed from view or to be obliterated so far as may be necessary to protect the identity of the informer or the person.

(3) If in any proceedings under this Act the court, after an enquiry into the case, is satisfied that an informer willfully made a material statement which he knew to be false or did not believe to be true, or if in any other proceedings the court is of the opinion that justice cannot be fully done between the parties to the proceedings without disclosure of the name of the informer or other person who has assisted in any investigation or the proceedings under this Act, the court may permit enquiry and require full disclosure concerning the informer or person.

69. (1) A person who has acquired knowledge in his capacity as analyst, inspector, authorised person or any other person exercising powers or performing functions under this Act shall not make a record of or divulge or communicate to any other person, any information acquired by him whether directly or indirectly in the course of an investigation under this Act except—

Duty to maintain secrecy.

- (a) if required to do so under this Act or any other enactment;
- (b) when lawfully required to make the disclosure by any court within Sierra Leone;
- (c) for the purposes of any investigation, prosecution or other proceedings in Sierra Leone or elsewhere; or
- (d) for the due administration and enforcement of this Act.

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not less than five million leones or to a term of imprisonment not exceeding two years or to both the fine and imprisonment.

PART VI—MUTUAL ASSISTANCE IN INVESTIGATIONS AND PROCEEDINGS RELATING TO DRUGS

70. (1) For the purposes of this Act, all requests to foreign States for legal assistance in investigations and proceedings under this Act, shall be made only by or with the authority of the Attorney-General. Authority to make requests for legal assistance.

(2) A request by a foreign state for assistance in investigations and proceedings instituted in that State on any drug-related matter shall be made to the Attorney-General.

(3) Subject to section 71 the Attorney-General may, in respect of any request from a foreign State—

- (a) grant the request wholly or partly, on such terms and conditions as he thinks fit;
- (b) refuse the request wholly or partly, on the ground that to grant the request would be likely to prejudice the sovereignty, security or other essential public interest of Sierra Leone; or