

ACT

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THE MEDICAL EXAMINERS ACT, 2021

ARRANGEMENT OF SECTIONS

Sections

PART I- PRELIMINARY

1. Interpretation.

PART II -ESTABLISHMENT OF OFFICE OF THE MEDICAL EXAMINER

2. Establishment of Office of Medical Examiner.
3. Appointment and qualifications of Chief Medical Examiner.
4. Tenure of office of Chief Medical Examiner.
5. Remuneration of Chief Medical Examiner.
6. Appointment and qualifications of Deputy Chief Medical Examiner.
7. Regional offices.

PART III -REPORTING DEATHS AND PRESERVING RECORDS

8. Reportable death.
9. Obligation to report death.
10. Police officer to report to Chief Medical Examiner.
11. Viewing of body by Medical Examiner.
12. Body not to be moved.
13. Duty to preserve medical records.
14. Certification and completion of reportable deaths.

15. Certificate as evidence.
16. Finding of Chief Medical Examiner.
17. Custodian of records.
18. Confidential information.

PART IV - FUNCTIONS AND POWERS OF THE CHIEF MEDICAL EXAMINER

19. Functions of Chief Medical Examiner.
20. Conduct of investigation.
21. Post-mortem examination.
22. Purpose of investigation.
23. Post-mortem examination report.
24. Power to order exhumation.
25. Power to order release for burial, cremation, etc.

PART V- FUNDS AND ACCOUNTS OF THE OFFICE OF THE MEDICAL EXAMINER

26. Funds of Office of Medical Examiner.
27. Accounts and audit of Office of Medical Examiner.
28. Internal Auditor.
29. Financial year of Office of Medical Examiner.
30. Annual report.

PART VI - MISCELLANEOUS PROVISIONS

31. Repeal of Cap 9.
32. Regulations.

SIGNED this 23rd day of June, 2021.

DR. JULIUS MAADA BIO,
President.



No. 4

2021

Sierra Leone

The Medical Examiners Act, 2021

Short title.

Being an Act to repeal and replace the Coroners Act, 1907 (Cap 9), to establish the Office of Medical Examiner; to provide for the appointment of the Chief Medical Examiner and other staff; to require the reporting of reportable deaths; to establish the procedures for investigation into and reporting of reportable deaths, matters related to public health or safety and the administration of justice and to provide for other related matters.

[] Date of commencement.

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

Passed in Parliament this 14th day of June, in the year of our Lord two thousand and Twenty One.

PARAN UMAR TARAWALLY,
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correct printed copy of the said Bill.

PARAN UMAR TARAWALLY,
Clerk of Parliament.

PART I - PRELIMINARY

- Interpretation.
1. In this Act, unless the context otherwise requires-
- "body" means a dead person, and includes any part of a dead person (whether or not the identity of the person concerned is known when the part is discovered or is later determined) but does not include a foetus or a still-birth child;
- "cause of death" includes not only the apparent cause of death as ascertainable by inspection or examination of a body, but also all matters necessary to enable an opinion to be formed as to the manner in which the deceased came by his death;
- "investigation" means an investigation into a death conducted by the Chief Medical Examiner and includes a post-mortem examination;
- "Chief Medical Examiner" means the Chief Medical Examiner appointed under section 3;
- "medical treatment or care" includes any operation, surgical, diagnostic or therapeutic procedure;
- "Minister" means the Minister of Internal Affairs;
- "Office of the Chief Medical Examiner" means the Office of the Chief Medical Examiner or his designate established under section 2;
- "pathologist" means a medical practitioner who is registered as a specialist in pathology under the Medical Practitioners and Dental Surgeons Act 1994; (Act No. 12 of 1994)
- "place of custody" means a place in which a person may lawfully be held, confined, detained or committed;'
- "reportable death" means a death specified as reportable under subsection (2) of section 8.
- "Custody" means a person held, confined or detained under the guardianship of someone or an institution.
- "Rescuer" means someone authorised by the Chief Medical Examiner to assist with the retrieval and preservation of bodies.

PART II - ESTABLISHMENT OF OFFICE OF THE MEDICAL EXAMINER

2. (1) There is hereby established the Office of the Medical Examiner. Establishment of Office of Medical Examiner.
- (2) The Office of the Medical Examiner shall consist of -
- the Chief Medical Examiner;
 - the Deputy Chief Medical Examiner;
 - Medical Examiners; and
 - a Secretariat composed of such other staff as may be required for the purposes of the Office of the Medical Examiner.
3. (1) The Chief Medical Examiner shall be appointed by the President, on the recommendation of the Minister, subject to the approval of Parliament and on such terms and conditions as may be stated in his letter of appointment. Appointment and qualification of Chief Medical Examiner.
- (2) A person shall not be qualified to be appointed as a Chief Medical Examiner under subsection (1) unless he is a qualified physician, experienced in the field of forensic pathology and licensed to practice in Sierra Leone.
4. (1) The Chief Medical Examiner shall hold office for a term of 4 years and shall be eligible for reappointment for a further term of 4 years. Tenure of office of Chief Medical Examiner.
- (2) The Chief Medical Examiner may resign his office by written notice to the President and may be removed from office only for his inability to perform the functions of his office, whether arising from infirmity of body or mind, or for proven misconduct.

Remuneration
of Chief
Medical
Examiner.

5. (1) The Chief Medical Examiner shall be entitled to such salary, allowances, gratuity and pension as may be determined by Parliament and such entitlements shall not be varied to his disadvantage.

(2) The Chief Medical Examiner shall also be entitled to such privileges, rights and other terms and conditions of office as may be stated in his letter of appointment.

Appointment
and
qualifications
of Deputy
Chief
Medical
Examiner.

6. (1) The Minister shall, after consultation with the Chief Medical Examiner, appoint a qualified physician or Medical Care Practitioner experienced in the field of forensic pathology and licensed to practice in Sierra Leone, to serve as Deputy Chief Medical Examiner.

(2) The Deputy Chief Medical Examiner appointed under subsection (1), shall be responsible to the Chief Medical Examiner for the management and supervision of all Medical Examiner regional offices established under section 7 and shall perform such other duties as may be delegated or assigned to him by the Chief Medical Examiner.

Regional
offices.

7. (1) The Chief Medical Examiner may, after consultation with the Minister, establish offices in all the administrative regions of Sierra Leone, for the effective performance of the functions of the Office of the Medical Examiner.

(2) A regional office established under subsection (1), shall be headed by a Medical Examiner and shall perform the functions of the Office of the Medical Examiner in that region and in such manner as the Chief Medical Examiner may direct.

PART III - REPORTING DEATHS AND PRESERVING RECORDS

Reportable
death.

8. (1) A person who becomes aware of a death which is, or appears to be, a reportable death shall, as soon as reasonably practicable, make a report of the death to a police officer or to the Office of the Medical Examiner.

(2) A person reporting reportable death cannot be treated or detained as suspect except where preliminary evidence indicates that the person reporting could be prima facie suspect.

(3) A death is reportable under subsection (1), if -

(a) the death happened in Sierra Leone and -

(i) it is not known who the person is;

(ii) the death was a violent or otherwise unnatural death, including the death of a person who dies at any time after receiving an injury that caused the death or contributed to the death and without which the person would not have died;

(iii) the death happened in suspicious circumstances;

(iv) the death was a health care related death;

(v) a death certificate has not been issued, and is not likely to be issued, for the person;

(vi) the death was a death in care;

(vii) the death was a death in custody;

(viii) the death happened in the course of or as a result of police operations.

(b) the death occurred outside Sierra Leone, notwithstanding that -

(i) the body is in Sierra Leone;

(ii) at the time of death, the person ordinarily lived in Sierra Leone;

- (iii) at the time of death, the person was on a journey to or from Sierra Leone; or
- (iv) the death was caused by an event that happened in Sierra Leone.

Obligation to report death in custody or care.

- 9. (1)** Where a person dies -
- (a) in the course of being arrested or detained by any person in the exercise or purported exercise of a power of arrest or detention, it shall be the duty of the person exercising the power of arrest or detention to report the death; or
 - (b) while he is -
 - (i) in official custody, it shall be the duty of the person in charge of the place of custody where the deceased died; or
 - (ii) outside a place of custody, it shall be the duty of the person in whose official care the deceased was at the time of his death, to prepare and submit a report of the death to a police officer within 24 hours upon becoming aware of the death.

(2) A report under subsection (1) shall not be required where the death is the result of the lawful execution of a death sentence.

(3) A person who, without reasonable excuse, contravenes subsection (1), commits an offence and is liable on conviction, to a fine not exceeding Le. 10,000,000 or to imprisonment for a term not exceeding 3 years or to both.

10. A police officer who comes across or receives information about a death, which is, or appears to be, a reportable death shall, as soon as reasonably practicable, -

- (a) make a report at a police station giving details of any information which he obtains with regard to the death;
- (b) inform the Chief Medical Examiner of the death and give particulars concerning the cause of death which has come to his attention;
- (c) furnish the Chief Medical Examiner with such further particulars in connection with the death as may subsequently come to his attention; and
- (d) comply with such directions in connection with the death as the Chief Medical Examiner may give.

Police officer to report to Chief Medical Examiner.

11. (1) The Chief Medical Examiner shall, as soon as possible after a death is reported to him, view the body, if practicable, and make a preliminary investigation at the place where the body is lying, or any other place to which the body has been moved.

Viewing of body by Chief Medical Examiner.

(2) Where the Chief Medical Examiner considers, after viewing the body and making a preliminary investigation, that the death was due to natural causes and that further investigation is unnecessary, he may issue an order for the release of the body.

12. (1) In the case of a reportable death, the body shall not be removed, or the position of the body altered in any manner, unless the removal or alteration of the position of the body is -

Body not to be moved.

(2) The Chief Medical Examiner may in the performance of his duty of retrieval and preservation of bodies recruit rescuers to assist with this duty especially in remote, riverine and hard to access areas.

- (a) authorised by a police officer or Medical Examiner; or
- (b) necessary for the purpose of preventing destruction or damage to the body.

(3) A person who, without reasonable excuse, contravenes subsection (1) commits an offence and is liable on conviction, to a fine not exceeding Le. 100,000,000 or to imprisonment for a term not exceeding 10 years or to both.

Duty to preserve medical records.

13. (1) Where a person dies -

- (a) while in a hospital or medical clinic for medical treatment or care; or
- (b) while he is in official custody,

the person in charge of the hospital, medical clinic or place of custody, as the case may be, shall preserve all medical records, health-care records and any other document pertaining to the medical treatment or care of the deceased as are in the possession of the hospital, medical clinic or place of custody for such period as may be prescribed.

(2) A person who, without reasonable excuse, fails to comply with subsection (1) commits an offence and is liable on conviction, to a fine not exceeding Le. 10,000,000 or to imprisonment for a term not exceeding 3 years or to both.

Certification and completion of report of death.

14. (1) The Chief Medical Examiner shall be responsible for the certification and completion of reports of deaths identified as reportable deaths.

(2) A report under subsection (1) shall be based on the findings of the Chief Medical Examiner after an-

- (a) examination of bodies and useful objects; and
- (b) investigation and inquiry into the circumstances surrounding the death.

15. (1) Notwithstanding anything to the contrary contained in any law, the certificate of the Chief Medical Examiner, under seal, shall be received in any court as *prima facie* evidence of the fact stated in the certificate or attached to the certificate. Certificate as evidence.

(2) A certificate of the Chief Medical Examiner under his seal shall be presumed to be that of the Chief Medical Examiner.

16. The findings of the Chief Medical Examiner shall identify the cause, manner, date, time and place of death of the deceased and shall be made with reasonable care based on a preponderance of the evidence. Findings of Chief Medical Examiner.

17. (1) The Chief Medical Examiner shall be the custodian of the records of deaths and shall make available, upon written request, copies of those records not declared confidential in section 18. Custodian of records.

(2) The Chief Medical Examiner shall, in the exercise of his responsibilities, compile and preserve records and data relating to criminal prosecution, public health, public safety and vital statistics.

18. (1) Subject to subsection (2), the following records in the possession or custody of the Chief Medical Examiner are confidential and shall not be made available to the public - Confidential information.

- (a) medical records relating to death identified as a reportable death;
- (b) police and other law enforcement agency reports or records relating to death identified as a reportable death.

- (c) death certificate, except for the information for which the medical examiner is responsible; and
- (d) photographs and transparencies, histological slides, videotapes and other like items relating to deaths identified as a reportable death.

(2) Notwithstanding subsection (1) access to confidential information or records shall be made available, on request by the appropriate authority, -

- (a) for the purpose of the administration of -
 - (i) criminal or juvenile justice; or
 - (ii) the estate of a deceased person;
- (b) where the Chief Medical Examiner determines access is necessary or desirable to carry out a duty under this Act;
- (c) pursuant to a court order; or
- (d) for an insurer that may be responsible for payment of benefits as a result of a death if relevant to the payment obligation.

PART IV - FUNCTIONS AND POWERS OF THE CHIEF MEDICAL EXAMINER

Functions of
Chief
Medical
Examiner.

- 19.** The Chief Medical Examiner shall be responsible to -
- (a) determine the cause of death, whether it was due to natural causes, homicide, accident, suicide or undetermined causes;
 - (b) issue death certificate stating the cause of death;

- (c) perform autopsies, conduct clinical tests; and
- (d) serve as expert witness in cases involving violent or undetermined deaths.

20. (1) The Chief Medical Examiner shall investigate or cause to be investigated any act relating to a death, particularly one that is unexpected, sudden, violent, or the cause of which is unknown. Conduct of investigation.

(2) Where the Chief Medical Examiner conducts an investigation or cause an investigation to be conducted, he may -

- (a) view the body or cause the body to be viewed at the place where the body is lying or order the body to be removed to some more convenient place and view the body at that place;
- (b) require a medical practitioner or health-care practitioner to furnish, within such time as the Chief Medical Examiner may specify -
 - (i) a detailed report on the medical treatment or care rendered to a deceased person before his death;
 - (ii) such medical records or health-care records pertaining to the medical treatment or care of the deceased;
 - (iii) any other information in the possession of the medical practitioner or health-care practitioner necessary for the purposes of the investigation; and
 - (iv) direct the police to provide such assistance as he may require to investigate the cause of and circumstances connected with a death.

(3) A medical practitioner or health-care practitioner who is required by the Chief Medical Examiner under subsection (1) to provide any report, record, information, substance or thing and who

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- (a) without reasonable excuse, fails to provide the report, record, information, substance or thing;
- (b) provides a report, record or information which he knows or believes to be false or incomplete; or
- (c) tampers or destroys, or causes or permits the tampering or destruction of, any report, record, substance or thing pertaining to the medical treatment or care of the deceased,

commits an offence and is liable on conviction, to a fine not exceeding Le. 10,000,000 or to imprisonment for a term not exceeding 3 years or to both.

Post-mortem examination.

21. (1) The Chief Medical Examiner may conduct or cause a post-mortem examination to be conducted, if he is of the opinion that a post-mortem examination is necessary to establish the manner and cause of death and such examination shall be at the cost of the State.

(2) Where the Chief Medical Examiner conducts or causes a post-mortem examination to be conducted under subsection (1), he may -

- (a) perform or cause to be performed any operation, examination by way of an analysis, test or otherwise of any part or contents of a body that he thinks necessary, including causing any part or contents of a body or any other substance or thing to be retained for the purpose of determining the manner or cause of death; and

- (b) retain any part or contents of a body or any other substance or thing which appears to the Medical Examiner to be relevant in establishing the manner or cause of death.

22. (1) The purpose of an investigation into the death of a person by the Chief Medical Examiner is to establish the cause of and circumstances connected with the death and, for that purpose, the procedure and evidence shall be directed to ascertain - ^{Purpose of investigation.}

- (a) the identity of the deceased; and
- (b) how, when and where the deceased came by his death.

(2) The Chief Medical Examiner shall not frame his finding in such a way as to determine any question of criminal, civil or disciplinary liability but shall not be inhibited in the discharge of his functions by any likelihood of liability being inferred from facts that he determines or recommendations that he makes.

(3) At the conclusion of the investigation, the Chief Medical Examiner shall record his findings as to the matters referred to in paragraphs (a) and (b) of subsection (1).

23. (1) Where the Chief Medical Examiner conducts a post-mortem examination or causes a post-mortem examination to be conducted, under section 21, he shall - ^{Post-mortem examination report.}

- (a) draw up, or cause to be drawn up, a report of the findings of the post-mortem examination and of the conclusions which are drawn from it;
- (b) certify as to the medical cause of death; and
- (c) date and sign the report.

(2) A post-mortem examination report made under subsection (1) shall be admissible as evidence, and shall be *prima facie* evidence of the facts stated therein, at any inquiry or judicial hearing.

(3) The Chief Medical Examiner or any person appointed by him may give evidence as to his opinion upon any matter arising out of a post-mortem examination to how, in his opinion, the deceased came by his death.

Power to order exhumation.

24. The Chief Medical Examiner may, order the exhumation of a body or the remains of a body, for the purpose of discharging any of his duties, or exercising any of his powers under this Act.

Power to order release for burial, cremation, etc.

25. (1) Where a death which is, or appears to be, a reportable death has been reported to the Chief Medical Examiner and the body is in Sierra Leone, the Chief Medical Examiner shall have control of the body until such time as he issues a certificate ordering the release of the body, for such release of the body it shall not bear any cost on the bereaved family except where such additional service are required.

(2) The Chief Medical Examiner may, order the release of a body -

- (a) for burial or cremation;
- (b) for the body to be transported out of Sierra Leone; or
- (c) for the retention of the body for use in any manner in accordance with law,

(3) Where a reportable death has occurred or is suspected to have occurred and the body is in Sierra Leone, any person who, without reasonable excuse, buries, cremates, transports out of Sierra Leone or otherwise uses or disposes of, or causes to be buried, cremated, transported out of Sierra Leone or otherwise used or disposed of that body, without the order of the Chief Medical Examiner under subsection (2), commits an offence and is liable on conviction, to a fine not exceeding Le. 10,000,000 or to imprisonment for a term not exceeding 3 years or to both.

PART V- FUNDS AND ACCOUNTS OF THE OFFICE OF THE MEDICAL EXAMINER

26. (1) The activities of the Office of Medical Examiner shall be financed by funds consisting of-

Funds of Office of Medical Examiner.

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

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

27. (1) The Office of the Medical Examiner shall keep proper books of account and other records in relation to the activities, property and finances of the Office of the Medical Examiner in a form approved by the Auditor-General and shall prepare in respect of each financial year of the Office of the Medical Examiner a financial statement which shall include-

Accounts and audit of Office of Medical Examiner.

- (a) balance sheet accounts;
- (b) income and expenditure accounts; and
- (c) source and application of funds.

(2) The accounts of the Office of the Medical Examiner kept under subsection (1) shall, not later than 2 months after the end of each financial year, be audited by the Auditor-General or an Auditor appointed by him.

(3) For the purposes of subsection (2), the Auditor-General or the auditor appointed by him shall be entitled to have access to all the books of account, vouchers and other financial records of the Office of the Medical Examiner and to require such information and explanation thereon as he may think fit.

(4) The Office of the Medical Examiner shall provide the Auditor-General or the auditor appointed by him with all the necessary and appropriate facilities for the examination of the accounts and records of the Office of the Medical Examiner.

(5) The Auditor-General or auditor appointed by him shall submit to the Office of the Medical Examiner a report on the audited accounts and the financial statements referred to in subsection (1) and shall, in his report draw attention to any-

- (a) irregularities in the accounts;
- (b) matters that are likely to adversely affect the operations of the Office of the Medical Examiner; or
- (c) other matter which, in his opinion, ought to be brought to the notice of the Office of the Medical Examiner.

Internal Auditor.

28. (1) There shall be an internal auditor appointed by the Office of the Medical Examiner who shall be responsible for the internal audit of the Office of the Medical Examiner.

(2) The Internal Auditor shall submit quarterly reports of the audit carried out by him to the Office of the Medical Examiner.

29. The financial year of the Office of the Medical Examiner shall be same as the financial year of the Government.

Financial year of the Office of Medical Examiner. Annual report.

30. (1) The Office of the Medical Examiner shall, within 3 months after the end of the financial year, submit to the Minister a report on the performance of its functions during that year and on its policies and programmes.

(2) The annual report shall include the accounts and annual financial statement prepared under section 27 and the report of the audit thereon.

(3) The Minister shall lay copies of the annual report before Parliament not after three months of the following financial year.

(4) The Office of the Medical Examiner shall make copies of the report available to all stakeholders once it has been laid before Parliament.

PART VI - MISCELLANEOUS PROVISIONS

31. The Coroners Act, 1907 (Cap 9) is hereby repealed.

Repeal of Cap 9.

32. The Minister shall in consultation with the Chief Medical Examiner, make such regulations, orders and rules, as may be considered necessary or expedient to give effect to and for the better carrying out the objects and purposes of this Act.

Regulations.