

ACT

Supplement to the Sierra Leone Gazette Vol. CXLII, No. 22

dated 5th May, 2011

THE CREDIT REFERENCE ACT, 2011

ARRANGEMENT OF SECTIONS

Section No.

PART I—PRELIMINARY

1. Interpretation.

PART II—LICENSING OF CREDIT REFERENCE BUREAUS

2. Credit reference bureau licence.
3. Application for licence.
4. Appeal against refusal of licence.
5. Licence to be displayed.
6. Non-transferability of licence.
7. Register of licence.
8. Renewal of licence.
9. Revocation and suspension of licence.

PART III—ACTIVITIES OF CREDIT REFERENCE BUREAUS

10. Permissible credit reference bureau activities.
11. Place of business.
12. Duties of a credit reference bureau.
13. Dissemination and usage of information by credit reference bureau.
14. Privacy and confidentiality.
15. Retention of information by credit reference bureau.
16. Data providers.

17. Duties of data providers.
18. Financial institutions' use of credit reference reports.
19. Other sources of information accessible to credit reference bureau.
20. Right to receive credit information concerning credit information subject.
21. Right to inspect information.
22. Challenge of accuracy of information.
23. Procedure upon challenge of information.
24. Conclusion of investigation.
25. Appeal of result of investigation.

PART IV – MISCELLANEOUS

26. Offences.
27. Regulations.
28. Liquidation of credit reference bureau.
29. Transitional provisions.

SIGNED this 20th day of April, 2011.

DR. ERNEST BAI KOROMA,
President.



No. 4



2011

Sierra Leone

The Credit Reference Act, 2011.

Short title.

Being an Act to provide a framework for the establishment of credit reference bureaus, to establish the conditions for credit reporting and to provide for other related matters.

[

] Date of commencement.

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

PART I—PRELIMINARY

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

“Central Bank” means the Bank of Sierra Leone;

“court” means the Commercial and Admiralty Division of the High Court ;

“credit information recipient” means any person who receives data in the form of a credit reference report from a credit reference bureau;

“credit information subject” means a person about whom a data provider submits credit information to a credit reference bureau and in relation to whom a credit reference report is issued by a credit reference bureau;

“credit reference bureau” means an institution licensed under this Act to carry out credit reference bureau activities;

“credit reference report” means any written, oral or other communication of any information by a credit reference bureau, in relation to a person’s creditworthiness, credit standing, credit capacity, character or general reputation which is used or collected to serve as a factor in establishing that person’s eligibility for credit, insurance, employment or such other purposes as may be established by law;

“data provider” means any person, including a financial institution, who provides data regarding any other person to a credit reference bureau;

Act No. 2 of 2000
Act No. 7 of 2001

“financial institution” means any institution licensed to carry on business under the Banking Act, 2000 and the Other Financial Services Act, 2001.

PART II – LICENSING OF CREDIT REFERENCE BUREAUS

2. (1) No person shall establish, operate or conduct business as a credit reference bureau unless that person-

Credit
reference
bureau
licence.

(a) is a company or a body corporate established under an enactment; and

(b) has obtained a licence for that purpose from the Central Bank.

(2) A person who establishes, operates or conducts the business of a credit reference bureau without the licence referred to in subsection (1) commits an offence and is liable on conviction to a fine not exceeding thirty million leones or to a term of imprisonment not exceeding three years or to both the fine and imprisonment.

3. (1) An application for a licence to establish, operate or engage in the activities of a credit reference bureau shall be made in writing to the Central Bank and in the prescribed form.

(2) The application shall be accompanied by such administrative and processing fee and such other documents as the Central Bank may prescribe.

(3) The Central Bank may, before the determination of an application, by notice in writing require the applicant to provide additional documents or other information.

(4) Any information required under subsection (3) shall be in the form that the Central Bank may direct.

(5) An application may be withdrawn by notice in writing to the Central Bank at any time before its determination.

(6) The Central Bank shall, within sixty days after receiving the application and on satisfying itself that the applicant has satisfied every pre-condition under this Act, grant a licence to the applicant.

(7) Where—

- (a) there is an error in the application; or
- (b) an applicant fails to satisfy any pre-condition for the grant of the licence,

the Central Bank shall, within thirty days after receiving the application, notify the applicant in writing to rectify the situation within thirty days after receiving the notification or such longer period as the Central Bank may specify.

(8) Where the applicant fails to rectify the situation, the Central Bank shall refuse to grant a licence by notice in writing to the applicant.

(9) Where an application for a licence is refused, the Bank shall state the reasons for the refusal in the notice of refusal to the applicant.

(10) In determining an application, the Central Bank shall take into consideration—

- (a) the character and fitness of the Directors and officers or proposed Directors and officers of the applicant;
- (b) the adequacy of the applicant's capital structure in relation to the credit reference business;
- (c) the financial position and financial history of the applicant;
- (d) the ability to conduct the affairs of the applicant in relation to the interests of the subjects of credit reference reports;
- (e) whether the granting of the licence will be in the public interest;

(f) whether the applicant has satisfied the prescribed minimum capital requirements.

(11) Any licence granted under this Act shall be on such terms and conditions as the Central Bank may determine.

4. An applicant who is aggrieved by the refusal to grant the application may within thirty days of receiving the notice of refusal, appeal to the court. ^{Appeal against refusal of licence.}

5. (1) A credit reference bureau shall at all times conspicuously display its licence at its principal place of business. ^{Licence to be displayed.}

(2) A credit reference bureau which fails to display the credit reference bureau licence commits an offence and is liable on conviction to a fine not exceeding ten million leones or to a term of imprisonment not exceeding one year or to both the fine and imprisonment.

6. (1) A person shall not transfer a licence granted by the Central Bank to another person. ^{Non-transferability of licence.}

(2) A person who contravenes subsection (1), commits an offence and is liable on conviction to a fine not exceeding twenty million leones or to a term of imprisonment not exceeding one year or to both the fine and imprisonment.

7. The Central Bank shall keep and maintain a register containing details of all licences granted under this Act. ^{Register of licence.}

8. A licence granted under this Act shall be renewable annually. ^{Renewal of licence.}

9. (1) The Central Bank shall revoke a licence if it is satisfied that the credit reference bureau has— ^{Revocation and suspension of licence.}

- (a) repeatedly failed to comply with the terms and conditions of the licence;
- (b) contravened any provision of this Act;

- (c) ceased to satisfy the requirements for licensing and the renewal of a licence;
- (d) ceased to satisfy the requirements on minimum capital for the establishment of a credit reference bureau;
- (e) provided false, misleading or inaccurate information to the Central Bank.

(2) The Central Bank may suspend a licence for a specified period if the licensee—

- (a) has breached any duties imposed under this Act;
- (b) has breached any code of conduct for credit reference bureaus issued by or with the permission of the Central Bank; or
- (c) has failed to commence business within six months immediately after the date of issue of the licence.

(3) Where the Central Bank revokes or suspends the licence of a credit reference bureau, the Central Bank shall give notice in writing of the decision to the credit reference bureau and shall in the case of a suspension specify in the notice, the omission or breach which has occasioned the suspension and request the credit reference bureau to remedy the omission or breach within fifteen days after the date of the notice.

(4) If the omission or breach is remedied within the time specified, the Central Bank shall by notice in writing to that credit reference bureau restore the licence, otherwise the licence shall be considered to have been revoked on the expiration of the time specified.

(5) The revocation or suspension of a licence is effective from the date that the credit reference bureau is informed of the decision of the Central Bank.

(6) Where the Central Bank suspends or revokes a credit reference bureau licence—

- (a) the Central Bank shall notify the general public in the *Gazette* and in a newspaper of wide circulation within seven days after the suspension or revocation of the licence; and
- (b) the credit bureau affected by the decision of the Central Bank to suspend or revoke its licence shall within seven days after receipt of notice of the decision, issue a written notice to each subscriber of its services informing him –
 - (i) of the action of the Central Bank; and
 - (ii) request the subscriber to discontinue further recourse to the credit reference bureau.

(7) A person who is dissatisfied with the decision of the Central Bank to revoke or suspend a credit reference bureau licence may appeal to the court for a review of the decision.

PART III—ACTIVITIES OF CREDIT REFERENCE BUREAUS

10. (1) A credit reference bureau may engage in the following activities:—

- (a) gather and maintain data for the formation of credit histories including publicly available information;
 - (b) process credit related data; and
 - (c) deliver credit reference reports based partly or fully on information not in the public domain.
- Permissible credit reference bureau activities.

(2) A credit reference bureau shall give prior notice to the Central Bank before engaging in any of the following activities:-

- (a) assessment of the credit worthiness of credit information subjects using a methodology developed or acquired by the credit reference bureau;
- (b) provision of consultancy services in informational report;
- (c) carrying out of market and statistical research; and
- (d) provision of literature, promotional and information materials related to credit reference bureau activities.

Place of business.

11. (1) A credit reference bureau shall notify the Central Bank of the location of its principal place of business at the time of application for a credit reference bureau licence.

(2) A credit reference bureau may open branch and agency offices for the conduct of its authorised business, with the prior approval of the Central Bank.

(3) A credit reference bureau shall obtain the approval of the Central Bank prior to the relocation or closing of its principal place of business, branch or agency office.

Duties of credit reference bureau.

12. (1) A credit reference bureau shall-

- (a) quote its licence number in an advertisement or information in which it offers its services;
- (b) accept the filing of credit information from a data provider on such terms as may be determined by the Central Bank;

- (c) provide credit reference reports on request in accordance with this Act;
- (d) prevent information held by it from being disclosed otherwise than provided in this Act;
- (e) verify the accuracy of information reported to it;
- (f) request that a data provider corrects and supplements the information submitted that requires reprocessing or specification if there are grounds for that;
- (g) submit to technical audits and examinations that the Central Bank may require from time to time;
- (h) submit records and reports to the Central Bank as the Central Bank may require;
- (i) accept without charge the filing of credit information by the subject of a credit information to correct information held by that credit reference bureau concerning the subject of a credit reference report;
- (j) retain credit information for the period prescribed in this Act;
- (k) maintain database records of credit information to satisfy the standards prescribed by the Central Bank;
- (l) record in credit reference reports the date, identity of the credit information recipient and reason for each request for the credit reference report;

- (m) keep or submit records of its activities in accordance with this Act, or any other enactment;
- (n) comply with the standards or code of conduct issued by the Central Bank for credit reference bureaus;
- (o) enter into contractual agreements with data providers and credit information recipients, with regard to credit information and credit reference reports respectively;
- (p) not prejudice the assessment of a person's creditworthiness merely on the basis that the credit reference bureau does not have credit information concerning that person.

Dissemination
and usage of
information
by credit
reference
bureau.

13. (1) No credit reference bureau shall provide a credit reference report to a credit information recipient, unless it has—

- (a) entered into a contractual agreement with the credit information recipient;
- (b) verified that the credit information recipient has a lawful reason for obtaining the credit reference report;
- (c) received certification in writing from the credit information recipient in each instance in which a request for credit reference report is made, that the recipient has obtained consent from the prospective subject of a credit reference report or will use the information –
 - (i) to evaluate credit risks in the granting, monitoring or extension of credit;
 - (ii) to evaluate credit risks where the terms of the credit agreement are changed;

- (iii) to evaluate risks related to other transactions with deferred payments;
- (iv) to confirm the accuracy of information contained in a credit reference report;
- (v) to underwrite insurance;
- (vi) to evaluate an employment application; or
- (vii) for some other legitimate business needs relating to a transaction initiated by a person.

(2) No credit reference bureau shall provide a credit reference report if the request for the report contravenes any provision of this Act or any other enactment.

(3) Any person who contravenes subsection (1) or (2) commits an offence and is liable on conviction to a fine not exceeding twenty million leones or to a term of imprisonment not exceeding one year or to both the fine and imprisonment.

14. (1) A credit reference bureau which receives, compiles, retains or reports confidential information that pertains to a person shall protect the confidentiality of the information and shall–

- (a) use the information only for purposes permitted under this Act;
- (b) only disclose information in good faith and in accordance with this Act.

(2) A credit reference bureau, data provider, or credit information recipient shall at all times observe the following:-

- (i) the equality of subjects of credit information;

- (ii) the confidentiality of information;
- (iii) non-interference in the private lives of individuals;
- (iv) respect for the rights, liberties and lawful interests of persons;
- (v) accuracy and transparency of information; and
- (vi) privacy and secrecy of communication.

(3) A person who uses information from a credit reference bureau which is adverse to the interests of the credit information subject shall, at the time the adverse action occurs—

- (a) provide the subject a written notice stating the adverse action;
- (b) the name and address of the credit reference bureau;
- (c) the subject's right to obtain a copy of any information held by the credit reference bureau about the subject; and
- (d) the right of the subject to challenge the credit reference bureau on the accuracy of the information at no cost to him.

(4) A credit reference bureau which contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding twenty million leones or to a term of imprisonment not exceeding two years or to both the fine and imprisonment.

(2) A credit reference bureau shall establish and implement procedures to update the information it receives on credit information subjects.

16. (1) Any person may submit information to a credit reference bureau in such manner as is prescribed by the Central Bank. Data providers.

(2) All financial institutions shall submit credit information once every month, in the form prescribed by the Central Bank, to every credit reference bureau, regarding the extension of credit made by the institution, without prior consent from their customers.

(3) The information shall include details of loans or payments made on time and late payments.

17. (1) Every data provider shall—

Duties of data providers.

- (a) inform any person with whom it enters into a contractual agreement relevant to this Act that it shall provide information in relation to such agreement to a credit reference bureau in accordance with this Act;
- (b) update and notify each credit reference bureau of changes to information it has provided, that it becomes aware of concerning a credit information subject.

(2) No data provider shall submit any information relating to any person to a credit reference bureau which the data provider knows or has reasonable grounds to believe is inaccurate or incomplete.

(3) A person who contravenes subsection (2) commits an offence and is liable on conviction to a fine not exceeding twenty million leones or to a term of imprisonment not exceeding one year or to both the fine and imprisonment.

Financial institutions's use of credit reference reports.

18. (1) A financial institution shall conduct a search with respect to a credit information subject's credit record, on the database of one or more credit reference bureaus before it makes a decision to grant or refuse an application for credit or other facility.

(2) A financial institution may enter into agreements for data submission and credit report delivery with credit reference bureaus to determine—

- (a) the modalities and format for the submission of information by the financial institution;
- (b) the delivery of credit reports by a credit reference bureau to the financial institution;
- (c) the type of information to be provided; and
- (d) the manner and form in which the information is to be provided.

Other sources of information accessible to credit reference bureau.

19. (1) A credit reference bureau may receive, compile and report information that is ordinarily available to the public.

(2) Public sources where credit reference bureaus may obtain information include—

- (a) the office of the Administrator and Registrar-General;
- (b) the Anti-Corruption Commission;
- (c) the Sierra Leone Police;
- (d) court records.

PART IV—RIGHTS OF CREDIT INFORMATION SUBJECTS

Right to receive credit information concerning credit information subject.

20. (1) A credit information subject has the right, upon the payment of the prescribed fee, to receive a copy of all information concerning him held by a credit reference bureau, including the identity of the relevant credit information recipients.

(2) All information received by a credit information subject shall be sufficient to enable him understand the content, significance and importance of the information.

21. A credit information subject may inspect during normal business hours information concerning him held by a credit reference bureau without charge—Right to inspect information.

- (a) once every twelve months;
- (b) if denied credit or other application based in whole or in part on information contained in a credit reference report; or
- (c) pursuant to a court order.

22. (1) A credit information subject may challenge the accuracy of information held by a credit reference bureau on that person on the grounds of illegality, veracity, inaccuracy or that it is outdated.Challenge of accuracy of information.

(2) A credit information subject may reasonably request a credit reference bureau to investigate the accuracy of the challenged information without charge to the credit information subject.

23. (1) Where a credit information subject has initiated a challenge to the accuracy of information held by a credit reference bureau on that person, the credit reference bureau shall at its cost—Procedure upon challenge of information.

- (a) review and investigate the information held by it;
- (b) seek confirmation from the data provider;
- (c) allow the credit information subject to provide relevant evidence in support of his challenge;
- (d) conclude its investigation within thirty days of the person's challenge.

(2) Where a credit reference bureau provides a credit reference report that contains information under investigation, it shall indicate that fact in the report.

Conclusion of investigation.

24. (1) At the conclusion of its investigation under section 23, a credit reference bureau shall promptly inform the person making the challenge, of the result of its investigation and shall either—

- (a) correct or expunge, as appropriate, the information in respect of which the challenge was made where the information is found to be inaccurate or incomplete, and notify any credit information recipient who received the inaccurate or incomplete information, of the error;
- (b) maintain the information if it is found to be accurate.

(2) A credit reference bureau has no duty to investigate frivolous challenges.

Appeal of results of investigation

25. (1) A person aggrieved by the result of an investigation made by a credit reference bureau may appeal against the result to the Central Bank.

(2) The Central Bank shall on receipt of an appeal, investigate and determine the appeal within thirty days from the date of receipt of the appeal.

PART V – MISCELLANEOUS

Offences.

26. (1) Where an offence is committed by a body of persons under this Act then—

- (a) in the case of a body corporate, any person who at the time the offence was committed was a manager, director or other officer of that body; or

- (b) in the case of a firm, every person who at the time the offence was committed was a partner or officer of that firm,

shall be deemed to have committed that offence.

(2) In any proceedings for an offence under this Act, it shall be a defence for the person charged to prove that -

- (a) the offence was committed without his knowledge or connivance;
- (b) he took all reasonable precautions and exercised all due diligence to prevent the commission of the offence; or
- (c) that he acted in good faith.

27. The Central Bank may by statutory instrument, make Regulations. Regulations to give effect to this Act.

28. Where a credit reference bureau ceases to do business or is subject to liquidation, it shall deliver all information it possesses, controls or owns to the Central Bank. Liquidation of credit reference.

29. (1) The Central Bank shall, until the establishment of credit reference bureaus, create a credit reference division at the Central Bank. Transitional provisions.

(2) Subject to subsection (1) the credit reference division shall perform the functions of a credit reference bureau under this Act.

Passed in Parliament this 22nd day of *March*, in the year of our Lord two thousand and eleven.

VICTOR A. KAMARA,
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.

VICTOR A. KAMARA,
Clerk of Parliament.