



OVERVIEW OF SIERRA LEONE CIVIL LEGAL SYSTEM

MACAULEY, BANGURA & CO

1. Sierra Leone Legal System

1.1 Sources of Sierra Leone Law

The laws of Sierra Leone are defined in Chapter XII, Section 170 of the Constitution of Sierra Leone Act No. 6 of 1991 (as amended) as (a) the Constitution of Sierra Leone Act No. 6 of 1991 (as amended), (b) the laws made by or under the authority of Parliament as established under the Constitution, (c) any orders, rules, regulations and other statutory instruments made by any person or authority pursuant to a power conferred in that behalf by the Constitution or any other law, (d) the existing law and (e) the common law.

1.2 The Common Law

The common law of Sierra Leone shall comprise the rules of law generally known as the common law, the rules of law generally known as the doctrines of equity, and the rules of customary law including those determined by the Superior Courts of Judicature of Sierra Leone. Customary law means the rules of law which by custom are applicable to particular communities in Sierra Leone.

1.3 The Existing Law

The Existing law shall comprise the written and unwritten laws of Sierra

Leone as they existed immediately before the date of the coming into force of the Constitution (Act No. 6 of 1991) and any statutory instrument issued or made before that date which is come into force on or after that date.

1.4 Laws adopted and adapted from the United Kingdom

Also, by virtue of Section (74) of the Courts Act No. 31 of 1965 (as amended) of the Laws of Sierra Leone (an Act to Consolidate and Amend the Law Relating to the Constitution of the Magistrates Court, the High Court and the Court of Appeal and the Administration of Justice therein and laws relating to Appeals to the Supreme Court of Sierra Leone); "subject to the provisions of the Constitution and any other enactment, the common law, the doctrines of equity and the statutes of general application in force in England on the 1st day of January 1880 shall be in force in Sierra Leone. In addition there are also laws of the United Kingdom specifically adopted by the laws of Sierra Leone such as those listed in the Imperial Statutes (Law of Property), Adoption Act Cap 18

1.5 The High Court Rules

The High Court Rules 2007 currently in force to a very large extent based on the 1999 Supreme Court Practice of 1991 of England and Wales.

2. Court system

2.1 What is the structure of the civil court system?

By Constitutional Instrument No. 1 of 2007 published 1st February 2007 captioned The Constitution of Sierra Leone (Act No. 6 of 1991), The High Court (Divisions) Order 2007, in the exercise of the powers conferred on him by subsection (3) of section (131) of the Constitution of Sierra Leone, 1991, the Chief Justice by Order created five divisions of the High Court of first instance namely; (a) Commercial and Admiralty Division, (b) Family and Probate Division, (c) Land and Property Division, (d) General Civil Division and (e) Criminal Division.

A litigant may opt to initiate action by filing same with the Registry of the "Fast Track Commercial Court" invoking the Commercial and Admiralty Division of the High Court rather than the general High Court Registry. As the name implies proceedings are fast tracked but more important, the Commercial and Admiralty Court Rules 2010 incorporates into the body of the rules of the High Court Alternative Dispute Resolution (ADR)

mechanism at the "pre-trial settlement conference" stage of the proceedings.

2.2 The Commercial Court System.

The Chief Justice of the Republic of Sierra Leone The Hon. Umu Hawa Tejan-Jalloh in her introduction to the "Manuals of Operations" to the Sierra Leone Fast Track Commercial and Admiralty Court states as follows "***this manual therefore aims at providing an easy and invaluable means of understanding, and using Alternative Dispute Resolution (ADR) to achieve effective, legal and cost effective settlement of claims.....it is hoped that this new process will improve Commercial and Admiralty litigation and promote confidence of the business community and the general populace....***"

The introduction of the fast track commercial court is a deliberate attempt by the Government of Sierra Leone to address the need of litigants and the bar for a speedier and commercial approach to dispute litigation.

Although juries may be involved in certain criminal proceedings, juries are not involved in civil proceedings. Civil proceedings in the High Court, (court of first instance) are tried and heard by judge alone. Substantive appeals in the Court of Appeal by a panel of three judges and in the supreme court by a panel of five judges.

3. Limitation issues

3.1 What are the time limits for bringing civil claims?

Different limitation periods apply to different causes of action. The Limitation Act No. 51 of 1961 sets out at length the various limitation periods and the exceptions and or qualifications to it. For example actions founded in contract or tort shall not be brought after the expiration of six years from the date on which the cause of action accrued. The Act also sets out when the right of action shall be deemed to have accrued on the one hand and deemed to be determined on the other hand.

4. Pre-action requirements

4.1 Are there any pre-action considerations applicable in Sierra Leone civil and commercial proceedings?

There are no pre-action requirements such as a demand letter or letter before action. A litigant by himself or through his solicitor may choose to issue and serve a demand letter or letter before action setting out his complaint, what he requires as a remedy and a threat and or ultimatum to commence action if this demand is not met usually within a stipulated time but there is no formal requirement for this to be issued and served. The issue of a demand letter and or a letter before action is done on a voluntary basis.

5. Starting proceedings

5.1 How are civil and or commercial proceedings commenced?

Subject to any enactment of the rules of the High Court, Civil proceedings may be begun by an originating process, usually a Writ of Summons, Originating Summons, Originating Motion or Petition. The filing of an originating process (initiating the action) in the appropriate form with the appropriate High Court Registry in effect is the first step to be taken.

5.2 Service of an originating process in Sierra Leone.

Service of a Writ of Summons, notices, petitions, pleadings, orders, summonses, warrants and all other proceedings, documents or written communications of which service is required shall be made by a bailiff or other officer of the court or a person employed to effect such service by either a solicitor of the party or solicitor acting as an agent of the first solicitor.

5.2 Is personal service required?

Except otherwise prescribed by the High Court Rules, an originating process shall be served personally by delivering to the person to be served a copy of the document duly certified by the Master and Registrar of the High Court as being a true copy of the original process filed. Where personal service is hindered by violence or threats or other acts of obstruction of that person or of any other person with or under that

person it shall be sufficient to leave it as near that person as may be practicable

5.3 When is process not required to be served?

No service of a writ of summons or other process on the defendant shall be necessary when the defendant, by his solicitor undertakes in writing to accept service.

5.4. Documents not required to be served personally

Service of a document not required to be served personally may be effected (a) by leaving it at the proper address for the person to be served, (b) by sending it by registered post bearing a return address and addressed to the person to be served at the address of the person; or (c) in such manner as the High Court may (upon the necessary application being made) direct.

5.5 Substituted Service

If a document is required to be served on any person and it appears to the court (a) that three or more attempts have been made without success to effect personal service, and that any further attempt to effect personal service may result in undue delay; or (b) that it is otherwise impracticable for any reason to serve the document personally the High Court may (upon the necessary application being made) make an Order for substituted service of that document.

5.6 Service of process out of Sierra Leone

Service out of the jurisdiction of a writ of summons or notice of a writ of summons may on application to the High Court be ordered usually where the defendant is without the jurisdiction but the claim is one which can be brought under the High Court Rules for example, the contract was made in Sierra Leone and or was made by or through an agent trading or residing outside Sierra Leone or is by its terms or by implication governed by Sierra Leone Law. Any such application must show the grounds on which the application is made, that in the deponent's belief the plaintiff has a good cause of action and in what place or country the defendant is or probably to be found. Substituted service will usually be ordered via an international courier company such as DHL, UPS, TNT or rarely by registered post and a time fixed by the said Order for an appearance to be entered to the action.

Where the defendant is a non-citizen notice of the writ and not the writ itself shall be served together with an intimation in writing that a process in the form of the copy has been issued or otherwise launched.

6. Timetable

6.1 What is the typical procedure and timetable for a civil claim?

Unless the High Court gives leave to the contrary, a defendant is required by the High Court Rules to enter, file and serve a memorandum and notice of appearance within fourteen day after service of the Writ of Summons or other originating process on him inclusive of the day of service failing and ten day thereafter a statement of defence failing which the plaintiff may be at liberty to proceed and obtain Judgment in Default of appearance or defence. A party on filing a defence may also if it so desires file a counter claim in the same action.

7. Case management

7.1 Can the parties control the procedure and the timetable?

Parties cannot control the timetable and or timeframe of any action. However where an action is filed at the fast track commercial court, the action is fast tracked and are known to be completed relatively quite quickly.

7.2 Can a party apply for judgment summarily?

Also where an action is begun by writ (other than an admiralty action *in rem* and an action which includes a claim by the plaintiff for libel, slander, malicious prosecution, false imprisonment or sedition) a party can apply for summary judgment (without the need for a full trial) after an appearance has been entered on the grounds that (looking at the defence filed) the defendant has no *bona fide* defence to the claim or part of the claim except as to the amount of damages if any.

7.3 Can judgment be obtained on admissions made by a defendant?

Where admissions have been made in the defence filed in respect of any originating process by a defendant, judgment can also be obtained on application made to the High Court based on the admissions made

without the need for a full trial.

7.4 Can judgment be obtained by the consent of both the plaintiff and the defendant?

Consequent upon the necessary application being made to the High Court, a judgment may be entered by the consent of both the plaintiff and the defendant to a matter on the terms that they have prayed for without the need of a full trial.

7.4 Can a matter be disposed of on a point of law?

There are also provisions in the High Court Rules for the disposal of cases or an action on "a point of law or on the construction of any document arising in any cause or matter at any stage of the proceedings".

8. Pleadings

8.1 What is required to be set out in the pleadings? Can a point of law be raised in the pleadings?

Subject to the provisions of the High Court Rules, every pleading shall contain a statement in a summary form of the material facts on which the party pleading relies for his claim or defence as the case may be but not the evidence by which those facts are to be proved. The statement shall be as brief as the nature of the case admits. Points of law can be raised by a party by his pleadings.

8.2 What is the effect of admissions and denials in pleading.

Any allegation of fact made by a party in his pleading is deemed to be admitted by the opposite party unless it is traversed by the party in his pleadings or a joinder of issue. A traverse may be either a denial or by a statement of non-admission and either expressly or by necessary implication.

9. Evidence-documents

9.1 Is there a duty to disclose and inspect documents and other evidence pending trial? Must parties share relevant documents (including those unhelpful to their case)?

After the close of pleadings in an action begun by a writ of summons, there shall subject to and in accordance with the provisions of the High Court Rules for discovery and inspection of documents be discovery by the parties to the action of the documents which are or have been in their possession, custody or power relating to matters in question in the action. Discovery should be mutual and without the need of an Order of the High Court. Upon an application made to the High Court, the court may order any party to a cause or matter to make and serve on any other party a list of the documents which are or have been in his possession, custody or power relating to any matter in question in the cause or matter.

9.2 Evidence – privilege: Are any documents privileged? Would advice from an in-house lawyer also be privileged?

The concept of privilege found in common law jurisdictions (including the United Kingdom) is also applicable in Sierra Leone. In this regard and among others, a witness may claim privilege from answering incriminating questions. A solicitor (whether in-house or external) as long as he is able to establish a solicitor-client relationship will be able to claim privilege and from disclosing communications made to him by his client without his client's consent and if a client, from disclosing communications made to him by his solicitor. Communications passing between a client and his legal advisers together in some case with communications passing between these persons and third parties may not be given in evidence without the consent of the client if they were made either (a) with reference to litigation that was actually taking place or was in the contemplation of the client or (2) if they were made to enable the client to obtain, or the adviser to give, legal advice. This also extends to the documents exchanged in these circumstances.

A witness may also claim to be privileged in civil proceedings from disclosing a "without prejudice" communication made to him without the consent of the author and the parties to the communication.

9.3 Evidence - Hearsay: Are the hearsay rules applicable in Sierra Leone?

The rules of hearsay and the exceptions are applicable in Sierra Leone. Express or implied assertions of persons, other than the witness who is testifying, and assertions in documents produced in the court when no witness is testifying, are inadmissible as evidence of the truth or that which was asserted.

9.4 Evidence-pretrial: Do parties exchange written evidence from witnesses and experts prior to trial?

With a view to providing to every action to which the provisions of Summons for Directions in the High Court Rules applies, an occasion for the consideration by the Court of the preparations for the trial of the action so that (a) all matters which shall or can be dealt with on interlocutory applications and have not already been dealt with may so far as possible be dealt with and (b) such directions may be given as to the future course of the action as appear best adapted to secure the just, expeditious and economical disposal thereof; the plaintiff shall within one month after the pleadings in the action are deemed to be closed take out a summons returnable in not less than fourteen days. The Order given by the High Court on an application for directions will invariably among others include an Order for list of witnesses, witness statements, documentary evidence, admissions of fact if any, issues in dispute, skeletal arguments as well as authorities, all of this to be filed and exchanged within such time frame limited by the Order of the High Court. At the hearing of a Summons for Directions, the Court shall endeavour to secure that the parties make all admissions and agreements as to the conduct of the proceedings which ought reasonably to be made by them and may cause the Order on the summons to record any admissions or agreement so made and any refusal to make any admission or agreement.

9.5 Evidence -trial: How is evidence presented at trial? Do witnesses and experts give oral evidence?

At trial, witnesses of fact that are listed in the witness list shall give oral evidence and are cross-examined. The witness statement already exchanged and filed upon the necessary application shall stand as the evidence-in-chief of the witness. Alternatively, counsel may apply to the court for such witness statement to stand as part of the evidence-in-chief and this is supplemented by *viva voce* evidence. The witness is required procedurally to identify his witness statement, his signature and to admit

same in court. Further that he would like same admitted as his evidence-in-chief or part of his evidence-in-chief and the same will be tendered. Evidence-in-chief and cross examination shall be given under oath.

In any cause or matter which is to be tried without a jury and in which any question for an expert witness arises, the Court may at any time on the application of any party, appoint an independent expert or if more than one question arises, two or more experts, to inquire and report upon any question of fact or opinion not involving questions of law or of construction. An expert so appointed is referred to as a "court expert". The court expert shall send his report to the court. His remuneration shall be fixed by the court and shall include a fee for his report and each day during which he is required to be present in court.

A party may choose not to call any witness and opt to make only his final address and or submission on law and or fact. The order in which those addresses and or closing submissions are made will be determined by the High Court Rules.

In contrast to experts who are appointed by the court, a party to an action may choose to appoint a technical expert (for example a licensed surveyor, an auditor, an engineer) as an expert witness in addition to other witnesses of fact that he may choose to call for the purposes of establishing and or proving his case.

10. Interim remedies

10.1 What interim remedies are available?

The High Court may grant an injunction by an interlocutory order in all cases in which it appears to the Court to be just or convenient to do so and the order may be made either unconditionally or upon such terms and conditions as the Court considers just. A party to a cause or matter may apply for the grant of an injunction before or after the trial of the cause or matter whether or not a claim for the injunction was included in the party's writ, counterclaim or third party notice. The plaintiff may not make such an application before the issue of the process by which the action is to be begun, except where the case is one of urgency and in that case the injunction applied for may be granted on terms providing for the issue of the process together with the *ex-parte* order obtained on the defendant and such other terms as the Court thinks fit. An application shall be by notice of motion supported by an affidavit. A draft order sought may be filed with the application to facilitate the speedy

preparation and perfection of the Order. A respondent who desires to oppose the application shall file an affidavit in opposition. In the case of urgency, a party may make the application *ex-parte* supported by an affidavit. An application made *ex-parte* in the case of urgency shall not be granted unless the applicant gives sufficient reasons for making it *ex-parte* and specifies some irreparable damage or mischief which will be caused to the plaintiff if he proceeds in the ordinary manner. Where an Order is made pursuant to an application made *ex-parte* it shall not remain in force for more than seven days. If no application is made to the Court to extend the validity of the Order it shall lapse after the expiration of seven days from the making of the Order unless the Court otherwise directs. The Court may upon application by any party affected set aside an order made *ex-parte* on such terms as it thinks fit.

11. Remedies

11.1 What substantive remedies are available?

The remedies available at the conclusion of trial include and are not limited to monetary judgments, declaratory judgments, creation, transformation or rescission of a legal relationship, award of damages and judgment requiring an act or thing to be done within a specific time frame to name a few. A lot will depend on what prayers that had been specifically asked for in the originating process. The court has some latitude in its inherent jurisdiction and under the ubiquitous prayer of "any further orders that the court may deem just and necessary" to give effect to its Order as it should not be seen to be acting in vain.

11.2 Can an award for interest on a monetary judgment be given

The legislative authority for the award of interest in Sierra Leone is the Law Reform Miscellaneous Provisions Act Cap 19 of the Laws of Sierra Leone 1960, in particular section (4). It is usual for a specific prayer to be pleaded for the award of interest at the rate so specified. In effect, the case authorities will show that the courts have not applied a uniform rate of interest in all cases in which an interest has been awarded and in some cases evidence will have to be led as to what rate is to be applied i.e. commercial rate and or the investment rate and or the true interest rate and or the default rate and or the foreign interest rate and or the ordinary rate. Interests are allowed and can form part of a judgment payable on a monetary judgment.

11.3 Can a monetary judgment be made in a foreign currency?

It is quite common in the jurisdiction of Sierra Leone for a monetary judgment to be made in a foreign currency and there are a plethora of case law authorities that reinforces this. Where this is the case, interest may also be ordered and this will also be at a percentage of the foreign monetary judgment that has been awarded.

Where consideration in an agreement or contract is in a foreign currency, the courts will give effect to the contract and enforce same. The Court can also deliver judgment for the recovery of sums of money in foreign currency due and or pursuant to a contract

12. Enforcement

12.1 What means of enforcement are available?

Sierra Leone law provides for several methods of enforcements of Judgments and Court Orders depending on the nature or characteristics of the judgment that has been given.

Subject to the High Court Rules, a judgment or order for the payment of money not being a judgment or order for the payment of money into Court may be enforced by one or more of the following; (a) writ of *feri facias*, (b) garnishee proceedings, (c) the appointment of a receiver, (d) an Order of committal and (e) a writ of sequestration.

A judgment or order for the payment of money into court may be enforced by one or more of the following; (a) the appointment of a receiver, (b) committal and (c) a writ of sequestration.

A judgment or order for the giving of possession of land may be enforced by (a) a Writ of Possession, (b) an order of committal and (c) writ of sequestration.

Subject to the High Court Rules, a judgment or order for the delivery of any goods which does not give a person against whom the judgment is given or order made the alternative of paying the assessed value of the goods may be enforced by (a) a writ of delivery to recover the goods without alternative provisions for recovery of the assessed value thereof, (b) an order of committal or (c) writ of sequestration.

Where the judgment or order is for the delivery of any goods or payment of their assessed value, it may be enforced by (a) writ of delivery to

recover the goods or their assessed value, (b) by order of the court a writ of specific delivery or (c) by a writ of sequestration.

Where a person required by a judgment or order to do an act within a time specified in the judgment or order refuses or neglects to do it within that time or a person disobeys a judgment or order requiring him to abstain from doing an act, then subject to the High Court Rules the Judgment or Order may be enforce by one or more of the following means (a) with leave of the court, a writ of sequestration against the property of that person, (b) where that person is a body corporate, with leave of the court, a writ of sequestration against the property of any director or other officer of the body and (c) subject to the provisions of the Debtors Act, an Order of committal against that person or where that person is a body corporate, against any such officer

13. Public access

13.1 Are court hearings held in public? Are court documents available to the public?

Civil and or Commercial High Court proceedings in Sierra Leone are generally held in public. There are some matters by the High Court Rules that are required to be held in the Judge's Chambers. Also matters can by the consent of the parties or through the agreement of their respective legal representatives be held in the Judge's Chambers although such matter was to have been held in public.

Also where any public hearing would be detrimental to public or moral values, or there is a need to protect a witness or maintain the integrity of the trial process, the court may either on its own motion or at the request of a litigant and or his legal representation Order for the matter to be held *in camera*.

14. Costs

14.1 Does the court have power to order costs?

Subject to the provisions of the High Court Rules, costs of and incidental to proceedings in the Court shall be at the discretion of the Court and the Court shall have full power to determine by whom and to what extent the costs are to be paid. In any case where the Court considers it fit to award costs to any party, the Court may by order direct taxation of the

costs of the party or direct payment of the sum *in lieu* of taxed costs. The amount of costs to be awarded may also be assessed by the Court. Costs may be dealt with by the Court at any stage of the proceedings or after the conclusion of proceedings (which is usually the case).

14.2 In what cases can security for costs be ordered?

Where on the application of a defendant to an action or other proceedings in the court it appears to the court (a) that the plaintiff is ordinarily resident out of the jurisdiction, (b) that the plaintiff (not being a plaintiff who is suing in a representative capacity) is a nominal plaintiff who is suing for the benefit of some other person and that there is reason to believe that he will be unable to pay the costs of the defendant if ordered to do so, (c) that the plaintiff's address is not stated in the writ of summons or other originating process or is incorrectly stated or (d) that the plaintiff has changed his address during the course of the proceedings with a view to evading the consequences of the litigation, then if having regard to all the circumstances of the case the court thinks it just to do so, it may order the plaintiff to give such security for the defendant's costs of the action or other proceedings as it thinks just.

15. Funding arrangements for legal representation

15.1 Are agreements between solicitors and their clients available to the parties?

By virtue of Section (39) of the Legal Practitioners Act, a legal practitioner may make an agreement in writing with his client in respect of his fees in respect of any contentious business done or to be done by him. It is for a party seeking legal representation and or advice whether or not the matter is contentious to engage a solicitor (if he deems it necessary). It is the practice for a payment agreement (whether a lump sum and or in agreed installments and or on an hourly basis and or on a no-fee no-win basis or any other type of agreement) with regards to payment of legal fees of the solicitors.

16. Insurance

16.1 Is insurance available to cover all or part of a party's legal costs?

The Insurance Act No. 5 of 2007 does not make it obligatory for a party

to secure insurance to cover all or part of his legal costs. That being said, it is a matter of choice and personal preference. Where a party is so inclined to seek insurance coverage to cover his costs or for any other reason, nothing in law prevents him from doing so as long as the insurance company is in a position to respond and or provide the particular type of insurance coverage that is being sought and that will be captured in the Insurance Policy. It is in effect a contract between a party and any insurance company for the provision of an insurance coverage to cover all or part of a party's legal costs. It is not common in this jurisdiction for a party to obtain an insurance coverage for his or her legal costs.

17. Class action

17.1 Can litigants with similar claims bring a form of collective redress? In what circumstances is this permitted?

Class actions are not known and or available to litigants in Sierra Leone Court procedure or supported by Sierra Leone law. Every plaintiff or a defendant counter-claiming named in the originating process must prove the elements of his case or what he has alleged in order to be granted the orders that have been specifically prayed for.

18. Appeal

18.1 In what court(s) can an appeal be made against a decision of a court of first instance? What courts are the courts of records in Sierra Leone?

The Judicial powers of Sierra Leone is by the Constitution of Sierra Leone vested in the Judiciary of which the Chief Justice shall be the Head. The Judiciary shall have jurisdiction in all matters civil and criminal including matters relating to the Constitution, and such other matters in respect of which Parliament may by or under an Act of Parliament confer jurisdiction on the Judiciary.

In the exercise of its judicial function and by virtue of Section (120) of the Constitution of Sierra Leone, the judiciary shall be subject to only the Constitution of Sierra Leone or any other law and shall not be subject to the control or direction of any other person or authority.

The Judicature shall consist of the Supreme Court of Sierra Leone, the

Court of Appeal and the High Court of Justice which shall be the superior court of record of Sierra Leone and which shall constitute one Superior Court of Judicature and such other inferior and traditional courts as Parliament may by law establish.

An appeal shall lie to the Court of Appeal from any final judgment, order, or other decision of the High Court given or made in the exercise of its original, prerogative or supervisory jurisdiction in any suit or matter; and by leave of the Judge making the order or of the Court of Appeal, from any interlocutory judgment, order or other decision, given or made in the exercise of any such jurisdiction as stated.

An appeal shall lie from any Judgment, decree or order of the Court of Appeal to the Supreme as of right in any civil cause or matter. The Supreme Court shall have supervisory jurisdiction over all other Court in Sierra Leone and over any adjudicating authority; and in the exercise of its supervisory jurisdiction shall have power to issue such directions, order or writs including writs of *habeas corpus*, order of *certiorari*, *mandamus* and *prohibition* as it may consider appropriate for the purposes of enforcing or securing the enforcement of its supervisory powers.

19. Foreign judgments

19.1 What procedures exist for recognition and enforcement for foreign judgments?

The procedure for the recognition and enforcement in Sierra Leone of judgments and orders issued in jurisdictions outside Sierra Leone is governed by the provisions of Foreign Judgments (Reciprocal Enforcement) Act Cap 21 and Order 45 of the High Court Rules - RECIPROCAL ENFORCEMENT OF JUDGMENT.

Leave of the High Court must be sought for the registration of a foreign judgment as a judgment of the High Court of Sierra Leone before the same can be enforced. An application under the provisions of the Foreign Judgments (Reciprocal Enforcement) Act Cap 21 for leave to have a judgment obtained in a superior court in a country to which the Act has been or shall hereinafter be extended, registered in the High Court shall be made by originating summons *ex parte*.

A person being a judgment creditor under a judgment to which the Foreign Judgments (Reciprocal Enforcement) Act applies, may apply to

the High Court at any time within six years after the date of the judgment, or, where there have been proceedings by way of appeal against the judgment, after the date of the last judgment given in those proceedings, to have the judgment registered in the High Court, and on any such application the court shall, subject to proof of the prescribed matters and to other provisions of the Act order the judgment to be registered.

20. Foreign proceedings

20.1 Are there any procedures for obtaining oral or documentary evidence for use in civil proceedings in other jurisdictions?

Where under the Foreign Tribunals Evidence Act 1856, The Extradition Act 1974 and the Anti Money Laundering Act-any civil matter is pending before a court or tribunal of a foreign country and it is made to appear before a judge by a Commission Rogatoire or letters of request or other evidence as specified in the Order that the court or tribunal is desirous of obtaining the testimony in relation to such matters, or any witness within the country, a judge may on the *ex parte* application of any person shown to be duly authorised to make the application on behalf of the foreign court or tribunal, and on the production of the Commission Rogatoire or letters of request or the certificate signed in the manner and certifying to the effect mentioned in the Foreign Tribunals Act Evidence Act 1856 or such other evidence as a Judge may require, make such order as may be necessary to give effect to the enactments mentioned in the rule in conformity with the Foreign Tribunals Act of 1856.

21. Arbitration

21.1 Is there any specific arbitration law in Sierra Leone? What is the effect of an award?

There is in existence the Arbitration Act Chapter 25 of the Laws of Sierra Leone. Its long title reads "An Act to provide for the reference and submission of disputes to Arbitration". A "submission" (defined in the Arbitration Act as meaning a written agreement to submit present or future differences to arbitration whether an arbitrator is named therein or not) unless a contrary intention is expressed therein shall be irrevocable except by leave of the High Court or by mutual consent and shall have the same effect in all respects. The arbitrators or umpire acting under a submission shall unless the submission express a

contrary intention have power (a) to administer oaths to or take the affirmations of the parties and witnesses appearing and (b) to state an award as to the whole or part thereof in the form of a special case for the opinion of the High Court and (c) to correct in an award any clerical mistake or error arising from any accidental slip or omission. An award on a submission may by leave of the court be enforced in the same manner as a judgment or order to the same effect. An agreement may at the option of the parties opt for arbitration as a dispute resolution mechanism. The High Court on application has power to stay proceedings where there is an agreement to submit disputes to arbitration in certain circumstances.

21.2 Is the UNCITRAL Rules applicable and or recognised in Sierra Leone

Sierra Leone is a signatory to the UNCITRAL Rules and its recognition is captured in the provisions of the Investment Promotion Act NO. 10 of 2004 for Sierra Leone. Under the Investment Promotion Act No. 10 of 2004 of Sierra Leone, where there is a dispute between any investor and the Government of Sierra Leone in respect of an investment in a business enterprise or in respect of an investment obstructed or delayed by the Government, the parties shall use their best efforts to settle such dispute amicably. Where they fail to settle it amicably, the parties may submit the dispute at the option of the aggrieved party to arbitration (a) in accordance with the rules of procedure for arbitration of the United National Commission on International Trade Laws (UNCITRAL), (b) in the case of a foreign investor within the framework of any multilateral agreement on investment protection to which the Government and the country of which the investor is a national are parties or, (c) in accordance with any national or international machinery for the settlement of investment disputes as the parties may agree. Where any dispute between an investor and a non-governmental body in respect of an enterprise is not settled amicably, and where no recourse is available through arbitration or previously established contract or other legal instruments, then the matter shall be referred to the relevant legal authority within Sierra Leone for settlement and in accordance with the law binding such transaction.

22.3 Is Alternative Dispute Resolution (ADR) options encouraged in Sierra Leone as an option to litigation?

The High Court Rules of 2007 encourages admissions and agreements to be made on as to the conduct of the proceedings which ought reasonably

to be made by them at the pre-trial conference stage. By necessary implication, this could also be extended to mean admissions and agreements between litigants on such matters on which a sooner resolution on issues of facts or law can be made.

The Commercial and Admiralty Court Rules 2010 and its manual is a deliberate and conscious attempt for alternative dispute resolution mechanisms to be explicitly incorporated into the Rules of the High Court, in its Commercial and Admiralty Division as a means of dispute resolution other than by litigation.

This brochure sets out some basic information and overview of the civil legal system in Sierra Leone. Although the contents of the publication are correct, true, well researched and to the best of our knowledge, information and belief at the time of press true, readers are encouraged to seek further specific and or professional advice from the Firm before taking action on the basis of the opinions or fact expressed herein. We cannot accept any responsibility for any facts or errors that this brochure may contain whether negligent or otherwise, or take responsibility for any loss or damage suffered by any person or business interest that relies on this publication.

Compiled by
Corporate Law Department
Macauley, Bangura & Co
31 Lightfoot Boston Street , 4th Floor, UMC Building
Freetown, Sierra Leone
March 2014

Contact details for further information

Macauley, Bangura & Co
Barristers-at-Law, Solicitors, Business, Legal & Tax Consultants
Notary Public & Commissioner for Oaths
31 Lightfoot Boston Street
4th Floor
UMC Building
Freetown, Sierra Leone
Tel: + 232 22 22 61 64/ 22 89 36
Cell: + 232 78 533 944
Fax: + 232 22 22 42 27
Email: info@mbclegal.org
Website: www.mbclegal.org

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