



**TRANSPARENCY
INTERNATIONAL SIERRA LEONE
LAND AND CORRUPTION IN AFRICA
PROGRAMME**



**“A SIMPLE GUIDE TO THE BASIC
PROCESSES INVOLVED IN ACCESSING
AND ACQUIREING LAND IN SIERRA
LEONE”**

SUPPORTED BY:



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Transparency International Sierra Leone (TI-SL) is an anti-corruption civil society advocacy organization, the local chapter of Transparency International. We are dedicated to achieving greater accountability,

transparency and integrity in the private and public sectors, curbing corruption by holding local and national governments to account for their stewardship

INTRODUCTION

Transparency International Sierra Leone (TISL) is a civil society advocacy organization that is dedicated to promoting anti-corruption initiative within the public and private sector. In carrying out this difficult task, we are engaged, among other things, in public education and awareness raising, research through social audit surveys and monitoring of service delivery at both national and local levels of organization.

This handbook was developed under the Land and Corruption in Africa Programme implemented in more than six African countries including Sierra Leone. This programme is geared towards contributing to improved livelihoods of men and women adversely affected by corrupt practices in land administration and in land deals, through enhanced security of tenure and equitable and fair access to land.

The programme is divided into two phases. Phase one focuses on conducting a baseline survey to assess land and corruption issues in Sierra Leone. The second phase is the advocacy phase which focuses on engaging relevant stakeholders to take the necessary actions to implement the recommendations made in the survey report.

The expected outcomes of the programme are as follows:

- A strong and engaged citizenry of men and women of different generations and social and cultural backgrounds is informed of their land and tenure rights, legally empowered to defend their rights, aware of solution mechanisms, and able to demand transparency and accountability and citizen participation and oversight from their governments to end corruption in the land sector.
- Stakeholders from civil society, private sector and government are engaged in land related anti-corruption initiatives, systematically act to promote good land governance, and prevent corruption in the land sector nationally, regionally and globally.
- Intergovernmental institutions, governments, and businesses have strong, equitable, and just procedures in place to prevent and redress corruption in land distribution, land acquisition, and land dispute management, as well as to sanction infractions.

BACKGROUND

Still recovering from the Civil War (1991- 2002), the 2014 Ebola epidemic, and other national calamities, Sierra Leone continues to suffer from high levels of poverty, unemployment, corruption, hunger, disease and other challenges to development. While the country has shown signs of growth and resilience since the Civil War, Sierra Leone was ranked 179 out of the 188 countries ranked in the Human Development Index (HDI) Rankings 2016. GDP per capita was listed as US\$505 as of 2016, indicating it remains among the world's poorest countries. FAO has listed Sierra Leone as a low-income, food-deficient country in 2016.ⁱ On the 2017 Global Hunger Index, Sierra Leone was ranked 117 out of 119 countries and was labeled as having an “alarming” level of hunger.

Adequate access to land and natural resources, including forests, rivers, pastures, and other customarily used, and managed commons, is a key factor underpinning socioeconomic growth, food security, peace and prosperity for the people of Sierra Leone. But, in most parts of the country, information on how much (and which parcels of) land and natural resources have been allocated to investors and other legal entities remains fragmented and inaccessible. Meanwhile, large-scale land investments are on the rise: since its emergence from a long and destructive Civil War, the government has sought foreign investment as part of a wider post-conflict agenda. Without strong laws in place that require transparency and accountability with respect to land ownership and control, the people of Sierra Leone have few avenues for redress in the event that land investors and other beneficial owners violate their human rights, natural environments, and food security.

According to the findings of the baseline survey conducted during the first phase of the project, access to adequate land is a key factor underpinning socioeconomic growth, food security, peace and prosperity for the people of

Sierra Leone. Therefore information on land accessibility and acquisition is very important. In most parts of the country, information on how to access land remains fragmented and inaccessible. This has contributed to the high level of corrupt practices in land administration as people who are unaware of the processes involved in accessing land are exploited by administrators and so called 'middle men'

Therefore, this handbook will serve as a reference point for people who want to access land in Sierra Leone as it provides basic information on the land tenure system, and how land can be accessed in Freetown and in the provinces.

LAND TENURE CLASSIFICATIONS

In Sierra Leone, there are three main categories in which tenure can be classified:

- State land (Pieces of land owned by the government)
- Private land (i.e. freehold tenure), (Pieces of land owned by private individuals)
- Communal land (land in the provinces owned by the community or families) Such lands are governed by customary law.

In the Western Area of Sierra Leone, otherwise referred to as the coastal strip, the laws recognize freehold tenure, which is governed by common law and statutory law that has existed since 1880. The Northern, Eastern, and Southern Provinces are primarily rural areas that have tenure arrangements that are governed by customary laws. These customary laws are based on origins, traditions, and norms that are deeply rooted in the communities,

depending on the community and ethnic group. Land-owning families can trace their lineage to the 'original' inhabitants of the village.

Paramount Chiefs have authority to act as custodians of communal land areas and hold land in trust for families, households and villages in the Provinces. Following customary laws, most decisions about family ownership and communal use are made at the community level by heads of land-owning families; in cases of land disputes, the Paramount Chiefs have authority to settle such disputes.

However, it is important to note that non-natives are not allowed to occupy land in the Provinces unless he has first obtained the consent of the Tribal Authority before his occupation of such land.

LAND TRANSFER, ALLOCATION, AND LEASE

In Sierra Leone, all land, including customary land, can be acquired through **expropriation** under section 21 of the 1991 Constitution (the Constitution is currently under review and a new version may be approved in 2018). Land can also be obtained through purchase, lease, allocation, inheritance, gift, clearing, or adverse possession.

The process of acquiring, leasing, transferring, or otherwise allocating land in Sierra Leone differs depending on the tenure type.

The Provinces

The Provinces Land Act, Cap 122 (1960), formerly known as the Protectorate Land Ordinance of 1927, is the main statutory law for governing land in the Provinces in Sierra Leone. Land in the Provinces is primarily governed by customary law and the Provinces Land Act, Cap 122 mainly concerns the granting of leases to 'non-natives'. Under this Act Chiefdom Councils are vested with title to all land in the Provinces on behalf of the people, and as such, they hold the right to make decisions on land allocation to both 'natives' and 'non-natives'.

Section 11 and 12 provide for the definition and ownership rights of 'economic trees' as a form of fixture applied to the land by the tenant. 'Economic trees' refers to trees, shrubs or plants that are grown for their intrinsic value. This is of specific relevance to REDD+ projects that may involve carbon stock enhancement e.g. the planting of new trees on the land.

With respect to communal land and natural resources in the Provinces, land-owning families and Paramount Chiefs make decisions to determine ownership and use rights. Land in the provinces cannot be bought and sold, but it can be leased. In some areas, chiefs and communities have leased lands to non-natives including migrants, tenants, ex-combatants, and foreigners (collectively known as "strangers").ⁱⁱ

There are several restrictions imposed on the rights of foreigners to hold, lease, and use land in Sierra Leone. For example, sections 2 and 3 of the Provinces Land Act CAP 122 of 1960 states that the Chiefdom Council, consisting primarily of Paramount Chiefs and sub-chiefs, must give consent before any non-native who wishes to occupy land in the provinces can occupy such land.ⁱⁱⁱ Under the Act, non-native refers to "any person who is not entitled by customary law rights to own land in a Province."^{iv} Non-natives can occupy land for an initial period of up to 50 years, but rights of

occupation can be extended for a second or “further” terms “not exceeding 21 years

Example of Cost for an Individual Land Acquisition Costs in Koidu Town, Kono District

<i>Purchase</i>	<i>6,000,000 (SLL)</i>
<i>Survey</i>	<i>500,000 (SLL)</i>
<i>Signature Town Chief</i>	<i>150,000 (SLL)</i>
<i>Signature Paramount Chief</i>	<i>200,000 (SLL)</i>
<i>Signature Ministry of Lands</i>	<i>250,000 (SLL)</i>
<i>Building Permit</i>	<i>100,000 (SLL)</i>

Example of Cost for an Individual Land Acquisition Cost in Kenema Town, Kenema District

<i>Purchase</i>	<i>3,000,000 (SLL)</i>
<i>Survey</i>	<i>500,000 (SLL)</i>
<i>Signature Town Chief</i>	<i>300,000 (SLL)</i>
<i>Signature Paramount Chief</i>	<i>500,000 (SLL)</i>
<i>Land Owning Family Head</i>	<i>200,000 (SLL)</i>
<i>Native administration</i>	<i>50,000 (SLL)</i>
<i>Building Permit</i>	<i>250,000 (SLL)</i>

Example of Cost for an Individual Land Acquisition Cost in Bo Town, Bo District

<i>Purchase</i>	<i>6,000,000 (SLL)</i>
<i>Survey</i>	<i>500,000 (SLL)</i>
<i>Signature Town Chief</i>	<i>100,000 (SLL)</i>
<i>Signature Paramount Chief</i>	<i>200,000 (SLL)</i>
<i>Land Owning Family Head</i>	<i>50,000 (SLL)</i>
<i>Building Permit</i>	<i>250,000 (SLL)</i>

Example of Cost for an Individual Land Acquisition Cost in Makeni Town, Bombali District

<i>Purchase</i>	<i>6,000,000 (SLL)</i>
<i>Survey</i>	<i>500,000 (SLL)</i>
<i>Signature Town Chief</i>	<i>100,000 (SLL)</i>
<i>Signature Paramount Chief</i>	<i>200,000 (SLL)</i>
<i>Land Owning Family Head</i>	<i>50,000 (SLL)</i>
<i>Building Permit</i>	<i>250,000 (SLL)</i>

Western Area

Land in the Western Area (Freetown) can be purchased on a freehold basis by Sierra Leonean nationals. Non-Sierra Leoneans can inherit property but cannot purchase it. Legal title for property (especially land) in the Western Area (Freetown) can be hotly disputed, so you have to take utmost care and be very detailed when undertaking your due diligence. There is no Title Register in existence, only a Document Register.

Freehold land in the Western Area can be bought and sold by citizens, and there are no established restrictions on the sale of land or land leases. Since the Western Area is predominantly urban, land is in high demand and usually bought for housing and infrastructure development. The government has often encouraged foreign investors to lease land in the Western Area, but foreigners are not permitted to purchase, acquire, or otherwise obtain freehold rights. By law, the Government can lease state land to foreign investors for commercial and industrial use.

For the purchase of land in Freetown, most of the following costs are incurred by the buyer.

Legal Fees – 10% of the purchase price, this generally includes drafting of the conveyance, requisition of title and due diligence in relation to the title.

- **Agency Fees** – 2% to 10%, this is often negotiable depending on the set of circumstances.
- **Government Tax** – 10% of the purchase price. The capital gains tax is in effect but not fully implemented. The rate of this is 30%.
- Stamp Duty

LAND VALUATION

Land valuation is done on an informal manner and with the price being determined by the seller. Landlords normally state their price. However, professional valuation can be done by specialized agencies.

LAND REGISTRATION

In the Western Area, the key institutions of land administration are the Land Registry in the Office of the Administrator and Registrar General (OARG), and the Surveys Department in the Ministry of Lands, Country Planning and the

Environment. The General Registration Act, Cap 255 of the Laws of Sierra Leone (as amended), and the Registration of Instruments Act, Cap 256 of the Laws of Sierra Leone, (as amended) provide the legislative framework for the registration of Deeds and all other documents required by law to be registered. For example, in it are registered transaction relating to land such as deeds of conveyances, statutory declarations, deeds of gift, leases, mortgages and discharge of mortgages, court judgments and other documents, and keeps and provides information on interests in land to the public. Registration of a document provides notice to the world of its existence.

There is an onus on anyone who wishes to purchase a piece of land to search the Deeds Register to inspect any such documents affecting the property. The deed document is a simple record of key facts relating to the property and remains the authoritative record of the legal facts and rights. Failure to register can result in the loss of one's right or interest in the land by the unregistered owner or beneficiary

TRANSFER OF A FREEHOLD TITLE

The transfer of an interest in land is by way of a deed of conveyance which is a legal instrument that has to be prepared by a legal practitioner, and registered in the Land Registry at the Office of the Administrator and Registrar General. The deed can be in any form but must contain the following:

- **A Descriptive Clause** identifying by name, address, and capacity the parties thereto;
- **Recital Clause** that provides all the details of the ownership of the land or the right to an interest in the land to be conveyed, including

the location, size or a reference to a detailed description of the land or interest to be conveyed ;

- **Operative Clause** that contains the consideration for which the interest in the land is being transferred, and describes the interest in the land that is being transferred and the extent thereto;
- **An Indemnity Clause** which is optional, indemnifying the purchaser against any adverse claim that may arise in respect of the said interest conveyed;
- The Attestation Clause that bears the signature of the party conveying, or the parties as the case may be, a seal or seals, which must be witnessed.

Where a land is being transferred whether by way of a conveyance for a freehold or leasehold and where the lease is for at least three years, a detailed description and demarcation of the boundaries of the land is usually contained in a schedule to the deed.

PROCEDURE	TIME	COST
The purchaser conducts a title search at the Registry	1day	SLL 20,000
The Seller and the Purchaser enter into a purchase agreement written or oral	1-2days	
A Licensed Surveyor visits the site and prepares a site plan	5days	
The Director of Surveys countersign the site plan	7days	No Charge
Lodgement of, or delivery of Deed of Conveyance at the Land Registry and acknowledgement received	1day	No Charge
Assessment and payment of stamp duty and registration	1day.	0.1% of the value

	Simultaneous use of the property y with 5 days above	
Registration fee		SLL 100,000
Fast Track Registration	within 7days of lodgement	SLL 50,000

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i “Low-Income Food-Deficient Countries (LIFDC)- List for 2016”, *FAO*, 2016.

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