

## DEPARTMENT OF LEGAL AFFAIRS

### **Structure**

The Department of Legal Affairs consists of the Legal Affairs Unit. The Department also has three Legal Retainers. Other staff include: 1 Director, 1 Chief, 1 Electoral Officer and 1 Admin Assistant.

### **Functions**

The Legal Affairs Unit manages all legal related activities of the Commission. These include addressing litigation issues, preparing tenancy agreements, contracts, conveyances, gazetting of election related public notices and results declaration. It is also concerned with provision of legal opinion and advice through the coordination of the activities of the three Legal Retainers.

### **Accomplishments**

The Department in the period under review accomplished amongst other things the following:

- Compiled and printed all available Statutory Instruments/Regulations on elections.
- Provided legal advice to the Commission on all legal related matters:
  - End-of-Service Benefit in respect of the late S.A.T Bangura
  - End-of-Service Benefit in respect of the late Emmanuel Thompson
  - Pujehun NEC District land matter
  - Tenancy Agreement for Bonthe Main Land and Moyamba District Offices
  - Tenancy Agreement on Kenema District Office land
- Prepared Tenancy Agreements and Conveyances for all NEC properties (Land) for all the fourteen Electoral Districts.
- Submitted to the Commission Draft Report on the Review of the Public Elections Act 2012 received from the Law Reform Commission (LRC).
- Completed and submitted the report on the draft Referendum Bill to the Law Officers' Department for drafting of the Bill.

- Gazetted all Public Notices on Bye-Elections conducted in Ward 002 Kailahun District, Ward 303 Moyamba District, Ward 172 in Port Loko District, Ward 337 in Western Rural District, Ward 112 in Bombali District, Ward 157 in Koinadugu District, Constituency 050 Port Loko District, Constituency 001 in Kailahun District and Banana Island Village Head in the Western Area Rural District.
- The Department also collaborated with the National Civil Registration Authority (NCRA) in the drafting of the Civil Registration Authority Act relating to sections of Voter and Civil Registration exercise and the law related to same, in order not to contravene any registration law of the Commission.
- In collaboration with the Law Officers' Department, Ministry of Local Government and the Cabinet Secretariat, the Commission drafted and passed into law the following Bills and Instruments.
  - Extension of the validity of the present Register of Voters until an updated Register is available.
  - Extension of tenure of Local Council Members from 2016 to 2018
  - Extension of tenure of Village and Town Heads from three (3) years to four(4) years, effective with the present Council members; and

### **Extension of the validity of the present Register**

The updating or review of the Register of Voters, so as to extend the validity of the present Register of Voters until an updated Register is available. This will allow NEC to use the existing Register to conduct bye-elections until an updated one was available;

### **Extension of tenure of Local Council Members from 2016 to 2018**

The postponement of the Local Council elections and the subsequent extension of term of office of Council members from 2016 to 2018; and

## **Extension of tenure of Village and Town Heads from three (3) years to four (4) years**

The extension of term of office of Village/Town Heads from 3 years to four years, in order to gel with the term of office of the other members of the Local Council. It is effective with the present Council members.

## **REVIEW OF THE PUBLIC ELECTIONS ACT OF 2012:**

In the review of the Act, the service of Law Reform Commission was solicited to undertake the review the process. A Sub-committee was set up to review the Act and the final report has been submitted to the Commission

## **DRAFT REFERENDUM BILL:**

A draft Referendum Bill together with its Report has been prepared by the Referendum Sub-Committee and submitted to the Law Officers' Department and the Law Reform Commission for legal comments. The proposed Bill should be enacted before the conduct of Referendum in 2017.

## COURT CASES

The Department, through its Legal Retainers represented the Commission in all court petition matters. The table below represents all NEC's court matters and the respective status.

| COURT MATTERS |  |  |   |                                 |   |
|---------------|--|--|---|---------------------------------|---|
| No            | CASE TITLE   | FACTS  | Ward/Chiefdom/ Const./ District/ Region           | COURT                           | STATUS /REMARKS   |
|               | <p><b>MOHAMED K. MANSARAY</b></p> <p><b>AND</b></p> <p><b>IBRAHIM B. KARGBO, THE NATIONAL RETURNING OFFICER &amp; THE DISTRICT RETURNING OFFICER</b></p> | <p>A bye-election was conducted on the 12<sup>th</sup> December 2015 in Constituency 030, Bombali District, in which the Petitioner and the First Respondent were candidates; and was won by the 1<sup>st</sup> Respondent. The Petitioner among other things, petitioned that the 1<sup>st</sup> Respondent was a Public Officer and did not resign his position 12 months as required by <b>Section 76(1)(b) of the Constitution of Sierra Leone, 1991 (Act No. 6 of 1991) and Section 63(2)(a) of the Public Elections Act, 2012 (Act No. 4 of 2012).</b></p> | <p>Constituency 030, Bombali, Northern Region</p> | <p><b>Makeni High Court</b></p> | <p>The matter first came up for hearing on Thursday 3<sup>rd</sup> March 2016. It has been adjourned severally. It last came up on 6<sup>th</sup> October, 2016 and it stands adjourned to Thursday 3<sup>rd</sup> November, 2016.</p> <p>The long stay of the matter in court is due to frequent absence of the Petitioner and his Counsel. This has cost and time implication on NEC and the state. The matter is yet to be decided by the Court.</p> |

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|  | <p><b>HAJA NASRATU JALLOH</b></p> <p><b>AND</b></p> <p><b>NAVO KAIKAI, NEC, THE NATIONAL RETURNING OFFICER &amp; THE KAILAHUN DISTRICT RETURNING OFFICER</b></p> | <p>A bye-election was conducted on Saturday 9<sup>th</sup> July 2016 in Constituency 001, Kailahun District. The Petitioner and the 1<sup>st</sup> Respondent were candidates in the election, in which the 1<sup>st</sup> Respondent was declared the winner. The Petitioner amongst other things, alleged double voting, use of party colour by the 1<sup>st</sup> Respondent, NEC officials negligently and wilfully failing to take necessary measures to abate the irregularities etc.</p> <p>The matter is in the Kenema High Court before Hon. Justice Halloway J.A. It was struck out of Court on Friday 11<sup>th</sup> November, 2016 on grounds of non-compliance with Rules 11 and 12 of the Elections Petition Rules of 2007 that make mandatory provisions that the Respondents should be served the petition within seven (7) days of the declaration of the election result.</p> | <p><b>Constituency 001, Kailahun, Eastern Region</b></p> | <p><b>Kenema High Court</b></p> | <p>The Petitioner has appealed the decision but the matter is yet to be heard in court.</p> |
|  | <p><b>MOHAMED TURAY</b></p> <p><b>VS.</b></p> <p><b>VICTOR VANDI,</b></p>  | <p>A Local Council bye-election was conducted on Saturday November 14<sup>th</sup> 2015 in Ward 34, Constituency 12, Kenema District. The Petitioner and the 1<sup>st</sup> Respondent were candidates and the 1<sup>st</sup> Respondent was declared</p>  | <p><b>Ward 12, Kenema District, Eastern</b></p>          | <p><b>Kenema High Court</b></p> | <p>The long stay of the matter in court has ripple effects on the elected Councillor.</p>   |

**THE NEC &  
THE POLITICAL  
PARTIES  
REGISTRATION  
AND REGULATORY  
COMMISSION**

the winner by NEC.

The Petitioner petitioned the election result on grounds that the 1<sup>st</sup> Respondent used his membership of the Sierra Leone Peoples Party (SLPP) and his former executive position as Secretary General of same in Constituency 12, to canvass voters by referring to himself as the SLPP's Independent candidate. Consequently, he applied for an Interim Injunction to prevent the 2<sup>nd</sup> & 3<sup>rd</sup> Respondents from publishing the result in the National Gazette as required by law.

However, NEC and PPRC have been served a 'Notice of Discontinuance' from the matter. In furtherance, the court ordered NEC to tender sample ballots of votes cast in the election – an order that NEC has complied with accordingly.

**Region**

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| <p><b>ALOYSIUS FODAY-KAI</b></p> <p><b>AND</b></p> <p><b>THE CEC,<br/>THE PS-SOUTH,<br/>P.C ALFRED<br/>HINDOWA DEMBY,<br/>HON. P. C MAMBU<br/>PEWA,<br/>THE MINISTER OF<br/>LGRD,<br/>MUSA VONU SESE<br/>HORGBOR,<br/>ABRAHAM ARIBU<br/>FODAY-KAI &amp;<br/>JOSEPH G. FODAY-<br/>MUSA</b></p> | <p>A Paramount Chieftaincy election was conducted in the Chiefdom on 16<sup>th</sup> August 2014, in which the Petitioner was among the candidates; in which 1<sup>st</sup> Respondent was declared the winner in the election by NEC.</p> <p>The Petitioner amongst other things petitioned in the Bo High Court that the winner of the election was not legitimate to contest in the election. The matter still awaits hearing in court</p> | <p>Jaiama<br/>Bongor<br/>Chiefdom,<br/>Bo District,<br/>Southern<br/>Region</p> | <p><b>Bo<br/>High<br/>Court</b></p> | <p>The matter awaits hearing.</p> |
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|  | <p><b>ABDUL RAHMAN THULLAH</b></p> <p><b>AND</b></p> <p><b>ABUBAKARR THULLAH,</b><br/> <b>THE MINISTER OF LGRD,</b><br/> <b>THE MINISTRY OF LGRD,</b><br/> <b>THE PS-NORTH,</b><br/> <b>THE CEC &amp; NEC</b></p> | <p>A PC Election was conducted in the Chiefdom on 16<sup>th</sup> August, 2014 in which the Petitioner and the 1<sup>st</sup> respondent were among the candidates. The 1<sup>st</sup> respondent won the election and was declared the winner by NEC.</p> <p>The Petitioner petitioned the election on grounds of irregularities and sought for an Injunction to debar the acceptance of the result and the crowning of the winner as Paramount Chief of the Chiefdom.</p>  | <p>Malal Mara Chiefdom,<br/> Tonkolili District,<br/> Northern Region</p> | <p><b>Makeni High Court</b></p> | <p>The matter has long been in court and it still awaits hearing.</p>  |
|  | <p><b>MARGARET G. BAIIO-GBANIE</b></p> <p><b>AND</b></p> <p><b>BORBOR FEFEGULA KAMBA,</b><br/> <b>THE PS-SOUTH &amp; NEC</b></p>  | <p>A PC Election was conducted in the Chiefdom on November 28<sup>th</sup>, 2015 in which the Petitioner and the 1<sup>st</sup> respondent were among the candidates. The 1<sup>st</sup> respondent won the election and was declared the winner by NEC.</p> <p>The Petitioner petitioned the outcome of the election on grounds of irregularities. She prayed that the election be nullified by the Honourable Court and redo of the election be ordered by the court. The court ruled in favour of the Petitioner and ordered a redo of the election.</p> <p>The election was re-done was it was</p> | <p>Valunya Chiefdom,<br/> Bo District,<br/> Southern Region</p>           | <p><b>Bo High Court</b></p>     | <p>The court's decision was reached due to the non-legal representation of the other Respondents, excluding NEC. The Ministry of Local Government and Rural Development in particular has to be represented in all court matters in which they are respondent.</p> |



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|  |  | won by the Petitioner, Margaret C. Baio <b>GBANI.</b> |  |  |  |
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|  | <p><b>MATILDA MANYEH<br/>KAIKAI-YIMBO,<br/>SOLOMON YIMBO &amp;<br/>OTHERS</b></p> <p><b>VS.</b></p> <p><b>JOSEPH STEVENS<br/>B. SOLONGI,<br/>NATIONAL<br/>ELECTORAL<br/>COMMISSION &amp;<br/>OTHERS</b></p> | <p>A PC Election was conducted in the Chiefdom on 30<sup>th</sup> November, 2015 in which the Petitioner and the 1<sup>st</sup> respondent were among the candidates. The 1<sup>st</sup> respondent (<b>Joseph Stevens B. Solongi</b>) won the election and was declared the winner by NEC.</p> <p>The Petitioners objected to the declaration of the <b>1<sup>st</sup> Respondent</b> as winner on grounds that he does not hail from a Ruling House within the Timdale Chiefdom as required by Section 8(1 &amp; 2) of the Chieftaincy Act of 2009. In addition, they alleged that the Provincial Secretary-South, acting as the Presiding Officer, failed to follow the provisions of Section 13(3) of the Act. Therefore, they prayed that the honourable Court annulled the said election.</p> | <p>Timdale Chiefdom,<br/>Moyamba District,<br/>Southern Region</p> | <p><b>Bo<br/>High<br/>Court</b></p> | <p>Matter awaits hearing.</p> |
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