

**EARMARKED FUNDS CAPPING AND REALIGNMENT ACT, 2017 (ACT 947)**

ARRANGEMENT OF SECTIONS

Section

1. Application
2. Objects
3. Earmarked Funds capped
4. Distribution of Internally Generated Funds
5. Realignment of revenue freed
6. Review of enactments establishing Earmarked Funds
7. Regulations
8. Interpretation
9. Repeal

SCHEDULE—Identified Earmarked Funds



REPUBLIC OF GHANA

**THE NINE HUNDRED AND FORTY-SEVENTH**

**ACT**

**OF THE PARLIAMENT OF THE REPUBLIC OF GHANA**

**ENTITLED**

**EARMARKED FUNDS CAPPING AND REALIGNMENT ACT, 2017**

**AN ACT** to provide a cap on Earmarked Funds for the realignment of revenue and for related matters.

**DATE OF ASSENT:** 5th April, 2017.

**PASSED** by Parliament and assented to by the President:

Section 1—Application

(1) This Act applies to Earmarked Funds.

(2) Where a provision in an enactment relating to an Earmarked Fund or an Internally Generated Fund is inconsistent or conflicts with a provision of this Act this Act shall prevail.

Section 2—Objects

The objects of this Act are to

(a) provide a cap on the Earmarked Funds specified in the Schedule to ensure that revenue encumbered by the Earmarked Funds as a result of allocations is twenty-five percent of tax revenue; and

(b) empower the Minister, in consultation with the relevant sector Minister, to review the enactments under which the Earmarked Funds specified in the Schedule are established, and to make a determination as to whether or not a particular Earmarked Fund has outlived its purpose.

### Section 3—Earmarked Funds capped

(1) The Minister shall ensure that the budgetary allocation

(a) made in each year to the Earmarked Funds, and

(b) encumbered in each year by the Earmarked Funds specified in the Schedule is twenty-five percent of tax revenue.

(2) The Minister shall, in furtherance of the obligation under subsection (1), ensure that the capped Earmarked Funds amount of twenty-five percent of tax revenue is allocated to the Earmarked Funds specified in the Schedule, each according to a weight which shall be approved by Parliament as part of the Annual Budget for each fiscal year and each Earmarked Fund shall be adjusted accordingly.

(3) The Minister shall, in determining the weight to be applied to an Earmarked Fund for submission to Parliament for approval, be guided by

(a) the allocation of revenue that the Earmarked Fund would have normally received if a cap was not placed on those Earmarked Funds; and

(b) the corresponding weight that would have applied to the Earmarked Fund.

(4) The identified Earmarked Funds and their weights for each fiscal year shall be appended to the Annual Budget.

(5) Despite subsection (2) and section 4, the Minister shall,

(a) in making allocations to the Earmarked Funds specified in the Schedule, or

(b) in distributing Internally Generated Funds, comply with any quantum of revenue allocation or retention of Internally Generated Funds that is provided for under the Constitution.

(6) Despite subsections (2) and (5), where the priority of Government as established in a Budget Statement for a particular year requires that additional budgetary allocation be made to an Earmarked Fund, the Minister shall make additional budgetary allocation to that particular Earmarked Fund.

### Section 4—Distribution of Internally Generated Funds

The Minister shall distribute the capped Internally Generated Funds amount to the Ministries, Departments or Agencies that are permitted by law to retain Internally Generated Funds according to their respective weights based on the retention percentages prescribed in relevant laws.

### Section 5—Realignment of revenue freed

The Minister shall realign revenue that is freed as a result of

(a) the capping of Earmarked Funds, or

(b) an Act of Parliament passed in pursuance of a Bill laid in Parliament by the Minister in accordance with subsection (3) of section 6, and the realigned Earmarked Fund shall form part of the Annual Budget.

## Section 6—Review of enactments establishing Earmarked Funds

- (1) The Minister shall, on the commencement of this Act,
- (a) conduct a review of each enactment that established an Earmarked Fund specified in the Schedule to determine whether or not the Earmarked Fund has outlived its purpose; and
  - (b) conduct a review within every two years after the initial review under paragraph (a).
- (2) The Minister shall, in consultation with the relevant sector Minister, consider the following in making a determination under subsection (1):
- (a) the purpose for which the Earmarked Fund was established;
  - (b) whether or not the economic or social need for which the Earmarked Fund was established has been fully or largely achieved or is not likely to be ever achieved as it is currently set up;
  - (c) whether or not the State institution or Fund that is the beneficiary of the Earmarked Fund is able to raise revenue on its own to meet the economic or social need for which it was established; and
  - (d) where the State institution or Fund is able to generate revenue, whether or not that revenue is able to sustain that State institution or Fund in achieving the object for which the Earmarked Fund was established if annual allocation of revenue to the Earmarked Fund is withdrawn.
- (3) Where the Minister makes a determination under subsection (1), that an Earmarked Fund has outlived its purpose, the Minister shall present a Bill to Parliament
- (a) for the repeal of the enactment that established that Earmarked Fund; or
  - (b) for an amendment to the enactment, to remove the allocation of Earmarked Funds.

## Section 7—Regulations

The Minister may, by legislative instrument, make Regulations to—

- (a) amend the Schedule; and
- (b) provide for any other matter necessary for the effective implementation of this Act.

## Section 8—Interpretation

In this Act, unless the context otherwise requires,

"capped Earmarked Funds" means the total amount of all the Earmarked Funds remaining after a cap of twenty-five percent of tax revenue has been applied to the aggregate of all the Earmarked Funds;

"Earmarked Fund" means a dedicated fixed portion of revenue including Internally Generated Funds that is set aside and allocated periodically, as required by the Constitution or an Act of Parliament, to a State institution or Fund to pay for the performance of a particular social activity, economic activity or economic programme of the Government;

"Earmarked Funds" means the aggregate of all dedicated fixed portions of revenue that are, by the Constitution or an Act of Parliament, set aside and allocated to the Earmarked Funds specified in the Schedule;

"Fund" means a fund established under the Constitution or an Act of Parliament;

"Internally Generated Funds" means the total amount allocated from capped Earmarked Funds to retention of Internally Generated Fund as provided in subsection (2) of section 3;

"Minister" means the Minister responsible for Finance;

"non-tax revenue" is the recurring income earned by Government from sources other than taxes and grants;

"realigned Earmarked Funds" means the total amount of revenue that is freed up and reallocated in revenue after capping Earmarked Funds;

"revenue" means the sum of tax revenue and non-tax revenue; and

"tax revenue" means revenue from taxes on income and property, goods and services, and international trade.

#### Section 9—Repeal

(1) Paragraphs (a), (b) and (d) of subsection (1) of section 5 of the Ghana Infrastructure Investment Fund Act, 2014 (Act 877) are repealed.

(2) Any amount earmarked for purposes of the repealed enactments under subsection (1) is hereby realigned in accordance with section 5

#### SCHEDULE

(sections 2(a), 2(b), 3(1), 3(2), 3(5)(a), 6(1)(a), 7(a) and 8)

#### IDENTIFIED EARMARKED FUNDS

SRN	ITEM
1.	National Health Insurance Fund
2.	Ghana Education Trust Fund
3.	Road Fund
4.	Energy Fund
5.	District Assemblies Common Fund
6.	Internally Generated Funds (IGF) Retention
7.	Transfers to Ghana National Petroleum Corporation from petroleum revenue
8.	Youth Employment Agency
9.	Students Loan Trust
10.	Export Development Levy
11.	Ghana Airport Passenger Service Charges
12.	Minerals Development Fund
13.	Ghana Revenue Authority (GRA) Retention
14.	Plastic Waste Recycling Fund

Date of Gazette Notification: 7th April, 2017