



REPUBLIC OF GHANA

GHANA ENTERPRISES AGENCY ACT, 2020 (ACT 1043)

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**THE ONE THOUSAND AND FORTY-THIRD
ACT
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED
GHANA ENTERPRISES AGENCY ACT, 2020**

AN ACT to establish the Ghana Enterprises Agency to promote and develop micro, small and medium enterprises in the country and provide for related matters.

DATE OF ASSENT: 29th December, 2020.

PASSED by Parliament and assented to by the President

Ghana Enterprises Agency

Section 1—Establishment of the Ghana Enterprises Agency

- (1) There is established by this Act, the Ghana Enterprises Agency as a body corporate.
- (2) For the performance of the functions of the Agency, the Agency may acquire and hold property, dispose of property and enter into a contract or any other related transaction.
- (3) Where there is a hindrance to the acquisition of land, the land may be acquired for the Agency under the Land Act, 2020 (Act 1036) and the cost shall be borne by the Agency.

Section 2—Objects of the Agency

The objects of the Agency are to—

- (a) promote and develop micro, small and medium enterprises in the country;
- (b) oversee and coordinate the promotion and development of micro, small and medium enterprises;
- (c) strengthen the capacity and competitiveness of micro, small and medium enterprises to enable competition;
- (d) maximise the contribution of micro, small and medium enterprises to the economic and social development of the country; and
- (e) encourage the participation of micro, small and medium enterprises in industrial transformation through innovation and technology transfer.

Section 3—Functions of the Agency

To achieve the objects under section 2, the Agency shall—

- (a) oversee the promotion and development of micro, small and medium enterprises in the country;
- (b) implement Government policy and related programmes in respect of micro, small and medium enterprises for the development and efficient operations of micro, small and medium enterprises;
- (c) determine the criteria for the classification of micro, small and medium enterprises;
- (d) prescribe the types of micro, small and medium enterprises in the country;
- (e) design and execute programmes to—
 - (i) promote an enabling environment for the operations of micro, small and medium enterprises;
 - (ii) facilitate and foster partnerships with public and private institutions for the development of the micro, small and medium enterprises sector; and
 - (iii) educate the public on the role and contribution of micro, small and medium enterprises to national development;
- (f) establish a service delivery network to assist micro, small and medium enterprises;

- (g) facilitate access by micro, small and medium enterprises to—
 - (i) financial and non-financial resources including credit facilities; and
 - (ii) professional services, machinery, equipment and raw material inputs from domestic and international sources;
- (h) carry out research activities and collate data relating to micro, small and medium enterprises to ensure best practices and the development of innovative products for micro, small and medium enterprises;
- (i) facilitate technology transfer and training including skills training for micro, small and medium enterprises;
- (j) support the formation and development of business associations, co-operatives and any other organisations beneficial to the development of micro, small and medium enterprises;
- (k) promote the establishment of infrastructure required for the effective implementation of policies and programmes for the micro, small and medium enterprises sector;
- (l) monitor within the framework of Government policy, the performance of micro, small and medium enterprises;
- (m) compile, keep and maintain a register of micro, small and medium enterprises;
- (n) collaborate with national and international organisations to develop the micro, small and medium enterprises sector; and
- (o) perform any other function ancillary to the objects of the Agency.

Governance of the Agency

Section 4—Governing body of the Agency

- (1) The governing body of the Agency is a Board consisting of the following persons, at least two of whom are women:
 - (a) a chairperson;
 - (b) the Chief Executive Officer;
 - (c) one representative of the Association of Ghana Industries, nominated by the Association;
 - (d) one representative of the Association of Small-Scale Industries, nominated by the Association;
 - (e) one representative of the Council of Indigenous Business Association, nominated by the Association;
 - (f) one representative of the Ghana National Chamber of Commerce and Industry, nominated by the Chamber;
 - (g) one representative each of the following institutions:

- (i) Ministry responsible for Trade and Industry, not below the rank of a Director, nominated by the Minister;
- (ii) Ministry responsible for Finance, not below the rank of a Director, nominated by the Minister responsible for Finance;
- (iii) Ministry responsible for Tourism, Arts and Culture not below the rank of a Director, nominated by the Minister responsible for Tourism, Arts and Culture;
- (iv) Ministry responsible for Agriculture, not below the rank of a Director, nominated by the Minister responsible for Agriculture; and
- (v) Ministry responsible for Business Development, not below the rank of a Director, nominated by the Minister responsible for Business Development; and
- (h) two other persons.

(2) The President shall, in accordance with article 70 of the Constitution, appoint the chairperson and other members of the Board.

(3) The President shall, in making the appointments under subsection (1), take into consideration the knowledge and expertise of persons in entrepreneurship.

Section 5—Functions of the Board

The Board shall

- (a) be responsible for the strategic direction and policies of the Agency;
- (b) oversee the sound and proper management of the resources of the Agency; and
- (c) ensure the efficient and effective performance of the functions of the Agency.

Section 6—Duties and liabilities of a member of the Board

(1) A member of the Board has the same fiduciary relationship with the Agency and the same duty to act with loyalty and in good faith as a director of a company incorporated under the Companies Act, 2019 (Act 992).

(2) Without limiting subsection (1), a member of the Board has a duty

- (a) to act honestly and in the best interest of the Agency in the performance of the functions of that member;
- (b) to exercise the degree of care and diligence in the performance of the functions of that member that a person in that position would reasonably be expected to exercise in the circumstance;
- (c) to avoid making improper use of information acquired by virtue of the position of that member so as to benefit that member or to the detriment of the Agency; and
- (d) not to abuse the position of the office.

(3) A member of the Board shall, before assuming office, file with the Agency a disclosure statement, declaring all assets, business affiliations and details of past and present employment.

(4) A member of the Board who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than two hundred and fifty penalty units.

(5) Where a court determines that the Agency or an owner of a micro, small or medium enterprise has suffered loss or damage as a consequence of an act or omission of a member, the court may, in addition to imposing a fine, order the person convicted to pay appropriate compensation to the Agency or the owner of the micro, small or medium enterprise.

Section 7—Tenure of office of members of the Board

(1) A member of the Board shall hold office for a period of four years and is eligible for re-appointment for another term only.

(2) Subsection (1) does not apply to the Executive Director.

(3) A member of the Board may, at any time, resign from office in writing addressed to the President through the Minister.

(4) A member of the Board who is absent from three or more consecutive meetings of the Board without sufficient cause ceases to be a member.

(5) The President may, by a letter addressed to a member, revoke the appointment of that member.

(6) Where a member of the Board is, for a sufficient reason, unable to act as a member, the Minister shall determine whether the inability would result in the declaration of a vacancy.

(7) Where there is a vacancy

(a) under subsection (3), (4), (5), or subsection (2) of section 9;

(b) as a result of a declaration under subsection (6); or

(c) by reason of the death of a member,

the Minister shall notify the President of the vacancy and the President shall, subject to subsection (2) of section 4, appoint a person to fill the vacancy.

Section 8—Meetings of the Board

(1) The members of the Board shall meet at least once every three months for the conduct of business at a time and place determined by the chairperson.

(2) The chairperson shall, at the request in writing of not less than one-third of the membership of the Board, convene an extraordinary meeting of the Board at a time and a place determined by the chairperson.

(3) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, a member of the Board, other than the Chief Executive Officer, elected by the members present from among their number shall preside.

(4) The quorum at a meeting of the Board is seven members.

(5) Matters before the Board shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Board may co-opt a person to attend a meeting of the Board but that person shall not vote on a matter for a decision at the meeting.

(7) The proceedings of the Board are not invalidated by reason of a vacancy among the members of the Board or by a defect in the appointment, or the disqualification of a member.

(8) Subject to this Act, the Board shall regulate the procedure for the meetings of the Board.

Section 9—Disclosure of interest

(1) A member of the Board who has an interest in a matter for consideration by the Board

(a) shall disclose in writing the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and

(b) is disqualified from being present at or participating in the deliberations of the Board in respect of that matter.

(2) Where a member contravenes subsection (1), the chairperson shall notify the Minister who shall inform the President, in writing, to revoke the appointment of that member.

(3) Without limiting any further cause of action that may be instituted against the member, the Board shall recover any benefit derived by a member who contravenes subsection (1) in addition to the revocation of the appointment of the member.

Section 10—Establishment of committees

(1) The Board may establish committees consisting of members of the Board or non-members or both to perform a function of the Board.

(2) Section 9 applies to members of a committee of the Board.

Section 11—Allowances

Members of the Board and members of a committee of the Board shall be paid allowances approved by the Minister in consultation with the Minister responsible for Finance.

Section 12—Policy directives

(1) The Minister may give directives, in writing, on matters of policy to the Board and the Board shall comply.

(2) The directives shall be consistent with the object of this Act.

Administrative Provisions

Section 13—Appointment of Chief Executive Officer

(1) The President shall, in accordance with article 195 of the Constitution, appoint a Chief Executive Officer for the Agency.

(2) The Chief Executive Officer shall hold office on the terms and conditions specified in the letter of appointment.

Section 14—Functions of the Chief Executive Officer

- (1) The Chief Executive Officer is
 - (a) responsible for the day-to-day administration of the Agency, and
 - (b) answerable to the Board in the performance of functions under this Act.
- (2) The Chief Executive Officer is responsible for the execution of strategic plans and operations of the Agency.
- (3) The Chief Executive Officer may delegate a function to an officer of the Agency but shall not be relieved of the ultimate responsibility for the performance of the delegated function.

Section 15—Appointment of Deputy Chief Executive Officer

- (1) The President shall, in accordance with article 195 of the Constitution, appoint a Deputy Chief Executive Officer for the Agency.
- (2) The Deputy Chief Executive Officer shall hold office on the terms and conditions specified in the letter of appointment.

Section 16—Functions of the Deputy Chief Executive Officer

The Deputy Chief Executive Officer shall assist the Chief Executive Officer in the performance of functions under this Act and perform any other functions assigned by the Chief Executive Officer or the Board.

Section 17—Appointment of other staff

- (1) The President shall, in accordance with article 195 of the Constitution, appoint other staff of the Agency that are necessary for the efficient and effective performance of the functions of the Agency.
- (2) The Agency may, for the effective performance of the functions of the Agency, engage the services of consultants and experts on the recommendation of the Chief Executive Officer.

Section 18—Regional and district offices of the Agency

- (1) The Board may, on the recommendation of the Chief Executive Officer, establish regional and district offices of the Agency.
- (2) A regional or district office of the Agency shall be headed by a Regional Director or District Director as the case may be who shall be responsible for the day-to-day administration of the regional or district office.

Section 19—Departments of the Agency

The Board may establish departments of the Agency that are necessary for the efficient and effective performance of the functions of the Agency.

Section 20—Internal Audit Unit

- (1) The Agency shall have an Internal Audit Unit in accordance with section 83 of the Public Financial Management Act, 2016 (Act 921).

(2) The Internal Audit Unit shall be headed by an Internal Auditor who shall be appointed in accordance with the Internal Audit Agency Act, 2003 (Act 658).

(3) The Internal Auditor is responsible for the internal audit of the Agency.

(4) The Internal Auditor shall, subject to subsections (3) and (4) of section 16 of the Internal Audit Agency Act, 2003 (Act 658), at intervals of three months

(a) prepare and submit to the Board a report on the internal audit carried out during the period of three months immediately preceding the preparation of the report; and

(b) make recommendations in each report with respect to matters which appear to the Internal Auditor as necessary for the conduct of the affairs of the Agency.

(5) The Internal Auditor shall, in accordance with subsection (4) of section 16 of the Internal Audit Agency Act, 2003 (Act 658), submit a copy of each report prepared under this section to—

(a) the Minister;

(b) the Auditor-General; and

(c) the chairperson of the Board.

Financial Provisions

Section 21—Sources of moneys of the Agency

The sources of moneys of the Agency include

(a) moneys approved by Parliament;

(b) seed money allocated by Government for the development of micro, small and medium enterprises;

(c) internally generated funds;

(d) donations and grants approved by the Minister responsible for Finance; and

(e) loans.

Section 22—Bank account for the Agency

The moneys for the Agency shall be paid into a bank account opened for that purpose with the approval of the Controller and Accountant-General.

Section 23—Expenses of the Agency

The administrative expenses of the Agency shall be charged on the funds of the Agency.

Section 24—Borrowing powers

Subject to article 181 of the Constitution, section 76 of the Public Financial Management Act, 2016 (Act 921) and any other relevant enactment, the Agency may obtain loans and any other credit facility on the guarantee of Government from such banks and institutions as the Minister, in consultation with the Minister responsible for Finance, may determine.

Section 25—Accounts and audit

- (1) The Board shall keep books of accounts, records and returns of account and other documents relevant to the accounts in the form approved by the Auditor-General.
- (2) The Board shall, at the end of each financial year, submit the accounts of the Agency to the Auditor-General for audit.
- (3) The Auditor-General shall, within six months after the end of the immediately preceding financial year, audit the accounts of the Agency and submit the report to Parliament and forward a copy of the audit report to the Minister and the Board.
- (4) The financial year of the Agency is the same as the financial year of Government.

Section 26—Annual report and other reports

- (1) The Board shall, within thirty days after the receipt of the audit report, submit an annual report to the Minister covering the activities and operations of the Agency for the year to which the annual report relates.
- (2) The annual report shall include the report of the Auditor-General.
- (3) The Minister shall, within thirty days after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.
- (4) The Board shall submit to the Minister any other report which the Minister may require in writing.
- (5) The Board shall publish the reports of the Agency in a medium of communication that the Board may determine.

Micro, Small and Medium Enterprise Fund

Section 27—Establishment of the Micro, Small and Medium Enterprise Fund

There is established by this Act a Micro, Small and Medium Enterprise Fund.

Section 28—Object of the Fund

- (1) The object of the Fund is to provide funding for the micro, small and medium enterprises sector.
- (2) To achieve the object of the Fund under subsection (1), moneys from the Fund shall be applied to relevant activities determined by the Agency.
- (3) Without limiting subsection (2), moneys from the Fund shall be applied
 - (a) to address gaps in funding micro, small and medium enterprises;
 - (b) for the development of micro, small and medium enterprises and in particular in rural areas; and
 - (c) to undertake any other activity ancillary to the object of the Fund as the Board may determine.

Section 29—Sources of moneys for the Fund

The sources of the moneys for the Fund include

- (a) moneys approved by Parliament;
- (b) grants, gifts, donations and other voluntary contributions; and
- (c) moneys which may become lawfully payable to the Agency for the Fund.

Section 30—Bank account for the Fund

Moneys for the Fund shall be paid into a bank account opened for that purpose by the Agency with the approval of the Controller and Accountant-General.

Section 31—Management of the Fund

- (1) The Board is responsible for the management of the Fund.
- (2) For the purpose of subsection (1), the Board shall
 - (a) pursue policies to achieve the object of the Fund;
 - (b) ensure accountability of the Fund by defining appropriate procedures for the management and disbursement of the Fund;
 - (c) carry out activities to generate moneys for the Fund; and
 - (d) perform any other functions ancillary to the objects of the Fund.
- (3) Sections 25 and 26 on accounts and audit and annual report and other reports apply to the Fund.

Miscellaneous Provisions

Section 32—Regulations

The Minister shall, within twelve months of the coming into force of this Act, and on the advice of the Board, by legislative instrument, make Regulations to

- (a) prescribe the thresholds for micro, small and medium enterprises;
- (b) prescribe incentives for micro, small and medium enterprises; and
- (c) provide generally for the effective and efficient implementation of this Act.

Section 33—Interpretation

In this Act, unless the context otherwise requires,

"Agency" means the Ghana Enterprises Agency established under section 1;

"Board" means the governing body of the Agency established under section 4;

"Chief Executive Officer" means the person appointed to the office of Chief Executive Officer under section 13 of this Act;

"company" means a limited liability company within the meaning under the Companies Act, 2019 (Act 992);

"enterprise" means

- (a) an industry, a project, an undertaking or a business; or
- (b) an expansion or a part of an industry, a project, an undertaking or a business;

"Fund" means the Micro, Small and Medium Enterprises Fund established under section 27;

"Ghanaian Enterprises Development Commission" means the Commission established under the Ghanaian Enterprises Development Act, 1975 (N.R.C.D. 330);

"medium enterprise" means an enterprise with a structure and threshold determined by Regulations made under this Act;

"micro enterprise" means an enterprise with a structure and threshold determined by Regulations made under this Act;

"Minister" means the Minister responsible for Trade and Industry;

"National Board for Small Scale Industries" means the Board established under the National Board for Small Scale Industries Act, 1981 (Act 434); and

"small enterprise" means an enterprise with a structure and threshold determined by Regulations made under this Act.

Section 34—Repeals and savings

(1) The following enactments are repealed:

- (a) the Ghanaian Enterprises Development Act, 1975 (N.R.CD. 330); and
- (b) the National Board for Small Scale Industries Act, 1981 (Act 434).

(2) Despite the repeal of the enactments specified in subsection (1), any Regulations, notices, orders, and any other act lawfully made or done under the repealed enactments and in force immediately before the coming into force of this Act shall continue to have effect as if made or done under this Act with the necessary modifications until revoked, reviewed, cancelled or terminated.

Section 35—Transitional provisions

(1) The assets and liabilities accrued in respect of property vested in

- (a) the Ghanaian Enterprises Development Commission established under the Ghanaian Enterprises Development Act, 1975 (N.R.CD. 330), and
- (b) the National Board for Small Scale Industries established under the National Board for Small Scale Industries Act, 1981 (Act 434) in existence immediately before the coming into force of this Act are transferred to the Agency.

(2) A contract subsisting between—

- (a) the Ghanaian Enterprises Development Commission, and

(b) the National Board for Small Scale Industries and another person and in effect before the coming into force of this Act shall subsist between the Agency established under this Act and that other person.

(3) A person in the employment of—

(a) the Ghanaian Enterprises Development Commission, and

(b) the National Board for Small Scale Industries immediately before the coming into force of this Act is deemed to have been employed by the Agency established under this Act on the terms and conditions attached to the post held by that person before the coming into force of this Act.

(4) Any moneys held by or on behalf of—

(a) the Ghanaian Enterprises Development Commission, and

(b) the National Board for Small Scale Industries shall be transferred to the Agency established under this Act within three months of the coming into force of this Act.

Date of Gazette Notification: 29th December, 2020.