

ACT 538

PUBLIC UTILITIES REGULATORY COMMISSION ACT, 1997

ARRANGEMENT OF SECTIONS

Establishment and Functions of the Commission

SECTION

1. Establishment of the Commission.
2. Governing body of the Commission.
3. Functions of the Commission.
4. Independence of the Commission.
5. Tenure of office of members of the Board.
6. Filling of vacancies.
7. Allowances for members.
8. Meetings of the Board.
9. Disclosure of interest.
10. Committees of the Board.

Provision of Service and Rules

11. Provision of adequate service.
12. Compliance with duty under section 11.
13. Standards of performance of public utilities.
14. Agreement with public utility to supply service.
15. Restriction on refusal to provide service.
16. Guidelines for fixing rates.
17. Cost of production.
18. Approval of rates chargeable for services.
19. Publication of tariffs.
20. Uniform rates of tariffs.
21. Filing of tariffs.
22. New service and change in existing rates.
23. Joint use of facilities.
24. Returns and information.
25. Ascertainment of value of property of public utility.
26. Obligation to provide bill.
27. Adjustment of credit to consumers.
28. Interest to be paid on deposits.

Complaints and Enforcement of Decisions of the Commission

29. Complaints to the Commission.
30. Procedure for complaints and investigation.
31. Consumer services committees.
32. Enforcement of decisions of the Board.

Administration and Financial Provisions

SECTION

33. Executive secretary.
34. Appointment of other staff of the Commission.
35. Funds of the Commission.
36. Accounts and audit.
37. Annual report.

Offences, Penalties and Miscellaneous Provisions

38. Offences and penalties.
39. Making or furnishing false return or information.
40. Obstruction of and interference with the Commission.
41. Penalty for continuing offence.
42. Offences by body of persons.
43. Co-operation by licensing authorities.
44. Inspectorate.
45. Complaints from consumers.
46. Register of public utilities.
47. Exclusion of community water supply.
48. Regulations.
49. Interpretation.
50. Consequential amendment.
51. Transitional provisions.

ACT 538**PUBLIC UTILITIES REGULATORY COMMISSION ACT, 1997¹**

AN ACT to provide for the establishment of a Public Utilities Regulatory Commission to regulate and oversee the provision of utility services by public utilities to consumers and to provide for related matters.

*Establishment and Functions of the Commission***1. Establishment of the Commission**

- (1) There is hereby established a Public Utilities Regulatory Commission.
- (2) The Commission is a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.
- (3) The Commission may for the performance of its functions under this Act, acquire and hold movable or immovable property, dispose of the property and enter into a contract of any other transaction.

1. The Act was assented to on 16th October, 1997 and was published in the *Gazette* on 17th October, 1997.

(4) Where there is a hindrance to the acquisition of property under subsection (3), the property may be acquired for the Commission under the State Property and Contracts Act, 1960 (C.A. 6) or the State Lands Act, 1962 (Act 125).

2. Governing body of the Commission

(1) The governing body of the Commission is a Board consisting of

- (a) the chairman,
- (b) one person nominated by the Trades Union Congress,
- (c) one person nominated by the Association of Ghana Industries,
- (d) one representative of domestic consumers,
- (e) the executive secretary appointed under section 33, and
- (f) four other persons with knowledge in matters relevant to the functions of the Commission.

(2) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

3. Functions of the Commission

The functions of the Commission are

- (a) to provide guidelines on rates chargeable for the provision of utility services,
- (b) to examine and approve rates chargeable for the provision of utility services,
- (c) to protect the interest of consumers and providers of utility services,
- (d) to monitor standards of performance for the provision of services,
- (e) to initiate and conduct investigations into standards of quality of service given to consumers,
- (f) to promote fair competition among public utilities,
- (g) to conduct studies relating to economy and efficiency of public utilities,
- (h) to make valuation of property of public utilities it considers necessary for the purposes of the Commission,
- (i) to collect and compile data on public utilities it considers necessary for the performance of its functions,
- (j) to advise a person or an authority in respect of a public utility,
- (k) to maintain a register of public utilities, and
- (l) to perform any other functions as are incidental to its other functions.

4. Independence of the Commission

Subject to this Act, the Commission is not subject to the direction or control of a person or an authority in the performance of its functions.

5. Tenure of office of members of the Board

(1) A member of the Board, other than the chief executive, shall hold office for a period not exceeding five years and is eligible for re-appointment.

(2) A member other than the chief executive may by letter addressed to the President resign from office.

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

(4) The chairman or any other member of the Board may be removed from office by the President in consultation with the nominating body for inability to perform the functions of office, for stated misbehaviour or for any other just cause.

(5) The chairman of the Board shall notify the President of a vacancy that occurs in the membership of the Board within one month of the occurrence of the vacancy.

6. Filling of vacancies

(1) When a member, other than the chief executive, is incapacitated by illness or any other cause from performing the functions of office for more than twelve months, the President may, acting in consultation with the appropriate institution, appoint another person to perform the functions of the member until the member is able to resume the performance of functions.

(2) A person appointed to fill a vacancy shall hold office for the remainder of the term of the previous member and is eligible, subject to this Act, for re-appointment.

7. Allowances for members

The chairman and the other members of the Board shall be paid the allowances determined by the President.

8. Meetings of the Board

(1) The Board shall meet at least once every three months for the despatch of business at the times and in the places determined by the chairman.

(2) The chairman shall, on the request of not less than one-third of the membership of the Board, convene a special meeting of the Board.

(3) The quorum at a meeting of the Board is five members including the chief executive or the person acting in that capacity.

(4) The chairman shall preside at the meetings of the Board and in the absence of the chairman a member of the Board elected by the members present from among their number shall preside.

(5) Questions before the Board shall be decided by a majority of the members present and voting.

(6) The chairman or the person presiding at the meeting of the Board shall in the event of equality of votes have a casting vote.

(7) The Board may co-opt a person to act as an adviser at a meeting of the Board but a co-opted person is not entitled to vote at the meeting.

(8) The validity of the proceedings of the Board shall not be affected by a vacancy among its members or by a defect in the appointment or qualification of a member.

(9) Except as otherwise expressly provided for under this section, the Board shall determine and regulate the procedure for its meetings.

9. Disclosure of interest

(1) A member who is directly interested in a matter being considered or dealt with by the Board shall disclose the nature of the interest at a meeting of the Board and shall not take part in a deliberation or decision of the Board with respect to that matter.

(2) A member who fails to disclose interest under subsection (1) shall cease to be a member the Board.

10. Committees of the Board

The Board may, for the performance of its functions, appoint a committee of the Board comprising members of the Board or non-members or both and assign to the committee any of its functions that it may determine.

Provision of Service and Rules

11. Provision of adequate service

A public utility licensed or authorised under a law to provide utility service shall

- (a) maintain its equipment and property used in the provision of the service in a condition that enables it to effectively provide the service;
- (b) make the reasonable effort that is necessary to provide to the public a service that is safe, adequate, efficient, reasonable and non-discriminatory; and
- (c) make the repairs, changes, extensions and improvements in or to the service that are necessary or proper for the efficient delivery of the service to the consumer.

12. Compliance with duty under section 11

(1) Where the Board discovers on its own or on a complaint that the service provided by a public utility is not in accordance with section 11, the Board shall in writing direct the provision of the adequate or reasonable service that should be provided by the public utility and may include any other directions that will secure compliance with section 11.

(2) A direction under subsection (1) may include payment of compensation by the public utility to a consumer for damage or loss suffered on account of the failure of the public utility to comply with section 11.

(3) Where the technology employed by a public utility is out of date or where an advance in technology which could result in an improvement in the service or in reducing the cost of the consumer, has not been incorporated in the service within a reasonable time, the Board may in writing direct the public utility to take the measures that the Board considers appropriate to remedy the omission.

(4) A direction under subsection (3) shall specify a reasonable time for compliance and where compliance is in stages, the different times may be specified to comply with each stage.

13. Standards of performance of public utilities

(1) The Board shall monitor standards of performance established by the licensing authorities of public utilities for compliance by public utilities.

(2) Where a public utility fails to meet a required standard of performance it shall pay the compensation that the Board in consultation with the licensing authority determines to a person adversely affected as a result of the failure.

(3) The requirement for payment of compensation under this section

- (a) does not limit the right to any other remedy at law which is available to the complainant;
- (b) does not preclude the Commission from taking any other measures or imposing any other sanction that the Board has a right to impose in respect of the act or omission that constitutes the failure.

14. Agreement with public utility to supply service

(1) Where a public utility has entered into an agreement with an institution or a body corporate for the provision, development or expansion of the service to be provided or being provided by the public utility, and the implementation of the agreement is not effected within a reasonable time in a material respect without reasonable excuse, the institution or body may make a complaint to the Commission.

(2) Where the Board after giving the complainant and the public utility against which the complaint is made a reasonable opportunity of being heard, is satisfied that the public utility concerned has failed or refused to implement the terms of the agreement within a reasonable time, the Board may

- (a) direct the public utility to pay to the institution or body a sum of money that it considers reasonable in the circumstances of the case, or
- (b) recommend to the licensing authority of the public utility, the cancellation or suspension of its licence, or
- (c) give any other directions that it considers just in the circumstances of the case.

15. Restriction on refusal to provide service

(1) Except where a licence or authorisation given to a public utility is revoked, suspended, cancelled or expires in accordance with the terms of the licence, a public utility shall not refuse to provide its service generally without the prior written permission of the Commission.

(2) An application for permission under subsection (1) shall be submitted to the Commission within the prescribed period.

16. Guidelines for fixing rates

(1) A public utility shall not fix a rate to be charged for a service provided by it unless the rate is in accordance with guidelines provided by the Commission.

(2) The Board shall prepare and provide to public utilities guidelines on levels of rates that may be charged by the public utilities for the services provided.

(3) In preparing the guidelines the Board shall take into account

- (a) the interests of the consumer,
- (b) the interests of an investor,
- (c) the cost of production of the service, and
- (d) the assurance of the financial integrity of the public utility.

17. Cost of production

(1) In order to assess the cost of production of a service by a public utility for the purposes of this Act, the Board may investigate and determine whether an expenditure incurred by the public utility is justified or reasonable.

(2) Where the public utility does not itself produce or generate the service which it provides to consumers, but obtains it from another source, the Board may investigate the cost of production or generation of the producer or generator in order to determine the reasonableness of the rate being charged or proposed to be charged for the service concerned.

18. Approval of rates chargeable for services

(1) A public utility shall not demand a rate for the service it provides unless the rate chargeable for the service has been approved by the Board.

(2) A public utility shall not directly or indirectly demand or receive for a service provided by it a higher rate than the rate approved by the Board in relation to it and which shall be stated in the tariff filed with the Commission under section 21.

(3) Subject to this Act but despite subsection (2), a public utility may, with the written permission of the Board demand and receive from a consumer a special rate agreed to by the public utility and the consumer.

(4) The Board shall, before approving a rate provide as far as practicable the public utility and consumers affected by the rate a reasonable opportunity of being heard and shall take into account a representation made before it.

(5) Despite the other provisions of this section, the power to approve a rate under this section for services to which this section would otherwise have applied shall not apply to the export of the service.

19. Publication of tariffs

Rates approved by the Board shall be published by the Commission in the *Gazette* and the mass media.

20. Uniform rates of tariffs

(1) The Board may, having regard to matters such as

- (a) the population distribution in the country,
- (b) the need to make the best use of a natural resource of the country, and
- (c) the economic development of the whole country,

fix a uniform rate throughout the country, a Region or district for a service provided by a public utility.

(2) Subsection (1) does not prevent the Board from approving different rates for different classes of consumers.

21. Filing of tariffs

(1) A public utility shall, within the time determined by the Board, file with the Commission in the form specified by the Board, tariffs showing the rates charged by it for the service it provides.

(2) Copies of the tariffs shall be made available to the public for inspection.

22. New service and change in existing rates

(1) Where a public utility starts a new service for which rates are chargeable or desires to revise an existing rate charged by it for a service, it shall file with the Commission at least sixty days before the commencement of the new service or the effective date for the revised rates, notice of the proposed new rates or revised rates.

(2) The notice shall state,

- (a) where it relates to the rate for a new service,
 - (i) the new rates;
 - (ii) the effective date of the rates; and
 - (iii) any other particulars specified by the Board;
- (b) where it relates to changing existing rates,
 - (i) the existing rates and the proposed rates;
 - (ii) the effective date of the proposed rates;
 - (iii) the reasons for the change in rates; and
 - (iv) any other particulars that may be required by the Board.

(3) The Board shall within thirty days of receipt of the required particulars take a decision on the rates.

23. Joint use of facilities

(1) A public utility may permit the joint use of its equipment and facilities by another public utility for a reasonable compensation where the arrangement is convenient or necessary and the use will not result in damage to the owner or other users of the equipment.

(2) Where a dispute arises with respect to the arrangement, a complaint may be made by any of the parties to the Commission which shall settle the dispute.

(3) Despite subsection (1) and (2), the Board may where it is satisfied after investigation that the joint use of equipment and facilities

- (a) is necessary to provide safe, adequate and economic service to consumers,
- (b) will not result in irreparable damage to the owners or users of the equipment or facilities, and
- (c) is just and reasonable having regard to the circumstances of the case,

direct that two or more public utilities enter into an arrangement for joint or combined use or any other arrangement on the terms, including compensation that the Board may determine, for the provision of a service; except that the Board may on a complaint from a public utility or consumer affected by the directives modify or revoke an earlier directive.

24. Returns and information

(1) The Board may in writing, require a public utility to furnish at the intervals specified by the Board, and at the other times that the Board may require, a detailed report of finances and operations of the public utility in the form and containing the particulars specified by the Board and the public utility shall comply with the request.

(2) A public utility shall on reasonable notice by the Board furnish to the Commission the information required by the Board and shall make specific and complete answers to the questions submitted by the Board.

(3) Where required by the Commission on reasonable notice, a public utility shall deliver to the Commission the contracts, reports of engineers, documents, books, accounts and any other records in the possession or control of the public utility and relating to its property or service or affecting its business, or copies verified in the manner specified by the Board.

25. Ascertainment of value of property of public utility

(1) The Board may in writing direct the ascertainment by appraisal, of the value of the property of a public utility and in that connection may enquire into a fact which it considers has a bearing on that value, including the amount of money actually and reasonably expended by that public utility in order to provide service reasonably adequate to the requirements of the public served by the public utility.

(2) Expenses in connection with an appraisal ordered by the Board, including the expenses incurred in connection with it by the public utility whose property is the subject of the appraisal, may, where the Board directs, be charged to the capital account of the public utility.

26. Obligation to provide bill

A public utility shall give to a consumer after each calendar month or at any other intervals directed by the Board in relation to a consumer or class of consumers, other than consumers on prepayment meters, a bill showing the sum of money payable by the consumer for the service provided by the public utility during the preceding month or other relevant period as determined by the Board.

27. Adjustment of credit to consumers

Where in respect of a change in rates payable by a consumer for a service, a consumer becomes entitled to receive a sum of money from a public utility, that sum shall be adjusted towards a sum of money that may become payable by the consumer to the public utility for a further period or paid in cash to the consumer as agreed on by them.

28. Interest to be paid on deposits

(1) A public utility that requires its consumers to make cash deposits with the public utility as a condition precedent to receiving service offered by the public utility, shall pay interest on the deposit at the rate determined by the Board except that an interest shall not be paid on deposits held by the public utility for less than six months.

(2) Subject to subsection (1), where applicable a public utility shall disclose to the consumer with its final billing statement in each calendar year, the amount of interest which has accumulated on deposits during the calendar year and the proportion which stands to the credit of the consumer.

*Complaints and Enforcement of Decisions of the Commission***29. Complaints to the Commission**

(1) A person may submit a complaint to the Commission in respect of a matter arising under this Act.

(2) A complaint that relates to the provision of utility service or rates chargeable for service provided by a public utility shall, in the first instance, be referred to the Commission for investigation and settlement.

(3) The Board shall investigate complaints received by it unless it is of the opinion that

- (a) the complaint is trivial, frivolous, vexatious or not made in good faith, or
- (b) the complaint is on the same subject already under investigation.

(4) The Board does not have power to investigate a matter which is before a Court.

30. Procedure for complaints and investigation

The Commission shall, by legislative instrument, prescribe for matters relating to submission of complaints to the Commission and the hearing and determination of the complaints.

31. Consumer services committees

(1) The Commission may establish consumer services committees in the areas of the country that it considers necessary.

(2) The Commission shall, by legislative instrument, prescribe the membership and functions of a consumer services committee.

32. Enforcement of decisions of the Board

Where, the Board, whether before or after an investigation, makes a decision or gives a direction, requiring a person to do or desist from doing an act, and there is failure on the part of that person to comply with the decision or direction, within a specified period, or within a reasonable time, the Commission may apply to the High Court for the enforcement of the decision or direction.

*Administration and Financial Provisions***33. Executive secretary**

(1) The Commission shall have an executive secretary who shall be appointed by the President in accordance with article 195 of the Constitution.

(2) The executive secretary shall be a member of the Board.

(3) The executive secretary shall hold office on the terms and conditions specified in the letter of appointment.

(4) Subject to the general directives that the Board may give, the executive secretary is responsible for the day-to-day administration of the affairs of the Commission and shall ensure the implementation of the decisions of the Board.

(5) The executive secretary may delegate the day-to-day administration of the affairs of the Commission to an officer but the executive secretary is not relieved from ultimate responsibility for the performance of a delegated function.

34. Appointment of other staff of the Commission

(1) The President acting in accordance with article 195 of the Constitution may appoint officers or other employees as are necessary for the effective performance of the functions of the Commission.

(2) Other public officers may be transferred or seconded to the Commission.

(3) The Commission may engage the services of experts and consultants who it considers necessary on the recommendation of the executive secretary.

35. Funds of the Commission

The funds of the Commission include

- (a) Government subvention,
- (b) the loans granted to the Commission,
- (c) the moneys accruing to the Commission in the course of the performance of its functions under this Act, and
- (d) grants.

36. Accounts and audit

(1) The Commission shall keep books of account and proper records in relation to them in a form approved by the Auditor-General.

(2) The books of account of the Commission shall be audited annually within three months of the end of the immediately preceding financial year by the Auditor-General.

(3) The financial year of the Commission shall be the same as the financial year of the Government.

37. Annual report

The chairman of the Board shall, as soon as possible after the expiration of each financial year but within six months after the end of the year, submit to Parliament an annual report dealing generally with the activities and the operations of the Commission within that year which shall include a copy of the audited accounts of the Commission together with the Auditor-General's report on it.

*Offences, Penalties and Miscellaneous Provisions***38. Offences and penalties**

A public utility which

- (a) fails to comply with the required standards of performance in the provision of utility services,
- (b) refuses to provide its utility service contrary to section 15 (1),
- (c) charges or demands for its services rates not approved by the Board contrary to section 18 (1),
- (d) charges or demands a higher rate than the rate approved by the Board contrary to section 18 (2),
- (e) fails to submit within a specified period the tariffs of its rates contrary to section 21,
- (f) fails to submit new or revision of any existing rates for approval by the Commission contrary to section 22,
- (g) fails or refuses to provide a bill to its consumers contrary to section 26,
- (h) fails or refuses to make the requisite adjustment arising out of a variation in rates contrary to section 27,
- (i) fails or refuses to prepare and submit to the Commission within a specified time provided by or under this Act a return or an information
 - (i) required to be furnished by or under this Act, or
 - (ii) directed to be furnished by the Board for the purpose of the performance of its functions, or
- (j) fails or refuses to answer a question relevant to a matter which is the subject of an investigation before the Commission,

commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units and in default of payment the principal officer or the secretary of the public utility is liable to a term of imprisonment not exceeding two years.

39. Making or furnishing false return or information

A public utility which makes a return or furnishes information to the Commission which is false in a material particular commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units.

40. Obstruction of and interference with the Commission

A person who obstructs or interferes with a member, an officer or any other person employed by the Commission in the exercise of the powers conferred or duties imposed by or under this Act commits an offence and is liable, on summary conviction, to a fine not exceeding one thousand penalty units or to a term of imprisonment not exceeding five years or to both the fine and the imprisonment.

41. Penalty for continuing offence

Where a public utility convicted of an offence under this Act continues to commit the offence after conviction there shall be imposed on the public utility a fine of not less than five hundred penalty units for each day during which the offence is continued and where there is failure to pay the fine the principal officer is liable to imprisonment for a term that the High Court may determine.

42. Offences by body of persons

(1) Where an offence under this Act or the Regulations is committed by a body corporate or by a member of a partnership or other firm, every director or officer of that body corporate or a member of the partnership or other person concerned with the management of the public utility commits that offence and

- (a) is liable on conviction, to a fine not exceeding five hundred penalty units for the offence, and
- (b) is liable in addition to the payment of compensation for a damage resulting from the breach.

(2) A person shall not be convicted under subsection (1) where it is proved to the satisfaction of the High Court

- (a) that due diligence was exercised to secure compliance with the provisions of the Act, and
- (b) that the offence was committed without the knowledge, consent or connivance of that person.

43. Co-operation by licensing authorities

A body or an institution authorised by an enactment to grant a licence to a public utility for the provision of the relevant utility service shall assist the Board in the performance of its function under this Act.

44. Inspectorate

(1) For the purpose of giving effect to this Act, the Commission shall establish an inspectorate division.

(2) The Board may in writing appoint a chief inspector and any other inspectors to perform any of its functions as determined by the Board for the purpose of enforcing this Act and the Regulations.

(3) An inspector appointed under this Act may at reasonable times enter the premises of a public utility to inspect the premises or generally to perform its functions under this Act or to ensure that this Act is complied with.

45. Complaints from consumers

(1) A public utility shall establish procedures for dealing with complaints by its consumers or potential consumers of its service.

(2) A procedure shall not be established and a modification of the procedure shall not be made, unless

(a) the public utility has consulted persons or bodies that constitute a fair representation of consumers for whom it provides the service, and

(b) the proposed procedure or modification has been approved by the Board.

(3) A public utility shall publicise the approved procedure in a manner that the Board may require and send copies of the procedure, free of charge, to a person who asks for it.

(4) The Board may direct the public utility to review its procedures or the manner in which it operates and makes modifications to the procedures.

46. Register of public utilities

(1) The Commission shall keep a register in which shall be recorded particulars of public utilities.

(2) The register shall be open to the public on the terms and conditions determined by the Board.

47. Exclusion of community water supply

This Act does not apply to the supply of water provided in a community, where the supply of the water is operated and managed by the community concerned.

48. Regulations

(1) The Board may, by legislative instrument, make Regulations that it considers necessary for the implementation of this Act.

(2) Without prejudice to subsection (1) the Regulations may provide for

(a) the procedure for submission of complaints, investigation and determination of complaints, and

(b) any other matter to be taken into account by the Commission in approving the rate for a service provided by a public utility.

(3) Regulations issued under subsection (1) or (2) shall be under the signature of the chairman of the Board.

49. Interpretation

In this Act, unless the context otherwise requires,

“**Auditor-General**” includes an auditor appointed by the Auditor-General;

“**Commission**” means the Public Utilities Commission established under section 1;

“**consumer**” means a person or the successor to that person who purchases, receives or makes use of a service provided by a public utility and does not deliver or resell the service to others;

“**export**” means the provision of the service to any other country, the Volta Aluminium Company or a free zone area in the Republic;

“**licensing authority**” means a body or an authority with power under an enactment to grant licence or rights to a public utility;

“**member**” means a member of the Board;

“**prescribed**” means prescribed under this Act or the Regulations;

“**principal officer**” means the person responsible for the day to day administration of the affairs of the public utility;

“**public utility**” means a person engaged in the provision to the public for a fee, whether directly or indirectly, of the following services to the public:

- (a) the supply, transmission or distribution of electricity;
- (b) the supply transmission or distribution of water;
- (c) other public utility services excluding a service involving or related to a petroleum product, that Commission shall by legislative instrument prescribe on recommendation of the Minister with responsibility for the service;^{1a}

“**rate**” means fee, payment or charge in the form of money for a service provided by a public utility;

“**Regulations**” means the Regulations made under this Act;

“**service**” includes the supplying or furnishing of a commodity other than a petroleum product, derived directly from the business in which a public utility is engaged to the consumer and the placing at the disposal of the consumer the facilities employed in or connected with the supply of that commodity.^{1b}

1a. Substituted by section 86 of the National Petroleum Authority Act, 2005 (Act 691).

1b. Substituted by section 86 of the National Petroleum Authority Act, 2005 (Act 691).

50. Consequential amendment

*Spent.*²

51. Transitional provisions

*Spent.*³

2. The section provided that

“(1) The Ghana Water and Sewerage Corporation Act, 1965 (Act 310) is amended by the repeal of section 2 (2) (f) and section 14 (b) and (d).

(2) The Volta River Development Act, 1961 (Act 46) is amended by the repeal of section 21 (4).”

3. The section provided that

“**51.** Any public utility however established and in existence at the commencement of this Act shall within fourteen days of the appointment of the Commission established under this Act submit to the Commission its existing and proposed tariffs of rates chargeable for the utility service it provides for the approval of the Commission and shall submit such other information as the Commission may in writing require.”

ACT 192

PUNISHMENT OF HABITUAL CRIMINALS ACT, 1963

ARRANGEMENT OF SECTIONS

SECTION

1. Punishment of habitual criminal offenders.
 2. Medical examination of offender in certain cases.
 3. Convictions by Circuit, District and Local Courts.
 4. Repeal and transitional provision.
 5. Construction of this Act.
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ACT 192 OF 1963

PUNISHMENT OF HABITUAL CRIMINALS ACT, 1963¹

AN ACT to provide for the punishment of habitual criminal offenders and for purposes connected therewith.

1. Punishment of habitual criminal offenders

- (1) Where a person who is not less than twenty years of age
 - (a) is convicted of an offence other than an offence for which that person is liable to suffer death, and
 - (b) has been convicted previously of at least two offences, each of which is either a felony or a misdemeanour, and
 - (c) it appears to the High Court, after enquiring into the circumstances of the case, that by reason of that person's criminal habits or tendencies or of that person's association with persons of bad character it is expedient for the protection of the public that that person should be detained in custody for a substantial period,

the Court shall, subject to section 2, pass, in lieu of any other sentence, a sentence of preventive custody with productive hard labour for a term, which is not less than ten years, that the Court may determine.

(2) In this Act the expression "**productive hard labour**" has the meaning assigned to it by the Public Property Protection Act, 1977.²

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1. This Act was assented to on 9th October, 1963.
 2. S.M.C.D. 140.

2. Medical examination of offender in certain cases

(1) Where in the case of an offender to whom subsection (1) of section 1 applies the High Court has reason to believe that that person's physical or mental condition renders that person unsuitable for a sentence of preventive custody with productive hard labour under that section, the Court shall, before passing sentence

- (a) cause an inquiry to be held into, and a written report to be made on, the physical and mental health of that offender by a medical board consisting of not fewer than two suitably qualified medical practitioners appointed by the Court after consultation with the Chief Medical Officer,
- (b) consider the report of the board and take any further medical evidence concerning the offender that the Court thinks fit, and
- (c) furnish the offender or the offender's lawyer with a copy of the report.

(2) Where, having regard to the report or further medical evidence, or to any representations made by or on behalf of the offender, the Court is satisfied that the offender's physical or mental health renders the offender unsuitable for a sentence of preventive custody with productive hard labour, but for no other reason, the Court shall, in lieu of that sentence, pass any other sentence that is authorised by law in relation to the offence of which the offender is convicted.

3. Convictions by Circuit, District and Local Courts

(1) Where the Court by which an offender to whom paragraphs (a) and (b) of subsection (1) of section 1 applies is convicted is a Circuit Court, District Court or Local Court, the Court shall not pass sentence on the offender but shall commit the offender for sentence to the High Court, and an enactment relating to the powers of a Court on committal for trial shall apply, so far as is relevant, to the committal for sentence.

(2) Following the committal the High Court shall have power to deal with the offender as if the offender had been convicted by that Court of the offence, and, if the offence is an indictable one, as if the offender had been convicted on indictment, and the conviction and sentence shall be subject to appeal as the offender had been so convicted.

4. Repeal and transitional provision

(1) Section 402 of the Criminal and Other Offences (Procedure) Act, 1960 (Act 30) (which section relates to preventive custody) is hereby repealed.

(2) The repeal of section 402 shall not affect a case in which, at the date of the passing of this Act, enquiries are being made under subsection (2) of that section; and that case shall continue to be dealt with by the High Court as if this Act had never been passed.

5. Construction of this Act

This Act shall be read as one with the Criminal and Other Offences (Procedure) Act, 1960 (Act 30).

CAP. 77
QUARANTINE ACT, 1915
 ARRANGEMENT OF SECTIONS

SECTION

1. Declaration of place as infected.
2. Regulations.
3. Appointment of officers.
4. Appointment of sanitary stations, anchorages.
5. Penalties.
6. Legal proceedings.
7. Interpretation.

CAP. 77
QUARANTINE ACT, 1915¹

AN ACT to amend the law with respect to quarantine and to provide for related matters.

1. Declaration of place as infected

Where a place is an infected place within the meaning of the Regulations, the Minister may, by executive instrument, declare that place to be an infected place.²

2. Regulations

(1) The Minister may, by legislative instrument, make Regulations

- (a) for the purpose of preventing the introduction of disease into the Republic or a part of the Republic, from an infected place, or
- (b) for the purpose of preventing the transmission of disease from the Republic into any other country.

(2) The Regulations shall apply to the whole of the Republic or to a part of the Republic mentioned in the Regulations.³

(3) The Regulations may prescribe the person by whom the expenses of carrying out the Regulations or an order made under this Act shall be borne and paid and the persons from whom the expenses incurred or charged by the Government may be recovered.

3. Appointment of officers

The Minister may by writing signed personally by the Minister appoint a fit and proper person to be an officer as may be necessary to enforce and carry out this Act.

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1. The Act was assented to on 2nd March, 1915. It was Chapter 67 of the McCarthy Edition and Chapter 77 of the McElvine Edition of the Laws of the Gold Coast.
 2. Amended by section 6 of No. 27 of 1932.
 3. Amended by section 3 of No. 12 of 1938.

4. Appointment of sanitary stations, anchorages

The Minister may provide sanitary stations, buildings and equipment, and may by executive instrument, appoint the sanitary anchorages that are necessary for the purposes of this Act.

5. Penalties

A person who contravenes a regulation or an instrument made under this Act commits an offence and is liable on conviction to a fine not exceeding two hundred penalty units or to a term of imprisonment not exceeding six months.

6. Legal proceedings

Proceedings for recovering a fine or imposing a term of imprisonment for the breach of or for recovering the expenses incurred or charged by the Government in carrying out a regulation or an executive instrument made under this Act may be commenced before and determined by a Magistrate.⁴

7. Interpretation

In this Act, unless the context otherwise requires,

“**Minister**” means the Minister responsible for Health;

“**Regulations**” means the Regulations made under section 2.

4. Amended by section 3 of No. 13 of 1935.

N.R.C.D. 216**RED CROSS EMBLEM (CONTROL) ACT, 1973**

ARRANGEMENT OF SECTIONS

SECTION

1. Prohibition on use of Red Cross emblem.
2. Use of emblem by Medical Services of the Armed Forces.
3. Use of emblem to designate civilian hospitals.
4. Use of emblem on ambulances.
5. Red Cross agencies entitled to use emblem.
6. Restriction on the use of the emblem.
7. Offences.
8. Forfeiture of object in relation to which emblem was used.
9. Regulations.
10. Interpretation.
11. Commencement.

SCHEDULE

*Red Cross Emblems***N.R.C.D. 216****RED CROSS EMBLEM (CONTROL) ACT, 1973¹**

AN ACT to provide for the protection of the Red Cross Emblem and for related matters.

1. Prohibition on use of Red Cross emblem

Except as otherwise provided in this Act, a person shall not, after the expiry of six months from the commencement of this Act, use any of the Red Cross emblems as set out in the Schedule.

1. The Act was issued as the Red Cross Emblem (Control) Decree, 1973 (N.R.C.D. 216) made on the 20th day of September, 1973 and notified in the *Gazette* on 21st September, 1973. The Preamble reads as follows:

“WHEREAS the Geneva Conventions of the 12th day of August, 1949 contain some provisions which seek to confer protection on certain persons, organisations and agencies by the use of the Red Cross Emblem and other similar emblems:

AND WHEREAS the Government of Ghana acceded to the said Conventions on the 2nd day of August, 1958:

AND WHEREAS all countries and parties to the said Conventions are obliged to make appropriate laws prohibiting the abuse of the Red Cross Emblem, similar emblems and the arms of Switzerland:

AND WHEREAS it is decided to give effect to the said Conventions so far as they relate to the protection of the Red Cross Emblem, similar emblems and the arms of Switzerland, to provide so far as is necessary that the appropriate provisions of the said Conventions shall have the force of law in Ghana, and to make provisions prohibiting the abuse or misuse of the Red Cross Emblem, similar emblems and the arms of Switzerland:”

2. Use of emblem by Medical Services of the Armed Forces

The emblem may, in time of war and in the field of operations, be used by the parties to the armed conflict, to designate establishments, units, personnel, including chaplains, materials, vehicles, hospitals, ships and any other craft of the medical services of the respective parties, and those of the Society and any other relief societies authorised by the President to aid the military medical services.

3. Use of emblem to designate civilian hospitals

The President may, in time of war, authorise by writing or by a notice published in the *Gazette*, the use of the emblem to designate the establishments and employees of civilian hospitals, hospital zones, and localities reserved for the wounded and the sick; and trains, ambulances and any other vehicles, vessels or aircraft used for the transport of wounded, sick and infirm civilians, and maternity cases.

4. Use of emblem on ambulances

The President may, in peace time, authorise by writing or by a notice published in the *Gazette*, the use of the emblem on vehicles in use as ambulances, and on relief posts whose sole object is to give first aid free of charge to injured or sick persons.

5. Red Cross agencies entitled to use emblem

(1) The International Red Cross agencies and their authorised personnel are entitled to use the emblem.

(2) The Society may, subject to any other enactment, use the emblem in its activities which conform to the principles prescribed by the International Red Cross Conferences, and its own Statutes.

(3) The Society may, with the prior approval of the Minister, make by-laws regulating its own use of the emblem.

6. Restriction on the use of the emblem

A person who, before the commencement of this Act, has acquired a right under an enactment to the use of the emblem generally or for a particular purpose, shall not use the emblem after the expiry of three years from that commencement.

7. Offences

(1) A person who contravenes a provision of this Act commits an offence, and is liable on summary conviction, to a term of imprisonment not exceeding three months or to a fine not exceeding one hundred and fifty penalty units or to both the imprisonment and the fine.

(2) Where the offence is committed by a body of persons,

(a) in the case of a body corporate, other than a partnership, each director or officer of that body corporate shall be deemed to have committed that offence, and

(b) in the case of a firm or partnership, each partner shall be deemed to have committed that offence.

(3) A person shall not be convicted of an offence under subsection (2) if that person proves that the offence was committed without the knowledge of that person or that due diligence was exercised to prevent the commission of the offence.

8. Forfeiture of object in relation to which emblem was used

(1) Where a person is convicted for a first or second offence under section 7, the Court shall order the emblem to be removed from an object in relation to which the offence was committed.

(2) On a third or subsequent conviction, the Court may order the article in relation to which the offence was committed to be forfeited to the Republic, and the article shall be disposed of in the manner directed by the Court.

9. Regulations

The Minister may, by legislative instrument, make Regulations necessary for carrying this Act into effect.

10. Interpretation

In this Act, unless the context otherwise requires,

“**emblem**” means any of the Red Cross emblems set out in the Schedule;

“**Minister**” means the Minister responsible for Internal Affairs;

“**Red Cross emblem**” includes the arms of the Federation of Switzerland, the red cross, the red crescent, or the red lion and sun emblem, or the words, “Red Cross” or “Geneva Cross” or a designation, sign or mark constituting an imitation or likely to be confused with any of those emblems or words describing any of those emblems;

“**Society**” means the Ghana Red Cross Society.

11. Commencement

*Spent.*²

SCHEDULE

[Section 1]

Red Cross Emblems

The Red Crescent



The Red Cross



The Red Lion and Sun



2. The section provided that the Act shall come into force on the 1st day of October, 1973.

S.M.C.D. 143**REFERENDUM ACT, 1977**
ARRANGEMENT OF SECTIONS*General*

SECTION

1. Polling divisions.
2. Returning officers.
3. Registration of voters.

Referendum Offences

4. Offences relating to the ballot.
5. Unauthorised voting.
6. Offences by referendum officers.
7. Unlawful communication at referendum.
8. Personation.
9. Bribery.
10. Treating.
11. Undue influence.
12. Penalty.
13. Activities prohibited on polling day.
14. Offence.
15. Defacement of notices.
16. Obstruction of officers.
17. Unidentified publications.
18. Consent to prosecution.

Determination of Referendum Petitions

19. Method of testing results of voting.
20. Presentation of referendum petition.
21. Security for costs.
22. Time.
23. Relief which may be granted.
24. Grounds for avoidance of results of referendum.
25. Scrutiny.
26. Certification of decision.
27. Report of Court as to corrupt practice.
28. Prohibition of disclosure of vote.
29. Procedure.
30. Appeal.

Miscellaneous Provisions

31. Proxy voting.
 32. Misnomer.
 33. Exemption from stamp duty.
 34. Interpretation.
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S.M.C.D. 143
REFERENDUM ACT, 1977¹

AN ACT to regulate the contract of a referendum and to provide for related matters.

General

1. Polling divisions

(1) In conformance with article 51 of the Constitution, and the purpose of conducting a referendum the Electoral Commission shall divide every constituency or area into polling divisions and a polling division may be divided into as many polling stations as directed by the Electoral Commission.

(2) Where the boundaries of a constituency or an area are varied in accordance with article 47 of the Constitution and in any other appropriate circumstances the Electoral Commission may alter the number and area of polling divisions within a constituency or an area.

(3) Where the Electoral Commission divides a constituency or an area into polling divisions or alters the number or area of polling divisions within a constituency or an area, the Electoral Commission shall, by constitutional instrument, specify the polling divisions or the alteration which has been made.

2. Returning officers

(1) The Electoral Commission shall appoint a returning officer for each constituency or area as occasion requires.

(2) A returning officer may with the prior approval of the Electoral Commission, appoint a deputy to be known as the deputy returning officer as the returning officer thinks necessary.

(3) Subject to the directions given by the Electoral Commission, the powers conferred or functions imposed by this Act on a returning officer may be exercised or performed by the deputy and, to the extent that the deputy is authorised in writing so to do by the returning officer, by the assistants of the returning officer.

3. Registration of voters

(1) There shall be a divisional register for each polling division or area.

(2) The divisional registers of the polling divisions in a constituency or area shall together form the register of the constituency or area.

Referendum Offences

4. Offences relating to the ballot

A person commits an offence and is liable on summary conviction to a term of imprisonment not exceeding five years, if that person

- (a) forges or fraudulently defaces or fraudulently destroys a document relating to the holding of a referendum, or alters that document or delivers to the returning officer a document, knowing the document to be forged; or

1. The Act was issued as the Referendum Decree, 1977 (S.M.C.D 143) made on the 30th day of December, 1977 and notified in the *Gazette* on 6th January, 1978.

- (b) forges or counterfeits or fraudulently destroys a ballot paper or the official mark on a ballot paper; or
- (c) without due authority supplies a ballot paper to a person; or
- (d) sells or offers to sell a document relating to the holding of a referendum without due authority to a person or purchases or offers to purchase the document from a person; or
- (e) not being a person entitled under this Act to be in possession of a document relating to the holding of a referendum, has that person's document in that person's possession; or
- (f) knowingly and intentionally puts into a ballot box anything other than the ballot paper which that person is authorised by law to put in; or
- (g) without due authority, takes out of a polling station a ballot paper or any other document relating to a referendum or is found in possession of a ballot paper or that document outside a polling station; or
- (h) without due authority, destroys, takes, opens, or otherwise interferes with a ballot box, ballot document or any other property in use or intended to be used for the purposes of a referendum; or
- (i) without due authority, prints a ballot paper or what purports to be or is capable of being used as a ballot paper at a referendum; or
- (j) not being authorised so to do under this Act, makes a mark on a ballot paper issued to a person, other than that person, with intent that the ballot paper shall be used to record the vote of that other person.

5. Unauthorised voting

A person who knowingly

- (a) votes at a referendum at which that person is not entitled to vote, or
- (b) votes more than once at a referendum,

commits an offence and is liable on summary conviction to a term of imprisonment not exceeding five years.

6. Offences by referendum officers

A referendum officer, clerk, interpreter or any other person having a function to perform whether in pursuance of this Act or otherwise, in relation to a referendum who

- (a) makes in a record, return or any other document which that person is required to keep or make in pursuance of this Act an entry which that person

knows or has reasonable cause to believe to be false, or does not believe to be true, or

- (b) permits a person whom that person knows or has reasonable cause to believe not to be a person who is blind or incapacitated from voting by those other physical cause to vote in the manner provided for that person persons, or
- (c) refuses to permit a person whom that person knows or has reasonable cause to believe to be a person who is blind or incapacitated from voting by any other physical cause to vote in the manner provided for those persons, or
- (d) wilfully prevents a person from voting at the polling station at which that person knows or has reasonable cause to believe that person is entitled to vote, or
- (e) wilfully rejects or refuses to count a ballot paper which that person knows or has reasonable cause to believe is validly cast in favour of an issue, or
- (f) wilfully counts a ballot paper as being cast in favour of an issue which that person knows or has reasonable cause to believe was not validly cast for that issue, or
- (g) without reasonable cause, acts or omits to act in breach of official duty,

commits an offence and is liable on summary conviction to a term of imprisonment not exceeding five years.

7. Unlawful communication at referendum

(1) A referendum officer, clerk or interpreter attending at a polling station shall maintain and aid in maintaining the secrecy of the voting and shall not, except for a purpose authorised by law, communicate to a person an information as to

- (a) the name of a voter who has or has not applied for a ballot paper or voted at a polling station, or
- (b) the number on the register of a voter who has or has not applied for a ballot paper or voted at a polling station, or
- (c) the official mark.

(2) A person attending at the counting of votes shall maintain and aid in maintaining the secrecy of the voting and shall not communicate an information obtained at the counting of the votes as to the issue for which a vote is given on a particular ballot paper.

(3) A person shall not

- (a) interfere with or attempt to interfere with a voter when recording the voter's vote, or
- (b) otherwise obtain or attempt to obtain in a polling station information as to the issue in favour of which a voter in that station is about to vote or has voted, or
- (c) communicate at a time to a person information obtained in a polling station as to the issue in favour of which a voter in that station has voted or is about to vote, or as to the number on the ballot paper given to a voter at that station, or

- (d) directly or indirectly induce a voter to display a ballot paper after the voter has marked or selected it so as to make known to any other person the issue in favour of which the voter has or has not voted.
- (4) A person who has undertaken to assist
- (a) a blind voter to vote, or
 - (b) a voter who is incapacitated from voting by any other physical cause to vote,

shall not communicate at any time to any other person information as to the issue in favour of which that voter intends to vote or has voted, or as to the number on the ballot paper for the use of that vote.

(5) A person who contravenes a provision of this section commits an offence and is liable on summary conviction to a term of imprisonment not exceeding five years.

8. Personation

A person commits an offence of personation if that person

- (a) votes as some other person, whether that other person is living or dead or is a fictitious person, or
- (b) votes for a person whom that person knows or has reasonable grounds for supposing is dead or is a fictitious person.

9. Bribery

(1) A person commits an offence of bribery

- (a) if that person directly or indirectly by any other person on that person's behalf,
 - (i) gives money or procures an office to or for any other person on behalf of a voter, or to or for any other person in order to induce a voter to vote or refrain from voting, or
 - (ii) corruptly does an act on account of a voter having voted or refrained from voting, or
 - (iii) gives such money or makes a procurement to or for a person in order to induce that person to procure, or endeavour to procure, the declaration of a majority of votes in favour of an issue or the vote of any other voter, or
- (b) if on or in consequence of a gift or procurement that person procures or agrees, promises or endeavours to procure the declaration of a majority of votes in favour of an issue or the vote of any other voter, or
- (c) if that person advances or pays money or causes money to be paid to or to the use of any other person with the intent that, that money or a part of the money shall be expended in bribery at a referendum, or knowingly pays money or causes money to be paid to a person in discharge or repayment of money wholly or in part expended in bribery at a referendum, or

- (d) if before or during a referendum that person directly or indirectly, or by any other person on that person's behalf, receives, agrees or contracts for money, gift, loan or valuable consideration or an office, place or employment for personal gain or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting, or
 - (e) if after a referendum that person directly or indirectly or by any other person on that person's behalf receives money or valuable consideration on account of a person having voted or refrained from voting or having induced any other person to vote or to refrain from voting.
- (2) For the purposes of subsection (1),
- (a) references to giving money include references to giving, lending, agreeing to give or lend, offering, promising and promising to procure or to endeavour to procure money or valuable consideration, and
 - (b) references to procuring office include references to giving, procuring, agreeing to give or procure, offering, promising and promising to procure or to endeavour to procure any office, place or employment.

10. Treating

A person commits an offence of treating

- (a) if that person corruptly or by any other person before, during or after a referendum directly or indirectly gives or provides or pays wholly or in part the expenses of giving or providing meat, drink, entertainment or provision to or for a person,
 - (i) for the purposes of corruptly influencing that person or any other person to vote or refrain from voting, or
 - (ii) on account of that person or any other person having voted or refrained from voting or being about to vote or refrain from voting;
- (b) if that person corruptly accepts or takes meat, drink, entertainment or provision offered in the circumstances and for the purposes mentioned in paragraph (a).

11. Undue influence

A person commits the offence of undue influence

- (a) if that person directly or indirectly or by any other person on that person's behalf,
 - (i) makes use of, or threatens to make use of, force, violence or restraint, or
 - (ii) inflicts or threatens to inflict personally or by any other person a temporal or spiritual injury, damage, harm or loss on or against a person,

in order to induce or compel that person to vote or refrain from voting, or on account of that person having voted or refrained from voting, or

- (b) if by abduction, duress or a fraudulent device or contrivance that person impedes or prevails on a voter to vote or to refrain from voting.

12. Penalty

A person who commits an offence under sections 8, 9, 10 or 11 is liable on summary conviction, to a term of imprisonment not exceeding five years.

13. Activities prohibited on polling day

(1) During the hours when a poll is open on polling day a person shall not, within four hundred metres of a polling station, seek to influence, in whatever manner, a person to vote for an issue or to ascertain for which issue a voter intends to vote or has voted.

(2) During the hours when a poll is open on polling day a person shall not, within four hundred metres of a polling station, sell intoxicating liquor.

14. Offence

A person who contravenes a provision of section 13 commits an offence and is liable on summary conviction to a term of imprisonment not exceeding twelve months.

15. Defacement of notices

(1) A person who without lawful excuse, the proof of which lies on that person, destroys, mutilates, defaces or removes a notice which is exhibited under the authority of this Act or a document which is made available for inspection in pursuance of this Act commits an offence and is liable on summary conviction to a term of imprisonment not exceeding six months.

(2) A Court convicting a person of an offence under subsection (1) shall, within fourteen days of the conviction, report the conviction in writing to the Electoral Commission.

16. Obstruction of officers

A person who wilfully obstructs or interferes with a referendum officer in the performance of a function under this Act, commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three years.

17. Unidentified publications

A person who prints, publishes, distributes or posts up or causes to be printed, published, distributed or posted up an advertisement, a handbill, placard, poster or any other document which refers to a referendum and which does not bear on its face the names and addresses of its printer and publisher commits an offence and is liable on summary conviction to a term of imprisonment not exceeding two years.

18. Consent to prosecution

(1) A person shall not be prosecuted for an offence under this Act without the consent in writing of the Attorney-General

(2) Subsection (1) does not itself prevent a person, without the consent of the Attorney-General, being

- (a) charged with that offence, or

- (b) arrested with or without warrant in respect of that offence, or
- (c) remanded on bail or in custody in respect of that offence.

(3) In a prosecution for an offence under this Act in relation to a ballot box, ballot paper or any other document the property in that ballot box, ballot paper or any other documents as well as the property in the counterfoil of any ballot papers, shall be stated to be in the Electoral Commission.

Determination of Referendum Petitions

19. Method of testing results of voting

The validity of the results of the voting in each polling station may be questioned by a petition brought for the purpose under sections 20 to 29, subject to the right of appeal conferred by section 30.

20. Presentation of referendum petition

A petition may be presented to the High Court by one or more of the following persons:

- (a) a person who lawfully voted or had a right to vote at the referendum to which the petition relates, or
- (b) a person claiming to have had a right to vote at the referendum.

21. Security for costs

The presentation of a petition is not valid unless within the time limited by section 22 the person seeking to present the petition gives security for costs amounting to a sum of money determined by the High Court.

22. Time

(1) Subject to this section, a referendum petition shall be presented within seven days after the date of the publication in the *Gazette* of the results of the referendum to which it relates.

(2) A petition questioning the results of the voting in a polling station on an allegation of corrupt practices and specifically alleging the payment of money or any other reward to have been made by a person or on that person's account or with that person's privity, in furtherance of the alleged corrupt practice may be presented within seven days after the date of payment.

(3) The time limit provided under this section for the presentation of a petition shall not be extended.

23. Relief which may be granted

At the trial of a petition, the High Court may,

- (a) grant a declaration that the voting in a polling station to which the petition relates is void, or

- (b) dismiss the petition and declare that the voting in the polling station to which the petition relates was regular.

24. Grounds for avoidance of results of referendum

(1) The voting in a polling station shall be declared void on a petition, if any of the following matters are proved to the satisfaction of the High Court:

- (a) that general bribery, general treating, general intimidation or any other misconduct or circumstances, whether similar to those already enumerated or not, have so extensively prevailed that they may be reasonably supposed to have affected the results of the voting; or
- (b) that there has been non-compliance with a provision of this Act, if it appears that the voting was not conducted in accordance with the principles laid down in that provision or instruction and that the non-compliance affected the result of the voting; or
- (c) that a corrupt practice was committed in connection with the voting.

(2) Despite the provisions of subsection (1),

- (a) where at the trial of a petition the High Court finds, after giving the Attorney-General an opportunity of being heard, that it has been proved to the High Court,
 - (i) that a corrupt practice was not committed on an extensive scale as to affect the results of the voting in a polling station, and
 - (ii) that the person mentioned in connection with the corrupt practice took reasonable means for preventing the commission of a corrupt practice at that voting, and
 - (iii) that in all other respects the voting was free from a corrupt practice on the part of the person so mentioned,then if the High Court so recommends, the voting at that polling station shall not, by reason of that practice, be void; or
- (b) where at the trial of a petition the High Court finds that there has been failure to comply with a provision of this Act, and the High Court is satisfied, after giving the Attorney-General an opportunity of being heard,
 - (i) that the voting was conducted in accordance with the principles laid down in this Act, and
 - (ii) that the failure did not affect the voting, the result of the voting in that polling station shall not, by reason of the failure, be void.

25. Scrutiny

(1) Where on a petition it is claimed that a question attracted more votes than that declared in favour of that question, the High Court may direct an examination of the votes cast at the voting in the polling station concerned.

- (2) On a scrutiny the following votes, and no others, shall be struck off, namely,
- (a) the vote of a person,
 - (i) whose name was not included in that part of the register which contained the names of the registered voters assigned to the polling station at which the vote was recorded, and
 - (ii) who was not otherwise authorised under this Act to vote at the polling station at which that person's vote was recorded;
 - (b) the vote of a person whose vote was procured by bribery, treating or undue influence;
 - (c) the vote of a person who committed or procured the commission of personation at the voting;
 - (d) the vote of a person proved to have voted more than once at the voting or, in more than one polling station.

(3) The vote of a registered voter shall not be struck off on a scrutiny by reason only of the voter not having been or not being qualified to have the voter's name entered on the register.

(4) A tendered ballot paper proved on a scrutiny to be a valid vote shall be added to the poll.

26. Certification of decision

(1) At the conclusion of the trial of a petition, the High Court shall certify its decision to the Electoral Commission which shall accordingly confirm or alter the return by the returning officer in respect of the voting to which the petition relates.

(2) Where the decision certified by the High Court under subsection (1) is to the effect that the voting to which the petition relates is void, a writ shall be issued for a fresh voting petition in the polling station concerned.

27. Report of Court as to corrupt practice

Where at the conclusion of the trial of a petition the High Court finds that a person has been proved to have committed the offence of a corrupt practice in connection with the voting to which the petition relates, the Court shall send a written report to the Attorney-General giving the name and description of that person and the nature of the practice and any other information that the High Court considers relevant and appropriate.

28. Prohibition of disclosure of vote

A person who has voted in a referendum shall not, in a proceeding to question the voting in a polling station, be required to state for which question that person has voted.

29. Procedure

(1) The trial of a referendum petition shall be conducted in accordance with the law relating to the trial of civil causes or matters by the High Court in the exercise of its original jurisdiction.

(2) The High Court shall have, for the purposes of the trial the same powers, jurisdiction and authority as it has for the trial of civil causes or matters.

30. Appeal

(1) A person aggrieved by the decision of the High Court may appeal to the Court of Appeal against that decision.

(2) An appeal shall be lodged not later than seven days after the date of the decision of the High Court.

Miscellaneous Provisions

31. Proxy voting

(1) A person is not entitled to appoint a proxy unless that person is resident outside the Republic, nor is that person entitled to have more than one person at a time appointed as a proxy to vote for that person at a referendum.

(2) A person is not qualified to be appointed to vote as a proxy at a referendum unless that person is a registered voter.

(3) A person is not entitled to vote as a proxy at a referendum in a constituency or ward on behalf of more than two voters of whom that person is not the husband, wife, parent, grandparent, brother, sister, child, grandchild, nephew, uncle or niece.

(4) The application for the appointment of a person to vote as a proxy shall be made in the prescribed form to the Electoral Commission not later than thirty days before a referendum.

(5) The Electoral Commission shall issue a proxy paper in pursuance of an application duly made to the commission for the appointment of a proxy if the Electoral Commission is satisfied that,

(a) the applicant is registered as a voter for the referendum to which the application relates, and

(b) the proxy is qualified to be, and is willing to be, appointed.

(6) The appointment of a proxy may be cancelled by the Electoral Commission if a notice in that behalf is given by the person who made the application for the appointment of the proxy.

(7) The Electoral Commission shall keep a record of persons for whom proxies have been appointed and the names and addresses of the persons so appointed.

32. Misnomer

A misnomer or an inaccurate description of a person or place named or described in a register, notice or any other document prepared or issued under this Act shall not, if that person or place is so designated as to be commonly identifiable or understood, affect as respects that person or place the validity of that register, notice or document or the operation of this Act.

33. Exemption from stamp duty

A declaration of secrecy made for the purposes of a referendum does not constitute an instrument liable for duty under a law relating to stamp duties.

34. Interpretation

In this Act, unless the context otherwise requires,

“**area**” means the area of authority of a District Assembly;

“**constituency**” means one of the constituencies into which Ghana is for the time being divided;

“**corrupt practice**” means the offence of personation, bribery, treating or undue influence or of aiding, abetting, counselling or attempting the commission of that offence;

“**court**” means a court of competent jurisdiction;

“**District Assembly**” includes District, Municipal or Metropolitan Assemblies and any other local government division or area committee established pursuant to the Local Government Act, 1993 (Act 462);

“**divisional register**” means the register relating to a polling division;

“**functions**” includes powers and duties;

“**issue**” means question or matter submitted to a vote in a referendum to ascertain the wishes of the citizens of Ghana;

“**official mark**” means the official mark with which a ballot paper is perforated or stamped;

“**polling assistant**” means a polling assistant so appointed for the purposes of a referendum;

“**polling day**” in relation to a referendum means the day appointed for the taking of a poll;

“**polling division**” means one of the polling divisions into which a constituency or area is for the time being divided pursuant to the provisions of section 1;

“**polling station**” means one of the polling stations within a polling division;

“**presiding officer**” means the presiding officer of a polling station at a referendum;

“**referendum officer**” means a returning officer, a deputy or assistant returning officer, a presiding officer or a polling assistant and any other person so designated by the Electoral Commission;

“**register**” means a register of voters.

P.N.D.C.L. 305D
REFUGEE ACT, 1992
 ARRANGEMENT OF SECTIONS
Prohibition of Expulsion of Refugees

SECTION

1. Prohibition of expulsion or return of refugees.
2. Illegal entry or presence in the Republic of a refugee.
3. Detention and expulsion of refugees.

Establishment of Refugee Board

4. Establishment and membership of the Refugee Board.
5. The functions of the Board.
6. Meetings of the Board.
7. Committees of the Board.

Procedure for Application and Grant of Refugee Status, Appeals

8. Application for refugee status.
9. Appeal on refusal to grant refugee status.
10. Residence in the Republic pending recognition.

Rights and Duties of Refugees

11. Rights and duties of refugees.
12. Further provisions relating to family members of recognised refugees.
13. Designated areas for refugees.
14. Naturalisation.
15. Withdrawal of refugee status.
16. Effect of withdrawal of recognition.
17. Cessation of refugee status.

Miscellaneous

18. Establishment of Refugee Fund.
19. Objects of the Fund.
20. Bank account.
21. Annual report of the Board.
22. Audit.
23. Staff for the Board.
24. Offences relating to false information and penalty.
25. Regulations.
26. Interpretation.
27. Modification of the Aliens Act.

SCHEDULE

UN Convention Relating to the Status of Refugees

P.N.D.C.L. 305D
REFUGEE ACT, 1992¹

AN ACT to provide for the status of refugees in the Republic and to provide for related matters.

Prohibition of Expulsion of Refugees

1. Prohibition of expulsion or return of refugees

(1) Despite any other law to the contrary but subject to this Act, a person who is a refugee within the meaning of this Act shall not be refused entry into the Republic, expelled or extradited from the Republic or returned to the frontiers of a territory if as the result of that refusal, expulsion or return that person is compelled to return to or remain in a country where

- (a) that person's life or freedom would be threatened on account of that person's race, religion, nationality, membership of a particular social group or political opinion, or
- (b) that person's life, physical integrity or liberty would be threatened on account of external aggression, occupation, foreign domination or events seriously disrupting public order in that country or any part of it.

(2) Subsection (1) does not apply to a refugee who

- (a) is a danger to the security of the Republic,
- (b) has committed a serious non-political criminal offence outside the Republic prior to that person's entry into the Republic, or
- (c) having been convicted of a serious criminal offence in the Republic, constitutes a real danger to the public.

2. Illegal entry or presence in the Republic of a refugee

Despite a provision of the Immigration Act, 2000 (Act 573) but subject to this Act, a person claiming to be a refugee within the meaning of this Act, who illegally enters the Republic or is illegally present in the Republic shall not

- (a) be declared a prohibited immigrant,
- (b) be detained, or
- (c) be imprisoned or penalised in any other manner,

1. The Act was issued as the Refugee Law, 1992 (P.N.D.C.L. 350), made on the 30th December, 1992 and notified in the *Gazette* on 27th August, 1993. The preamble reads,

"WHEREAS the United Nations Convention Relating to the Status of Refugees of 1951 and the United Nations Protocol Relating to the Status of Refugees of 1967 have been ratified by the Government of Ghana:

WHEREAS the organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa of September, 1969 was ratified by the Government of Ghana:

AND WHEREAS it is necessary to give effect to the said Conventions and Protocol in order that the provisions of these shall have the force of the law in Ghana:

NOW THEREFORE in pursuance of the Provisional National Defense Council (Establishment) Proclamation, 1981 this Act is hereby made:"

merely by reason of that person's illegal entry or presence pending the determination of that person's application for a refugee status.

3. Detention and expulsion of refugees

A refugee may be detained or expelled for reasons of national security or public order except that a refugee shall not be expelled to a country where the refugee has reason to fear persecution.

Establishment of Refugee Board

4. Establishment and membership of the Refugee Board

- (1) There is hereby established a Board to be known as the Refugee Board.
- (2) The Board shall consist of
 - (a) the chairman,
 - (b) one representative each of
 - (i) the Ministry of the Interior not below the rank of a Director,
 - (ii) the Ministry of Foreign Affairs not below the rank of a Director,
 - (iii) the Immigration Service not below the rank of an Assistant-Director of Immigration,
 - (c) the Inspector-General of Police or the representative of the Inspector not below the rank of an Assistant Commissioner of Police,
 - (d) *omitted,*²
 - (e) one representative each of
 - (i) the Ministry of Employment, Youth and Social Welfare not below the rank of a Director,
 - (ii) the Bureau of National Investigation with the equivalent rank of an Assistant Commissioner of Police,
 - (iii) the Ministry of Justice not below the rank of a Principal State Attorney,
 - (iv) the Ministry of Education not below the rank of an Assistant Director of Education,
 - (v) the National Mobilisation Programme not below the rank of a Director, and
 - (f) one representative of the Office of the United Nations High Commissioner for Refugees in Ghana who shall participate in deliberations of the Board as an observer.

5. The functions of the Board

The functions of the Board are to

- (a) receive and consider applications for refugee status;

2. The reference to the Committee for the Defence of the Revolution has been omitted as that organisation does not now exist.

- (b) recognise a person as a refugee or a group of persons as refugees, for the purposes of this Act;
- (c) register, and keep a register of, persons recognised as refugees under this Act;
- (d) seek co-operation with non-governmental organisations on matters relating to refugees;
- (e) assist in seeking employment or education for refugees and members of their families;
- (f) endeavour to ensure the provision of adequate facilities, advice and services for the reception and care of refugees in Ghana;
- (g) administer and manage the Refugee Fund established under this Act;
- (h) advise the Minister on matters relating to refugees;
- (i) perform all functions conferred upon it under this Act; and
- (j) perform any other function that may be assigned to it by the Minister.

6. Meetings of the Board

(1) The Board shall meet at least once every two months, at the times and at the places determined by the chairman.

(2) The chairman shall preside at the meetings of the Board and in the absence of the chairman, the members present shall elect one of their number to preside.

(3) Six members of the Board constitute a quorum at a meeting of the Board.

(4) Questions proposed at meetings of the Board shall be determined by a simple majority of the members present and voting and in the event of an equality of votes the chairman or the person presiding shall have a casting vote.

(5) The validity of the proceedings of the Board shall not be affected by a vacancy among its members or by a defect in the appointment of a member.

(6) The Board may co-opt a person to act as an adviser or assist it at any of its meetings but a co-opted person is not entitled to vote on a matter before the Board.

(7) Except as otherwise provided in this section the Board shall regulate its own procedure for its meetings.

7. Committees of the Board

(1) The Board may appoint the committees it considers necessary to assist it in the performance of its functions.

(2) A committee of the Board may consist of members of the Board or non-members or both but the committee shall have as its chairman a member of the Board.

*Procedure for Application and Grant of Refugee Status, Appeals***8. Application for refugee status**

(1) A person who is within the boundaries of the Republic, whether that person entered lawfully or unlawfully who wishes to remain in the Republic as a refugee within the meaning of this Act, shall within fourteen days of the entry into the Republic or a further period that the Board may allow, make an application for recognition as a refugee to the Board through the nearest immigration officer at the point of entry, through an immigration officer, a police officer or through the office of the United Nations High Commissioner for Refugees in Ghana.

(2) The officer through whom or the office through which the application is made shall within seven days of the receipt of the application, forward the application, together with the documents or any other information which the applicant is able to provide in support of the application to the Board.

(3) The Board shall consider each application referred to it within thirty days of the receipt of the application and shall within the thirty days or thereafter make an inquiry or investigation as the Board thinks necessary into the application and may for the purpose of its investigation, invite the applicant to appear before it.

(4) After its investigation, the Board may recognise or refuse to recognise the applicant as a refugee; and shall notify the applicant of its decision in writing.

9. Appeal on refusal to grant refugee status

(1) A person who is aggrieved by a refusal of the Board to grant that person a refugee status, may within thirty days of being notified of the refusal, appeal in writing to the Minister.

(2) Where an appeal is made to the Minister under subsection (1), the Minister may confirm or reverse the decision of the Board and shall in writing notify the applicant of the decision on the matter.

(3) Before reaching a decision on an appeal under this section, the Minister may do all or any of the following:

- (a) invite the representative in Ghana of the United Nations High Commissioner for Refugees to make oral or written representation on the matter;
- (b) refer the matter back to the Board for further inquiry and investigation to be made;
- (c) make any further inquiry and investigation into the matter that the Minister thinks necessary.

(4) While awaiting the final decision of the Board, the applicant shall be allowed to remain in the country.

10. Residence in the Republic pending recognition

(1) Despite the provisions of any other law, a person who has applied for recognition as a refugee, and each member of that person's family shall have the right to remain within the Republic

- (a) until that person has been recognised as a refugee,

- (b) in the event of the application being unsuccessful, until the applicant has had the opportunity to exhaust the right of appeal under section 9, or
- (c) where an appeal has been dismissed, until the applicant has been allowed a reasonable time not exceeding three months, to seek admission to a country of the person's choice.

(2) The Minister may on an application made to the Minister by the person concerned, extend the period referred to in subsection (1) (c) where the Minister is satisfied that there is a reasonable likelihood of that person being admitted to a country of that person's choice within the extended period.

Rights and Duties of Refugees

11. Rights and duties of refugees

(1) A person granted refugee status in the Republic is entitled to the rights and is subject to the duties specified in

- (a) the articles of the United Nations Convention relating to the Status of Refugees of 1951 set out in Part One of the Schedule;
- (b) the Protocol Relating to the Status of Refugees of 1967 set out in Part Two of the Schedule; and
- (c) the Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa set out in Part Three of the Schedule.

(2) A person who has been granted a refugee status under this Act and the members of the family shall, subject to the provisions of this Act be

- (a) issued with identity cards in the prescribed form,
- (b) issued with a residence permit,
- (c) issued with the United Nations Travel Document where appropriate, and
- (d) subject to all the laws in force in the Republic.

12. Further provisions relating to family members of recognised refugees

(1) A member of the family of a person granted refugee status in the Republic shall, subject to the provisions of this Act, be permitted to remain in the Republic for as long as the refugee is permitted to remain in the Republic and shall be entitled to the same benefits and rights as the refugee.

(2) Where a member of the family of the refugee is within the Republic by virtue of subsection (1) and the member ceases to be a family member by reason of marriage, attainment of age of majority or the cessation of the dependence on the refugee, the member shall be permitted to continue to remain in the Republic.

(3) On the death of the person with refugee status or on that person's divorce or legal separation from a spouse, a person who immediately before the death, divorce or legal separation was within the Republic by virtue of this section as a member of the family of the refugee shall be permitted to continue to remain in the Republic.

(4) A person who has been permitted to remain in the Republic by virtue of subsections (2) and (3) may apply for a refugee status.

13. Designated areas for refugees

The Minister may, by notice in the *Gazette* or by any other means appropriate, designate places and areas in the Republic where

- (a) persons with refugee status,
- (b) persons who have applied under this Act for refugee status, and
- (c) members of the families of persons referred to in paragraphs (a) and (b),

or any class of refugees shall live.

14. Naturalisation

Subject to the relevant laws and regulations relating to naturalisation, the Board may assist a refugee who has satisfied the conditions applicable to the acquisition of Ghanaian nationality to acquire Ghanaian nationality.

15. Withdrawal of refugee status

(1) The Board may withdraw the recognition where the Board considers that there are reasonable grounds for believing that a person who has been recognised as a refugee

- (a) should not have been so recognised, or
- (b) has ceased to qualify as a refugee for the purposes of this Act.

(2) A withdrawal of refugee status shall be communicated in writing to the person concerned.

(3) A person aggrieved by a decision of the Board to withdraw the recognition as a refugee, may within fourteen days of being notified of the withdrawal appeal in writing to the Minister.³

(4) The Minister may before reaching a decision on an appeal under this section, do all or any of the following:

- (a) invite the representative in the Republic of the office of the United Nations High Commissioner for Refugees to make oral or written representation in the matter,
- (b) refer the matter back to the Board for further investigation,
- (c) make any further inquiry and investigation that the Minister thinks fit into the matter.

16. Effect of withdrawal of recognition

(1) Where the Board has by virtue of section 15 withdrawn the recognition of a person as a refugee, that person shall cease to be a refugee, and the protection granted to members of that person's family, shall cease with effect from

- (a) fourteen days after the date on which the Board notified the person concerned of the withdrawal of recognition, or

3. The reference to the finality of the decision of the Minister has been omitted as offending article 125 of the Constitution.

- (b) where an appeal has been lodged with the Minister under subsection (3) of section 15, the date on which the Minister notifies the refugee confirming the decision of the Board.

(2) A member of the family who may be affected by this section may apply for refugee status.

17. Cessation of refugee status

A person shall cease to be a refugee for the purposes of this Act if that person

- (a) voluntarily re-avails the protection of the country of that person's nationality;
- (b) becomes a Ghanaian citizen or acquires the nationality of another country and enjoys the protection of the country of the new nationality;
- (c) voluntarily re-establishes in the country which that person left, or outside which that person remained owing to that person's fear of persecution;
- (d) can no longer, because of the circumstances in connection with which that person was granted a refugee status have ceased to exist, continue to refuse to accept the protection of that person's country of nationality; except that this paragraph shall not apply to a person who satisfied the Board that that person has compelling reasons arising out of previous persecution, for refusing to accept the protection of that person's country of nationality or refusing to return to the country of habitual residence; or
- (e) refugee status is withdrawn.

Miscellaneous

18. Establishment of Refugee Fund

(1) There is hereby established a fund to be known as the Refugee Fund.

(2) The sources of the Refugee Fund are,

- (a) contributions from the Government,
- (b) contributions from local and international organisations,
- (c) contributions from foreign governments,
- (d) moneys realised from projects of the Fund, and
- (e) contributions from any other sources.

19. Objects of the Fund

(1) The Refugee Fund shall be used for the

- (a) provision of relief aid for refugees,
- (b) establishment of settlement projects for refugees, and
- (c) funding of any other purposes relating to refugees as may be determined by the Board.

(2) The applications for grants from the Refugee Fund for any purposes shall be submitted to the Board for its consideration and approval.

20. Bank account

(1) The moneys received for the Fund shall be deposited in the bank accounts authorised by the Accountant-General and shall be operated by the Board.

(2) The payments from the bank account specified in subsection (1) shall be made on the authority of the Board for the purposes specified in section 19.

21. Annual report of the Board

The Board shall submit to the Minister, not later than three months after the end of each year, a report on its activities during that preceding year.

22. Audit

(1) The books and account of the Board shall be audited each year by the Auditor-General.

(2) The Auditor-General shall submit a report on the audit under this section to the Board within six months after the end of the year to which the report relates.⁴

23. Staff for the Board

The Minister shall provide the Board with the services of the staff required by the Board for the performance of its functions.

24. Offences relating to false information and penalty

A refugee or person claiming to be a refugee who

- (a) makes a false statement, return or representation to an authorised officer or any other person lawfully performing a function under this Act,
- (b) refuses to produce to an authorised officer or that other person a document or to furnish that officer or that other person with an information reasonably required for the purposes of this Act,
- (c) obstructs a person in the performance of functions under this Act, or
- (d) alters a certificate or document issued or made under this Act,

commits an offence and is liable on conviction to a fine not exceeding twenty-five penalty units or to a term of imprisonment not exceeding one month or to both the fine and the imprisonment.

25. Regulations

(1) The Minister may, on the advice of the Board, by legislative instrument, make Regulations for the effective implementation of this Act.

(2) Regulations made under subsection (1) may provide for

- (a) the procedure for the consideration of applications for grant of refugee status;
- (b) method of appeal;

4. See article 187 of the Constitution.

- (c) the issue of identification and travel documents to refugees and their families; and
- (d) forms to be used for application for grant of refugee status and for other purposes of this Act.

26. Interpretation

(1) In this Act, unless the context otherwise requires,

“Auditor-General” includes an auditor appointed by the Auditor-General;

“authorised officer” means an immigration officer, a police officer or a public officer authorised by the Minister to implement any provision of this Act;

“Board” means the Board established under section 4;

“country of nationality” in relation to a person who has more than one nationality, means each of the countries of which that person is a national;

“member of family” in relation to a refugee means

- (a) a spouse of the refugee,
- (b) an unmarried child of the refugee under the age of eighteen years, or
- (c) any other person who is related to the refugee by blood or marriage and who by reason of old age, infirmity or minority is dependent on the refugee;

“Minister” means Minister responsible for the Interior;

“refugee” means a person who

- (a) falls within the definition provided in,
 - (i) Article 1 of the 1951 United Nations Convention set out in Part One of the Schedule; or
 - (ii) Article 1 of the 1967 Protocol Relating to the Status of Refugee, set out in Part Two of the Schedule; or
 - (iii) Article 1 of the 1969 Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa set out in Part Three of the Schedule; or
- (b) belongs to a class of persons declared by the Minister as refugees.

(2) A person shall not be considered to be a refugee under this Act

- (a) when there are serious reasons to believe that, that person has committed a crime against peace, a war crime or a crime against humanity, as defined in an international instrument to which Ghana is a party and which has been drawn up to make provisions in respect of those crimes; or
- (b) if that person has been guilty of acts contrary to the purposes and principles of the Organisation of African Unity.

27. Modification of the Aliens Act

The Immigration Act, 2000 (Act 573), applies with the modifications that are necessary to give full effect to this Act.

SCHEDULE

[Section 11 (a)]

UN Convention Relating to the Status of Refugees

DONE AT GENEVA ON 28 JULY, 1951

E27

Entry into force: 22 April 1954, in accordance with Article 43

Text: United Nations Treaty Series No. 2545, Vol. 189, p. 137

PART ONE

CHAPTER ONE

*Preamble**The High Contracting Parties*

Considering that the Charter of the United Nations and the Universal Declaration of Human Rights approved on 10 December, 1948 by the General Assembly have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,

Considering that the United Nations has, on various occasions, manifested its profound concern for refugees and endeavoured to assure refugees the widest possible exercise of these fundamental rights and freedoms,

Considering that it is desirable to revise and consolidate previous international agreements relating to the status of refugees and to extend the scope of and the protection accorded by such instruments by means of a new agreement,

Considering that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognised the international scope and nature cannot therefore be achieved without international co-operation,

Expressing the wish that all States, recognising the social and humanitarian nature of the problem of refugees, will do everything within their power to prevent this problem from becoming a cause of tension between States,

Noting that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognising that the effective co-ordination of measures taken to deal with this problem will depend upon the co-operation of States with the High Commissioner,

Have agreed as follows:

ARTICLE 1

Definition of the term "Refugee"

A. For the purposes of the present Convention, the term "**refugee**" shall apply to any person who

(1) Has been considered a refugee under the Arrangements of 12 May, 1926 and 30 June, 1928 or under the Conventions of 28 October, 1933 and 10 February, 1938, the Protocol of 14 September, 1939 or the Constitution of the International Refugee Organisation;

Decisions of non-eligibility taken by the International Refugee Organisation during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of this section.

(2) As a result of events occurring before 1 January, 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term “**the country of his nationality**” shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

B. (1) For the purposes of this Convention, the words, “events occurring before 1 January, 1951” in Article 1, Section A, shall be understood to mean either

- (a) “events occurring in Europe before 1 January, 1951”; or
- (b) “events occurring in Europe or elsewhere before 1 January, 1951”;

and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purpose of its obligations under this Convention.

(2) Any Contracting State which has adopted alternative (a) may at any time extend its obligations by adopting alternative (b) by means of a notification addressed to the Secretary-General of the United Nations.

C. This Convention shall cease to apply to any person falling under the terms of section A if

- (a) he has voluntarily re-availed himself of the protection of the country of his nationality; or
- (b) having lost his nationality, he has voluntarily re-acquired it; or
- (c) he has acquired a new nationality, and enjoys the protection of the country of his new nationality; or
- (d) he has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or
- (e) he can no longer, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality; or
- (f) being a person who has no nationality he is, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, able to return to the country of his former habitual residence:

D. This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitled to the benefits of this Convention.

E. This Convention shall not apply to a person who is recognised by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.

F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that

- (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
- (b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
- (c) he has been guilty of acts contrary to the purposes and principles of the United Nations.

ARTICLE 2

General Obligations

Every refugee has duties to the country in which he finds himself, which require in particular that he conforms to its laws and regulations as well as to measures taken for the maintenance of public order.

ARTICLE 3

Non-Discrimination

The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

ARTICLE 4

Religion

The Contracting States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practise their religion and freedom as regards the religious education of their children.

ARTICLE 5

Rights Granted apart from this Convention

Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.

ARTICLE 6

The Term "in the same Circumstances"

For the purpose of this Convention, the term "in the same circumstances" implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature, a refugee is incapable of fulfilling.

ARTICLE 7

Exemption from Reciprocity

1. Except where this Convention contains more favourable provisions, a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally.

2. After a period of three years' residence, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States.

3. Each Contracting State shall continue to accord to refugees the rights and benefits to which they were already entitled, in the absence of reciprocity, at the date of entry into force of this Convention for that State.

4. The Contracting States shall consider favourably the possibility of according to refugees, in the absence of reciprocity, rights and benefits beyond those to which they are entitled according to paragraphs 2 and 3, and to extending exemption from reciprocity to refugees who do not fulfil the conditions provided for in paragraphs 2 and 3.

5. The provisions of paragraphs 2 and 3 apply both to the rights and benefits referred to in Articles 13, 18, 19, 21 and 22 of this Convention and to rights and benefits for which this Convention does not provide.

ARTICLE 8

Exemption from Exceptional Measures

With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such nationality. Contracting States which, under their legislation, are prevented from applying the general principle expressed in this Article, shall, in appropriate cases, grant exemptions in favour of such refugees.

ARTICLE 9

Provisional Measures

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstances, from taking provisionally measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interests of national security.

ARTICLE 10

Continuity of Residence

1. Where a refugee has been forcibly displaced during the Second World War and removed to the territory of a Contracting State, and is resident there, the period of such enforced sojourn shall be considered to have been lawful residence within that territory.

2. Where a refugee has been forcibly displaced during the Second World War from the territory of a Contracting State and has, prior to the date of entry into force of this Convention, returned there for the purpose of taking up residence, the period of residence before and after such enforced displacement shall be regarded as one uninterrupted period for any purposes for which uninterrupted residence is required.

ARTICLE 11

Refugee Seamen

In the case of refugees regularly serving as crew members on board a ship flying the flag of a Contracting State, that State shall give sympathetic consideration to their establishment on its territory and the issue of travel documents to them or their temporary admission to its territory particularly with a view to facilitating their establishment in another country.

CHAPTER TWO

JURIDICAL STATUS

ARTICLE 12

Personal Status

1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.

2. Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right in question is one which would have been recognised by the law of that State had he not become a refugee.

ARTICLE 13

Movable and Immovable Property

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

ARTICLE 14

Artistic Rights and Industrial Property

In respect of the protection of industrial property, such as inventions, designs or models, trade marks, trade names, and of rights in literary, artistic and scientific works, a refugee shall be accorded in the country in which he has his habitual residence the same protection as is accorded to nationals of that country. In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence.

ARTICLE 15

Rights of Association

As regards non-political and non-profit-making associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

ARTICLE 16

Access to Courts

1. A refugee shall have free access to the courts of law on the territory of all Contracting States.

2. A refugee shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the Courts, including legal assistance and exemption from *cautio judicatum solvi*.

3. A refugee shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence the treatment granted to a national of the country of his habitual residence.

CHAPTER THREE

GAINFUL EMPLOYMENT

ARTICLE 17

Wage-earning Employment

1. The Contracting State shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.

2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions

- (a) he has completed three years' residence in the country;
- (b) he has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefits of this provision if he has abandoned his spouse;
- (c) he has one or more children possessing the nationality of the country of residence.

3. The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular of those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.

ARTICLE 18

Self-employment

The Contracting States shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

ARTICLE 19

Liberal Professions

1. Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognised by the competent authorities of that State, and who are desirous of practising a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

2. The Contracting States, shall use their best endeavours consistently with their laws and constitutions to secure the settlement of such refugees in the territories, other than the metropolitan territory, for whose international relations they are responsible.

CHAPTER FOUR

WELFARE

ARTICLE 20

Rationing

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals.

ARTICLE 21

Housing

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

ARTICLE 22

Public Education

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.

2. The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

ARTICLE 23

Public Relief

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

ARTICLE 24

Labour Legislation and Social Security

1. The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters:

- (a) in so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities: remuneration, including family allowances where these form part of remuneration hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women's work and the work of young persons, and the enjoyment of the benefits of collective bargaining;
- (b) social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:
 - (i) there may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;
 - (ii) national laws or regulations of the country of residence may prescribe special arrangements concerning benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension.

2. The right to compensation for the death of a refugee resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting States.

3. The Contracting States shall extend to refugees the benefits of agreements concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights and rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.

4. The Contracting States will give sympathetic consideration to extending to refugees so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and non-contracting States.

CHAPTER FIVE

ADMINISTRATIVE MEASURES

ARTICLE 25

Administrative Assistance

1. When the exercise of a right by a refugee would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the Contracting States in whose territory he is residing shall arrange that such assistance be afforded him by their own authorities or by an international authority.

2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to aliens by or through their national authorities.

3. Documents or certifications so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be given credence in the absence of proof to the contrary.

4. Subject to such exceptional treatment as may be granted to indigent persons, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.

5. The provisions of this Article shall be without prejudice to Articles 27 and 28.

ARTICLE 26

Freedom of Movement

Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.

ARTICLE 27

Identity Papers

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document.

ARTICLE 28

Travel Documents

1. The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory, they shall in particular give sympathetic consideration to the issue of such a travel document to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence.

2. Travel documents issued to refugees under previous international agreements by parties thereto shall be recognised and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

ARTICLE 29

Fiscal Charges

1. The Contracting States shall not impose upon refugees duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.

2. Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers.

ARTICLE 30

Transfer of Assets

1. A Contracting State shall, in conformity with its laws and regulations, permit refugees to transfer assets which they have brought into its territory, to another country where they have been admitted for the purposes of resettlement.

2. A Contracting State shall give sympathetic consideration to the application of refugees for permission to transfer assets wherever they may be and which are necessary for their resettlement in another country to which they have been admitted.

ARTICLE 31

Refugees unlawfully in the Country of Refuge

1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees, who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1, enter or are present in their territory without authorisation, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.

2. The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularised or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

ARTICLE 32

Expulsion

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.

2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.

3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

ARTICLE 33

Prohibition of Expulsion or Return

("refoulement")

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of particularly serious crime, constitutes a danger to the community to that country.

ARTICLE 34

Naturalisation

The Contracting States shall as far as possible facilitate the assimilation and naturalisation of refugees. They shall in particular make every effort to expedite naturalisation proceedings and to reduce as far as possible the charges and costs of such proceedings.

CHAPTER SIX

EXECUTORY AND TRANSITORY PROVISIONS

ARTICLE 35

Co-operation of the National Authorities with the United Nations

1. The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.

2. In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with information and statistical data requested concerning

- (a) the condition of refugees;
- (b) the implementation of this Convention; and
- (c) laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

*Travel Document**Paragraph 1*

1. The travel document referred to in Article 28 of this Convention shall be similar to the specimen annexed hereto.

2. The documents shall be made out in at least two languages, one of which shall be English or French.

Paragraph 2

Subject to the regulations obtaining in the country of issue, children may be included in the travel document of a parent or, in exceptional circumstances, of another adult refugee.

Paragraph 3

The fees charged for issue of the document shall not exceed the lowest scale of charges for national passports.

Paragraph 4

Save in special or exceptional cases, the document shall be made valid for the largest possible number of countries.

Paragraph 5

The documents shall have a validity of either one or two years at the discretion of the issuing authority.

Paragraph 6

1. The renewal or extension of the validity of the document is a matter for the authority which issued it, so long as the holder has not established lawful residence in another territory and resides lawfully in the territory of the said authority. The issue of a new document is, under the same conditions, a matter for the authority which issued the formal document.

2. Diplomatic or consular authorities, specially authorised for the purpose, shall be empowered to extend, for a period not exceeding six months, the validity of travel documents issued by their Governments.

3. The Contracting States shall give sympathetic consideration to renewing or extending the validity of travel documents or issuing new documents to refugees no longer lawfully resident in their territory who are unable to obtain a travel document from the country of their lawful residence.

Paragraph 7

The Contracting States shall recognise the validity of the documents issued in accordance with the provisions of Article 28 of this Convention.

Paragraph 8

The competent authorities of the country to which the refugee desires to proceed shall, if they are prepared to admit him and if a visa is required, affix a visa on the document of which he is the holder.

Paragraph 9

1. The Contracting States undertake to issue transit visas to refugees who have obtained visas for a territory of final destination.

2. The issue of such visas may be refused on grounds which would justify refusal of a visa to any alien.

Paragraph 10

The fees for the issue of exit, entry or transit visas shall not exceed the lowest scale of charges for visas on foreign passports.

Paragraph 11

When a refugee has lawfully taken up residence in the territory of another Contracting State, the responsibility for the issue of a new document, under the terms and conditions of Article 28, shall be that of the competent authority of that territory, to which the refugee shall be entitled to apply.

Paragraph 12

The authority issuing a new document shall withdraw the old document and shall return it to the country of issue, if it is stated in the document that it should be so returned; otherwise it shall withdraw and cancel the document.

Paragraph 13

1. Each Contracting State undertakes that the holder of a travel document issued by it in accordance with Article 28 of this Convention shall be re-admitted to its territory at any time during the period of its validity.

2. Subject to the provisions of the preceding subparagraph, a Contracting State may require the holder of the document to comply with such formalities as may be prescribed in regard to exit from or return to its territory.

3. The Contracting States reserve the right, in exceptional cases, or in cases where the refugee's stay is authorised for a specific period, when issuing the document, to limit the period during which the refugee may return to a period of not less than three months.

Paragraph 14

Subject only to the terms of paragraph 13, the provisions of this Schedule in no way affect the laws and regulations governing the conditions of admission to, transit through, residence and establishment in, and departure from, the territories of the Contracting States.

Paragraph 15

Neither the issue of the document nor the entries made thereon determine or affect the status of the holder, particular as regards nationality.

Paragraph 16

The issue of the document does not in any way entitle the holder to the protection of the diplomatic or consular authorities of the country of issue, and does not confer on these authorities a right of protection.

ANNEX

Specimen Travel Document

The document will be in booklet form (approximately 15 x 10 centimetres).

It is recommended that it be so printed that any erasure or alteration by chemical or other means can be readily detected, and that the words "Convention of 28 July, 1951" be printed in continuous repetition on each page, in the language of the issuing country.

<p><i>(Cover of booklet)</i> TRAVEL DOCUMENT (Convention of 28 July, 1951)</p>
<p style="text-align: right;">No.</p> <p style="text-align: center;">(1) TRAVEL DOCUMENT (Convention of 28 July, 1951)</p> <p>This document expires on unless its validity is extended or renewed.</p> <p>Name</p> <p>Forename(s)</p> <p>Accompanied by child (children)</p> <p>1. This document is issued solely with a view to providing the holder with a travel document which can serve in lieu of a national passport. It is without prejudice to and in no way affects the holder's nationality.</p> <p>2. The holder is authorised to return to (state here the country whose authorities are issuing the document) on or before unless some later date is hereafter specified. (This period during which the holder is allowed to return must not be less than three months).</p>

3. Should the holder take up residence in a country other than that which issued the present document, he must, if he wishes to travel again, apply to the competent authorities of his country of residence for a new document. [The old travel document shall be withdrawn by the authority issuing the new document and returned to the authority which issued it.]*
 (This document contains pages exclusive of cover).

*The sentence in brackets to be inserted by Governments which so desire.

(2)

Place and date of birth

Occupation

Present residence

*Maiden name and forename(s) of wife

*Name and forename(s) of husband

Description

Height

Hair

Colour of eyes

Nose

Shape of face

Complexion

Special peculiarities

Children accompanying holder

Name	Forename(s)	Place and date of birth	Sex
.....
.....
.....
.....

*Strike out whichever does not apply.

(This document contains pages, exclusive of cover).

(3)

*Photograph of holder and stamp of issuing authority
 Finger-prints of holder (if required)*

Signature of holder

(This document contains pages, exclusive of cover).

(4)

1. This document is valid for the following countries:

.....
.....
.....
.....

2. Document or documents on the basis of which the present document is issued.

.....
.....
.....

Issued at

Date

.....
*Signature and stamp of authority issuing
the document*

Fee paid:

(This document contains pages, exclusive of cover).

(5)

Extension or renewal of validity

Fee paid: From

To

Done at Date

.....
*Signature and stamp of authority extending
or renewing the validity of the document*

Extension or renewal of validity

Fee paid: From

To

Done at Date

.....
*Signature and stamp of authority extending
or renewing the validity of the document*

(This document contains pages, exclusive of cover).

(6)

Extension or renewal of validity

Fee paid: From

To

Done at Date

.....

*Signature and stamp of authority extending
or renewing the validity of the document*

Extension or renewal of validity

Fee paid: From

To

Done at Date

.....

*Signature and stamp of authority extending
or renewing the validity of the document*

(This document contains pages, exclusive of cover).

(7-32)

Visas

The name of the holder of the document must be repeated in each visa.
(This document contains pages, exclusive of cover).

PART TWO
[Section 11 (b)]

UN PROTOCOL RELATING TO THE STATUS
OF REFUGEES OF 31 JANUARY, 1967

Entry into force: 4th October, 1967, in accordance with Article VIII
Text: United Nations Treaty Series No. 8791, Vol. 606, p. 267

The States Parties to the present Protocol

Considering that the Convention relating to the Status of Refugees done at Geneva on 28th July, 1951 (hereinafter referred to as the Convention) covers only those persons who have become refugees as a result of events occurring before 1 January, 1951,

Considering that new refugee situations have arisen since the Convention was adopted and that the refugees concerned may therefore not fall within the scope of the Convention,

Considering that it is desirable that equal status should be enjoyed by all refugees covered by the definition in the Convention irrespective of the dateline 1 January, 1951,

Have agreed as follows:

ARTICLE I

General Provisions

1. The States Parties to the present Protocol undertake to apply Articles 2 to 34 inclusive of the Convention to refugees as hereinafter defined.

2. For the purpose of the present Protocol, the term “**refugee**” shall, except as regards the application of paragraph 3 of this Article, mean any person within the definition of Article 1 of the Convention as if the words “As a result of events occurring before 1 January, 1951 and ” and the words “ as a result of such events”, in Article 1A (2) were omitted.

3. The present Protocol shall be applied by the States Parties hereto without any geographic limitation, save that existing declarations made by States already Parties to the Convention in accordance with Article 1B (1) (a) of the Convention, shall, unless extended under Article 1B (2) thereof, apply also under the present Protocol.

ARTICLE II

Co-operation of the National Authorities with the United Nations

1. The States Parties to the present Protocol undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of the present Protocol.

2. In order to enable the Office of the High Commissioner, or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the States Parties to the present Protocol undertake to provide them with the information and statistical data requested, in the appropriate form, concerning

- (a) the condition of refugees;
- (b) the implementation of the present Protocol;
- (c) laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

ARTICLE III

Information on National Legislation

The States Parties to the present Protocol shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of the present Protocol.

ARTICLE IV

Settlement of Disputes

Any dispute between States Parties to the present Protocol which relates to its interpretation or application and which cannot be settled by other means shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

ARTICLE V

Accession

The present Protocol shall be open for accession on behalf of all States Parties to the Convention and of any other State Member of the United Nations or member of any of the specialised agencies or to which an invitation to accede may have been addressed by the General Assembly of the United Nations. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

ARTICLE VI

Reservations and Declarations

1. At the time of accession, any State may make reservations in respect of Article IV of the present Protocol and in respect of the application in accordance with Article I of the present Protocol of any provisions of the Convention other than those contained in Articles 1, 3, 4, 16 (1) and 33 thereof, provided that in the case of a State Party to the Convention reservations made under this Article shall not extend to refugees in respect of whom the Convention applies.

2. Reservations made by States Parties to the Convention in accordance with Article 42 thereof shall, unless withdrawn, be applicable in relation to their obligations under the present Protocol.

3. Any State making a reservation in accordance with paragraph 1 of this Article may at any time withdraw such reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

4. Declarations made under Article 40, paragraphs, 1 and 2, of the Convention by a State Party thereto which accedes to the present Protocol shall be deemed to apply in respect of the present Protocol unless upon accession a notification to the contrary is addressed by the State Party concerned to the Secretary-General of the United Nations. The provisions of Article 40, paragraphs 2 and 3, and of Article 44, paragraph 3, of the Convention shall be deemed to apply *mutatis mutandis* to the present Protocol.

ARTICLE VII

Denunciation

1. Any State Party hereto may denounce this Protocol at any time by a notification addressed to the Secretary-General of the United Nations.

2. Such denunciation shall take effect for the State Party concerned one year from the date on which it is received by the Secretary-General of the United Nations.

ARTICLE VIII

Notifications by the Secretary-General of the United Nations

The Secretary-General of the United Nations shall inform the States referred to in Article V above of the date of entry into force, accessions, reservations and withdrawals of reservations to and denunciations of the present Protocol, and of declarations and notifications relating hereto.

ARTICLE X

Deposit in the Archives of the Secretariat of the United Nations

A copy of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, signed by the President of the General Assembly and by the Secretary-General of the United Nations, shall be deposited in the archives of the Secretariat of the United Nations. The Secretary-General will transmit certified copies thereof to all States Members of the United Nations and to the other States referred to in Article V above.

APPENDIX

GENERAL ASSEMBLY RESOLUTION 2198 (XXI)

*Protocol Relating to the Status of Refugees**The General Assembly,*

Considering that the Convention relating to the Status of Refugees, signed at Geneva on 28 July, 1951 covers only those persons who have become refugees as a result of events occurring before 1 January, 1951,

Considering that new refugee situations have arisen since the Convention was adopted and that the refugees concerned may therefore not fall within the scope of the Convention,

Considering that it is desirable that equal status should be enjoyed by all refugees covered by the definition in the Convention, irrespective of the date-line of 1 January, 1951,

Taking note of the recommendation of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees that the draft Protocol relating to the Status of Refugees should be submitted to the General Assembly after consideration by the Economic and Social Council, in order that the Secretary-General might be authorised to open the Protocol for accession by Governments within the shortest possible time,

Considering that the Economic and Social Council, in its resolution 1186 (XLI) of 18 November, 1966, took note with approval of the draft Protocol contained in the addendum to the report of the United Nations High Commissioner for Refugees and concerning measures to extend the personal scope of the Convention and transmitted the addendum to the General Assembly.

1. *Takes note* of the Protocol relating to the Status of Refugees, the text of which is contained in the addendum to the report of the United Nations High Commissioner for Refugees.

2. *Requests* the Secretary-General to transmit the text of the Protocol to the States mentioned in Article V thereof, with a view to enabling them to accede to the Protocol.

1495th plenary meeting, 16 December, 1966.

PART THREE

[Section 11 (c)]

OAU CONVENTION GOVERNING THE SPECIFIC ASPECTS OF REFUGEE PROBLEMS IN AFRICA

Adopted by the Assembly of Heads of State and Government at its Sixth Ordinary Session (Addis Ababa, 10 September, 1969).

Entry into Force: 20 June, 1974, in accordance with Article XI.

Text: United Nations Treaty Series No. 14691.

PREAMBLE

We, the Heads of State and Government assembled in the city of Addis Ababa, from 6–10 September, 1969.

1. *Noting with concern* the constantly increasing numbers of refugees in Africa and desirous of finding ways and means of alleviating their misery and suffering as well as providing them with a better life and future,

2. *Recognising* the need for and essentially humanitarian approach towards solving the problems of refugees,

3. *Aware*, however, that refugee problems are a source of friction among many Member States, and desirous of eliminating the source of such discord,

4. *Anxious* to make a distinction between a refugee who seeks a peaceful and normal life and a person fleeing his country for the sole purpose of fomenting subversion from outside,

5. *Determined* that the activities of such subversive elements should be discouraged, in accordance with the Declaration on the Problem of Subversion and Resolution on the Problem of Refugees adopted at Accra in 1965,

6. *Bearing* in mind that the Charter of the United Nations and the Universal Declaration of Human Rights have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,

7. *Recalling* Resolution 2312 (XXII) of 14 December, 1967 of the United Nations General Assembly, relating to the Declaration on Territorial Asylum,

8. *Convinced* that all the problems of our continent must be solved in the spirit of the Chapter of the Organisation of African Unity and in the African context,

9. *Recognising* that the United Nations Convention of 28 July, 1951, as modified by the Protocol of 31 January, 1967, constitutes the basic and universal instrument relating to the status of refugees and reflects the deep concern of States for refugees and their desire to establish common standards for their treatment,

10. *Recalling* Resolutions 26 and 104 of the OAU Assemblies of Heads of State and Government, calling upon Member States of the Organisation who had not already done so to accede to the United Nations Convention of 1951 and to the Protocol of 1967 relating to the Status of Refugees, and meanwhile to apply their provisions to refugees in Africa,

11. *Convinced* that the efficiency of the measures recommended by the present Convention to solve the problems of refugees in Africa necessitates close and continuous collaboration between the Organisation of African Unity and the Office of the United Nations High Commissioner for Refugees.

Have agreed as follows:

ARTICLE I

Definition of the term "Refugee"

1. For the purposes of this Convention the term "**refugee**" shall mean every person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events is unable or owing to such fear, is unwilling to return to it.

2. The term "**refugee**" shall also apply to every person who owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.

3. In the case of a person who has several nationalities, the term "**a country of which he is a national**" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of which he is a national if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

4. This Convention shall cease to apply to any refugee if

- (a) he has voluntarily re-availed himself of the protection of the country of his nationality; or
- (b) having lost his nationality, he has voluntarily re-acquired it; or
- (c) he has acquired a new nationality, and enjoys the protection of the country of his new nationality; or
- (d) he has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or
- (e) he can no longer, because the circumstances in connection with which he was recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality; or
- (f) he has committed a serious non-political crime outside his country of refuge after his admission to that country as a refugee; or
- (g) he has seriously infringed the purposes and objectives of this Convention.

5. The provisions of this Convention shall not apply to any person with respect to whom the country of asylum has serious reasons for considering that

- (a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provisions in respect of such crimes;
- (b) he committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
- (c) he has been guilty of acts contrary to the purposes and principles of the Organisation of African Unity;
- (d) he has been guilty of acts contrary to the purposes and principles of the United Nations.

6. For the purposes of this Convention, the Contracting State of Asylum shall determine whether an applicant is a refugee.

ARTICLE II

Asylum

1. Member States of the O.A.U. shall use their best endeavours consistent with their respective legislations to receive refugees and to secure the settlement of those refugees who, for well-founded reasons, are unable or unwilling to return to their country of origin or nationality.

2. The grant of asylum to refugees is a peaceful and humanitarian act and shall not be regarded as an unfriendly act by any Member State.

3. No person shall be subjected by a Member State to measures such as rejection at the frontier, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened for the reasons set out in Article 7, paragraphs 1 and 2.

4. Where a Member State finds difficulty in continuing to grant asylum to refugees, such Member State may appeal directly to other Member States and through the O.A.U., and such other Member States shall in the spirit of African solidarity and international co-operation take appropriate measures to lighten the burden of the Member State granting asylum.

5. Where a refugee has not received the right to reside in any country of asylum, he may be granted temporary residence in any country of asylum in which he first presented himself as a refugee pending arrangement for his re-settlement in accordance with the preceding paragraph.

6. For reasons of security, countries of asylum shall, as far as possible settle refugees at a reasonable distance from the frontier of their country of origin.

ARTICLE III

Prohibition of Subversive Activities

1. Every refugee has duties to the country in which he finds himself which require in particular that he conforms with its laws and regulations as well as with measures taken for the maintenance of public order. He shall also abstain from any subversive activities against any Member State of the O.A.U.

2. Signatory States undertake to prohibit refugees residing in their respective territories from attacking any State Member of the O.A.U., by any activity likely to cause tension between Member States, and in particular by use of arms, through the press, or by radio.

ARTICLE IV

Non-Discrimination

Member States undertake to apply the provisions of this Convention to all refugees without discrimination as to race, religion, nationality, membership of a particular social group or political opinions.

ARTICLE V

Voluntary Repatriation

1. The essentially voluntary character of repatriation shall be respected in all cases and no refugee shall be repatriated against his will.

2. The country of asylum, in collaboration with the country of origin, shall make adequate arrangements for the safe return of refugees who request repatriation.

3. The country of origin, on receiving back refugees, shall facilitate their resettlement and grant them the full rights and privileges of nationals of the country, and subject them to the same obligations.

4. Refugees who voluntarily return to their country shall in no way be penalised for having left it for any of the reasons giving rise to refugee situations. Whenever necessary, an appeal shall be made through national information media and through the Administrative Secretary-General of the O.A.U., inviting refugees to return home and giving assurance that the new circumstances prevailing in their country of origin will enable them to return without risk and to take up a normal and peaceful life without fear of being disturbed or punished and that the text of such appeal should be given to refugees and clearly explained to them by their country of asylum.

5. Refugees who freely decide to return to their homeland, as a result of such assurances or on their own initiative, shall be given every possible assistance by the country of asylum, the country of origin, voluntary agencies and international and inter-governmental organisations, to facilitate their return.

ARTICLE VI

Travel Documents

1. Subject to Article III, Member States shall issue to refugees lawfully staying in their territories travel documents in accordance with the United Nations Convention relating to the Status of Refugees and the Schedule and Annex thereto, for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require. Member States may issue such a travel document to any other refugee in their territory.

2. Where an African country of second asylum accepts a refugee from a country of first asylum, the country of first asylum may be dispensed from issuing a document with a return clause.

3. Travel documents issued to refugees under previous international agreements by States Parties thereto shall be recognised and treated by Member States in the same way as if they had been issued to refugees pursuant to this Article.

ARTICLE VII

Co-operation of the National Authorities with the Organisation of African Unity

In order to enable the Administrative Secretary-General of the Organisation of African Unity to make reports to the competent organs of the Organisation of African Unity, Member States undertake to provide the Secretariat in the appropriate form with information and statistical data requested concerning

- (a) the condition of refugees;
- (b) the implementation of this Convention; and
- (c) laws, regulations and decrees which are, or may here-after be in force relating to refugees.

ARTICLE VIII

Co-operation with the Office of the United Nations High Commissioner for Refugees

1. Member States shall co-operate with the Office of the United Nations High Commissioner for Refugees.

2. The present Convention shall be the effective regional complement in Africa of the 1951 United Nations Convention on the Status of Refugees.

ARTICLE IX

Settlement of Disputes

Any dispute between States signatories to this Convention relating to its interpretation or application, which cannot be settled by other means, shall be referred to the Commission for Mediation Conciliation and Arbitration of the Organisation of African Unity at the request of any one of the Parties to the dispute.

ARTICLE X

Signature and Ratification

1. This Convention is open for signature and accession by all Member States of the Organisation of African Unity and shall be ratified by signatory States in accordance with their respective constitutional processes. The instruments of ratification shall be deposited with the Administrative Secretary-General of the Organisation of African Unity.

2. The original instrument, done if possible in African languages, and in English and French, all texts being equally authentic, shall be deposited with the Administrative Secretary-General of the Organisation of African Unity.

3. Any independent African State, Member of the Organisation of African Unity, may at any time notify the Administrative Secretary-General of the Organisation of African Unity of its accession to this Convention.

ARTICLE XI

Entry into Force

This Convention shall come into force upon deposit of instruments of ratification by one-third of the Member States of the Organisation of African Unity.

ARTICLE XII

Amendment

This Convention may be amended or revised if any member State makes a written request to the Administrative Secretary-General to that effect, provided however that the proposed amendment shall not be submitted to the Assembly of Heads of State and Government for consideration until all Member States have been duly notified of it and a period of one year has elapsed. Such an amendment shall not be effective unless approved by at least two-thirds of the Member States Parties to the present Convention.

ARTICLE XIII

Denunciation

1. Any Member State Party to this Convention may denounce its provisions by a written notification to the Administrative Secretary-General.

2. At the end of one year from the date of such notification, if not withdrawn, the Convention shall cease to apply with respect to the denouncing State.

ARTICLE XIV

Upon entry into force of this Convention, the Administrative Secretary-General of the O.A.U. shall register it with the Secretary-General of the United Nations, in accordance with Article 102 of the Charter of the United Nations.

ARTICLE XV

Notifications by the Administrative Secretary-General of the Organisation of African Unity

The Administrative Secretary-General of the Organisation of African Unity shall inform all Members of the Organisation

- (a) of signatures, ratifications and accessions in accordance with Article X;
 - (b) of entry into force, in accordance with Article XI;
 - (c) of requests for amendments submitted under the terms of Article XII;
 - (d) of denunciations, in accordance with Article XIII.
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N.R.C.D. 140

REGIONAL DEVELOPMENT CORPORATION ACT, 1973

ARRANGEMENT OF SECTIONS

Establishment

SECTION

1. Establishment of Regional Development Corporation.
2. Objectives.
3. Conduct of affairs.
4. Power to enter into partnership with others.

The Board

5. The Board.
6. Qualifications and tenure of office of members.
7. Remuneration for members.
8. Meetings of the Board.
9. Management and staff of Regional Development Corporation general policy.
10. Execution of contracts.
11. Staff of Regional Development Corporations.
12. Secretaries of Regional Development Corporations.
13. Internal auditor.
14. Rules and Regulations.

Financial Provisions

15. Capital and funds of the Corporation.
16. Borrowing powers.
17. Books of account.
18. Financial year.
19. Audit.
20. Annual report and investment programme.
21. Publication of audit report.
22. Interpretation.

N.R.C.D. 140

REGIONAL DEVELOPMENT CORPORATION ACT, 1973¹

AN ACT to provide for the establishment in each Region of a development corporation for agricultural, commercial and industrial development of the Region and for related matters.

1. The Act was issued as the Regional Development Corporations Decree, 1973 (N.R.C.D. 140) made on the 29th day of December, 1972 and notified in the *Gazette* on 5th January, 1973.

*Establishment***1. Establishment of Regional Development Corporation**

(1) There is hereby established in each Region a body corporate to be known as the Regional Development Corporation.

(2) A Corporation has perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) A Corporation may, for the performance of its functions under this Act, acquire and hold movable or immovable property, dispose of that property and enter into a contract or any other transaction.

(4) Where there is a hindrance to the acquisition by a Corporation of property, the property may be acquired for the Corporation under the State Property and Contracts Act, 1960 (C.A. 6) or under the State Lands Act, 1962 (Act 125) and each Act shall apply in relation to the acquisition with the modifications that are necessary to provide for the vesting of the property acquired in the Corporation and for the cost of the acquisition to be defrayed by the Corporation.²

2. Objectives

(1) A Corporation may carry on a business of an agricultural, commercial or industrial nature.

(2) Subject to this Act, a Corporation may do any other things that are incidental or conducive to the attainment of its objectives.

3. Conduct of affairs

A Corporation shall conduct its affairs on sound commercial lines.

4. Power to enter into partnership with others

A Corporation may, for the attainment of its objects, enter into an arrangement with a company, partnership, co-operative, statutory corporation or any other person for the joint undertaking of a business or project falling within the scope of its objectives and functions.

*The Board***5. The Board**

(1) The governing body of a Corporation is a Board.

(2) The Board shall be made up of

- (a) the Regional Minister of the Region as chairman,
- (b) the person appointed managing director under section 9,

2. By the Greater Accra Regional Development Corporation (Vesting of Stone Quarries) Decree, 1973 (N.R.C.D. 218), the assets, rights, obligations and liabilities in respect of the two stone quarries at Weija and Shai which were held and managed by the special Project Division were vested in the Greater Accra Regional Development Corporation. This did not include the transfer of an obligation or a liability assumed or entered into by a person before the 30th day of January, 1970.

- (c) the secretary of the regional planning committee,
- (d) a chief from the Region nominated by the Regional House of Chiefs, and
- (e) five other members from the Region recommended by the Regional Minister.³

(3) The members of the Board of a Corporation shall be appointed by the President.

6. Qualifications and tenure of office of members

(1) The five other members of the Board of a Corporation shall be appointed from among persons who are qualified in or have had experience of and have shown capacity in, matters relating to all or any of the following subjects:

- (a) agriculture,
- (b) industry,
- (c) commerce,
- (d) trade,
- (e) finance,
- (f) science,
- (g) technology,
- (h) accountancy,
- (i) law,
- (j) administration, and any other field of professional studies.

(2) For the purposes of subsection (1), there shall be on the Board at least one member who has had recognised and substantial experience in matters of business administration with particular emphasis on finance, one member who has had a similar experience in commercial matters, one member who has had experience in industry and one member who has had experience in any field of professional studies and is qualified to practise in Ghana.

(3) A person is not qualified to be a member of the Board who has been sentenced to death or to a term of imprisonment exceeding twelve months without option of a fine or has been convicted of an offence involving dishonesty or moral turpitude and has in each case not been granted a free pardon.

(4) A person is not qualified to be a member of the Board if having been declared as an insolvent or bankrupt under a law in force in Ghana or in any other country is an undischarged insolvent or bankrupt.

(5) The members of the Board other than the chairman and the managing director shall hold office for two years.

3. Amended by the Regional Development Corporation (Amendment) Decree, 1974 (N.R.C.D. 249).

(6) A member may resign from office by notice in writing addressed to the President and without prejudice to subsection (5) a member may be removed from office by the President.

(7) Where the office of the member other than the managing director becomes vacant before the expiration of the term of office or by death, the President shall appoint another person to hold for the unexpired portion of that term of office.

(8) Subject to this Act, where it appears to the President that a member is unable by reason of absence from Ghana or illness or any other sufficient cause from performing the functions of office the President shall appoint another person to hold office until that member is able to again perform those functions.

(9) A member is eligible for appointment.

7. Remuneration for members

A member except a member appointed under section 5 (2) (a), (b) or (c) as well as a person co-opted by the Board under section 8 (6) may be paid the remuneration determined by the Board, with the approval of the Minister.

8. Meetings of the Board

(1) The Board shall meet at least once in every month for the dispatch of its business at the times and at the places determined by the Board.

(2) A special meeting of the Board shall be called on a written request signed by the chairman or by a majority of the members addressed to the secretary.

(3) The chairman shall preside at the meetings of the Board and in the absence of the chairman a member appointed by the members present from among themselves shall preside.

(4) Questions proposed at a meeting of the Board shall be determined by a simple majority of the members present and voting, and in the event of an equality of votes the person presiding shall have a casting vote.

(5) The quorum at a meeting of the Board is five.

(6) The Board may co-opt a person to act as an adviser at a meeting but a person so co-opted is not entitled to vote at the meeting on a matter for decision by the Board.

(7) The validity of the proceedings of the Board shall not be affected by a vacancy among its members or by a defect in the appointment of a member.

(8) A member who has an interest in a company or in an undertaking with which a Corporation proposes to enter into a contract or who has an interest in a contract which a Corporation proposes to enter into,

(a) shall disclose in writing to the Board the nature of that interest, and

(b) is disqualified, unless the Board otherwise directs, from participating in the deliberations of the Board on the contract, and

(c) is disqualified from voting in a decision of the Board on the contract.

(9) A member who contravenes a provision of subsection (8) shall cease to be a member of the Board.

(10) The Board shall record and keep minutes of the proceedings of its meetings.

9. Management and staff of Regional Development Corporation general policy

(1) The Board shall, subject to this Act, have general control of the management of the affairs of the Corporation on matters of policy.

(2) A Corporation shall have a managing director.

(3) The managing director of a Corporation shall be appointed by the President in accordance with article 195 of the Constitution, and shall hold office on the terms and conditions specified in the instrument of appointment.

(4) The qualifications for appointment as managing director are the same as are prescribed by section 6 (1) with respect to members, with the additional qualification of a good general education as well as an outstanding knowledge of the principles, practices and procedure of public and business administration and office management.

(5) *Repealed.*⁴

(6) Where a managing director is incapacitated from the performance of functions under this Act, the Board may authorise a senior employee of the Corporation to perform those functions for the duration of the incapacity.

(7) Subject to this Act, a managing director is the chief executive of the Corporation and is, subject to the general control of the Board on matters of policy, charged with the direction of the day-to-day business of the Corporation and of its administration and the control of the employees of the Corporation.

(8) The managing director may, subject to this Act, delegate to a senior employee of the Corporation a function under this Act and may impose conditions with respect to the exercise of the delegated function.

(9) Subsection (8) shall not be construed so as to absolve the managing director from ultimate responsibility for an act done by a person in pursuance of a delegation under subsection (8).

10. Execution of contracts

(1) The application of the seal of a Corporation shall be authenticated by the signature of the managing director or of any other member of the Board authorised by the Board to authenticate the application of the seal, and the signature of the secretary or any other officer of the Corporation authorised by the Board to act in the place of the secretary for that purpose.

(2) A Corporation may, by instrument in writing under its common seal, empower a person generally or in respect of a specified matter as its attorney to execute deeds on its behalf in a place not situated in the Republic, and a deed signed by that attorney on behalf of the Corporation and under the seal of that attorney is binding on the Corporation and shall have the same effect as if it were under the common seal of the Corporation.

(3) An instrument or a contract which, if executed or entered into by a person, other than a body corporate, would not require to be under seal, may be executed or entered into on behalf of a Corporation by the managing director or a member if that member has

4. By the Regional Development Corporation (Amendment) Decree, 1975 (N.R.C.D. 331), The section reads, "Where the office of a Managing Director becomes vacant before the expiration of his term of office the National Redemption Council shall appoint another person in his place to hold office for the unexpired portion of his term of office."

previously been authorised by resolution of the Board to execute or enter into that particular instrument or contract.

(4) A Corporation may by writing under its common seal appoint a person outside the Republic as an agent to execute or enter into an instrument or a contract and the instrument or contract if executed or entered into on behalf of the Corporation shall have effect as if it had been duly executed or entered into as prescribed for the purposes of subsection (3).

(5) A document purporting to be an instrument executed or made by or on behalf of a Corporation and to be sealed with the common seal of that Corporation authenticated in the manner provided by subsection (1), or signed by and under the seal of a person appointed as attorney under subsection (2), or signed by the managing director or by a member or a person authorised in accordance with subsection (3) to act for that purpose, is for the purposes of this Act, duly executed or sealed until the contrary is shown.

(6) This section shall have effect subject to section 9 of this Act and section 12 of the Contracts Act, 1960 (Act 25).

11. Staff of Regional Development Corporations

Subject to article 195 of the Constitution,

- (a) a Corporation may engage the employees necessary for the proper and efficient conduct of the business and functions of the Corporation;
- (b) an employee of a Corporation, other than the managing director, shall be appointed by the Board;
- (c) a Corporation may engage the services of consultants as determined by the Board on the recommendations of the managing director;
- (d) the employees, consultants and advisers of a Corporation shall be engaged on the terms and conditions determined by the Board on the recommendations of the managing director;
- (e) public officers may be transferred or seconded to a Corporation or may otherwise give assistance to a Corporation.

12. Secretaries of Regional Development Corporations

(1) A Corporation shall have an officer to be designated as the secretary of the Corporation.

(2) A secretary shall act as secretary to the Board and shall, subject to the directions of the Board, arrange the business for and be responsible for the recording and keeping of minutes of the proceedings of the Board.

(3) A secretary shall perform any other functions directed in writing by the Board or as the managing director may by writing, delegate to the secretary who shall be assisted by the staff of the Corporation directed by the Board on the recommendations of the managing director.

13. Internal auditor

(1) A Corporation shall have an internal auditor who is responsible, subject to this Act, to the managing director for the performance of functions.

(2) The internal auditor of a Corporation shall, at intervals of three months, prepare a report on the internal audit work carried out during the period of three months immediately preceding the preparation of the report and submit the report to the managing director of the Corporation.

(3) Without prejudice to the general effect of subsection (2), the internal auditor shall make in each report the observations that appear necessary as to the conduct of the financial affairs of the Corporation during the period to which the report relates.

(4) An internal auditor shall send a copy of each report prepared under this section to the Minister responsible for Finance, the Auditor-General, and the chairman of the Board.

(5) This section shall be read and construed as one with the Internal Audit Agency Act, 2003 (Act 658) and where there is a conflict that Act shall prevail.

14. Rules and Regulations

The Board may make Rules and Regulations for the purpose of carrying this Act into effect and for regulating a matter falling within the scope of the functions of the Corporation.

*Financial Provisions***15. Capital and funds of the Corporation**

The funds of a Corporation include loans granted to the Corporation as initial capital by the Government, moneys borrowed by the Corporation from banking and any other financial institutions in the Republic, and moneys derived from the proceeds of shares floated in respect of a business promoted in pursuance of this Act.

16. Borrowing powers

(1) Subject to article 181 of the Constitution, the Corporation,

- (a) may obtain loans and any other credit facilities on the guarantee of the Government from the National Investment Bank, the Agricultural Credit Bank, and any other banks approved by the Minister;
- (b) may, with the prior approval of the Minister, borrow money from any other source;
- (c) for the purposes of the technical arrangements in connection with the raising of a loan under paragraph (b), a Corporation shall, if the National Investment Bank agrees, use the services of that Bank;
- (d) may borrow temporarily by way of overdraft or otherwise, the sums of money that it may require for meeting its current obligations or performing its functions.

(2) The Minister may prescribe the maximum sums of money which the Corporation may borrow under paragraph (a) or (b) of subsection (1).

17. Books of account

A Corporation shall keep proper books of account and proper records in relation to the accounts in the form approved by the Auditor-General.

18. Financial year

The financial year of a Corporation shall end on the 30th day of June in each year.⁵

19. Audit

(1) The books and accounts of a Corporation shall each year be audited in accordance with article 187 of the Constitution by the Auditor-General.

(2) A Corporation shall pay in respect of the audit the fee agreed on by the Auditor-General and the Board, or in the case of failure to agree, the fee prescribed by the Minister.

(3) The Board shall as soon as possible on receiving the report of the Auditor-General, forward a copy to the Minister.

(4) The Minister shall as soon as practicable on its receipt lay a copy of the Auditor-General's report before Parliament.

20. Annual report and investment programme

(1) The Board shall, not later than the 31st day of July immediately following the end of a financial year, forward to the Minister a report of its activities during that financial year together with the audited statement of accounts in respect of that year.

(2) The Board shall, not later than the 31st day of May each year, submit to the Minister a comprehensive programme of its investment policy for the forthcoming financial year.

(3) The Minister shall lay copies of the report, the audited statement and the investment policy as soon as practicable before Parliament.

21. Publication of audit report

(1) The audited report of a Corporation shall be published every year in the *Gazette*.

(2) The report shall be open to inspection by a member of the public at the head office of the Corporation.

22. Interpretation

In this Act, unless the context otherwise requires,

“**Board**” means the governing body of a Corporation established by virtue of section 1;

“**Corporation**” means a Regional Development Corporation;

“**managing director**” means the managing director of a Corporation appointed under section 9;

“**member**” means a member of the Board established under section 5;

“**Minister**” means the Minister responsible for Finance;

“**secretary**” means the secretary to a Corporation.

5. A proviso to the section has been omitted as spent. It states:

“Provided that for the purposes of this section the period commencing with the commencement of this Decree and ending on the 30th day of June, 1973 shall be deemed to be a financial year”.

P.N.D.C.L. 33**REGIONAL MARITIME ACADEMY ACT, 1982**

ARRANGEMENT OF SECTIONS

The Academy

SECTION

1. Regional Maritime Academy.
2. Divisions of Academy.
3. Object of the Academy.

Board of Governors of the Academy

4. Board of governors.
5. Composition of the Board.
6. Chairman of the Board.
7. Functions of the Board.
8. Terms of office.
9. Meetings of the Board.

Officers and Staff of the Academy

10. Principal Officers of the Academy.
11. The Principal.
12. Vice-principal.
13. Dean of Studies.
14. Secretary.
15. Academic and administrative staff.
16. Staff.
17. Remuneration and conditions of service.

Financial Provisions

18. Funds.
19. Budget.
20. Financial statement.
21. Financial year.

Supplementary and Miscellaneous Provisions

22. By-laws.
 23. Exemptions.
 24. Interpretation.
 25. Repeal and revocation.
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P.N.D.C.L. 33

REGIONAL MARITIME ACADEMY ACT, 1982¹

AN ACT to regulate the Regional Maritime Academy and provide for related matters.

*The Academy***1. Regional Maritime Academy**

(1) There shall, subject to this Act, continue in existence the body known as the Regional Maritime Academy, Accra, Ghana.

(2) The Academy is a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(3) The Academy shall, in the performance of its functions, have academic, financial and administrative autonomy.

(4) The Academy may for the performance of its functions under this Act, acquire, hold and dispose of movable and immovable property and may enter into a contract or transaction.

2. Divisions of Academy

For the effective operation of the Academy, the Board of Governors may create units or divisions within the Academy.

3. Object of the Academy

The object of the Academy is to provide studies, training and research in maritime subjects for citizens of member states and any other persons approved by the Board.

*Board of Governors of the Academy***4. Board of governors**

The governing body of the Academy is a Board of governors.

5. Composition of the Board

(1) The Board consists of

- (a) the Minister responsible for Maritime Affairs from each Member State or the duly accredited representative of the Minister, and
- (b) one representative of the Permanent Secretariat of the Ministerial Conference of West and Central African States on Maritime Transport, and
- (c) the Principal of the Academy, and
- (d) a student actually studying in the Academy elected by the students as their representative.

1. The Act was issued as the Regional Maritime Academy Law, 1982 (P.N.D.C.L. 33) made in the 30th day of September, 1982 and notified in the *Gazette* on 5th November, 1982.

(2) Only members of the Board appointed under paragraph (a) of subsection (1) have the right to vote.

6. Chairman of the Board

(1) A member of the Board under paragraph (a) of subsection (1) of section 5 shall be appointed by the other similarly appointed members to be the chairman of the Board for a period not exceeding one year.

(2) Members of the Board shall gain appointment to the post of chairman of the Board by rotation in the order in which the names of their representative states are arranged alphabetically.

7. Functions of the Board

(1) The Board is autonomous and shall be accorded full international status.

(2) Without derogation from its functions under subsection (1), the Board shall

- (a) determine and supervise the finances of the Academy,
- (b) prepare overall plans and programmes for the furtherance of the objects of the Academy,
- (c) prescribe the terms and conditions on which any person selected for any course of study and training organised by the Academy shall be admitted, and
- (d) institute awards and scholarships in furtherance of the objects of the Academy.

8. Terms of office

A member of the Board shall hold office

- (a) if the member is a Minister responsible for Maritime Affairs in a Member State, until the member ceases to be a Minister; and
- (b) if the member is a representative duly accredited by the member's Government, until the period specified in the member's letter of accreditation expires.

9. Meetings of the Board

(1) The Board shall ordinarily meet for the despatch of its business at the times and places appointed by the chairman of the Board.

(2) The Board shall meet not less than twice a year, and at least one of the meetings shall be held at the Academy.

(3) The chairman of the Board may at any time and shall, on the request in writing of the Principal or not less than two-thirds of the members of the Board call a special meeting of the Board.

(4) The chairman shall preside at the meetings of the Board, and in the absence of the chairman, a member appointed by the members shall preside.

(5) Questions before the Board at a meeting shall be decided by a majority of the members present and voting, but where the votes are equal, the chairman or the person presiding shall have a casting vote.

(6) The quorum at a meeting of the Board is three.

(7) The proceedings of the Board shall not be invalidated by reason of a vacancy among, or a defect in the appointment or nomination of members of the Board.

Officers and Staff of the Academy

10. Principal Officers of the Academy

(1) The principal officers of the Academy are,

- (a) the Principal,
- (b) the Vice-Principal,
- (c) the Dean of Studies,
- (d) the Secretary, and
- (e) any other officer of the Academy determined by the Board.

(2) The principal officers shall be appointed by the Board.

11. The Principal

(1) The Principal is responsible to the Board, is the chief academic and administrative officer of the Academy and

- (a) shall exercise general authority over the staff of the Academy,
- (b) is responsible for the discipline in the Academy,
- (c) is responsible for co-ordination and the implementation of the programmes of the Academy, and
- (d) is responsible for the administration of the finance of the Academy.

(2) Without prejudice to subsection (1) the chairman of the Board or the Board may delegate any of their functions to the Principal.

12. Vice-principal

(1) The Vice-Principal of the Academy shall assist the Principal in the performance of functions under this Act and shall perform the functions that the Principal may assign to the Vice-Principal.

(2) In the absence of the Principal or where the Principal is incapacitated from performing the functions of the office, the Vice-Principal shall act in that office until the time that the Principal is again able to perform the functions or a new Principal is appointed.

13. Dean of Studies

There shall be a Dean of Studies who is responsible for the academic matters of the Academy subject to the general control of the Principal.

14. Secretary

(1) There shall be an officer to be designated as secretary to the Academy.

(2) The secretary shall act as secretary to the Board, and shall, subject to the directions of the Board, arrange the business for, and cause to be recorded and kept, minutes of the meetings of the Board.

(3) The secretary shall perform any other functions that the Principal may assign to the secretary.

15. Academic and administrative staff

Subject to article 195 of the Constitution, the Board, acting on proposals submitted to it by the Principal, shall appoint the members of the academic and administrative staff other than the principal officers of the Academy.

16. Staff

(1) Subject to article 195 of the Constitution, the Principal of the Academy acting on behalf of the Board may employ any other persons as may be required for the efficient performance of the functions of the Academy.

(2) The Principal's powers of employment under subsection (1) shall be exercised in accordance with the procedures prescribed by the Board.

17. Remuneration and conditions of service

(1) The rates of remuneration and any other conditions of service of members of staff and of the employees of the Academy shall be determined by the Board.

(2) The Board may make by-laws to provide for the contribution by the Academy to superannuation or any other similar fund instituted for the benefit of the staff and employees of the Academy.

*Financial Provisions***18. Funds**

(1) The funds of the Academy include

- (a) the contributions to the Academy by member states,
- (b) a donation, legacy or subsidy granted to the Academy from any source,
- (c) fees accruing to the Academy in the course of the performance of its functions including,
 - (i) fees paid by course participants to the Academy,
 - (ii) fees, charges and dues in respect of services rendered by or through the Academy,
- (d) the interests and income derived from properties of the Academy,
- (e) the loans which are granted to the Academy for the achievement of a specified purpose, and
- (f) any other contributions or gifts received by the Academy.

(2) Moneys received by or on behalf of the Academy shall be paid by the Principal into accounts kept in the name of the Academy at a bank to be specified by the Board.

19. Budget

(1) The Principal shall in each year prepare, not later than the date determined by the Board, a budget showing the estimated revenue and expenditure of the Academy for the coming financial year, and shall submit it to the Board for approval.

(2) The budget of the Academy shall be borne by the member states who shall pay their contributions directly to the Academy in accordance with the modalities of allocation fixed by the Board.

(3) The Board may seek external financial aid for the Academy.

20. Financial statement

(1) The Board shall prepare not later than the 30th day of June in each year,

- (a) a statement of income and expenditure of the Academy for the last preceding financial year, and
- (b) a statement of the assets and liabilities of the Academy as they stood at the end of the immediately preceding financial year.

(2) The statement, duly certified by the Principal, shall be submitted for audit to the Auditor-General not later than six months after the end of the last preceding financial year.²

21. Financial year

For the purpose of this Act, “**financial year**” means the period declared as such for accounting purposes by the Board.

Supplementary and Miscellaneous Provisions

22. By-laws

The Board may make by-laws not inconsistent with this Act or the terms of the Convention in relation to a matter within the functions of the Academy and, in particular,

- (a) declaring the States entitled to membership and the rights, privileges and duties appertaining to the States;
- (b) prescribing the contributions, whether by way of fee or otherwise, to be paid by Member States or a class of students of the Academy;
- (c) prescribing the nature, content and conditions of certificates and diplomas;
- (d) providing for the discipline and good order of the Academy and penalties for the breach of the order.

2. The Auditor-General has been substituted for the words, “an auditor appointed by the Board”. The Academy is a public corporation and therefore falls within the ambit of the powers of the Auditor-General as in article 187 of the Constitution.

23. Exemptions

Subject to article 187 of the Constitution, the Academy is exempted from the tax, duties or rates imposed by or under the Internal Revenue Act, 2000 (Act 592), the Local Government Act, 1993 (Act 465) and the Customs and Excise legislation or any other enactment.

24. Interpretation

In this Act, unless the context otherwise requires,

“**Academy**” means the Regional Maritime Academy established under section 1;

“**Board**” means the governing body of the Academy established under section 4;

“**Convention**” means the Convention on the Regionalisation of the Nungua/Accra and the Abidjan Nautical Training Institutes adopted by the Third Ministerial Conference of West and Central African States on Maritime Transport, held in Accra, Ghana, from the 23rd to the 26th day of February, 1971;

“**functions**” includes powers and duties;

“**Member State**” means a State which is a signatory to the Convention or has acceded to it and is represented on the Board by a Minister responsible for Maritime Affairs or a representative duly accredited by his Government;

“**Minister**” means the Minister responsible for Maritime Affairs.

25. Repeal and revocation

(1) The Regional Maritime Academy Decree, 1979 (A.F.R.C.D. 70) is hereby repealed.

(2) The Ghana Nautical College Instrument, 1970 (L.I. 677) is hereby revoked and the Ghana Nautical College established by the Instrument is hereby dissolved.



C.A. 11

REGIONS OF GHANA ACT, 1960

ARRANGEMENT OF SECTIONS

SECTION

1. Division of the Northern Region.
2. Division of the Western Region.
3. Greater Accra Region.
4. Territories of a Region.
5. Variation of First Schedule.
6. Repeals.
7. Commencement.

SCHEDULES

FIRST SCHEDULE

Territories of Regions

SECOND SCHEDULE

Repeals

THIRD SCHEDULE

Statutory Description of the Greater Accra Region

FOURTH SCHEDULE

Map of Greater Accra Region

FIFTH SCHEDULE

Bibliography of Greater Accra Region

C.A. 11

REGIONS OF GHANA ACT, 1960¹

AN ACT to make changes in the Regions into which Ghana is divided and to specify the territories comprised in each Region.

1. Passed on 29th June, 1960 by the Constituent Assembly. The preamble has been omitted. It reads,
 "WHEREAS by section 2 of the Constituent Assembly and the Plebiscite Act, 1960 (No. 1), this Constituent Assembly is authorised to enact such provisions for or in connection with the establishment of a new Constitution as it thinks fit:
 AND WHEREAS it is expedient to enact the provisions hereinafter appearing in consequence of the enactment of the Constitution:
 NOW THEREFORE BE IT ENACTED by the Constituent Assembly as follows:"

1. Division of the Northern Region

(1) The Northern Region as defined by subsection (2) of section 2 of the Brong-Ahafo Region Act, 1959 (No. 18), is hereby divided into two new Regions to be known as the Upper Region and the Northern Region.

(2) The Upper Region as defined in subsection (1) of this section and in section 3 is hereby divided into two new Regions to be known as the Upper West Region and the Upper East Region.²

(3) A reference in an enactment in force

- (a) before the commencement of this Act to the Northern Region shall include a reference to the Upper Region;
- (b) before the commencement of the Regions of Ghana (Amendment) Law, 1983 (P.N.D.C.L. 4) shall include a reference to the Upper East Region and the Upper West Region.³

2. Division of the Western Region

(1) The Western Region as defined by subsection (1) of section 63 of the Ghana (Constitution) Order in Council, 1957 (L.N. 47) is hereby divided into two new Regions to be known as the Central Region and the Western Region.

(2) A reference in an enactment in force before the commencement of this Act to the Western Region shall include a reference to the Central Region.

3. Greater Accra Region

The administrative area known immediately before the coming into force of the Greater Accra Region Law, 1982 (P.N.D.C.L. 26) shall on be known as the Greater Accra Region.⁴

4. Territories of a Region

The territories of a Region shall consist of the areas of authority of the District Assemblies specified in relation to that Region in the first column of the First Schedule as established by the instruments specified in relation to each council in the second column of the Schedule and in respect to the Greater Accra Region, the Third Schedule and the Fourth Schedule more particularly delineated the territory of that Region.

5. Variation of First Schedule

Where a District Assembly mentioned in the First Schedule ceases to exist or the name of that District Assembly is changed the Minister responsible for Local Government shall by legislative instrument amend the Schedule.

2. See the Regions of Ghana (Amendment) Law, 1983 (P.N.D.C.L. 41).

3. Consequential on subsection (2).

4. The Greater Accra Region was created by section 1 of the Greater Accra Region Law, 1982 (P.N.D.C.L. 26). The Second and Third Schedules to the Law and more particularly section 2, described the area of authority of the Greater Accra Region. The two Schedules are reproduced by this Act as the Third and Fourth Schedules. The First Schedule to the Act has been amended accordingly. The Fifth Schedule to the Act gives the bibliography on the area of the Greater Accra Region as passed.

6. Repeals

The enactments set out in the Second Schedule are hereby repealed to the extent specified in the last column of that Schedule.

7. Commencement

This Act shall come into operation immediately before the coming into operation of the Constitution.⁵

SCHEDULES
FIRST SCHEDULE

[Section 3]

*Territories of Regions***ASHANTI REGION***Metropolitan Assembly*

Kumasi L.N. 346/53

District Assembly

Obuasi G.N. 224/52

District Assemblies

Adansi-Banka L.G. 420/59

Amansie L.G. 421/59

Kumasi East L.G. 254/59

Kumasi North L.G. 253/59

Kumasi South L.G. 256/59

Kumasi West L.G. 257/59

Sekyere L.G. 255/59

District Assembly

Sunyani L.G. 324/59

District Assemblies

Brong-Ahafo Central L.G. 323/59

Brong-Ahafo East L.G. 322/59

Brong-Ahafo North L.G. 320/59

Brong-Ahafo South L.G. 321/59

5. This reference is to the 1960 Constitution.

FIRST SCHEDULE—*continued*

CENTRAL REGION

Municipal Assembly

Cape Coast L.N. 394/53

District Assembly

Nyakrom-Nkum L.G. 547/56

Swedru G.N. 859/52

District Assemblies

Agona-Nsaba L.G. 546/56

Asin L.G. 187/59

Breman-Ejumako-Enyan L.G. 188/59

Denkyira-Twifu-Hemang L.G. 189/59

Gomua-Awutu-Effutu L.G. 190/59

Komenda-Edina-Eguafo-Abrem-Asebu L.G. 191/59

Mfantsiman L.G. 192/59

EASTERN REGION

Metropolitan Assembly

Accra L.N. 201/53

District Assembly

New Juaben G.N. 182/52

Nsawam G.N. 209/53

Oda-Swedru L.G. 264/59

District Assembly

Ada G.N. 194/52

Akwapim G.N. 183/52

Akwamu-Anum-Boso E.I. 131/60

GREATER ACCRA REGION⁶*Metropolitan Assembly*

The Erstwhile Accra Municipal Council L.N. 201/53

The Tema District Council L.I. 886/1974

The Erstwhile Ada Local G.N. 194/52

The Erstwhile Ga-Adangbe-Shai Local Council L.G. 379/59

East Akim Abuakwa L.G. 148/58

Ga-Dangbe-Shai L.G. 379/59

Manya-Yilo-Osudoku L.G. 265/59

6. By virtue of section 2 of the Greater Accra Region Decree, 1982 (P.N.D.C.L. 26).

*Regions of Ghana Act, 1960*FIRST SCHEDULE—*continued*GREATER ACCRA REGION—*continued*

North Kwahu	L.G. 13/60
South Akim Abuakwa	L.G. 146/58
South Kwahu	L.G. 14/60
West Akim Abuakwa	L.G. 15/60
Western Akim	L.G. 266/59

NORTHERN REGION

Municipal Assembly

Tamale	G.N. 650/52
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District Assembly

Eastern Dagomba	L.G. 211/58
Eastern Gonja	L.G. 425/59
Nanumba	L.G. 183/58
South Mamprusi	L.G. 209/58
Western Dagomba	L.G. 212/58
Western Gonja	L.G. 426/56

UPPER WEST REGION⁷*District Assembly*

Lawra	L.I. 942/1974
Sissala	L.I. 917/1974
Wa	L.I. 893/1974

UPPER EAST REGION⁸*District Assembly*

Bawku	L.I. 889/1974
Builsa	L.I. 908/1974
Frafra	L.I. 888/1974
Kassena/Nankani	L.I. 903/1974
Ho	L.G. 260/59
Volta-Dayi	L.G. 409/59
Tongu	L.G. 262/59

7. Effected by virtue of sections 2, 3 and 4 of the Regions of Ghana (Amendment) Law, 1983 (P.N.D.C.L. 41).

8. Effected by virtue of sections 2, 3 and 4 of the Regions of Ghana (Amendment) Law, 1983 (P.N.D.C.L. 41).

FIRST SCHEDULE—*continued*

WESTERN REGION

Municipal Council

Sekondi/Takoradi L.N. 398/53

Urban Council

Tarkwa/Abosso G.N. 178/52

Local Councils

Ahanta-Shama L.G. 185/59

Amenfi-Aowin L.G. 186/59

Nzima-Evalue-Ajomoro-Gwira L.G. 193/59

Sefwi-Anhwiaso-Bekwai Bibiani L.G. 252/59

Sefwi-Wiawso G.N. 177/52

Wassaw-Fiase-Mpohaw G.N. 179/52

SECOND SCHEDULE

[Section 4]

*Repeals**Enactment**Extent of Repeal*

The Ghana (Constitution) Order in Council, 1957
(L.N. 47/57).

Section 63.

The Brong-Ahafo Region Act, 1959 (No. 18 of 1959).

Section 2 and the First Schedule.

The Ashanti (Boundaries) Order in Council, 1950.

The whole Order.

The Gold Coast Boundaries Order in Council, 1906.

The whole Order.

THIRD SCHEDULE

Statutory Description of the Greater Accra Region

Commencing at a point marked G.A.R./1 situate partly on the north-western side of the Gulf of Guinea approximately 10,500 feet south-west of Kokrobite in the Accra-Tema District and part of the former Eastern Region of the Republic of Ghana the boundary thence runs in a north-westerly direction for approximately 30,750 feet crossing the Winneba Road at approximately 2,500 feet north-west of Oduponkpehe village to a point marked G.A.R./2 on a footpath leading to Pantanpa village which point is approximately 8,500 feet north-east of the said Oduponkpehe village and thence in a north-easterly direction for approximately 28,500 feet crossing River Amimia and a track approximately 3,500 feet north-west of Asabaham to a point marked G.A.R./3 which point is approximately north-west of Danchira and thence in a north-westerly direction for approximately 36,750 feet to a point marked G.A.R./4 which point is approximately 3,500 feet south-west of Obiliakua village and thence in a general northerly direction crossing the Achiase-Kotoku railway line at approximately 8,250 feet south-east of Danso for approximately 50,000 feet to a point marked G.A.R./5 which point is approximately 5,500 feet south-west of Adeiso and thence in a north-easterly direction approximately 8,500 feet crossing the motor road from Asamankese to Nsawam to a point marked G.A.R./6 which point is on the

THIRD SCHEDULE—*continued*

northern edge of the said motor road from Asamankese to Nsawam and also approximately 2,500 feet north-west of the junction of the aforesaid Asamankese-Nsawam motor road and the road leading to Swedru and thence follows the north-western edge of the aforementioned Asamankese-Nsawam motor road and the road leading to Swedru and thence follows the north-western edge of the aforementioned Asamankese-Nsawam motor road approximately 28,500 feet to a point marked G.A.R./7 and thence in a south-easterly direction crossing the Asamankese-Nsawam motor road and also Accra-Kumasi railway line at a point approximately 3,000 feet north-west of Ajenkotoku for 50,000 feet more or less to a point marked G.A.R./8 which point is on the south-western edge of the Nsawam-Accra motor road and approximately 7,500 feet from the junction of the said Nsawam-Accra motor road and the road leading to Ajenkotoku and thence in a north-easterly direction for approximately 22,000 feet crossing the said motor road to a point marked G.A.R./9 and thence in a south-easterly direction for approximately 34,000 feet crossing River Nsakyi and the motor road from Achimota-Kitasi to a point marked G.A.R./10 which point is on the south-eastern side of the said motor road from Achimota-Kitase and also approximately 4,000 feet south-west of Berekusu and thence in a general north-easterly direction for 130,000 feet crossing Accra-Aburi motor road at approximately 17,000 feet south-east of Kitase and also crossing Larteh-Ayikuma motor road at approximately 2,000 feet north-west of Ayikuma to a point marked G.A.R./11 which point is on a path leading to Asesieso Town and thence in a general north-westerly direction for approximately 18,500 feet to a point marked G.A.R./12 and thence in a south-easterly direction for approximately 12,000 feet to a point marked G.A.R./13 which point is on the north-western side of the Accra-Ho motor road and approximately 11,000 feet north-west of Zanidaw and thence in a north-easterly direction for approximately 35,800 feet crossing the said Accra-Ho motor road and Akuse-Osudoku motor road at approximately 7,000 feet south-east of Akuse to a point marked G.A.R./14 which point is on the south-western bank of the River Volta and is approximately 8,500 feet south-east of Akuse and thence follows the western bank of the said River Volta downstream for approximately 79,000 feet to a point marked G.A.R./15 which point is approximately 6,500 feet south-east of Volo, a village west of Bator and thence in a general south-easterly direction crossing the aforesaid River Volta to a point marked G.A.R./16 which point is approximately 9,000 feet south-west of Lota, a village south of Aveyime for approximately 45,000 feet and thence in a north-easterly direction crossing the Accra-Sogakofe motor road for approximately 77,000 feet to a point marked G.A.R./17 which point is approximately 8,000 feet south-west of Verne and thence in a south-easterly direction for approximately 32,000 feet to a point marked G.A.R./18 which point is approximately 10,000 feet south-east of Kaja a village south of Tefle and thence follows the western bank of the River Volta in a south-easterly direction downstream for approximately 83,000 feet to a point marked G.A.R./19 which point is where the said river Volta enters the sea and also approximately 20,500 feet south-east of Ada and thence follows the Low Water mark of the said Gulf of Guinea crossing the aforesaid River Volta at south-east of Ada in a north-westerly direction for approximately 420,000 feet to the point of commencement thus enclosing an approximate Area of 1,450,332 square miles or 4,738,099 square kilometres be the same several dimensions little more or less as the boundary is more particularly delineated and shown edged pink on the plan or map attached.

FOURTH SCHEDULE

Map of Greater Accra Region

This map is included to assist in following the description of the Greater Accra Region specified in the Second Schedule and is to be read subject to that description.

FIFTH SCHEDULE

Bibliography of Greater Accra Region

- (1) The description of the boundary of the proposed Greater Accra Region was based on the Supplementary Report of the Local Government Boundary Commission, 1972.
 - (2) The Northern Boundary at Osudoku was based on the Stool Lands Boundary between Osudoku and Yilo Krobo as settled by Jackson J. in vide
 - (i) Osudoku/Yilo Krobo Order, 1954, *Gazette* No. 95, Notice No. 3324 (L.N. 83); and
 - (ii) Ningo Order, 1955 (L.N. 159) dated 1st December, 1955.
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ACT 301**REGISTRATION OF BIRTHS AND DEATHS ACT, 1965**

ARRANGEMENT OF SECTIONS

Births and Deaths Registry

SECTION

1. The central and local offices.
2. Registers of births and deaths.
3. The Registrar.
4. Registration regions and districts.
5. Power to take affidavits.
6. Disclosure of information.

Registration of Births

7. Live-birth.
8. Registration of births.
9. Doubtful paternity.
10. Registration of name subsequent to registration of birth.
11. Birth certificate.

Registration of Foetal Deaths

12. Foetal death.
13. Registration of foetal death.
14. Persons responsible for registering foetal death.
15. Burial permit for foetal death.

Registration of Deaths

16. Registration of deaths.
17. Persons to furnish information as to death.
18. Certificate of medical practitioner.
19. Duty of coroner after holding inquiry.
20. Death certificate.
21. Provisions as to burial or other disposition.
22. Burial permits.

*Registration of Births and Deaths occurring on the High Seas and Air Space
above the High Seas*

23. Birth and deaths on high seas and air space.

Authorised Burial Grounds

24. Burial in authorised burial grounds.
25. Local authorities to provide burial grounds.
26. Private burial grounds.
27. Exhumation.
28. Savings.

Fraudulent Registrations and Certificates

SECTION

29. Cancellation of registration and birth certificates.

Alterations in Registers

30. Alterations in registers.

Searches

31. Searches of records.

Issue of Certificates and Copies

32. Certified entry in the register of births.
 33. Certified entry in register of deaths.
 34. Certificates as evidence.
 35. Appeal from refusal of Registrar to search or issue certificate.

Penalties

36. Failure to carry out duties.
 37. Interference with public notice.
 38. Penalty for improper disclosure of information.
 39. General penalty.
 40. Regulations.
 41. Interpretation.
 42. Repeal and saving.
 43. Commencement.
 44. Application of Act.

ACT 301**REGISTRATION OF BIRTHS AND DEATHS ACT, 1965¹**

AN ACT to provide for the registration of births, foetal deaths and deaths, and to provide for burial grounds and for related matters.

*Birth and Deaths Registry***1. The central and local offices**

(1) There shall be a central office in Accra and a local office in a prescribed registration district.

(2) The central office is the office for registration of births and deaths in the Republic.

(3) The functions of the local offices shall be prescribed.

1. The Act was assented to on 29th September, 1965.

(4) The central office and the local offices are collectively known as the Births and Deaths Registry.

2. Registers of births and deaths

There shall be maintained in the central office registers of the births, foetal deaths and deaths occurring in the Republic.

3. The Registrar

(1) The central office shall be under the management and control of an officer who shall be called the Registrar.

(2) The Registrar shall be appointed by the President in accordance with article 195 of the Constitution.

4. Registration regions and districts

The Regulations may provide for the division of the country into registration regions and registration districts, and for the appointment of district registrars and assistant district registrars.²

5. Power to take affidavits

The Registrar may take the affidavit or statutory declaration of a person for the purposes of this Act on the payment of the prescribed fee which shall be paid into the Consolidated Fund.³

6. Disclosure of information

A person shall not communicate or allow to be communicated to any other person an information obtained under this Act, or allow a person to inspect or have access to any other record containing information obtained under this Act except as authorised by or under this Act.

Registration of Births

7. Live-birth

(1) For the purposes of this Act, “**birth**” means live-birth which is the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of the pregnancy, which after the separation, breathes or shows any other evidence of life, such as the beating of the heart, pulsation of the umbilical cord, or a definite movement of voluntary muscles whether or not the umbilical cord has been cut or the placenta is detached.

(2) A product of that birth is considered live-born.

2. Substituted by section 1 of the Registration of Births and Deaths Act, 1965 (Amendment) Decree, 1968 (N.L.C.D. 285).

3. Substituted by section 2 of the Registration of Births and Deaths Act, 1965 (Amendment) Decree, 1968 (N.L.C.D. 285).

8. Registration of births

(1) The birth of a child in a district to which this Act applies shall be registered by the Registrar in the district in which the child was born.

(2) Where a living new-born child is found deserted and information as to the place of birth is not available, the birth shall be registered by the Registrar for the district in which the child is found.

(3) Subject to subsection (2) of section 36, the prescribed particulars for registration shall be furnished by

- (a) the father and the mother of the child, or
- (b) in the case of the death or incapacity of the father and mother,
 - (i) the occupier of the premises in which the child is born, if the occupier has knowledge of the birth, or
 - (ii) a person present at the birth, or
 - (iii) a person having charge of the child.

(4) The birth shall be registered within twenty-one days of the date of birth, and registration outside of the period shall only be made on the payment of the prescribed fee.

(5) Where a birth has not been registered within the twenty-one days period referred to in subsection (4), the Registrar may by notice in writing summon any of the persons referred to in subsection (3) to attend personally at the Births and Deaths Registry to furnish the prescribed particulars for registration within a prescribed time.

(6) A birth shall not be registered after the expiration of twelve months from the date of birth except with the written authority of the Registrar and on the payment of the prescribed fee, and notice of that authority having been given shall be entered in the register.⁴

9. Doubtful paternity

(1) Where the paternity of a child is in doubt,

- (a) a person shall not, as the putative father of the child, be required to give information concerning the birth of the child; and
- (b) the Registrar shall not enter the name of a person as father of the child except at the joint request of the mother and the person who personally acknowledges to be the father of the child, and that person shall sign the register together with the mother, or make a declaration in the prescribed form acknowledging the paternity of the child.

(2) Where the mother is dead the entry in the register may be made on the request of the person acknowledging the paternity of the child.⁵

4. Substituted by section 3 of the Registration of Births and Deaths Act, 1965 (Amendment) Decree, 1968 (N.L.C.D. 285).

5. Amended by section 4 of the Registration of Births and Deaths Act, 1965 (Amendment) Decree, 1968 (N.L.C.D. 285).

10. Registration of name subsequent to registration of birth

(1) Where a birth is registered and it is desired to change the name of the child, or where a birth has been registered without a name and a name is subsequently given to the child, the parent or guardian of the child may, within twelve months after the registration of the birth, deliver to the Registrar a certificate stating the name now given to the child.

(2) The Registrar, on receipt of the certificate and on payment of the prescribed fee, shall, without an erasure of the original entry, enter in the register the name mentioned in the certificate as having been given to the child.

(3) The certificate shall be signed by the person who performed the rite of baptism on the occasion on which the name was given or altered, or, if the child is not baptised, by the parent or guardian of the child.

11. Birth certificate

The Registrar shall, as soon as a birth is registered, or, where the birth is registered without a name, then, on registration of the name, issue a birth certificate free of charge to the father, mother or a person authorised by one of them or by the Court.

*Registration of Foetal Deaths***12. Foetal death**

(1) For the purposes of this Act, foetal death is death prior to the complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of the pregnancy.

(2) The death is indicated by the fact that after the separation, the foetus does not breathe or show any other evidence of life, such as the beating of the heart, pulsation of the umbilical cord, or a definite movement of voluntary muscles.

13. Registration of foetal death

A foetal death which occurs in a district to which this Act applies shall be registered as provided in this Act.

14. Persons responsible for registering foetal death

(1) Where a foetal death occurs, the person who would have been responsible for the registration of the birth under subsection (3) of section 8 if it had been a birth, shall furnish the prescribed statement respecting the foetal death.

(2) The person furnishing the statement required under subsection (1),

(a) shall deliver to the Registrar a written certificate in respect of the foetal death signed by a registered medical practitioner or midwife who was in attendance at the occurrence or who has examined the foetus; or

(b) shall make a declaration to the effect that a registered medical practitioner or midwife was not present at the occurrence or has examined the foetus, or that the certificate of the medical practitioner or the midwife cannot be obtained in respect of the foetal death.

15. Burial permit for foetal death

The Registrar, shall if satisfied with the certificate or the declaration referred to in section 14, register the foetal death and issue burial permit to the person requiring it for the purpose of burial or any other disposition of the body.⁶

*Registration of Deaths***16. Registration of deaths**

(1) A death which occurs in a district to which this Act applies shall be registered by the registrar of that district within twenty-four hours after the death and the registration outside of the period shall only be made on payment of the prescribed fee.

(2) A death shall not be registered after the expiration of twelve months from the date of death except with the written authority of the registrar and on the payment of the prescribed fee and a notice of the authority having been given shall be entered in the register.

(3) Where a dead body is found and information as to the place of death is not available, the death shall be registered by the registrar for the district in which the body is found.⁷

17. Persons to furnish information as to death

Subject to subsection (2) of section 36, the duty to furnish the Registrar with the prescribed particulars of a death is the responsibility of

- (a) the nearest relative of the deceased present at the death or in attendance at the last illness of the deceased;
- (b) a relative of the deceased residing or being within the registration district in default of the above;
- (c) the occupier of the premises in which the death occurred, if a relative is not available;
- (d) any other adult person present at the death or having knowledge of the death;
- (e) the coroner who has been notified of the death and has made an inquiry or held an inquiry regarding the death.

18. Certificate of medical practitioner

The medical certificate stating the cause of death shall be issued free of charge by the medical practitioner who was last in attendance during the illness of the deceased and the certificate shall be delivered to the Registrar.⁸

6. Substituted by section 5 of the Registration of Birth and Deaths Act, 1965 (Amendment) Decree, 1968 (N.L.C.D. 285).

7. Substituted by section 6 of the Registration of Births and Deaths Act, 1965 (Amendment) Decree, 1968 (N.L.C.D. 285).

8. Substituted by section 7 of the Registration of Births and Deaths Act, 1965 (Amendment) Decree, 1968 (N.L.C.D. 285).

19. Duty of coroner after holding inquiry

(1) When an inquiry is held on a dead body, the coroner who held the inquiry shall complete and sign a certificate stating the cause of the death and the certificate shall be delivered to the Registrar.

(2) Where a death was the result of any of the circumstances in which a coroner is required under the Coroners Act, 1960 (Act 18) to hold an inquiry or conduct a post-mortem examination, the Registrar shall neither register the death nor issue a death certificate unless ordered to do so by a coroner.

20. Death certificate

(1) Subject to subsection (2) of section 19, on the receipt of the prescribed particulars required under section 17 or the certificate under section 18, the Registrar, if satisfied as to the particulars or the certificate, shall register the death.

(2) The Registrar shall, as soon as a death is registered, issue

- (a) a burial permit free of charge in the prescribed form, and
- (b) a death certificate in the prescribed form on payment of the prescribed fee.⁹

(3) Where the body of a deceased person has been removed into the Republic from a place outside the Republic for disposal, and an order has not been given by a coroner in respect of the death, the Registrar of the district in which it is intended to dispose of the body, if it appears that the death is not required by law to be registered in the Republic, shall, on application by the person procuring the disposal and on payment of the prescribed fee, issue a burial permit.¹⁰

21. Provisions as to burial or other disposition

(1) A person shall not bury or otherwise dispose of the body of a person who dies in a district to which this Act applies except as provided in this Act.

(2) *Omitted.*¹¹

22. Burial permits

(1) The owner or manager of an authorised burial ground shall not permit the burial of a dead body in the burial ground, unless a burial permit is delivered to that person, but in the case of reburial after an authorised exhumation a burial permit shall not be required.

(2) The owner or manager of an authorised burial ground shall endorse the burial permit with the prescribed particulars and shall then return it to the registrar of the district in which the burial took place.

9. Amended by section 8 of the Registration of Births and Deaths Act, 1965 (Amendment) Decree, 1968 (N.L.C.D. 285).

10. Substituted by section 9 of the Registration of Births and Deaths Act, 1965 (Amendment) Decree, 1968 (N.L.C.D. 285).

11. But incorporated as paragraph (b) of subsection (2) of section 40.

(3) The owner or manager of an authorised burial ground shall at the end of each month transmit to the Registrar a return of the burials that took place that month in the burial ground.¹²

*Registration of Births and Deaths occurring on the High Seas and Air Space
above the High Seas*

23. Births and deaths on high seas and air space

On receipt of information in respect of the birth of a child, foetal death or death of a person on board a ship or an aircraft whose port or place of registry is in the Republic, the Registrar, if satisfied as to the truth and sufficiency of the particulars received, shall register the birth, foetal death or death.

Authorised Burial Grounds

24. Burial in authorised burial grounds

A person shall not bury a dead body elsewhere than in a burial ground authorised under this Act except with the permission of the local authority.

25. Local authorities to provide burial grounds

A local authority shall provide public burial grounds for the burial of persons dying within the area of authority of the local authority and shall comply with the directions given by the Minister for this purpose.

26. Private burial grounds

A local authority may, with the approval of the Minister, license as a private burial ground a parcel of land which a person may desire to set aside as a private burial ground on the prescribed conditions.

27. Exhumation

(1) The Minister may order or authorise the exhumation of a corpse and also its removal.

(2) When an exhumation is ordered or authorised under subsection (1), it shall be carried out under the supervision of a medical officer of health or of a sanitary inspector.

(3) Subject to the Coroners Act, 1960 (Act 18), a person shall not exhume or after burial remove a corpse except under subsection (1).

(4) A person who contravenes a provision of this section commits an offence and is liable to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding one year, or to both the fine and the imprisonment.

12. Substituted by section 9 of the Registration of Births and Deaths Act, 1965 (Amendment) Decree, 1968 (N.L.C.D. 285).

28. Savings

A burial ground in use immediately before the commencement of this Act, may, subject to this Act, continue to be used.

*Fraudulent Registrations and Certificates***29. Cancellation of registration and birth certificates**

(1) On the written application by a person and after notice to and hearing of the persons interested, or where the holding of a hearing is not possible, on receipt of a statutory declaration or any other evidence satisfactory to the Registrar as may be adduced by a person interested, the Registrar, if satisfied that a registration is false or improperly made or that a certificate obtained is being used for fraudulent or improper purposes, shall order that

- (a) a note be made on the register to that effect, and
- (b) a certificate issued in respect of that registration be delivered to the Registrar for cancellation.

(2) Where a registration is false or improperly made a certificate shall not be issued in respect of that registration.

(3) A person who has in the possession or under the control of that person a certificate in respect of which an order is made under subsection (1) shall on receipt of the order, deliver the certificate to the Registrar, who shall preserve it in a permanent file together with the order and the documents relating to the certificate.

*Alterations in Registers***30. Alterations in registers**

(1) An alteration shall not be made in a register of births, foetal deaths or deaths except as authorised by this Act.

(2) A clerical error which is discovered in a register may, in the prescribed manner and subject to the prescribed conditions, be corrected by a person authorised in that behalf by the Registrar.

(3) An error or omission of fact or substance in a register may be corrected by ruling one clear line through the original entry and by an entry in the appropriate column.

(4) The entry shall be dated and authenticated by the signature of the Registrar having the custody of the register,

- (a) on payment by the person requiring the error to be corrected of a prescribed fee, and
- (b) on production by that person of a statutory declaration stating the nature of the error or omission, and the true facts of the case made by any of the two persons referred to in subsection (3) of section 8 or section 17 of the birth or death with reference to which the error has been made, or in default of those persons then by two credible persons having knowledge of the truth of the case.¹³

13. *Substituted* by section 10 of the Registration of Birth and Deaths Act, 1968 (Amendment) Decree, 1968 (N.L.C.D. 285).

38. Penalty for improper disclosure of information

A person who contravenes a provision of section 6 commits an offence and is liable on conviction to a fine not exceeding two hundred penalty units or to a term of imprisonment not exceeding six months, or to both the fine and the imprisonment.

39. General penalty

A person who contravenes a provision of this Act, for which a penalty is not provided, commits an offence and on conviction is liable to a fine not exceeding one hundred penalty units.

40. Regulations

(1) The Minister may, by legislative instrument, make Regulations providing for a matter which under this Act is to be provided for by Regulations, or is to be prescribed and generally for carrying this Act into effect.

(2) Without prejudice to the generality of subsection (1), the Regulations may provide for

- (a) the form of a certificate, declaration or return to be given or made under this Act,
- (b) the disposal of dead bodies,
- (c) the regulation and control of burial grounds,
- (d) the payment of fees in respect of,
 - (i) the allocation of grave spaces,
 - (ii) the exhumation of a corpse, and
 - (iii) generally in respect of a matter for which taxes are prescribed for carrying the Act and the Regulations into effect.¹⁸

41. Interpretation

In this Act, unless the context otherwise requires,

“**birth**” has the meaning assigned to it by section 7;

“**burial**” includes cremation;

“**burial ground**” includes a cemetery;

“**central office**” means the central office established under section 1;

“**court**” means a court of competent jurisdiction;

“**disposal**” in relation to a dead body, means disposal by burial, cremation or any other means;

“**district**” means a registration district created under section 4;

“**district to which this Act applies**” means a district to which the provisions of this Act relating to the registration of births, foetal deaths and deaths apply by virtue of an instrument made under section 44;

18. Substituted by section 12 of the Registration of Births and Deaths Act, 1965 (Amendment) Decree, 1968 (N.L.C.D. 285).

“**Minister**” means the Minister responsible for the Registration of Births and Deaths;

“**occupier**” in relation to an institution, includes the governor, keeper, master, matron, superintendent, or any other chief resident officer, and, in relation to a house let in separate apartments or lodgings, includes a person residing in the house who is the person under whom the lodgings or separate apartments are immediately held, or the agent of that person;

“**prescribed**” means prescribed by this Act or the Regulations;

“**Registrar**” includes the registrar of births and deaths and an assistant registrar, registration officers, district registrars and assistant district registrars;

“**Regulations**” means the Regulation made under this Act;

“**relative**” includes a relative by marriage.

42. Repeal and saving

*Spent.*¹⁹

43. Commencement

*Spent.*²⁰

44. Application of Act

This Act, so far as it relates to the registration of births, foetal deaths and deaths, shall apply to the districts that the Minister by legislative instrument may specify.

19. The section provided that,

“(1) The Births, Deaths, and Burials Ordinance (Cap. 80) as subsequently amended, is hereby repealed.

(2) An instrument made under the enactment repealed by this Act and in force immediately before the commencement of this Act, shall continue in force as if made under the corresponding provision of this Act.”

20. The section provided for the coming into operation of this Act by means of a legislative instrument. The Registration of Births and Deaths Act, 1965 (Commencement) Instrument, 1966 provided that the Act shall be deemed to have come into force on the 1st day of August, 1966.

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ACT 151

REGISTRATION OF BUSINESS NAMES ACT, 1962

ARRANGEMENT OF SECTIONS

SECTION

1. Persons to be registered.
2. Manner and particulars of registration.
3. Statement to be given by person registering.
4. Time for registration.
5. Refusal to register and cancellation of registration.
- 5A. Annual renewal of registration.
6. Changes in particulars registered.
7. Penalty for default in registration.
8. Penalty for false statements.
9. Issue of certificate of registration.
10. Removal of name upon cessation of business.
11. Duty to furnish particulars to registrar.
12. Searches.
13. Copies of entries in registers.
14. Publication of true names.
15. Disability of person in default.
16. Regulations.
17. Interpretation.
18. Repeal and saving.
19. Exclusion of partnerships.
20. Commencement.

ACT 151

REGISTRATION OF BUSINESS NAMES ACT, 1962¹

AN ACT to consolidate with amendments the law relating to the registration of business names.

1. Persons to be registered

- (1) Subject to subsection (2), there shall be registered in accordance with this Act,
- (a) an individual having a place of business in the Republic, who
 - (i) carries on business under a business name which does not consist of the true surname of that individual without an addition other than the first names or the initials, or

1. The Act was assented to on 22nd November, 1962.

- (ii) has before or after the commencement of this Act changed the name of that individual, except in the case of a woman in consequence of marriage,
 - (b) a company carrying on business in the Republic under a business name which does not consist of its corporate name without an addition.
- (2) Registration is not necessary
- (a) where the addition referred to in subsection (1) merely indicates that the business is carried on in succession to a former owner of the business, or
 - (b) where the business is carried on by a receiver or manager appointed by a court of competent jurisdiction.

2. Manner and particulars of registration

A person required under this Act to be registered, shall furnish to the registrar at the office of the registration a statement in writing in the prescribed form containing

- (a) the business name,
- (b) the general nature of the business,
- (c) the principal place of the business,
- (d) any other places at which the business is carried on,
- (e) where the registration to be effected is that of an individual
 - (i) the present first name and surname of that individual,
 - (ii) the nationality and, if that nationality is not the nationality of origin, the nationality of origin of that individual,
 - (iii) the usual residence and other business occupation of that individual, and
 - (iv) whether that individual is under the age of twenty-one years at the date of furnishing the statement and, if so, the date of birth of that individual,
- (f) where the registration to be effected is that of a company, its corporate name and registered office,
- (g) the date of the commencement of the business.

3. Statement to be given by person registering

The statement mentioned in section 2 shall be signed,

- (a) in the case of an individual, by the individual, and
- (b) in the case of a company, by a director or secretary of the company.

4. Time for registration

The particulars referred to in section 2 shall be furnished within fourteen days after that person commences the business in respect of which registration is required.

(4) Where the registrar has reasonable cause to believe that a person registered under this Act is not carrying on business, the registrar shall send to that person by registered post a notice that, unless an answer is received to the notice within one month from the date of the notice, the business name of that person shall be removed from the register.

(5) Where the registrar receives an answer from that person indicating that the business is not being carried on or does not within one month after sending the notice receive an answer, the registrar shall remove that business name from the register.

11. Duty to furnish particulars to Registrar

(1) The registrar may require a person to furnish the particulars that appear to the registrar necessary for the purpose of ascertaining whether or not that person should be registered under this Act, or an alteration made in the registered particulars; and may, in the case of a company, require a director, the secretary or any other officer of the company discharging the duties of secretary to furnish those particulars.

(2) Where a person when required under subsection (1) fails to supply the particulars as it is in the power of that person to give, or furnishes particulars which are false in a material particular, that person commits an offence and is liable on conviction to a fine not exceeding two hundred penalty units or to a term of imprisonment not exceeding six months or to both the fine and the imprisonment.

(3) Where, from an information furnished, it appears to the registrar that a person ought to be registered under this Act or an alteration should be made in the registered particulars, the registrar may require that person to furnish the required particulars within the time allowed by the registrar; but where a default under this Act is discovered from the information required under this section, proceedings under this Act shall not be taken against a person in respect of the default prior to the expiration of the time within which that person is required by the registrar under this section to furnish those particulars.

12. Searches

The registrar shall allow searches to be made at a reasonable time in a register book, register or file or registered documents in the possession of the registrar.

13. Copies of entries in registers

(1) The registrar shall, on request, give a certified copy of an entry in a register book or register, or any other filed document.

(2) A certified copy shall be received in evidence, without further or any other proof in legal proceedings.

14. Publication of true names

(1) A person required by this Act to be registered shall, in the trade circulars and business letters issued or sent by that person to any other person, have written or printed in legible characters on those circulars and letters,

- (a) in the case of an individual, the present first name or the initials and present surname and any first name or surname of that individual;
- (b) in the case of a company, the present first names and surname and the former first or surname of every director.

5. Refusal to register and cancellation of registration

(1) The registrar shall refuse to register the business name of a person if the registrar has reason to believe that the business carried on or about to be carried on by that person is unlawful.

(2) The registrar may refuse to register the business name of a person if, in the opinion of the registrar, the name is calculated to lead to the belief that the general nature of the business is other than that specified in the written statement furnished under section 2, or is in any other respect misleading or undesirable.

(3) A person aggrieved by the refusal of the registrar to register a business name under subsection (1) or (2), may, within twenty-one days of the receipt of a notification from the registrar regarding the refusal and the grounds for the refusal, appeal to the High Court.²

(4) Where a business name registered under this Act is subsequently found to be misleading or undesirable by reason of a change in the nature of the business carried on, the registrar may notify the person responsible for the registration of the intention to cancel the registration.

(5) At the expiration of twenty-one days from the date of the notice or a longer period that the registrar may allow, the registrar shall cancel the registration unless within that time that person had lodged an appeal to the High Court against the registrar's decision.³

5A. Annual renewal of registration

(1) Once in a year an individual or company registered under this Act shall deliver to the registrar for registration a renewal notice in the prescribed form renewing the registration.

(2) Without prejudice to any other liability prescribed by this Act, a registration which is not renewed in accordance with this section shall lapse and the registrar may remove from the register the business name of a person whose registration has lapsed after the expiration of the period prescribed for the renewal.

(3) In the case of a person registered between the 1st day of January and the 30th day of June in a year the renewal notice shall be delivered for registration within twenty-eight days after the 1st day of January each year; and in the case of a person registered between the 1st day of July and the 31st day of December in a year the renewal notice shall be delivered for registration within twenty-eight days after the 1st day of July each year.

(4) Section 5 shall apply to a renewal of registration as it applies to a first registration.

(5) There shall be paid for each renewal of registration the prescribed fee.⁴

2. The concluding words of the subsection stating that the decision of the High Court "shall be final" is omitted in view of article 137 of the Constitution.

3. The concluding words of the subsection that "the decision of the High Court on any such appeal shall be final" has been omitted in view of article 137 of the Constitution.

4. Inserted by section 1 of the Registration of Business Names (Amendment) Decree, 1974 (N.R.C.D. 293). Section 2 of that Decree also provided that "In the case of persons who immediately before the commencement of the Decree were registered under the Act between the 1st July and 31st December, the first renewal shall be effected within 21 days after the commencement of the Decree." That provision is spent.

“**director**” includes a person, by whatever name called, who is appointed to direct and administer the business of the company, or poses as a director or knowingly allows other persons to hold that person out as a director of the company, or on whose directions or instructions the only appointed directors of the company are accustomed to act;

“**first name**” includes a forename and when used with surname includes any other name;

“**initials**” include a recognised abbreviation of a first or any other name;

“**Minister**” means the Minister responsible for Justice;

“**prescribed**” means prescribed by Regulations made under section 16;

“**registrar**” means the person appointed in accordance with this Act as registrar, whether generally or for a particular place.

18. Repeal and saving

*Spent.*⁵

19. Exclusion of partnerships

This Act shall not apply to a partnership registered under the Incorporated Private Partnerships Act, 1962 (Act 152).

20. Commencement

*Spent.*⁶

5. The section provided that,

“(1) The Registration of Business Names Ordinance (Cap. 177), the Registration of Business Names (Amendment) Ordinance, 1957 (No. 28 of 1957), and Part Two of the Companies and Registration of Business Names (Amendment) Act, 1959 (No. 25 of 1959) are hereby repealed.

(2) Without prejudice to the general effect of the Interpretation Act, 1960 (C.A. 4) as to repeals, every regulation or registration made under an enactment repealed by this Act and in force immediately before the commencement of this Act shall continue in force as if made under the corresponding provision of this Act.”

6. The section provided that this Act shall be deemed to have come into operation at the same time as the Incorporated Private Partnerships Act, 1962 (Act 152) which was assented to on 20th November, 1962.

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