

P.N.D.C.L. 280

PUBLIC AND POLITICAL PARTY HOLDERS (DECLARATION OF ASSETS AND ELIGIBILITY) ACT, 1992

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P.N.D.C.L. 280

PUBLIC AND POLITICAL PARTY HOLDERS (DECLARATION OF ASSETS AND ELIGIBILITY) ACT, 1992¹

AN ACT to provide for the declaration of assets and for related matters.

Declaration of Assets

1. Specified public and other office holders to declare assets

(1) A person is not eligible

- (a) to be elected or appointed to any of the public offices specified in the First Schedule, or
- (b) to be elected or appointed a principal office holder of a political party,

1. The Act was issued as the Public and Political Party Office Holders (Declaration of Assets and Eligibility) Law, 1992 (P.N.D.C.L. 280) made on the 8th day of May, 1992 and notified in the *Gazette* on 15th May, 1992. See article 286 of the Constitution.

unless that person has completed and submitted a written declaration of all property or assets owned by that person directly or indirectly, on a questionnaire provided for the purpose by the Auditor-General or the Electoral Commission.²

- (2) The written declaration referred to in subsection (1) shall be submitted
 - (a) in respect of a public office specified in the First Schedule, to the Auditor-General; or
 - (b) in the case of a principal office holder of a political party, to the Electoral Commission within thirty days of the election to the office.

(3) The Auditor-General or the Electoral Commission as appropriate shall publish in the *Gazette* the declaration submitted under subsection (2) within fourteen days of its receipt.

(4) The chairman and members of the Electoral Commission and the Auditor-General shall make written declaration of their property or assets to the President.

2. Assets declaration to be periodically reviewed

(1) A person required to declare property or assets under section 1 shall further declare the assets and liabilities in the same manner as provided in section 1

- (a) at the end of every two years, and
- (b) at the end of the term of office.

(2) Assets declared under this section shall be published in the *Gazette* within fourteen days of submission.

3. P.N.D.C. appointees to declare assets

(1) A person who has held an office specified in the Second Schedule at any time since the 31st day of December, 1981 shall declare the property or assets in respect of the period during which that person held office including the date on which that person ceases to hold office to the Auditor-General.

(2) Where a person to whom subsection (1) applies ceases to hold office before the 7th day of January, 1993 or has ceased to hold office, the declaration shall be made in respect of the period during which that person held office including the date on which that person ceases or ceased to hold office.

(3) Assets declared under this section shall be published by the Auditor-General within fourteen days of submission.

(4) A person who wilfully fails to declare assets in contravention of subsection (1) and (2) commits an offence and is liable on conviction to a fine not exceeding five hundred penalty units or to imprisonment not exceeding two years or to both the fine and the imprisonment.

2. The word "Interim National" has been omitted from this designation of the Electoral Commission. See article 43 of the Constitution.

*Ineligibility to hold Public Office***4. Certain persons ineligible to hold public office**

(1) A person is not eligible to be elected or appointed to any of the public offices specified in the First Schedule or to be elected or appointed as a principal office holder of a political party if that person is a person in respect of whom a Commission or Committee of Inquiry, the National Investigations Committee or the Office of the Revenue Commissioner in this Act referred to as a "competent authority" has found that while holding a public office that person,

- (a) acquired any assets unlawfully, or
- (b) defrauded the State, or
- (c) misused or abused that office, or
- (d) wilfully and dishonestly or corruptly acted in a manner prejudicial to the interest of the State, or
- (e) wilfully acted in a manner which a reasonable person in that position having regard to all the circumstances ought to have known to be prejudicial to the interests of the State.

(2) In this section, the expression "**public office**" in relation to which the finding is made means

- (a) an office of State or Government or in any capacity the remuneration or emoluments attached to which are paid from funds provided by the Government or Parliament,
- (b) an office in a statutory corporation or board established by or under an enactment,
- (c) an office in a company in which the Government or a statutory corporation has shares, and
- (d) the office of Member of Parliament and Member of a District Assembly or other local authority established by law.

(3) The ineligibility under subsection (1) applies to a person who has been found by a competent authority to have wilfully evaded the payment of taxes or any other State revenue.

(4) Subject to subsection (5) a person shall not be taken to be ineligible to hold public office under subsection (1) and (2) if

- (a) ten years or more have passed since the date of the publication of the report of the competent authority, or
- (b) that person has been pardoned.

(5) The dispensation granted under subsection (4) does not apply to a person seeking office as President or Vice-President under the Constitution, or under the law on presidential election in force immediately before the coming into force of the Constitution.

5. Time when ineligibility commences

The ineligibility prescribed by section 4 shall commence on the date of publication to the general public by the Government of the finding of the competent authority in question together with the White Paper on it or from the date when the finding made by the competent authority was brought to the notice of the person against whom the finding was made whichever is earlier.

6. Status of finding *vis-à-vis* Government White Paper

Where the findings of a competent authority are not accepted by the Government in the published White Paper, or where the findings of the competent authority are not approved by the Government, they shall not be enforceable.

7. Ineligibility to include convicted persons

(1) A person is not eligible to be elected to or appointed by any of the public offices specified in the First Schedule or to be appointed or elected as a principal office holder of a political party if that person has been convicted and sentenced to death or imprisonment for an offence involving fraud, dishonesty, violence or has been convicted of an offence relating to, or connected with public elections under an enactment in force in Ghana at any time.

(2) Subject to subsection (3), a person shall not be taken to be ineligible to hold public office under subsection (1) if

- (a) ten years or more have passed since the end of the sentence; or
- (b) that person has been pardoned.

(3) The dispensation granted under subsection (2) does not apply to a person seeking office as President or Vice-President under the Constitution or under the law on presidential elections in force immediately before the coming into force of the Constitution.

*General Provisions***8. Complaints against declared assets**

(1) An allegation that a person has made a false declaration in the assets publication under this Act may be lodged with the Commission on Human Rights and Administrative Justices.

(2) The Commission shall, on receipt of a complaint under subsection (1) cause the matter to be investigated and shall, where it finds that a false declaration has been wilfully made by the declarant, rule that that person is ineligible to be elected to or appointed to a public office specified in the First Schedule or to be elected or appointed as a principal office holder of a political party and may take a further action that it considers appropriate in respect of the results of the investigation.

9. Repeals

The following enactments are hereby repealed:

- (a) the Elections and Public Office (Disqualification) Decree, 1979 (S.M.C.D. 224);

- (b) the Standing Investigation of Assets and other Matters Commission Decree, 1979 (S.M.C.D. 225).

10. Interpretation

In this Act, unless the context otherwise requires,

“**assets**” includes liabilities and the assets and liabilities of a spouse;

“**Commission**” means the Electoral Commission established under the Interim National Electoral Commission Law, 1991;³

“**Constitution**” means the Constitution approved at the Referendum held on 28th April, 1992;

“**principal office holder of a political party**” means the national chairman, the leader, general secretary or equivalent designation, the national treasurer of the party and the other members of the national executive of the political party.

SCHEDULES

FIRST SCHEDULE

- (a) President;
- (b) Vice-President;
- (c) Minister;
- (d) Deputy Minister;
- (e) Regional Minister or Deputy Regional Minister;
- (f) District Chief Executive;
- (g) Commissioner for Human Rights and Administrative Justice;
- (h) Speaker or Deputy Speaker or member to the National Assembly or President;
- (i) Clerk of the National Assembly of Parliament;
- (j) Presiding Member or Chairman, Member, or Secretary of a Metropolitan, Municipal or District Assembly;
- (k) Ambassador or High Commissioner of Ghana to any other country or Permanent Representative of Ghana to the United Nations;
- (l) Chairman, Member or Secretary of the governing body of, or the Managing Director (or similar administrative head) of a statutory corporation of any Board appointed by the Government;
- (m) Chairman, Member or Secretary of the governing body of, or the Managing Director (or similar administrative head) of any company in which the Government or a statutory corporation has shares or a firm in which the Government or a statutory corporation has financial interest;
- (n) Head or Deputy Head of the Civil Service, the Public Services Commission or of any other Public Service in Ghana;

3. P.N.D.C.L. 271. See article 43 of the Constitution.

FIRST SCHEDULE—*continued*

- (o) a Chief Director or Director or Senior Principal Secretary or Principal Secretary or other similar officer howsoever called in the Civil or Public Service;
- (p) the Head or Deputy Head of any Department in the Civil Service or in any other Public Service in Ghana; or
- (q) a Judge of the Superior Court of Judicature or Chairman of a Regional Public Tribunal or Member of the Judicial Service other than an executive officer in the Judicial Service but including the Judicial Secretary.

SECOND SCHEDULE

- (a) Provisional National Defense Council Chairman;
- (b) Provisional National Defense Council Member;
- (c) Provisional National Defense Council Secretary;
- (d) Provisional National Defense Council Deputy Secretary;
- (e) Provisional National Defense Council Regional Secretary or Provisional National Defense Council Deputy Regional Secretary or Under Secretary;
- (f) Provisional National Defense Council Metropolitan, Municipal or District Secretary;
- (g) Ambassador or High Commissioner of Ghana to any other country or Permanent Representative of Ghana to the United Nations;
- (h) Chairman, Member or Secretary of the governing body of, or Managing Director (similar administrative head) of a statutory corporation or of any Board appointed by the Government;
- (i) Chairman, Member or Secretary of the governing body of, or Managing Director (similar administrative head) of any company in which the Government or a statutory corporation has shares or a firm in which the Government or a statutory corporation has a financial interest;
- (j) Head or Deputy Head of the Civil Service, the Public Service Commission or of any other Public Service in Ghana;
- (k) Chief Director or Director or Senior Principal Secretary or Principal Secretary or other similar officer howsoever called in the Civil or Public Service;
- (l) the Head or Deputy Head of any Department in the Civil Service or in any other Public Service in Ghana; and
- (m) a Judge of the Superior Court of Judicature or Chairman or member of
 - (i) the National Public Tribunal;
 - (ii) a Regional Public Tribunal;
 - (iii) the Office of Revenue Commissions;
 - (iv) a Regional Office of the Revenue Commissioners;
 - (v) the National Investigations Committee;
 - (vi) a Regional Investigations Committee;
 - (vii) a Regional Office of Confiscated Assets Committee;
 - (viii) the State Houses (Allocation, Policy and Implementation) Committee.