

LOCAL GOVERNANCE BILL, 2016

ARRANGEMENT OF SECTIONS

Section

PART ONE – LOCAL GOVERNMENT

Districts and District Assemblies

1. Creation of districts
2. Demarcation of areas of authority of sub-district structures
3. Establishment of District Assembly
4. Incorporation of District Assembly
5. Composition of District Assembly

Membership of District Assembly

6. Election to District Assembly
7. Qualifications and disqualifications of members of District Assemblies
8. Mode of seeking election
9. Cessation of office of a member
10. Revocation of mandate of member
11. Emoluments of members of District Assemblies

Functions of District Assembly

12. Functions of District Assembly
13. Functions under other enactments
14. Health officers of District Assembly
15. Delegation of functions of District Assembly
16. Duties of a member of a District Assembly

Administration of a District Assembly

17. Presiding Member of District Assembly
18. Meetings of District Assembly
19. Executive Committee of District Assembly
20. District Chief Executive
21. Functions of the Executive Committee
22. Meetings of Executive Committee
23. Sub-committees of the Executive Committee
24. Functions of sub-committees
25. Instrument of Establishment of Metropolitan Assembly

LOCAL GOVERNANCE BILL, 2016

Dissemination of Information

26. Public Relations and Complaints Committee
27. Functions of the Public Relations and Complaints Committee
28. District Chief Executive to address District Assembly
29. Other appointees of President to address District Assembly

Other Matters Concerning District Assemblies

30. Provision of offices by District Assemblies
31. Joint committees of District Assemblies
32. Joint commercial activity
33. Procurement powers and tender procedures of District Assembly
34. Power of District Assembly to insure
35. Ancillary powers of a District Assembly
36. Investigation by the President
37. Power of President to enforce functions of District Assembly
38. Expenses in respect of transferred functions
39. District Assemblies to contribute to Association

Participatory Governance at the Local Level

40. Participation in District Assembly processes
41. Participation in by-laws and fee-fixing resolutions
42. Modalities and platforms for participation
43. Right of stakeholders to petition
44. Duty of District Assembly to respond to petition of stakeholders
45. District Chief Executive to report on participation
46. District Assembly communication
47. Access to information
48. Inclusion and integration of minorities and marginalised groups

PART TWO - LOCAL GOVERNMENT SERVICE

Establishment of the Local Government Service

49. Establishment of the Local Government Service
50. Membership of the Service

LOCAL GOVERNANCE BILL, 2016

51. Object of the Service
52. Functions of the Service
53. Governing body of the Service
54. Functions of the Council
55. Tenure of office of members of the Council
56. Meetings of the Council
57. Disclosure of interest
58. Committees of the Council
59. Allowances
60. Presidential directives
61. Delegation of power of appointment

Administration of the Service

62. Head of the Local Government Service
63. Functions of the Head of the Local Government Service
64. Office of the Head of the Local Government Service
65. Functions of the Office of the Head of Service of the Local Government Service
66. Chief Director of the Office of the Head of the Local Government Service
67. Appointment of other staff
68. Transfer and secondment

Expenses and Reports of the Council and the Office of the Head of the Local Government Service

69. Expenses of the Office of the Head of the Local Government Service
70. Submission of budget estimates
71. Accounts and audit
72. Annual report and other reports

Office of the District Assembly

73. Office of the District Assembly
74. Functions of Office of the District Assembly
75. District Co-ordinating Director
76. Staff of the Office of the District Assembly

LOCAL GOVERNANCE BILL, 2016

Departments of the District Assembly

77. Decentralised sectors at the district Level
78. Departments of a District Assembly
79. Staff of the Departments of the District Assembly
80. Functions of the Departments of a District Assembly

District Level Inter-Service and Inter-Sectoral Collaboration and Co-operation

81. Collaboration and co-operation between Departments of District Assemblies and other organisations

PART THREE – PLANNING FUNCTIONS OF DISTRICT ASSEMBLIES

Economic Development Planning

82. Establishment of a District Planning Authority
83. Planning functions of a District Planning Authority
84. Establishment of District Planning Co-ordinating Unit
85. Planning functions of the District Planning Co-ordinating Unit
86. District Development Plans
87. Preparation of Sub-district and Local Action plans
88. Public hearing of District Development Plans, Sub-District and Local Action Plans
89. Grievance procedure

Land Use and Spatial Planning

90. Application of sections 91 to 107
91. Permit to carry out physical development
92. Development charges
93. Development charges to be conditional or unconditional
94. Enforcement in respect of unauthorised development
95. Enforcement in respect of execution of district plans
96. Enforcement against nuisance
97. Enforcement against unauthorised development in respect of community right of space
98. Claims for compensation
99. Appeals Advisory Committees
100. Functions of Appeals Advisory Committee
101. Appeals
102. Recovery of betterment
103. Non-conforming land allocations and transactions

LOCAL GOVERNANCE BILL, 2016

Buildings

104. Building by-laws
105. National building regulations
106. Building permits and unauthorised buildings
107. Signing of plans of special buildings
108. Delegation of functions
109. Request for information
110. Power of entry
111. Immunity of officers from liability

PART FOUR – EMERGENCY RELIEF BY DISTRICT ASSEMBLIES

Provision of Emergency, Disaster Prevention and Relief Services

112. Emergency and disaster relief services
113. District Assemblies to prepare response plans to make by-laws for emergency, disaster prevention and relief services
114. Coordination of emergency, disaster prevention and relief service measures
115. Performance of emergency, disaster prevention and relief services functions
116. Provision of fire services
117. Power of entry of premises in case of fire
118. Control of traffic
119. Penalty for obstruction
120. Penalty for false alarms
121. Enquiries by Committee into origin of fire

PART FIVE – FINANCIAL MATTERS OF DISTRICT ASSEMBLIES

District Budgets

122. District budget
123. Submission of budget estimates

Revenue of District Assemblies

124. Revenue of District Assemblies

LOCAL GOVERNANCE BILL, 2016

District Assemblies Common Fund

125. Establishment of the District Assemblies Common Fund
126. Parliament to make allocations to District Assemblies for development
127. Appointment of District Assemblies Common Fund Administrator
128. Removal of the Administrator
129. Functions of the Administrator
130. Investment of moneys in the Common Fund
131. Staff of the Common Fund
132. Expenses of the Common Fund
133. Accounts and audit
134. Annual report
135. Complaints
136. Grants-in-aid and other decentralised transfers

Licences

137. Charges for licences
138. Licensing of vehicles
139. Entertainment licences
140. Provisions as to licences generally

Fees and Miscellaneous Charges

141. Power to charge fees

Taxes and other Revenues

142. Taxes
143. Investment income

Rates

144. Rating authority
145. Duty to levy sufficient rates
146. Method of rating
147. Levying of rate
148. Date and place of payment of rate
149. Exemptions from and remission of rates
150. Minister to issue guidelines
151. Claim for amount of rate

LOCAL GOVERNANCE BILL, 2016

152. Rates on immovable property to be a charge on premises
153. Rate Assessment Committee
154. Notice where general or special rate not paid
155. Notice of mortgage in respect of rateable premises
156. Proceedings in case of non-payment of rates
157. Agreement between landlord and tenant
158. Penalty for refusal to pay rates and wilful misrepresentation
159. Penalty for inciting a person not to pay rates
160. Penalty for unauthorised collection of rates
161. Rate payers and rate collectors
162. Penalty in respect of offences by rate collectors
163. Proceedings for rates
164. Payment of rates by public boards and institutions and Government
165. Employers to deduct rates from employees' remuneration
166. Rating authority to appoint agent for collection of rates
167. Set-off and refund
168. Penalty
169. Duty to give information and inspection of premises in respect of rates

Expenditure of District Assemblies

170. Expenditure
171. Writing off of irrecoverable arrears of revenue

Other Financial Matters

172. Keeping of accounts and publication of annual statement of accounts
173. Power of Minister to give financial instructions
174. Access to records of District Assemblies

Internal Audit

175. Internal audit

External Audit

176. Auditor-General to audit accounts of District Assemblies
177. Auditor-General may disallow or surcharge

LOCAL GOVERNANCE BILL, 2016

- 178. Recovery of sums certified to be due
- 179. Suspension pending appeal
- 180. Application of provisions on audit

PART SEVEN – BY-LAWS

By-Laws and Model By-Laws

- 181. District Assembly to make by-laws
- 182. Validity of by-laws
- 183. Model by-laws
- 184. Copy of by-laws to be deposited at District Assembly offices
- 185. Evidence of by-laws

PART EIGHT – DECENTRALISATION AT THE REGIONAL LEVEL

Regional Co-ordinating Councils

- 186. Establishment of Regional Co-ordinating Councils
- 187. Composition of Regional Co-ordinating Councils
- 188. Functions of Regional Co-ordinating Councils
- 189. Development Planning functions of Regional Co-ordinating Councils
- 190. Planning functions of Regional Planning Co-ordinating Unit
- 191. Meetings of Regional Co-ordinating Councils
- 192. Office of the Regional Co-ordinating Council
- 193. Functions of the Office of the Regional Co-ordinating Council
- 194. Regional Co-ordinating Director
- 195. Staff of the Office of the Regional Co-ordinating Council
- 196. Departments of the Regional Co-ordinating Council
- 197. Functions of the Departments of the Regional Co-ordinating Council
- 198. Regional level inter-service and inter-sectorial collaboration and co-operation
- 199. Funds of the Regional Co-ordinating Council
- 200. Regional budget
- 201. Regional Minister
- 202. Relationship between the Regional Minister and the District Chief Executive
- 203. Regional management

LOCAL GOVERNANCE BILL, 2016

PART NINE – INTER-MINISTERIAL CO-ORDINATING COMMITTEE ON DECENTRALISATION

Establishment and Functions of the Inter-Ministerial Co-ordinating Committee on Decentralisation

204. Establishment of Inter-Ministerial Co-ordinating Committee on Decentralisation
205. Functions of the Inter-Ministerial Co-ordinating committee
206. Technical Committee of the Inter-Ministerial Co-ordinating Committee
207. Secretariat of the Inter-Ministerial Co-ordinating Committee

PART TEN – MISCELLANEOUS MATTERS

Acquisition of Immovable Property

208. Power of District Assembly to acquire land
209. Development charges on serviced land

Legal Proceedings and Notices

210. Notice of suit to be given to District Assembly
211. Mode of service on District Assembly
212. Description of property
213. Power of entry
214. Publication of notices
215. Occupier to provide specified particulars

Privileges and Immunities

216. Freedom of speech and proceedings in District Assembly
217. Immunity from proceedings for acts in District Assembly
218. Immunity from service as Juror
219. Immunity from service of process and arrest
220. Immunity from publication of proceedings
221. Privileges of witnesses
222. Contempt of District Assembly

Obstruction of the Authority of a District Assembly

223. Obstruction of officers

LOCAL GOVERNANCE BILL, 2016

Offence of Unauthorised Sitting and Voting

224. Penalty for unqualified person sitting or voting in District Assembly

Executive Authority and Local Government

225. Delegation of powers of President or Minister
226. Provision of information to the President or Minister

Provisions on Staff of District Assembly

227. Staff of District Assembly to make proper account of moneys and properties in their charge
228. Protection of members and staff
229. Recovery of moneys due by way of deduction
230. Payment of allowances to District Assembly members and staff

Authority of District Assembly

231. Proof of acts of authority

Final Provisions

232. Regulations
233. Consequential amendments
234. Interpretation
235. Repeals and savings
236. Transitional provisions

SCHEDULES

FIRST SCHEDULE

Guidelines for the Appointment of the Thirty Per Cent Membership of the District Assemblies

SECOND SCHEDULE

Guidelines for the Selection of Candidates for Appointment as District Chief Executive

LOCAL GOVERNANCE BILL, 2016

THIRD SCHEDULE

Decentralised Public Service Sectors

FOURTH SCHEDULE

Existing Departments of District Assemblies

FIFTH SCHEDULE

Departments Ceasing to Exist in their Present Form

SIXTH SCHEDULE

Departments to be Established by District Assemblies

SEVENTH SCHEDULE

Matters for Building By-Laws

EIGHTH SCHEDULE

Notice

NINTH SCHEDULE

*Services, Organisations and Departments to Implement Response Plan and
By-Laws*

TENTH SCHEDULE

Licences

ELEVENTH SCHEDULE

Vehicle Licences – Description of Vehicle

TWELFTH SCHEDULE

Entertainment Licences

THIRTEENTH SCHEDULE

Fees and Miscellaneous Charges

FOURTEENTH SCHEDULE

Taxes on Income

Local Governance Bill, 2016

FIFTEENTH SCHEDULE

Departments of the Regional Co-ordinating Council

SIXTEENTH SCHEDULE

Consequential Amendments

Local Governance Bill, 2016

A
BILL
ENTITLED

LOCAL GOVERNANCE ACT, 2016

AN ACT to provide for the local government system in accordance with the Constitution; to establish a Local Government Service; to provide for the establishment and administration of the District Assemblies Common Fund; to provide for a National Development Planning System; to define and regulate planning procedures of District Assemblies; to co-ordinate, facilitate, monitor and supervise internal audit activities within District Assemblies and for related matters.

PASSED by Parliament and assented to by the President:

PART ONE – LOCAL GOVERNMENT

Districts and District Assemblies

Creation of districts

1. (1) The districts in existence immediately before the commencement of this Act shall continue to exist for purposes of local government.

- (2) The President may, by Executive Instrument
- (a) declare any area within the country to be a district; and
 - (b) assign a name to the district.

Local Governance Bill, 2016

(3) The President shall, in the exercise of the power under paragraph (a) of subsection (2), direct the Electoral Commission to make appropriate recommendations.

(4) The Electoral Commission shall, before making recommendations to the President under subsection (3), consider the following factors including

- (a) in the case of
 - (i) a district, that there is a minimum population of seventy-five thousand people;
 - (ii) a municipality, that there is a minimum of ninety-five thousand people;
 - (iii) a metropolis, that there is a minimum of two hundred and fifty thousand people; and
- (b) the geographical contiguity and economic viability of the area, namely, the ability of an area to provide the basic infrastructural and any other developmental needs from the monetary and any other resources generated in the area.

Demarcation of areas of authority of sub-district structures

2. (1) The areas of authority of the Sub-Metropolitan District Councils, Urban Councils, Town Councils, Area Councils and Unit Committees in existence before this Act shall continue to exist.

(2) The Electoral Commission may review the areas of authority of the Sub-Metropolitan District Councils, Urban Councils, Town Councils, Area Councils and Unit Committees by Constitutional Instrument after a national population census.

Establishment of District Assembly

3. (1) The Minister shall, by legislative instrument, establish a District Assembly for each district, municipality and metropolis.

(2) A District Assembly shall constitute the highest political authority in the district.

- (3) The Instrument establishing a District Assembly, shall specify
- (a) the area of authority of the District Assembly as determined under subsection (2) of section 1;
 - (b) the number of persons to be elected to the District Assembly and the maximum number of persons to be appointed to the District Assembly by the President;

Local Governance Bill, 2016

- (c) the functions, powers and responsibilities of the District Assembly; and
 - (d) other matters that are required by this Act to be included in the Instrument or are consequential or ancillary to it.
- (4) The Minister shall establish
- (a) Sub-Metropolitan District Councils,
 - (b) Urban Councils,
 - (c) Town or Area Councils, and
 - (d) Unit committees

in respect of the areas of authority of the sub-district structures within the area of authority of the District Assembly demarcated or reviewed in the same legislative instrument that established the District Assembly.

- (5) The Instrument shall specify
- (a) the jurisdiction, membership, functions, powers and responsibilities of the Sub-Metropolitan District Council, Urban Council, Town or Area Council or Unit Committee; and
 - (b) any other matter connected with the Sub-Metropolitan District Council, Urban Council, Town or Area Council or Unit Committee that may be considered necessary.

Incorporation of District Assembly

4. (1) A District Assembly shall be a body corporate with perpetual succession.

(2) For the performance of its functions, a District Assembly may acquire and hold movable and immovable property, dispose of property and enter into a contract or any other transaction.

(3) Where there is hindrance to the acquisition of property by a District Assembly, the property may be acquired for the District Assembly under the State Lands Act, 1962 (Act 125) and the cost shall be borne by the District Assembly.

Composition of District Assembly

5. (1) A District Assembly shall consist of the following members:
- (a) the District Chief Executive;
 - (b) one person from each electoral area within the district elected by universal adult suffrage in accordance with regulations made for the purpose by the Electoral Commission;

Local Governance Bill, 2016

- (c) the member or members of Parliament from the constituencies that fall within the area of authority of the District Assembly; and
 - (d) other persons that shall not exceed thirty per cent of the total membership of the District Assembly appointed by the President in consultation with the traditional authorities and other interest groups in the district.
- (2) A member of Parliament shall
- (a) be counted among the seventy per cent in the calculation of the thirty per cent of the appointed members; and
 - (b) not have voting rights.
- (3) The members appointed under paragraph (d) of subsection (1) may be re-appointed.
- (4) The guidelines specified in the First Schedule shall be followed in the appointment of a member to a District Assembly.
- (5) A District Assembly may conduct its business in English and in any local language common to the communities in the district.
- (6) The District Co-ordinating Director appointed under subsection (1) of section 75 shall be the Secretary to the District Assembly.

Membership of District Assembly

Election to District Assembly

6. (1) Elections to District Assemblies shall be held once every four years.
- (2) An election specified in subsection (1) and elections to Parliament shall be held at least six months apart.
- (3) The President may dissolve a District Assembly that has fallen out of line and appoint an Interim Management Committee to oversee the affairs of the District Assembly, wherever a situation arises where the tenure of a District Assembly falls out of line with the tenure of the rest of the District Assemblies.
- (4) A dissolution of a District Assembly specified in subsection (3) shall be by executive instrument and when elections are due for the rest of the District Assemblies, the President shall direct that elections to that District Assembly be conducted at the same time as elections to the other District Assemblies at the next scheduled District Assembly elections.

Qualifications and disqualifications of members of District Assemblies

7. (1) A person qualifies to be elected or appointed to a District Assembly if the person

- (a) is a citizen of Ghana of not less than eighteen years of age;
- (b) is a registered voter;
- (c) is ordinarily resident in the district in which the person seeks election or for whose District Assembly the person is to be appointed; and
- (d) has paid all taxes and rates or made arrangements satisfactory to the appropriate authority for the payment of the taxes and rates.

(2) For the purpose of paragraph (c) of subsection (1), a person is deemed to be ordinarily resident in a district if within the four years before the election or the appointment to the District Assembly, that person has lived in the district for an aggregate period of not less than twelve months.

(3) A member of staff of a District Assembly shall not be a member of the same District Assembly, whether elected or appointed.

(4) Paragraph (c) of subsection (1) and subsection (2) do not apply to the District Chief Executive.

(5) A person shall not at any time be a member of more than one District Assembly.

Mode of seeking election

8. (1) A candidate who seeks election to a District Assembly or to any lower local government unit shall be presented to the electorate as an individual and shall not use any symbol associated with a political party.

(2) A political party shall not endorse, sponsor, offer a platform to or in any way campaign for or against a candidate who seeks election to a District Assembly or any lower local government unit.

(3) A candidate who contravenes subsection (1) commits an offence and is liable on summary conviction to the cancellation of the nomination of that candidate by the Electoral Commission.

(4) A political party that contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than two hundred and fifty penalty units.

Cessation of office of a member

9. (1) A person shall cease to be a member of a District Assembly
- (a) upon death;
 - (b) upon revocation of the mandate of that person, but that person shall be disqualified from standing as a candidate for only two terms immediately after the revocation;
 - (c) upon resignation in writing addressed to the presiding member of the District Assembly;
 - (d) if that person fails to disclose any financial interest that person may have in a contract before the District Assembly for consideration; or
 - (e) if that person is absent from more than three consecutive ordinary meetings of the District Assembly without the written permission of the presiding member of the District Assembly.

(2) The District Assembly shall refer a complaint made to it that a member of the District Assembly has ceased to hold office under paragraphs (d) and (e) of subsection (1) to the Public Relations and Complaints Committee to investigate.

(3) The Public Relations and Complaints Committee shall submit a report on its findings to the District Assembly within a time to be stipulated by the District Assembly.

(4) Where the District Assembly, after studying the report is satisfied that a member is affected by paragraph (d) or (e) of subsection (1), it shall decide that the member shall cease to be a member of the District Assembly by resolution.

(5) A member of the District Assembly who is aggrieved by a decision of the District Assembly about cessation of membership may have recourse to a court of law.

Revocation of mandate of member

10. (1) The mandate of an elected member of a District Assembly may be revoked by the electorate.

(2) For the purpose of revoking the mandate of an elected member, twenty-five per cent or more of the registered voters in the electoral area may petition the Electoral Commission for a recall of that member from the District Assembly.

Local Governance Bill, 2016

(3) The Electoral Commission shall organise a referendum to decide whether or not the member must be recalled.

(4) The issue at the referendum shall be decided if at least

- (a) forty per cent of the registered voters in the electoral area vote on the issue; and
- (b) sixty per cent of the votes cast are in favour of the recall of the member.

(5) Where an elected member of a District Assembly is recalled, a by-election shall be held to elect another person to replace the elected member.

(6) Subsection (5) does not apply where the recall is done within six months before the end of the tenure of office of the elected member.

(7) The appointment of an appointed member of a District Assembly may be revoked by the President,

- (a) upon the recommendation of three-fourths of the members of the District Assembly on grounds that the member has
 - (i) systematically neglected the duties of an appointed member of a District Assembly; or
 - (ii) committed acts incompatible with the office as a member of the District Assembly for which sufficient evidence is available; or

- (b) upon a complaint made of wrong doing or improper conduct established to be true after investigation by an ad-hoc committee of the District Assembly.

(8) The appointment shall not be revoked upon the basis that a new President has been elected.

(9) Where the appointment of an appointed member of a District Assembly is revoked, another person may be appointed to replace the appointed member.

(10) Where a person is appointed, the appointed person shall serve the remainder of the term of the member whose appointment has been revoked and may be re-appointed.

Emoluments of members of District Assemblies

11. The emoluments of the members of the District Assembly shall be determined by the District Assembly and shall be paid out of the resources of the District Assembly.

Local Governance Bill, 2016

Functions of District Assembly

Functions of District Assembly

12. (1) A District Assembly shall exercise political and administrative authority in the district, provide guidance, give direction to and supervise other administrative authorities in the district as may be prescribed by law.

(2) A District Assembly shall exercise deliberative, legislative and executive functions.

(3) Without limiting subsections (1) and (2), a District Assembly shall

- (a) be responsible for the overall development of the district;
- (b) formulate and execute plans, programmes and strategies for the effective mobilisation of the resources necessary for the overall development of the district;
- (c) promote and support productive activity and social development in the district and remove any obstacles to initiative and development;
- (d) sponsor the education of students from the district to fill particular manpower needs of the district especially in the social sectors of education and health, making sure that the sponsorship is fairly and equitably balanced between male and female students;
- (e) initiate programmes for the development of basic infrastructure and provide municipal works and services in the district;
- (f) be responsible for the development, improvement and management of human settlements and the environment in the district;
- (g) in co-operation with the appropriate national and local security agencies, be responsible for the maintenance of security and public safety in the district;
- (h) ensure ready access to courts in the district for the promotion of justice;
- (i) act to preserve and promote the cultural heritage within the district;

Local Governance Bill, 2016

- (j) initiate, sponsor or carry out studies that may be necessary for the discharge of any of the duties conferred by this Act or any other enactment; and
 - (k) perform any other functions that may be provided under another enactment.
- (4) A District Assembly shall take the steps and measures that are necessary and expedient to
 - (a) execute approved development plans for the district;
 - (b) guide, encourage and support sub-district local government bodies, public agencies and local communities to perform their functions in the execution of approved development plans;
 - (c) initiate and encourage joint participation with other persons or bodies to execute approved development plans;
 - (d) promote or encourage other persons or bodies to undertake projects under approved development plans; and
 - (e) monitor the execution of projects under approved development plans and assess and evaluate their impact on the development of the district and the local, district and national economy in accordance with government policy.
- (5) A District Assembly shall co-ordinate, integrate and harmonise the execution of programmes and projects under approved development plans for the district and other development programmes promoted or carried out by Ministries, Departments, public corporations and other statutory bodies and non-governmental organisations in the district.
- (6) A District Assembly in the discharge of its duties shall
 - (a) be subject to the general guidance and direction of the President on matters of national policy; and
 - (b) act in co-operation with the appropriate public corporation, statutory body or non-governmental organisation.
- (7) Public corporations, statutory bodies and non-governmental organisations shall co-operate with a District Assembly in the performance of their functions.
- (8) In the event of a conflict between a District Assembly and an agency of the central Government, public corporation, statutory body, non-governmental organisation or individual over the application of subsection (5) or (6), the matter shall be referred by either or both of the parties to the Regional Co-ordinating Council for resolution.

Local Governance Bill, 2016

(9) The Instrument that establishes a particular District Assembly or any other Instrument may confer additional functions on the District Assembly.

Functions under other enactments

13. (1) A District Assembly shall be the authority to carry out and execute within its district the provisions of

- (a) the Auction Sales Act, 1989 (P.N.D.C.L. 230);
- (b) the Liquor Licensing Act, 1970 (Act 331); and
- (c) the Control and Prevention of Bushfires Law, 1990 (P.N.D.C.L. 229).

(2) A District Assembly shall be the authority to carry out and execute the following provisions of the Criminal Offences Act, 1960 (Act 29) within its district:

- (a) section 296 in respect of throwing rubbish in the street; and
- (b) section 300 in respect of stray cattle.

(3) For the purpose of subsection (1), the District Assembly shall, within its district, have the powers, rights, duties, capacities, liabilities and obligations of a person or authority mentioned in the enactment.

(4) Subsection (3) does not include the powers of a court or the Commissioner of the Customs Division of the Ghana Revenue Authority.

(5) For the purpose of the Liquor Licensing Act, 1970, (Act 331), the District Finance Officer or another designated officer of the District Assembly shall be the Licensing Authority.

(6) For the purpose of section 296 of the Criminal Offences Act, 1960 (Act 29), the reference to the Engineer-in-Chief of Public Works includes the District Engineer of the District Assembly or an Engineer appointed in writing by the District Assembly.

(7) For the purpose of section 300 of the Criminal Offences Act, 1960 (Act 29), the District Finance Officer or other designated officer of the District Assembly is deemed to be the Controller and Accountant-General or the representative of the Controller and Accountant-General.

(8) Nothing contained in this section shall derogate from the statutory or other functions of the police, whether exercisable under the enactments specified in this section or otherwise and any person or authority performing a function under this subsection shall act in consultation with the police.

Health officers of District Assembly

14. A person who discharges the duties of a Medical Officer or Sanitary Inspector under the Public Health Act, 2012 (Act 851) shall be an officer of the District Assembly of that area to give effect to and enforce by-laws related to public health made by the District Assembly.

Delegation of functions of District Assembly

15. (1) A District Assembly may delegate any of the functions of the District Assembly to a Sub-Metropolitan District Council, Urban, Town or Area Council or Unit Committee or any other body or person as it may determine.

(2) Despite subsection (1), a District Assembly shall not delegate its power to legislate, levy rates or borrow money to a Sub-Metropolitan District Council, Urban, Town or Area Council or Unit Committee.

Duties of a member of a District Assembly

16. (1) A member of a District Assembly shall as appropriate

- (a) maintain close contact with the electoral area of the District Assembly, consult the people of the electoral area on issues to be discussed in the District Assembly, collate their views, opinions, and proposals;
- (b) present the views, opinions and proposals of the electorate to the District Assembly;
- (c) attend meetings of the District Assembly and meetings of sub-committees of which that member of the District Assembly is a member;
- (d) meet the electorate before each meeting of the District Assembly;
- (e) report to the electorate the general decisions of the District Assembly and the Executive Committee of the District Assembly and the actions the member has taken to solve problems raised by residents in the electoral area;
- (f) draw attention in general debate to national policies that are relevant to the subject under discussion;
- (g) actively participate in the work of the sub-committees of the Executive Committee;

Local Governance Bill, 2016

- (h) bring to bear on any discussion in the District Assembly the benefit of the skill, profession, experience or specialised knowledge of the member;
- (i) maintain frequent liaison with organised productive economic groupings and other persons in the district; and
- (j) take part in communal and development activities in the district.

(2) A member of a District Assembly shall, in the discharge of the duty, have due regard to the national interest and the interest of the people in the district.

(3) For the purpose of subsection (1), a member of a District Assembly shall be paid the allowances that may be determined by the Minister acting in consultation with the Minister responsible for Finance.

Administration of a District Assembly

Presiding Member of District Assembly

17. (1) There shall be a Presiding Member of each District Assembly who shall be elected by the members of the District Assembly from among their number.

(2) The Presiding Member shall not be the District Chief Executive or a Member of Parliament.

(3) The Presiding Member shall be elected by at least a two-thirds majority of all the members of the District Assembly.

(4) The Presiding Member shall hold office for a term of two years and is eligible for re-election subject to subsection (6).

(5) The Presiding Member shall convene and preside at meetings of the District Assembly and perform other functions prescribed by law and the Standing Orders of the District Assembly.

(6) The Presiding Member shall cease to hold office whenever the District Assembly, by a majority of at least two-thirds of the members of the District Assembly, vote to remove that Presiding Member from office.

(7) The emoluments of a Presiding Member of a District Assembly shall be determined by the District Assembly.

Meetings of District Assembly

18. (1) A District Assembly shall meet at least three times in a year.
- (2) Matters for decision by the District Assembly shall be determined by the votes of the majority of members present and voting.
- (3) In the event of equality of votes, the Presiding Member shall have a casting vote.
- (4) The validity of proceedings of a District Assembly shall not be affected by a vacancy among its members or by a defect in the appointment or qualification of a member.
- (5) A District Assembly may at any time summon any public officer in the district to attend any of its meetings to provide information or assistance as the District Assembly may require.
- (6) The Minister shall develop Model Standing Orders for the conduct and proceedings of District Assemblies.

Executive Committee of District Assembly

19. (1) There shall be established an Executive Committee of a District Assembly to be responsible for the performance of the executive functions of the District Assembly.
- (2) An Executive Committee shall consist of
- (a) the District Chief Executive as chairperson;
 - (b) the chairpersons of the following Sub-Committees of the Executive Committee
 - (i) Development Planning,
 - (ii) Social Services,
 - (iii) Works,
 - (iv) Justice and Security, and
 - (v) Finance and Administration; and
 - (c) the chairperson of one ad hoc Sub-Committee of the Executive Committee nominated by the District Chief Executive.
- (3) The Secretary of the District Assembly shall be the Secretary of the Executive Committee.

District Chief Executive

20. (1) There shall be a District Chief Executive for each district appointed by the President with the prior approval of not less than two-thirds majority of the members of the District Assembly present and voting at the meeting.

Local Governance Bill, 2016

(2) The guidelines contained in the Second Schedule shall be followed in the nomination, approval and appointment of a District Chief Executive.

(3) A District Chief Executive shall

- (a) preside at meetings of the Executive Committee of the District Assembly and in the absence of the District Chief Executive a member of the Executive Committee elected by the members present from among themselves shall preside;
- (b) be responsible for the day-to-day performance of the executive and administrative functions of the District Assembly;
- (c) be responsible for the supervision of the departments of the District Assembly; and
- (d) be the chief representative of the Central Government in the district.

(4) The office of the District Chief Executive shall become vacant if

- (a) a vote of no confidence, supported by the votes of not less than two-thirds of all the members of the District Assembly, is passed against the District Chief Executive;
- (b) the District Chief Executive is removed from office by the President; or
- (c) if the District Chief Executive resigns or dies.

(5) A District Chief Executive shall hold office for four years but the District Chief Executive shall not hold office for more than two consecutive terms.

(6) The emoluments of a District Chief Executive shall be charged on the Consolidated Fund and shall be determined by the Committee established under article 71 of the Constitution.

Functions of the Executive Committee

21. (1) The Executive Committee of a District Assembly shall exercise the executive and co-ordinating functions of the District Assembly.

(2) An Executive Committee shall

- (a) co-ordinate the plans and programmes of the sub-committees and submit these as comprehensive plans of action to the District Assembly;
- (b) implement resolutions of the District Assembly;

Local Governance Bill, 2016

- (c) oversee the administration of the district in collaboration with the office of the District Chief Executive;
- (d) make recommendations on stated grounds to the appropriate Ministry, Department or Agency, for the appointment and replacement of officers for departments outside the control of the District Assembly where it is considered expedient to do so;
- (e) develop and execute approved plans of the units, areas and towns and sub-metropolitan districts, within the area of authority of the District Assembly;
- (f) recommend to the District Assembly
 - (i) the economic, social, spatial and human settlement policies related to the development of the district;
 - (ii) harmonisation of the development policies of the district with national development policies;
 - (iii) the integration and co-ordination of the processes of planning, programming, budgeting and implementation;
 - (iv) initiation and implementation of development programmes and projects at the district level; and
 - (v) the monitoring and evaluation of policies, programmes and projects.

(3) An Executive Committee shall carry out the functions of the District Assembly.

(4) Subsection (3) does not apply to the legislative functions of the District Assembly between sessions of the District Assembly.

Meetings of Executive Committee

22. (1) An Executive Committee may co-opt any person to attend its meetings but a co-opted person shall not vote.

(2) An Executive Committee may conduct its business in English and in any local language decided under subsection (5) of section 5.

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

(4) An Executive Committee shall regulate the procedures for its meetings in accordance with the Standing Orders of the District Assembly.

Sub-committees of the Executive Committee

23. (1) An Executive Committee shall have the following sub-committees:

- (a) Development Planning Sub-Committee;
- (b) Social Services Sub-Committee;
- (c) Works Sub-Committee;
- (d) Justice and Security Sub-Committee;
- (e) Finance and Administration Sub-Committee; and
- (f) any other sub-committee the District Assembly may determine.

(2) Each sub-committee shall consist of members of the District Assembly determined by the District Assembly.

(3) A member of the District Assembly other than the Presiding Member shall serve on at least one sub-committee during the tenure of office of that member.

(4) Recommendations to the District Assembly for the constitution of a sub-committee shall be made by the District Chief Executive in consultation with the Secretary to the District Assembly.

(5) Heads of Departments of the District Assembly shall attend the meetings of the sub-committees and shall advise them on the performance of their functions but shall not vote.

(6) A sub-committee may co-opt a person to attend any of its meetings but a co-opted person shall not vote.

(7) A sub-committee shall regulate the procedure for its meeting in accordance with the Standing Orders of the District Assembly.

(8) The District Assembly may dissolve and re-constitute a sub-committee that is not performing its functions efficiently.

(9) The dissolution of the sub-committee shall be by a resolution of the District Assembly.

(10) The Secretary to the District Assembly shall appoint a Head of Department of a sector relevant to the work of a sub-committee to be the Secretary to the sub-committee.

Functions of sub-committees

24. (1) The functions of the sub-committees of the Executive Committee shall be as provided in the Model Standing Orders issued by the Minister for the conduct and proceedings of District Assemblies.

Local Governance Bill, 2016

(2) A sub-committee shall collate and deliberate on issues of its responsibility to assist the District Assembly in the deliberative, legislative and executive functions of the District Assembly.

(3) A sub-committee shall submit its recommendations to the Executive Committee of the District Assembly.

Instrument of Establishment of Metropolitan Assembly

25. (1) The provisions on the functions and meetings of an Executive Committee and the Sub-Committees and functions of an Executive Sub-Committee shall not apply to a Metropolitan Assembly.

(2) The legislative instrument establishing a Metropolitan Assembly shall specify its sub-committee system and other related matters.

Dissemination of Information

Public Relations and Complaints Committee

26. (1) A District Assembly shall have a Public Relations and Complaints Committee consisting of

- (a) the Presiding Member who shall be the chairperson;
- (b) four members of the District Assembly elected by the members of the District Assembly;
- (c) a representative each of the district offices of the following:
 - (i) National Commission for Civic Education,
 - (ii) Commission on Human Rights and Administrative Justice,
 - (iii) Information Services Department, and
 - (iv) civil society organisations in the district selected by the civil society organisations.

(2) A person appointed under subparagraph (iv) of paragraph (c) of subsection (1) shall not have voting rights.

Functions of the Public Relations and Complaints Committee

27. (1) The Public Relations and Complaints Committee shall

- (a) educate the members of the public on the activities of the District Assembly;
- (b) promote transparency, probity and accountability in the dealings of the District Assembly with the public;
- (c) investigate complaints or allegations made against the conduct of the District Chief Executive, members of the District Assembly, staff of the District Assembly and staff of the departments of the District Assembly;

Local Governance Bill, 2016

- (d) investigate complaints or allegations of administrative injustice, abuse and misuse of office and violation of the fundamental human rights of any member of the public in the district against the District Chief Executive, a member of the District Assembly, staff of the District Assembly and staff of the departments of the District Assembly;
- (e) investigate a complaint or allegation of failure made by a person about the performance of the District Assembly or a department of the District Assembly in the discharge of its statutory duty or corporate responsibilities; and
- (f) perform any other functions reasonably related to its core functions that the District Assembly may decide.

(2) The Public Relations and Complaints Committee shall not investigate a matter which is pending before a court or the Commission on Human Rights and Administrative Justice.

(3) The Public Relations and Complaints Committee shall comply with the rules of natural justice in the performance of the functions of the Committee and make recommendations to the District Assembly in respect of its investigations for the appropriate action of the District Assembly.

(4) The Public Relations and Complaints Committee may make the following specific recommendations through the District Assembly:

- (a) to the Electoral Commission to commence processes for the revocation of the mandate of an elected member of the District Assembly under subsections (1) to (6) of section 10;
- (b) to the President for the revocation of the appointment of an appointed member under subsections (7), (9) and (10) of section 10; or
- (c) to the President for the removal of the District Chief Executive from office.

(5) The Public Relations and Complaints Committee may also recommend that the District Assembly commences the processes to pass a vote of no confidence in the District Chief Executive.

District Chief Executive to address District Assembly

28. (1) The District Chief Executive may address the District Assembly in session on policies determined by the President.

Local Governance Bill, 2016

- (2) The District Chief Executive shall
 - (a) present a report on the performance of the functions of the Executive Committee, of the office of the District Chief Executive as well as of the state of the district to the District Assembly at the beginning of each session; and
 - (b) submit the recommendations of the District Assembly on matters of national concern to the President, the Minister and the Regional Co-ordinating Council at the end of each session.

Other appointees of President to address District Assembly

29. A Minister of State or other appointee of the President may address the District Assembly on personal initiative, at the invitation of the District Assembly, or on the directive of the President on a matter related to the sector or function of the Minister or appointee of the President.

Other Matters Concerning District Assemblies

Provision of offices by District Assemblies

30. A District Assembly may

- (a) build, acquire, provide, hire and furnish buildings within the administrative area of the District Assembly,
- (b) combine with another District Assembly to build, acquire, provide, hire and furnish a building within or outside the administrative area of the District Assembly, or
- (c) contribute towards the expense incurred by another District Assembly in building, acquiring, providing, hiring and furnishing any building within or outside the administrative area of the District Assembly

to be used to transact the business of the District Assembly and for public meetings.

Joint committees of District Assemblies

31. (1) A District Assembly may appoint a joint committee with another District Assembly for a project in their mutual interest and may delegate a function of the District Assembly related to the project to the committee.

Local Governance Bill, 2016

(2) A joint committee appointed under this section may be authorised to co-opt additional members.

(3) The delegation by the District Assembly to the joint committee shall not include the power of a District Assembly to approve by-laws, draw up annual estimates, levy rates or borrow money.

(4) Where a District Assembly appoints or agrees with another District Assembly to appoint a joint committee, the District Assembly may make, vary or revoke any of its regulations related to the quorum, proceedings and place of meetings.

(5) The quorum for proceedings and place of meeting shall be as determined by the joint committee.

(6) Each joint committee appointed shall report the proceedings of the joint committee to the District Assembly concerned through the Executive Committee and the decisions of the Executive Committee shall be subject to the approval of the District Assembly.

Joint commercial activity

32. A District Assembly may join another District Assembly to carry out any commercial activity that falls within the scope of their respective functions and may determine the allocation of the cost and benefits in respect of that activity.

Procurement powers and tender procedures of District Assembly

33. The procurement powers and tender procedures of a District Assembly shall be in accordance with the relevant procurement laws.

Power of District Assembly to insure

34. A District Assembly may
- (a) insure the property of the District Assembly against a risk of any kind; or
 - (b) insure a third party against injury or damage resulting from an act or omission by a member of staff of the District Assembly in the performance of an official function.

Ancillary powers of a District Assembly

35. (1) A District Assembly may
- (a) through the District Chief Executive, authorise any person in writing to enter land, premises or any place at a reasonable time for a purpose connected with the functions of the District Assembly;

Local Governance Bill, 2016

- (b) request any person in writing to furnish the District Assembly with information reasonably necessary for the performance of the functions of the District Assembly; and
 - (c) give directions to any person that may be reasonably necessary for the performance of the functions of the District Assembly.
- (2) A person who
- (a) wilfully obstructs an officer of a District Assembly in the carrying out of the functions of the District Assembly,
 - (b) fails to furnish information requested from that person without reasonable excuse, proof of which shall be on that person, or
 - (c) gives information in response to a request made under this section which that person knows to be false, or which that person has no reasonable grounds to believe to be true,

commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than two hundred and fifty penalty units or to a term of imprisonment of not less than six months and not more than two years or to both and in the case of a continuing offence to a fine of not more than five penalty units for each day that the offence continues.

Investigation by the President

36. The President may cause the performance of any function or matter of a District Assembly under this or any other enactment to be investigated if the matter is likely to affect the discipline of the District Assembly and shall give directions as appropriate.

Power of President to enforce functions of District Assembly

37. (1) The President may declare a District Assembly to be in default of its functions by Executive Instrument if it is in the public interest to do so and may by the same or another Executive Instrument

- (a) direct the District Assembly on how to perform any of its functions within the time specified in the Executive Instrument; or
- (b) transfer to a person or body the performance of any of the functions of the District Assembly in default specified in the Executive Instrument.

(2) Where the President has transferred the performance of any of the functions of a District Assembly in default to a person or body, the

Local Governance Bill, 2016

President may, by the same or another Executive Instrument, dissolve or suspend the District Assembly for not more than one year or prohibit that District Assembly from the performance of certain functions specified in the Executive Instrument for not more than one year.

(3) The President may issue an executive instrument to continue the suspension or maintain the dissolution of a District Assembly in default for a period of not more than one year at any one time.

Expenses in respect of transferred functions

38. Where any functions of a District Assembly are transferred by the President to a person or body by Executive Instrument, the expenses incurred by the person or body in the performance of those functions shall be a debt due from the District Assembly concerned to the person or body.

District Assemblies to contribute to Association

39. (1) A District Assembly shall make a contribution to the National Association of Local Authorities of Ghana as the Association may determine.

(2) The contribution shall be in respect of any expenditure incurred by the Association to undertake its business and hold its meetings.

(3) The dues due to the National Association of Local Authorities of Ghana may be deducted at source from the share of the District Assemblies Common Fund allotted to each District Assembly.

Participatory Governance at the Local Level

Participation in District Assembly processes

40. A District Assembly shall enable the residents and other stakeholders in the district to participate effectively in the activities of the District Assembly and the sub-structures of the District Assembly.

Participation in by-laws and fee-fixing resolutions

41. District level stakeholders may

- (a) participate in the deliberative function of the District Assembly by the publication of a draft by-law or fee-fixing resolution in a media of mass communication in the district that includes radio, the print media, notice boards on the premises of the District Assembly and in the major towns and settlements in the district, before the commencement of proceedings on the draft by-law or fee-fixing resolution;

Local Governance Bill, 2016

- (b) make representations to the District Assembly through the Secretary to the District Assembly on any provision of the draft by-law or proposal in the fee-fixing resolution;
 - (c) appear before a sub-committee of the Executive Committee to which a draft by-law or fee-fixing resolution is referred to make an oral representation;
 - (d) attend the proceedings of the District Assembly as observers when a draft by-law or fee-fixing resolution is being debated;
 - (e) disseminate the by-law or fee-fixing resolution as widely as possible and play an advocacy role on the contents of the by-law or fee-fixing resolution after the enactment of the by-law or the adoption of a fee-fixing resolution.
- (2) The District Assembly shall cause the beating of gong-gong at least ten working days before the first day of submission of the draft by-law or the fee-fixing resolution to the District Assembly for the first time.

Modalities and platforms for participation

42. A District Assembly shall facilitate the establishment of a structure for stakeholder participation that may include the following:

- (a) information communication technology-based platforms;
- (b) town hall meetings;
- (c) budget preparation and validation fora;
- (d) notice boards announcing jobs, appointments, procurement awards and other important announcements of public interest;
- (e) visits to development project sites; and
- (f) other avenues for the participation of the people.

Right of stakeholders to petition

43. (1) District level stakeholders may petition the District Assembly on any matter for which the District Assembly is responsible;

(2) The petition shall be made in writing or orally to the District Assembly.

(3) A District Assembly shall make a by-law on the procedure for the petition.

Duty of District Assembly to respond to petition of stakeholders

44. Officials, departments and agencies of a District Assembly shall respond to petitions from stakeholders within a reasonable time.

District Chief Executive to report on participation

45. The District Chief Executive, in the report to the District Assembly, shall include a report on stakeholder participation in the activities of the District Assembly.

District Assembly communication

46. (1) A District Assembly shall

- (a) create awareness on local level decentralisation and governance;
- (b) promote public understanding for purposes of peace and national cohesion;
- (c) undertake advocacy on core development issues such as agriculture, education, health, security, economics and sustainable development.

(2) A District Assembly shall establish mechanisms to facilitate public communication and access to information in the form of media with the widest public outreach possible in the district which may include

- (a) television stations;
- (b) information communication technology centres;
- (c) websites;
- (d) community radio stations; and
- (e) public meetings.

(3) A District Assembly shall encourage and facilitate other means of mass communication including the traditional media.

Access to information

47. (1) Every citizen resident in a district shall have access on request to information held by a District Assembly or a Department of the District Assembly subject to limitation imposed by law.

(2) The officer responsible for the Public Relations and Complaints Committee of the District Assembly shall be the officer responsible for ensuring access to information.

(3) A District Assembly shall enact by-laws to ensure access to information subject to any law on the matter.

(4) The by-laws may impose reasonable fees or charges to access information held by the District Assembly, its departments or agencies.

Inclusion and integration of minorities and marginalised groups

48. A District Assembly shall observe the following principles:

- (a) protection of marginalised groups from discrimination of any kind, including discrimination based on language, religion, culture, national or social origin, gender, birth, descent or other status;
- (b) equality of treatment in each area of economic, educational, social, religious, political and cultural life of the marginalised and minority group;
- (c) special protection to vulnerable persons who may be subject to threats or acts of discrimination, hostility, violence and abuse as a result of their ethnic, cultural, religious or other identity;
- (d) special measures of affirmative action for marginalised and minority groups to ensure their enjoyment of equal rights with the rest of the population;
- (e) respect for and promotion of the identity and characteristics of minorities;
- (f) promotion of diversity and inter-cultural education; and
- (g) promotion of effective participation of marginalised groups in public and political life.

PART TWO - LOCAL GOVERNMENT SERVICE

Establishment of the Local Government Service

Establishment of the Local Government Service

49. (1) There is established by this Act, a body corporate with perpetual succession to be known as the Local Government Service.

(2) The Service shall be decentralised at the regional, district and sub-district levels.

(3) For the performance of its functions, the Service may acquire and hold movable and immovable property, dispose of property and enter into a contract or any other transaction.

(4) Where there is hindrance to the acquisition of property, the property may be acquired for the Service under the State Lands Act, 1962 (Act 125) and the cost shall be borne by the Service.

Membership of the Service

50. Membership of the Service includes officers and staff of the following organisations:

- (a) Offices of the District Assemblies;
- (b) Departments of the District Assemblies;
- (c) Offices of the Regional Co-ordinating Councils;
- (d) Departments of the Regional Co-ordinating Councils;
- (e) Offices of the Sub-Metropolitan District Councils, Urban, Town and Area Councils;
- (f) Office of the Head of the Service; and
- (g) other persons as may be employed for the Service.

Object of the Service

51. The object of the Service is to secure the effective administration and management of the decentralised local government system in the country.

Functions of the Service

52. To achieve its object, the Service shall

- (a) provide technical assistance to District Assemblies to enable the District Assemblies effectively perform their functions and discharge their duties in accordance with the Constitution and this Act;
- (b) conduct organisational and job analysis for the District Assemblies;
- (c) conduct management audits for the District Assemblies in order to improve the overall management of the Service;
- (d) design and co-ordinate management systems and processes for the District Assemblies;
- (e) develop and co-ordinate the personnel plans and assess the personnel needs of the District Assemblies in consultation with them;
- (f) develop and co-ordinate the training implementation plans of the District Assemblies in consultation with the respective District Assemblies;
- (g) develop professional standards and guidelines for the various categories of staff who are members of the Service;
- (h) work in consultation and close co-operation with other Public Services;
- (i) assist the District Assemblies in the performance of their functions and under any other enactment; and
- (j) perform other functions incidental or conducive to the achievement of the object of the Service.

Governing body of the Service

53. (1) The governing body of the Service is a Council consisting of
- (a) a chairperson with extensive experience in local government and decentralisation matters;
 - (b) a representative of the Ministry responsible for Local Government not below the rank of a Director;
 - (c) the Director-General of the National Development Planning Commission or the representative of the Director-General;
 - (d) a representative of the Ministry of Education not below the rank of a Director;
 - (e) a representative of the Ministry of Health not below the rank of a Director;
 - (f) the Head of the Service;
 - (g) the Administrator of the District Assemblies Common Fund or the representative of the Administrator;
 - (h) a representative of the National Association of Local Authorities of Ghana;
 - (i) a representative of the Local Government Workers Union;
 - (j) the Director of the Institute of Local Government Studies or a representative of the Director;
 - (k) a representative of the National House of Chiefs;
 - (l) two representatives of civil society organisations with considerable knowledge of local government and decentralisation matters nominated by the Minister; and
 - (m) two women with considerable knowledge of local government and decentralisation matters nominated by the Minister.
- (2) The members of the Council shall be appointed by the President in accordance with article 70 of the Constitution.

Functions of the Council

54. The Council shall
- (a) be responsible for matters of policy related to the management of the Service;
 - (b) ensure the proper and effective performance of the functions of the Service;
 - (c) approve a Scheme of Service , on the advice of the Public Services Commission, that prescribes the terms and conditions of service of the employees of the Service;
 - (d) recommend the remuneration of the employees of the Service to the Fair Wages and Salaries Commission;

Local Governance Bill, 2016

- (e) develop policy guidelines to handle matters related to the recruitment, training, promotion, discipline, arbitration and petition within the Service;
- (f) set performance standards within which the District Assemblies and Regional Co-ordinating Councils shall perform their functions and discharge their duties;
- (g) monitor and evaluate the performance standards of District Assemblies and Regional Co-ordinating Councils;
- (h) ensure the development and co-ordination of the personnel plans and assessment of the personnel needs of the District Assemblies;
- (i) ensure the development and co-ordination of the training implementation plans of District Assemblies;
- (j) ensure the development of professional standards and guidelines for the various categories of staff who are members of the Service; and
- (k) perform other functions that may be assigned to it under this Act or any other enactment.

Tenure of office of members of the Council

55. (1) A member of the Council shall hold office for a period not more than four years and is eligible for re-appointment but that member shall not be appointed for more than two terms.

(2) Subsection (1) does not apply to the Head of the Service.

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

(4) A member of the Council, other than the Head of the Service, who is absent from three consecutive meetings of the Council without sufficient cause ceases to be a member of the Council.

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

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

(7) Where there is a vacancy

- (a) under subsection (3) or (4), or section 57(2),
- (b) as a result of a declaration under subsection (6), or
- (c) by reason of the death of a member

the Minister shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy.

Meetings of the Council

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

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

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

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

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

(6) The validity of an act of the Council shall not be invalidated by reason of a vacancy in the membership of the Board or a defect in the appointment of a member.

Disclosure of interest

57. (1) A member of the Council who has an interest in a matter for consideration shall

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

(b) not be present at or participate in the deliberations of the Council in respect of the matter.

(2) A member ceases to be a member of the Council if that member has an interest in a matter before the Council and

(a) fails to disclose that interest, or

(b) fails to recuse himself or herself and participates in the deliberation of the Council in respect of the matter.

Committees of the Council

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

Local Governance Bill, 2016

(2) A committee of the Council may be chaired by a member of the Council.

(3) Section 57 applies to a member of a committee of the Council.

Allowances

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

Presidential directives

60. The President may give directives to the Council on matters of policy and the Council shall comply.

Delegation of power of appointment

61. The President may delegate the power of appointment under this Act in accordance with article 195 of the Constitution.

Administration of the Service

Head of the Local Government Service

62. (1) The President shall in accordance with article 195 of the Constitution appoint a Head of the Local Government Service.

(2) The Head of the Local Government Service shall hold office on the same terms and conditions as the Head of the Civil Service.

Functions of the Head of the Local Government Service

63. (1) The Head of the Local Government Service is the head of the Office of the Head of the Local Government Service and is subject to the general directions of the Council.

(2) The Head of the Local Government Service is responsible for the efficient organisation and management of the Service and for the day to day operation of the Office of the Head of the Local Government Service.

(3) The Head of the Local Government Service may delegate the functions of the Office to an officer of the Service but shall not be relieved from ultimate responsibility for the performance of the delegated function.

(4) The Head of the Local Government Service shall

(a) provide leadership and guidance in the performance of the functions of the Service and the implementation of the decisions of the Council;

(b) ensure the effective organisation and development of training programmes consistent with the sectoral requirements of the Service;

Local Governance Bill, 2016

- (c) establish systems of effective inter-service and sectoral collaboration and co-operation between the Service and other public services to harmonise local government programmes and avoid duplication with the approval of the Council; and
- (d) initiate plans and programmes within the Service, for the consideration and approval of the Council to accelerate the decentralisation process in accordance with the Constitution and any other enactments.

(5) The Head of the Local Government Service is the Secretary to the Council.

Office of the Head of the Local Government Service

64. The Local Government Service Secretariat in existence before the commencement of this Act shall be known as the Office of the Head of the Local Government Service.

Functions of the Office of the Head of the Local Government Service

65. The Office of the Head of the Local Government Service shall
- (a) be responsible for the day to day administration of the Service;
 - (b) be responsible for the implementation of the decisions of the Council;
 - (c) provide technical and other support to the Service and to the Council for the performance of their functions;
 - (d) ensure the effectiveness of the Service;
 - (e) perform functions that the Council may specify; and
 - (f) perform any other functions that are incidental to the effective operation of the Service.

Chief Director of the Office of the Head of the Local Government Service

66. (1) The President shall in accordance with article 195 of the Constitution appoint a Chief Director of the Office of the Head of the Local Government Service to be the chief adviser to the Head of the Local Government Service.

(2) The Chief Director shall have the same terms and conditions as a Chief Director of the Civil Service.

Appointment of other staff

67. (1) The President shall, in accordance with article 195 of the Constitution, appoint other staff of the Local Government Service that are necessary for the proper and effective performance of the functions of the Service.

(2) The Council may engage the services of consultants or advisers on the recommendation of the Head of the Local Government Service.

Transfer and secondment

68. (1) Other public officers may be transferred or seconded to the Service or may otherwise give assistance to the Service.

(2) The Council shall approve the transfer or secondment to the Office of the Head of the Local Government Service.

Expenses and Reports of the Council and the Office of the Head of the Local Government Service

Expenses of the Office of the Head of the Local Government Service

69. The expenses of the Office of the Head of the Local Government Service, including the administrative expenses, salaries, allowances, operational and other expenses as well as retirement benefits payable in respect of persons employed for and by the Office of the Head of the Local Government Service, shall be a charge on the Consolidated Fund.

Submission of budget estimates

70. (1) The Head of the Local Government Service shall prepare and submit to the Minister responsible for Finance through the Council, the budget estimates of revenue and expenditure to be incurred by the Council and the Office of the Head of the Local Government Service for the next financial year not later than three months before the end of each financial year.

(2) The budget estimates shall be in the form approved for that purpose by the Minister responsible for Finance.

Accounts and audit

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

(2) The Council shall submit the accounts of the Service to the Auditor-General for audit within three months after the end of the financial year.

Local Governance Bill, 2016

(3) The Auditor-General shall not later than three months after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Council.

Annual report and other reports

72. (1) The Council shall, within one month after the receipt of the audit report, submit an annual report covering the activities and operations of the Service for the year to which the report relates to Parliament.

(2) The annual report shall include the report of the Auditor-General.

(3) The Council shall also submit to the Parliament any other reports which Parliament may require in writing.

Office of the District Assembly

Office of the District Assembly

73. There shall be an Office of the District Assembly for each District Assembly.

Functions of Office of the District Assembly

74. The Office of the District Assembly is responsible to the District Assembly in the performance of its functions.

District Co-ordinating Director

75. (1) There shall be a District Co-ordinating Director for each District Assembly who

(a) is the administrative head of the Office of the District Assembly, and

(b) co-ordinates the activities of the Departments of the District Assembly.

(2) The District Co-ordinating Director shall be appointed by the Head of the Local Government Service on the advice of the Council acting in consultation with the Public Services Commission.

(3) The District Co-ordinating Director shall be a member of the Service.

(4) The District Co-ordinating Director shall ensure that the functions and responsibilities of the Office of the District Assembly are efficiently and effectively carried out.

(5) The District Co-ordinating Director is answerable to the District Chief Executive in the performance of the functions of the District Co-ordinating Director.

(6) Staff of the Office of the District Assembly are answerable to the District Chief Executive through the District Co-ordinating Director.

Local Governance Bill, 2016

Staff of the Office of the District Assembly

76. (1) The Office of the District Assembly shall have the staff that are necessary for the proper and effective performance of its functions.

(2) Until legislation provides for the appointment of the staff of the Office of the District Assembly by the District Assembly, the staff of the District Assembly shall be appointed by the Head of the Service.

(3) The Head of Service may delegate the powers to the District Assembly in respect of specified categories of staff.

(4) A District Assembly shall establish a five member District Appointments Advisory Committee chaired by the Head of the Human Resources Department of the District Assembly for the appointment of staff of the Office of the District Assembly.

(5) The members of the District Appointments Advisory Committee shall not be members of the District Assembly.

(6) The staff of the Office of the District Assembly shall perform the functions assigned to them under this or any other enactment.

(7) The staff of the Office of the District Assembly shall be appointed on the terms and conditions that the Head of Service on the advice of the Council acting in consultation with the Public Services Commission determines.

Departments of the District Assembly

Decentralised sectors at the district level

77. (1) The sectors listed in the Third Schedule are the decentralised public service sectors.

(2) The President may amend the Third Schedule by Executive Instrument and shall specify which of the functions of the decentralised public service sectors are to be performed by the District Assembly in the same executive instrument or another one.

Departments of a District Assembly

78. (1) The Departments listed in the Fourth Schedule are the Departments of the District Assembly.

(2) The Departments specified in the first column of the Fifth Schedule shall cease to exist in their present form and shall form part of the Departments specified in the second column of the Fifth Schedule.

(3) A District Assembly shall establish the Departments specified in the first column of the Sixth Schedule and consequently, the Departments specified in the second column of the Sixth Schedule shall cease to exist in their present form at the district level.

Local Governance Bill, 2016

(4) The President may by Executive Instrument amend the Fourth Schedule.

(5) The Departments of the District Assembly shall be headed by Heads of Departments who are responsible for the proper and effective performance of their functions.

(6) The Heads of Departments of the Assembly shall be responsible to the District Chief Executive through the District Co-ordinating Director.

(7) The Head of the Service shall issue administrative instructions that specify

- (a) the mode of implementation of the Departments ceasing to exist;
- (b) the details of the reporting relationships between the Heads of Departments of a District Assembly, the District Co-ordinating Director and the District Chief Executive; and
- (c) the details of the reporting relationships between the Departments of the District Assembly, the Sub-Committees of the Executive Committee of the District Assembly, the Executive Committee of the District Assembly and the District Assembly.

Staff of the Departments of the District Assembly

79. (1) The Departments of the District Assembly shall have the staff that may be necessary for the proper and effective performance of their functions.

(2) Until legislation provides for the appointment of the staff of the District Assembly by the District Assembly, the staff of the Departments of the District Assembly shall be appointed by the Head of the Local Government Service in consultation with the Public Services Commission.

(3) The Head of the Local Government Service may delegate the power of appointment to the District Assembly in respect of specified categories of staff.

(4) The staff of the Departments of the District Assembly shall perform the functions that are assigned to them under this Act or any other enactment.

Local Governance Bill, 2016

(5) The staff of the Departments of the District Assembly shall be appointed on the terms and conditions that the Head of Service on the advice of the Council acting in consultation with the Public Services Commission determines.

Functions of the Departments of a District Assembly

80. The Departments of the District Assembly shall

- (a) perform the functions assigned to them under the Local Government (Departments of District Assemblies) (Commencement) Instrument, 2009 (L.I. 1961) and any other enactment for the time being in force;
- (b) be responsible for the implementation of the decisions of the District Assembly; and
- (c) provide quarterly reports on the implementation of the decisions of the District Assembly to the Executive Committee of the District Assembly through the Office of the District Assembly.

District Level Inter-Service and Inter-Sectoral Collaboration and Co-Operation

Collaboration and co-operation between Departments of District Assemblies and other organisations

81. (1) Departments of a District Assembly shall collaborate and co-operate with non-decentralised departments, state-owned enterprises and public corporations operating in the district to ensure a co-ordinated approach to the development and management of the district, avoid duplication and ensure a more convenient and cost-effective implementation of programmes and projects.

(2) The District Chief Executive shall play the lead role in the system of collaboration and co-operation with other sectors.

(3) The Heads of Department of the other sectors shall attend meetings and participate in the deliberations of the Sub-Committees of the Executive Committee of the District Assembly, the Executive Committee of the District Assembly and the District Assembly to which they are invited.

(4) The Heads of the other sectors shall provide information on any matter affecting their sectors reasonably requested by the District Chief Executive, the District Co-ordinating Director or Head of a Department of the District Assembly.

PART THREE - PLANNING FUNCTIONS OF DISTRICT ASSEMBLIES

Economic Development Planning

Establishment of a District Planning Authority

82. (1) Each District Assembly is hereby established as the planning authority for its area of authority for the purposes of national economic development planning.

(2) The District Assembly as the planning authority for the district shall perform any planning functions conferred on it by this Act or any other enactment.

Planning functions of a District Planning Authority

83. (1) A District Planning Authority shall

- (a) initiate and prepare district development plans and settlement structure plans in the manner prescribed by the Commission,
- (b) ensure that the district development plans and the settlement structure plans are prepared with the full participation of the local community;
- (c) carry out studies on
 - (i) development planning matters in the district that include studies on economic, social, spatial, environmental, sectoral and human settlement issues and policies; and
 - (ii) the mobilisation of human and physical resources for development in the district;
- (d) initiate and co-ordinate the process to plan, programme, budget and implement a district development plan, programme or project;
- (e) integrate and ensure that sector and spatial policies, plans, programmes and projects of the district are compatible with each other and with national economic development objectives issued by the Commission;
- (f) synthesise the policy proposals on development planning in the district into a comprehensive framework for the economic, social and spatial development of the district including human settlements and ensure that the policy proposals and projects are in conformity with the principles of sound environmental management;

Local Governance Bill, 2016

- (g) monitor and evaluate the development policies, programmes and projects in the district; and
- (h) provide the Commission with the data and information that the Commission may require.

(2) Despite subsection (1) (a), the planning authority of a District Assembly shall prepare a settlement structure plan in accordance with the provisions of any enactment on planning relevant to the preparation of the settlement structure plan.

(3) The Heads of Departments of a District Assembly and the Heads of other sectors shall collectively prepare a draft Strategic District Development Plan to form the basis of a District Development Plan.

Establishment of District Planning Co-ordinating Unit

84. (1) There shall be established a District Planning Co-ordinating Unit for each District Assembly.

(2) A District Planning Co-ordinating Unit shall comprise the Heads of Departments of a District Assembly and any other person that the District Planning Authority in consultation with the Commission directs.

(3) The Heads of other sectors shall attend meetings of the District Planning Co-ordinating Unit and participate in the preparation of the District Development Plan.

(4) The District Co-ordinating Director shall lead the District Planning Co-ordinating Unit in the preparation of the District Development Plan.

(5) Each District Planning Authority shall have a District Planning Officer who shall be the secretary to the District Planning Co-ordinating Unit.

Planning functions of the District Planning Co-ordinating Unit

85. A District Planning Co-ordinating Unit is responsible for

- (a) the provision of advice and a secretariat for the District Planning Authority in respect of its planning, programming, monitoring, evaluating and co-ordinating functions;
- (b) the co-ordination of planning activities of the Departments of the District Assembly and other appropriate agencies connected with the planning process;

Local Governance Bill, 2016

- (c) synthesising the strategies related to the development of the district into a comprehensive and cohesive framework;
- (d) formulating and updating the components of a district development plan; and
- (e) providing the data and information the Commission may require.

District Development Plans

86. (1) The Commission shall prescribe the format for a District Development Plan.

(2) Each proposed District Development Plan shall be submitted through the Regional Co-ordinating Council to the Commission for consideration.

(3) The Commission shall

- (a) determine the compatibility of District Development Plans with the national development objectives; and
- (b) where the District Development Plans are approved incorporate them into the national development plan.

(4) A District Assembly shall not make modifications to an approved District Development Plan without the prior approval of the Commission.

Preparation of Sub-District and Local Action plans

87. (1) A District Planning Authority shall prepare or direct the preparation of a Sub-District or Local Action Plan that may be required for the implementation of an approved District Development Plan unless the Commission otherwise determines.

(2) A local community in a district that is authorised by the District Planning Authority to prepare a Sub-District Plan or Local Action Plan shall prepare the Sub-District Plan or Local Action Plan in accordance with

- (a) the approved District Development Plan;
- (b) development guidelines of the District Planning Authority; and
- (c) any other guidelines that may be prescribed by the Commission.

(3) A Sub-District Plan or Local Action Plan is subject to the approval of the District Planning Authority.

Local Governance Bill, 2016

(4) Despite subsection (3), the Commission may call for the plans made under subsections (1) and (2) for consideration and may modify the plans as it considers appropriate.

Public hearing of District Development Plans, Sub-District and Local Action Plans

88. (1) A District Planning Authority shall conduct a public hearing on a proposed District Development Plan and shall consider the views expressed at the hearing before the adoption of the proposed District Development Plan.

(2) The Heads of Departments of a District Assembly and other sectors shall attend and participate in a public hearing in respect of a District Development Plan.

(3) A local community in a district that is authorised by the District Planning Authority to prepare a Sub-District Plan or Local Action Plan shall conduct a public hearing before the adoption of the proposed Sub-District Plan or Local Action Plan.

(4) A District Planning Authority shall attach a report on the outcome of a public hearing to the proposed District Development Plan.

(5) The Commission may, by legislative instrument, prescribe the manner in which the public hearing shall be conducted.

Grievance procedure

89. A person who is aggrieved by a matter related to the performance of a function of a District Planning Authority may seek redress in accordance with the grievance procedure as prescribed by the Commission.

Land Use and Spatial Planning

Application of sections 91 to 107

90. Sections 91 to 107 of this Act shall apply to the extent that they are not inconsistent with an enactment relating to land use and spatial planning in force at any time.

Permit to carry out physical development

91. (1) A person shall not carry out a physical development in a district except with the prior written approval in the form of a written permit issued by the District Planning Authority.

Local Governance Bill, 2016

(2) A District Planning Authority may approve an application referred to in subsection (1), before the adoption of an approved District Development Plan for the district.

(3) A District Planning Authority shall consult public agencies and local communities as may be prescribed by Regulations in the determination of an application for a permit to develop prior to the adoption of an approved District Development Plan.

Development charges

92. (1) A District Planning Authority may levy a development charge in respect of a permit to carry out a physical development.

(2) Development charges shall be utilised for the provision of infrastructure and services.

(3) Development charges shall be rated by, payable to and collected by the District Planning Authority to the exclusion of any other body, except in the case of land estates where other specific bodies take responsibility to provide infrastructure and services.

Development charges to be conditional or unconditional

93. (1) A District Planning Authority may issue a permit for development with conditions or without conditions.

(2) Where a District Planning Authority refuses to issue a permit, or issues a permit with conditions, that District Planning Authority shall provide reasons in writing in each case.

(3) A District Planning Authority may revoke a permit to develop or impose additional conditions in respect of a permit already issued.

(4) Where a District Planning Authority makes a decision under subsection (3), the District Planning Authority shall, subject to the receipt of a claim, pay compensation as it may determine to the affected person.

(5) The following activities and any other action, programme or project shall not require prior written approval from a District Planning Authority unless the proposed activity obstructs or interferes with a community right of space:

- (a) subsistence farming;
- (b) farming on and other activities carried out in any settlement that comprise a population of not more than five thousand; and
- (c) small-scale vegetable and flower gardening.

Local Governance Bill, 2016

(6) This section shall not preclude the members of the immediate local community from the regulation of these activities in the community.

Enforcement in respect of unauthorised development

94. (1) Where

(a) a physical development has been carried out without a permit or is being carried out without a permit, or

(b) conditions incorporated in a permit are not complied with, a District Planning Authority may give written notice in the form that may be prescribed by Regulations, to the owner of the land to require that owner on or before a date specified in the notice to show cause in writing addressed to the District Planning Authority why the unauthorised physical development should not be prohibited, altered, abated, recovered or demolished.

(2) If the owner of the land fails to show sufficient cause why the development should not be prohibited, altered, abated, removed or demolished, the District Planning Authority may carry out the prohibition, abatement, alteration, removal or demolition and recover any expenses incurred from the owner of the land as if it were a debt due to the District Planning Authority.

(3) A District Planning Authority may issue an enforcement notice that demands the immediate stoppage of work that is being carried out contrary to this Act or the terms of an approved development plan.

(4) A person who fails to comply with a notice to stop work commits an offence and is liable on summary conviction to a fine of not less than two hundred penalty units and not more than four hundred penalty units or to a term of imprisonment of not less than three months and not more than six months or to both the fine and term of imprisonment and in the case of a continuing offence to an additional fine of not more than four penalty units for each day that the contravention continues, after written notice has been served on the offender.

Enforcement in respect of execution of district plans

95. (1) A District Planning Authority may,

(a) prohibit, abate, alter, remove or demolish a physical development that does not conform to an approved District Development Plan;

Local Governance Bill, 2016

- (b) abate, alter, remove, or demolish a physical development for the implementation of an approved District Development Plan;
- (c) prohibit the use of any land or building for a purpose or in a manner that is contrary to an approved District Development Plan; or
- (d) execute any work a person is expected to carry out under an approved District Development Plan, where a delay in the execution of the work has occurred and the efficient operation of the approved plan has or will be prejudiced.

(2) A District Planning Authority shall serve notice in the form prescribed by Regulations on the owner of the land in respect of the action the Authority proposes to take.

(3) A notice referred to in subsection (2) shall state the nature of and the grounds upon which the District Planning Authority proposes to take the action.

Enforcement against nuisance

96. (1) A District Planning Authority may serve notice on a person to abate a nuisance within a specified time where substantial injury to the environment, amenity, public health or the economy has been caused by the nuisance or is likely to be caused from the action or inaction of that person.

(2) The notice shall specify the nuisance and the steps required to be taken to abate the nuisance.

(3) If a notice issued by a District Planning Authority is not complied with, that District Planning Authority may carry out the abatement and recover the costs from the person who caused the nuisance or the owner of the land where the nuisance is occurring.

(4) The costs of the District Planning Authority shall be recovered as if they were a debt due from the person to the District Planning Authority.

Enforcement against unauthorised development in respect of community right of space

97. (1) A District Planning Authority may effect or carry out an instant prohibition, abatement, alteration, removal or demolition of any unauthorised development carried out or being carried out that encroaches or will encroach on a community right of space or that interferes or may interfere with the use of the space.

Local Governance Bill, 2016

(2) The action to stop the encroachment on the community right of space shall be without prior notice.

Claims for compensation

98. A person

- (a) whose property is adversely affected by the commencement of an operation for the execution of an approved development plan, or
- (b) who, for the purpose of complying with an approved development plan incurs an expense
 - (i) by a subsequent revocation or modification of the District Development Plan, or
 - (ii) by a subsequent revocation or variation of a development permit issued that person by a District Planning Authority, or
- (c) who is aggrieved by a decision, action or policy related to an approved District Development Plan or the enforcement of the plan

may lodge a claim for redress or compensation with the District Planning Authority within six months after the date of approval of the District Development Plan, or the revocation or variation of a permit or of the taking of the decision or action complained of.

Appeals Advisory Committees

99. (1) A Regional Minister shall appoint an Appeals Advisory Committee that is considered necessary to determine a dispute concerning a District Development Plan.

- (2) An Appeals Advisory Committee shall consist of
- (a) one lawyer of at least five years standing at the Bar;
 - (b) one person with expert knowledge of the subject matter of the appeal; and
 - (c) one person with local knowledge of the subject matter of the appeal.

(3) The members of an Appeals Advisory Committee shall be appointed by the Regional Minister.

(4) The membership of an Appeals Advisory Committee shall terminate on the determination of an appeal referred to the Committee for advice.

Functions of Appeals Advisory Committee

100. (1) The Appeals Advisory Committee shall advise the Regional Minister on the relief or redress sought or on the amount of compensation payable in respect of an appeal referred to it by the Regional Minister.

(2) A recommendation by the Appeals Advisory Committee for the settlement of a claim or payment of compensation in respect of land and immovable property shall be made in consultation with the Valuation Division of the Lands Commission.

Appeals

101. A person aggrieved by a decision or the action of a District Planning Authority in connection with a District Development Plan, may appeal to the Regional Minister who shall refer the appeal to the Appeals Advisory Committee within six months after receipt of the notice of the decision or action.

Recovery of betterment

102. (1) A District Planning Authority shall recover from a person whose land is increased in value, a determinable percentage of the amount of the increase where that person sells or otherwise disposes of the land.

(2) The determinable percentage shall be payable where the provision of a plan or the execution of public works or a decision or action of a District Planning Authority increases the value of land within the district.

(3) The District Planning Authority shall act on the advice of the Valuation Division of the Lands Commission.

(4) A financial gain on urban land transactions shall be liable to betterment charges.

(5) A sum recoverable under this section may be set off against a claim of compensation.

(6) A District Planning Authority shall utilise a recovered amount under this section for the provision of infrastructure and utility services.

Non-conforming land allocations and transactions

103. (1) An allocation of land shall be null and void if the purpose or use for which the allocation is made is contrary to an approved Development Plan.

(2) A landowner shall not sub-divide or allocate land for use, development or occupation in a town, city or the suburb of a town or city or in an area where there is an approved planning scheme except in consultation with the District Planning Authority or a sub-district acting on behalf of the District Planning Authority.

Local Governance Bill, 2016

(3) A person who allocates, transfers, sells or develops land for a use or a purpose that is contrary to an approved development plan, settlement structure plan, action plan or programme, commits an offence and is liable on summary conviction to a fine of not less than two hundred penalty units and not more than four hundred penalty units or to a term of imprisonment of not less than three months and not more than six months or to both the fine and term of imprisonment.

(4) A District Planning Authority may revise an approved Development Plan in order to accommodate a proposed non-conforming allocation if it is satisfied that the accommodation or revision is in the public interest.

Buildings

Building by-laws

104. (1) A District Planning Authority may make building by-laws within the scope of national building requirements provided under an enactment and shall in particular make provision for

- (a) the control of the construction of buildings, streets, hoardings, fences and signboards;
- (b) the execution of work in relation to existing buildings, structures and streets;
- (c) drainage and sanitation;
- (d) the removal or abatement of obstructions and nuisance; and
- (e) and other matters referred to the District Planning Authority for guidance, as set out in the Seventh Schedule.

(2) The by-laws may be made with respect to the district generally or with respect to a particular area, building or work in the district.

National building regulations

105. The Minister responsible for Works and Housing may, in consultation with the Minister responsible for the Environment, by legislative instrument, prescribe national building regulations to be complied with by a District Planning Authority in the making of a by-law for the district.

Building permits and unauthorised buildings

106. (1) A person shall obtain a building permit from a District Planning Authority before undertaking the construction of a building or other structure or undertaking any other work.

Local Governance Bill, 2016

(2) The permit shall contain the conditions that the District Planning Authority considers necessary.

(3) A District Planning Authority may give notice in writing in the form set out in the Eighth Schedule, to an owner, occupier or developer of premises, if the owner, occupier or developer

- (a) is constructing a building or other structure;
- (b) has constructed a building or other structure; or
- (c) is working or executing work

without a permit or in contravention of a by-law made by the District Assembly.

(4) The notice shall require

- (a) the owner, occupier or developer to show sufficient cause why the building, structure or work should not be removed, altered or demolished on or before the day specified by the District Planning Authority; and
- (b) a written response by the owner, occupier, developer or duly authorised agent to be served on the District Planning Authority.

(5) If the owner, occupier or developer fails to show sufficient cause why the building, structure or other work should not be removed, altered or demolished, the District Planning Authority shall by notice order the owner, occupier or developer within a specified time to remove, alter or demolish the building, structure or other work at a personal cost.

(6) If the owner, occupier or developer fails to comply with the order of the District Planning Authority within the specified period, the District Planning Authority may carry out the removal, alteration or demolition and shall be entitled to recover the expense incurred by the District Assembly from the owner, occupier or developer as a debt owed to the District Assembly.

(7) A person who contravenes the terms of a permit, commits an offence and is liable on summary conviction to a fine of not less than two hundred penalty units and not more than four hundred penalty units or to a term of imprisonment of not less than three months and not more than six months or to both the fine and term of imprisonment and in the case of a continuing offence to fine of not more than four penalty units for each day that the contravention continues after written notice of the contravention has been served on the offender.

Signing of plans of special building

107. (1) A District Assembly may by bye-law specify which buildings are required to be prepared by or under a registered architect or engineer or an architectural draughtsman licenced under an enactment and shall specify the types of buildings or special areas of a district for the designed plans.

(2) There shall be no restriction as to the person to design or sign the plan of a single-storey traditional building characteristic of a rural area or part of an urban area.

(3) A person shall not submit the plan of a building which may be required to be prepared by or under the supervision of and signed by a person registered as an architect or an engineer under any enactment in force to a District Planning Authority.

Delegation of functions

108. A District Planning Authority may delegate any of its functions on land use and spatial planning to a Sub-Metropolitan District Council, Urban Council, Zonal Council, Town or Area Council or Unit Committee in writing.

Request for information

109. (1) A District Planning Authority may request a person to furnish it with information required for the performance of its functions within a specified time.

(2) A person who without lawful excuse fails to comply with a request for information or furnishes information that that person knows to be false commits an offence and is liable on summary conviction to a fine of not less than fifty penalty units and not more than one hundred penalty units or to a term of imprisonment for a term of not less than one month and not more than three months or to both the fine and term of imprisonment.

Power of entry

110. (1) An authorised officer of a District Planning Authority may enter land or a building in a district to carry out an inspection, survey, study, examination or investigation for a District Planning Authority.

(2) The authorised officer of the District Planning Authority shall give reasonable notice to the owner or occupier of the land or building before exercising a power of entry.

Immunity of officers from liability

111. An employee of a District Assembly or a person acting under the direction or authority of a District Assembly shall not be personally liable for an act done in good faith in the performance of a function or the execution of a duty concerned with the planning functions of a District Assembly.

PART FOUR – EMERGENCY RELIEF BY DISTRICT ASSEMBLIES

Provision of Emergency, Disaster Prevention and Relief Services

Emergency and disaster relief services

112. A District Assembly may provide emergency, disaster prevention and relief services in addition to any powers conferred by another enactment.

District Assemblies to prepare response plans to make by-laws for emergency, disaster prevention and relief services

113. (1) A District Assembly shall prepare a response plan and make by-laws where necessary for emergency, disaster prevention and the provision of relief services for its area of authority.

(2) The response plan and by-laws shall include mitigation, preparedness, response, and recovery measures.

Coordination of emergency, disaster prevention and relief service measures

114. A District Assembly shall co-ordinate the activities of the Services, Organisations and Departments referred to as designated agencies and listed in the Ninth Schedule, in the implementation of response plan and by-laws.

Performance of emergency, disaster prevention and relief services functions

115. The designated agencies shall do what is reasonably necessary in a district to deal with an emergency, prevent a disaster or provide relief services.

Provision of fire services

116. A District Assembly shall exercise the powers in sections 112 to 115 where the emergency relates to the provision of fire services.

Power of entry of premises in case of fire

117. (1) A designated agency may, without the consent of the occupier

- (a) enter and if necessary, break into any premises or place in which a fire has broken out or is believed to have broken out, to extinguish or deal with the fire;

Local Governance Bill, 2016

- (b) do any act on the premises or place that may be necessary to extinguish or deal with the fire;
- (c) enter any land or premises
 - (i) to secure the use of water under the control of any person;
 - (ii) to improve access to the water; and
 - (iii) to lay or maintain pipes and carry out other works in connection with the use of the water.

(2) The designated agency shall give reasonable notice to the occupier whenever practicable before proceeding to exercise any of the powers to enter land or premises for purposes of managing a fire.

Control of traffic

118. A designated agency may close any street to traffic or stop or regulate the traffic in any street whenever it is reasonably necessary to deal with an outbreak of fire or an emergency situation.

Penalty for obstruction

119. A person who wilfully obstructs or interferes with the functions of a designated agency in relation to an emergency, disaster prevention and relief services or the provision of fire services, commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than two hundred penalty units or to a term of imprisonment of not less than three months and not more than six months or to both the fine and term of imprisonment and in the case of a continuing offence to a further fine of not more than one penalty unit for each day on which the offence continues.

Penalty for false alarms

120. A person who knowingly or without lawful authority gives or causes to be given a false alarm of fire, commits an offence and is liable on summary conviction to a fine of not less than one hundred and twenty-five penalty units and not more than one hundred and fifty penalty units or to a term of imprisonment of not less than one month and not more than three months or to both the fine and term of imprisonment.

Enquiries by Committee into origin of fire

121. (1) A District Assembly may appoint a committee to enquire into the origin of a fire within its area of authority.

(2) The committee shall have the powers of a District Court when holding an enquiry under this section.

Local Governance Bill, 2016

(3) The Attorney-General, Inspector-General of Police or any person authorised by the Attorney-General or the Inspector-General of Police or an interested person who has the permission of the Committee may attend the enquiry to examine or cross-examine a witness or request that a witness be examined.

(4) Any enactment for the time being in force related to witnesses in a trial before the District Court shall apply to witnesses at the enquiry.

(5) The committee shall record its findings stating its reasons for the findings after the conclusion of an enquiry under this section.

(6) The committee shall submit a report of its findings that includes the award of compensation if any and by whom payable, to the District Assembly.

PART FIVE – FINANCIAL MATTERS OF DISTRICT ASSEMBLIES

District Budgets

District budget

122. The budget for a District Assembly shall comprise

- (a) the aggregate revenue and expenditure of the Office of the District Assembly, the Departments of the District Assembly; and
- (b) the budget for the annual development plans and programmes of the Departments of the District Assembly.

Submission of budget estimates

123. (1) Each District Assembly is responsible for the preparation, administration and control of the budgetary allocation of the Office of the District Assembly and the Departments of the District Assembly.

(2) Each District Assembly shall before the end of each financial year, submit to the Regional Co-ordinating Councils, the detailed budget for the respective district that states the estimated revenue and expenditure of the District Assembly for the ensuing year.

(3) The Regional Co-ordinating Council shall collate and co-ordinate the budgets for the districts in the region and shall submit the total budget to the Minister responsible for Finance through the Minister with copies to the Head of the Service and the Commission.

(4) The Minister responsible for Finance, the Commission, the Head of Service and the Regional Co-ordinating Council shall conduct budget hearings at the regional level to reach a consensus on the estimates of revenue and expenditure of the budget for the district for the ensuing year.

Local Governance Bill, 2016

Revenue of District Assemblies

Revenue of District Assemblies

- 124.** (1) The revenues of a District Assembly comprise
- (a) decentralised transfers; and
 - (b) internally generated funds.
- (2) Decentralised transfers comprise funds from the following revenue sources:
- (a) the District Assemblies Common Fund;
 - (b) grants-in-aid from the central government; and
 - (c) any other revenue transferred from the central Government to the District Assembly.
- (3) Internally generated funds comprise funds from the following sources:
- (a) licences;
 - (b) fees and miscellaneous charges;
 - (c) taxes;
 - (d) investment income;
 - (e) loans;
 - (f) rates; and
 - (g) donations being funds paid directly to a District Assembly by a development partner, foreign donor and foreign or domestic civil society organisation.
- (4) A District Assembly shall open and maintain a bank account for revenues and other moneys raised or received by it.

District Assemblies Common Fund

Establishment of the District Assemblies Common Fund

- 125.** (1) In accordance with article 252 of the Constitution there shall be a Fund to be known as the District Assemblies Common Fund.
- (2) The District Assemblies Common Fund consists of
- (a) moneys allocated by Parliament; and
 - (b) any interests and dividends that accrue from the investments of moneys from the Common Fund.
- (2) The allocation made by Parliament shall be paid into the Common Fund in quarterly instalments.
- (3) The moneys that accrue to the Common Fund shall be distributed among the District Assemblies on the basis of a formula approved by Parliament.

Local Governance Bill, 2016

(4) The Administrator of the Common Fund shall submit proposals for the formula to Parliament for consideration within three months after the end of each financial year or periodically as determined by Parliament.

Parliament to make allocations to District Assemblies for development

126. (1) Parliament shall annually allocate not less than five per cent of the total revenue of the country to the District Assemblies for development.

(2) The total revenues of the country includes the revenues collected by or accruing to the central Government other than foreign loans and foreign grants, non-tax revenue, petroleum revenue paid into the Petroleum Holding Fund under section 3 of the Petroleum Revenue Management Act, 2011 (Act 815) and revenues already collected by or for District Assemblies under any enactment.

(3) The Minister shall, in consultation with the Minister responsible for Finance, determine the category of expenditure of the approved development budget of District Assemblies that must in each year be met out of amounts received by the District Assemblies from the District Assemblies Common Fund.

Appointment of District Assemblies Common Fund Administrator

127. (1) The President shall in accordance with article 195 of the Constitution appoint an Administrator for the District Assemblies Common Fund.

(2) The Administrator shall hold office for four years and is eligible for re-appointment.

(3) The salary and allowances payable and the facilities and privileges available to the Administrator shall be determined by the President in accordance with clause (1) of article 71 of the Constitution.

Removal of the Administrator

128. The Administrator may resign from office in writing addressed to the President and the President may request the Administrator to resign from office or be removed for just cause.

Functions of the Administrator

129. The Administrator shall

- (a) propose a formula periodically or annually for the distribution of the Common Fund for approval by Parliament;
- (b) administer and distribute moneys paid into the Common Fund among the District Assemblies in accordance with the formula approved by Parliament;

Local Governance Bill, 2016

- (a) report in writing to Parliament on how allocations made from the Common Fund to the District Assemblies have been utilised by the District Assemblies; and
- (b) perform any other functions that may be directed by the President.

Investment of moneys in the Common Fund

130. The Administrator may invest the moneys in the Common Fund in securities or in a manner approved by the Minister responsible for Finance pending the distribution of moneys in the Common Fund.

Staff of the Common Fund

131. The President shall in accordance with article 195 of the Constitution, appoint staff of the Common Fund that are necessary for the proper and effective performance of the functions of the Administrator.

Expenses of the Common Fund

132. (1) The expenses incurred by the Administrator shall be a charge on the Consolidated Fund.

(2) Charges including bank charges on transfers and charges on interest shall be charged on the Common Fund.

Accounts and audit

133. (1) The Administrator shall keep books of account and proper records in relation to the accounts of the Common Fund in the form approved by the Auditor-General.

(2) The Administrator shall submit the accounts of the Common Fund to the Auditor-General for audit within three months after the end of the financial year.

(3) The Auditor-General shall, not later than three months after the end of the financial year, audit the accounts and forward a copy of the audit report to Parliament.

Annual report

134. (1) The Administrator shall, within one month after the receipt of the audit report, submit an annual report to Parliament covering the activities and the operations of the Fund for the year to which the report relates.

(2) The annual report shall include the report of the Auditor-General and shall include the manner in which the Administrator has distributed the moneys lodged in the Common Fund.

Local Governance Bill, 2016

Complaints

135. Any person or District Assembly dissatisfied with the performance of the functions of the Administrator may submit a complaint to the Commission on Human Rights and Administrative Justice.

Grants-in-aid and other decentralised transfers

136. Nothing shall prohibit the Government or any other body from making grants in-aid or transferring other resources to a District Assembly.

Licences

Charges for licences

137. (1) A District Assembly may charge fees for a licence issued by or on behalf of the District Assembly, subject to guidelines in respect of the charging of fees for licences, as may be prescribed by the Minister.

(2) Despite the provisions of any enactment to the contrary, any revenue from licences issued to the economic operators listed in the Tenth Schedule shall be collected exclusively by or for a District Assembly.

Licensing of vehicles

138. (1) The owner or a person in possession of a vehicle of a type mentioned in the Eleventh Schedule used within a district shall obtain a licence for the vehicle from the District Assembly and pay the fee required by the by-law.

(2) A vehicle for which a licence is issued shall have affixed on it the number plate assigned to the vehicle by a District Assembly.

(3) A licence shall not be issued by the District Assembly for a vehicle which the District Assembly is satisfied is in a condition that may endanger a person or property or cause unnecessary suffering to an animal drawing it.

(4) The owner or person in charge of a vehicle who fails to affix or keep affixed a number plate issued by the District Assembly commits an offence and is liable on summary conviction to a fine of not less than ten penalty units and not more than twenty-five penalty units and to a further fine of one penalty unit for each day that the offence continues.

Entertainment licences

139. A person shall not undertake or do any of the acts or things specified in the Twelfth Schedule within a district unless the person has obtained a licence from the District Assembly for that purpose and paid the fee specified in the by-law.

Provisions as to licences generally

140. (1) A licence from a District Assembly may be issued subject to conditions specified in a by-law or, where there is no provision in a by-law, conditions that the District Assembly may consider fit.

(2) Any condition stipulated in a by-law or by a District Assembly shall be endorsed in detail or by reference on the licence.

(3) A person required to hold a licence referred to in subsection (1) who fails to produce the licence for inspection on reasonable demand by any police officer or an authorised officer, commits an offence and is liable on summary conviction to a fine of not less than fifty penalty units and not more than one hundred penalty units or to a term of imprisonment of not less than one month and not more than three months or to both the fine and term of imprisonment.

(4) A person who

(a) does anything for which a licence is required; or

(b) being the holder of a licence from the District Assembly, contravenes any of the conditions contained in the licence

commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than two hundred penalty units or to a term of imprisonment of not less than three months and not more than six months or to both the fine and term of imprisonment.

(5) A person who lets out, hires, lends or borrows a licence or who does not hold a valid licence but produces, exhibits or uses a licence, commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than two hundred penalty units or to a term of imprisonment for a term of not less than three months and not more than six months or to both the fine and term of imprisonment.

(6) A District Assembly may revoke a licence where a person

(a) has been convicted of an offence for not having a licence when required;

(b) contravenes the condition of a licence;

(c) lends or borrows a licence; or

(d) does not hold a licence but produces, exhibits or uses a licence.

Fees and Miscellaneous Charges

Power to charge fees

141. (1) A District Assembly may charge fees for any service or facility provided by that District Assembly or for any permit issued by or on behalf of the District Assembly subject to guidelines on fee charging prescribed by the Minister.

Local Governance Bill, 2016

- (2) Despite the provisions of any enactment to the contrary
- (a) non-tax revenue collected by a department of a District Assembly shall be retained by that District Assembly and be used for the performance of the functions of that department;
 - (b) revenue from levies and fees charged in respect of activities listed in the Thirteenth Schedule shall be collected exclusively by or for the District Assembly.

Taxes and other Revenues

Taxes

142. (1) A District Assembly shall collect the taxes chargeable on the income of the income earners listed in the Fourteenth Schedule.

(2) The Minister may, in consultation with the Minister responsible for Finance and subject to the terms and conditions agreed upon with an appropriate public body, authorise that the public body collect taxes imposed on the income earners specified in the Fourteenth Schedule on behalf of the District Assembly.

Investment income

143. (1) A District Assembly may in consultation with the Minister responsible for Finance invest any portion of moneys of the District Assembly in safe securities other than Government treasury bills.

(2) Income from the investment made under subsection (1) shall constitute part of the revenue of the Assembly.

Rates

Rating authority

144. A District Assembly shall be the only authority to levy rates for a district despite any customary law to the contrary.

Duty to levy sufficient rates

145. (1) A District Assembly shall levy sufficient rates to provide for the total estimated expenditure to be incurred by the District Assembly during the period in respect of which the rate is levied.

(2) A District Assembly may levy rates for an additional amount required to cover expenditure previously incurred by the District Assembly to meet contingencies or to defray any expenditure which needs to be defrayed.

Local Governance Bill, 2016

(3) The additional rates may be made and levied before the date on which payment is received in respect of the immediate rates.

Method of rating

146. (1) A District Assembly shall levy general or special rates for the amount considered necessary to raise sufficient funds to meet expenditure.

(2) A general rate may be

- (a) a rate payable by the owner of premises within the district on the rateable value of the premises; or
- (b) a rate assessed on the possessions or any category of possessions of persons who reside within the district.

(3) A special rate may be

- (a) a basic amount payable by any person of the age of eighteen years and above but below the age of seventy years who resides within the area ;or
- (b) an amount imposed on an owner of movable or immovable property in the area, but a District Assembly in fixing the basic rate, shall consult with district level stakeholders in the district.

(4) A basic rate shall be sufficient at least to cover the cost of collection.

(5) A person registered as a voter in a district may be required to pay rates imposed by the District Assembly for that district even if the person has not resided in the district.

(6) A general or special rate imposed on immovable property under this section shall be at a specified rate per Ghana Cedi on the rateable value of the property but the amount per Ghana Cedi shall vary as between specified areas of the district, except that within a mixed development area, the amount per Ghana Cedi on rateable value shall vary in respect of property used for different purposes.

(7) Subject to the exemptions from and remission of rates, rateable premises shall be premises that comprise buildings, structures or similar development.

(8) The Minister shall in consultation with the Minister responsible for valuation cause to be determined by the Lands Commission or by a valuer appointed by the Lands Commission, the rateable value of premises and may cause a valuation list to be prepared for each district.

Local Governance Bill, 2016

(9) The rateable value of premises shall be the replacement cost of the buildings, structures and other structural development that comprises the premises after the deduction of the amount it would cost at the time of valuation to restore the premises to a condition in which they would be as serviceable as they were when new.

(10) The rateable value shall not be

- (a) more than fifty per cent of the replacement cost for the premises that are owner-occupied; and
- (b) not be less than seventy-five per cent of the replacement cost in any other case.

(11) The Minister may, by legislative instrument, prescribe either generally or in respect of any particular district, a basis for the assessment of rateable value of premises.

(12) The rateable value prescribed by the Minister shall not apply where the Minister causes the Lands Commission to determine the rateable value and where the rateable value of the building is the replacement cost.

Levy of rate

147. A rate shall be deemed to have been levied by the publication of a notice in the manner prescribed by Regulations made by a resolution of the rating authority.

Date and place of payment of rate

148. When a rating authority has given notice of a rate, a person liable to pay the rate, shall pay the amount to a rate collector or other person duly appointed or authorised by the District Assembly concerned to collect and receive the rate at the time and place specified by the rating authority.

Exemptions from and remission of rates

149. (1) The following tenements are exempted from assessment and rating:

- (a) premises appropriated exclusively for the purpose of public worship and registered with the District Assembly;
- (b) cemeteries and burial grounds registered by the District Assembly;
- (c) charitable or public educational institutions registered with the District Assembly;
- (d) premises used as public hospitals and clinics; and
- (e) premises owned by diplomatic missions approved by the Minister responsible for Foreign Affairs.

Local Governance Bill, 2016

(2) The following persons are exempted from the payment of basic rate:

- (a) persons who are in attendance at an educational institution who do not receive any remuneration or income during that period, other than an allowance, loan or other grant provided for purposes of education including any sum received by a person in respect of temporary employment undertaken by the person during vacation from an educational institution; and
- (b) persons who are more than seventy years old.

(3) The rating authority may reduce or remit payment of any rate on account of the poverty of a person liable to pay the rate.

(4) The rating authority may refund to a property owner liable to the payment of rates where the premises have been unoccupied for a period of not less than three months in any financial year and notice has been given for the payment of rates.

(5) The proportion of the amount to be refunded shall be what the rating authority considers reasonable and shall be paid upon the application of the owner of the premises.

(6) The owner of any premises liable to the payment of rates shall notify the rating authority in writing within twenty-one days of vacant possession that premises, if previously unoccupied, are occupied, or, if the premises were previously occupied, that the premises are unoccupied.

(7) The owner of premises, who has given notice of non-occupation but fails to give notice of re-occupation as required commits an offence and is liable on summary conviction to a fine of not less than fifty penalty units and not more than one hundred penalty units or to a term of imprisonment of not less than one month and not more than three months or to both the fine and term of imprisonment.

(8) A person who has paid the amount of the rate payable in respect of premises that have been demolished or removed during any financial year, may apply to a rating authority to be refunded a proportion of the amount paid that the rating authority considers reasonable having regard to the circumstance except that where the demolition or removal is by order of the District Assembly or a court, a refund shall not be made unless the owner of the premises has given notice in writing to the District Chief Executive within fourteen days after the demolition or removal.

Minister to issue guidelines

150. The Minister may issue guidelines for the levying of rates.

Claim for amount of rate

151. (1) A claim for the amount of any rate payable shall have priority over any other claim against the person liable to pay the rate, except claims by the Government, unless specifically provided in any other law.

(2) A District Assembly concerned, may recover any rate payable together with appropriate penalties as a civil debt with costs or may prosecute a defaulting ratepayer for wilful default to pay rates together with appropriate penalties where a person fails to pay the rate due on or before the date on which it is payable.

(3) In proceedings to recover a rate levied, the rate books and other records of the District Assembly concerned and any certified copies of entries purporting to be made in them signed by the District Chief Executive and sealed with the seal of the District Assembly shall be evidence at first instance of the rate and of the matters stated in them.

Rates on immovable property to be a charge on premises

152. The amount of a general or special rate due in respect of any premises shall, until paid, be a charge on the premises and that charge shall have priority over any other claims against the premises except claims of the Government.

Rate Assessment Committee

153. (1) There shall be a Rate Assessment Committee for each district appointed by the Regional Minister on the recommendation of the District Assembly concerned.

(2) The Rate Assessment Committee shall consist of a chairperson and four other persons.

(3) A person aggrieved by a valuation of the Lands Commission in respect of the rateable value of premises or by a rate imposed on the premises by a rating authority may apply for a review to the Rate Assessment Committee.

(4) The Rate Assessment Committee shall notify the rating authority of its decision.

(5) A person or rating authority aggrieved by a decision of a Rate Assessment Committee may appeal to the High Court.

Notice where general or special rate not paid

154. (1) A District Assembly shall cause to be affixed on a conspicuous part of the premises a notice to the effect that if the amount of general or special rate payable in respect of premises is not paid within forty-two days after the date of the notice, proceedings will be taken for the sale of the premises to defray the amount if the rate is not paid within ten days after the date it is due, except if the aggrieved person has applied to the Rate Assessment Committee or appealed its decision to the High Court.

(2) Where a person who claims to be the owner of an assessed premises has given notice in writing to the District Assembly of the person's name and postal address, a notice shall not be affixed on the premises, until a written demand for payment of the rate due has been sent by registered letter by the District Assembly to the person and the person has defaulted for one month after the date of posting of the registered letter.

Notice of mortgage in respect of rateable premises

155. (1) Where a person who has a registered mortgage on assessed premises has given the District Assembly notice in writing of the mortgage, a notice shall not be affixed on the mortgaged premises in respect of default in the payment of a general or special rate until a written demand for payment of the rate due on the premises has been sent by registered letter by the District Assembly to the mortgagee and default has been made for one month after the date of posting of the registered letter.

(2) The notice by the District Assembly shall contain the particulars of the mortgaged premises that are necessary to identify the premises and shall state the date and place of registration, the volume and page of the Land Register Book in which the mortgage is registered and the postal address of the mortgagee.

Proceedings in case of non-payment of rates

156. (1) If the amount of the general or special rate due in respect of any premises is not paid within a period of forty-two days, the District Assembly may apply to a court for an order for the sale of the premises.

(2) The court shall order the premises to be sold to defray the amount of the rate due if satisfied that the notice for the amount payable has not been complied with and that the amount of the rate due in respect of the premises has not been paid.

Local Governance Bill, 2016

(3) The court shall make this determination after hearing a representative of the District Assembly and any other person and considering any evidence produced.

(4) Premises ordered to be sold to defray the amount of the rate due shall be sold under the direction of the person authorised by the court.

(5) If at any time during proceedings but before the sale of the premises, payment of expenses properly incurred and the amount of the rate due is made, further proceedings shall cease.

(6) The court shall grant a certificate to the purchaser confirming the sale if the defaulter does not pay the rates and the premises are sold.

Agreement between landlord and tenant

157. An agreement between a landlord and tenant shall not derogate from any obligation with respect to the enforcement of rate by a District Assembly.

Penalty for refusal to pay rates and wilful misrepresentation

158. (1) A person who without lawful justification or excuse, the proof of which lies on that person, refuses or wilfully neglects to pay any basic rate payable by that person on or after the date on which the rate is payable, commits an offence and is liable on summary conviction to a fine of not more than twenty-five penalty units or to a term of imprisonment of not more than one month to both the fine and term of imprisonment.

(2) A person who makes a false statement as regards the liability of that person, to pay rates, commits an offence and is liable on summary conviction to a fine of not more than three penalty units or to a term of imprisonment of not more than one month or to both the fine and term of imprisonment.

Penalty for inciting a person not to pay rates

159. A person who incites any other person to refuse to pay any rate payable by that person or who assists a person to make a false statement as to the liability of the person to pay rates without lawful justification or excuse, the proof of which shall be on that person, commits an offence and is liable on summary conviction to a fine of not more than twenty five penalty units or to a term of imprisonment of not more than one month or to both the fine and term of imprisonment.

Penalty for unauthorised collection of rates

160. A person who has not been authorised by a District Assembly and who collects or attempts to collect any rate commits an offence and is liable on summary conviction to a fine of not less than one hundred and twenty-five penalty units and not more than two hundred and fifty penalty units or to a term of imprisonment of not less than six months and not more than twelve months or to both the fine and term of imprisonment.

Rate payers and rate collectors

161. (1) Each District Assembly shall prepare and maintain proper records of rateable persons and tenements in its district.

(2) A District Assembly may, in writing, authorise any suitable person, to be a rate collector in respect of a specified area of a district.

(3) A rate collector shall

- (a) furnish the District Assembly concerned with a written nominal roll of every rateable person in the area in respect of which the rate collector has been authorised to collect rates;
- (b) collect and receive rates payable from each person liable for the payment of rates in the area;
- (c) pay the amounts collected to the District Assembly concerned; and
- (d) report any person who has failed to pay the amount due to the District Assembly concerned.

Penalty in respect of offences by rate collectors

162. A rate collector who

- (a) fails to deposit with the District Assembly concerned any sum of money collected as rates,
- (b) knowingly demands from any person an amount in excess of the duly assessed rates,
- (b) renders false returns, whether orally or in writing, or
- (c) wilfully fails to carry out a duty imposed as a rate collector

commits an offence and is liable on summary conviction to a fine of not less than one hundred and twenty-five penalty units and not more than two hundred and fifty penalty units or to a term of imprisonment of not less than six months and not more than twelve months or to both the fine and term of imprisonment without limiting liability for civil action by the District Assembly to recover what is due from the rate collector.

Proceedings for rates

163. Proceedings to enforce the payment of rates or for the imposition of penalties for non payment of rate shall not limit the right of any other person or authority to institute criminal proceedings taken by the District Assembly responsible for the collection of the rates.

Payment of rates by public boards and institutions and Government

164. (1) Every public agency is liable to pay rates in respect of immovable property owned by it unless exempted from assessment and rating by law.

(2) Where the Government would have been liable to pay rates to a rating authority in respect of premises it owns if it were a private person, the Government shall pay to the Minister, instead of the rates, the sums that may be agreed between the Government and the Minister.

(3) The Minister shall distribute the amount paid to the rating authority in proportion to the value of government properties in the district.

Employers to deduct rates from employees' remuneration

165. (1) Every employer shall deduct a general or special rate imposed by a rating authority from the remuneration of each employee employed in the district of the rating authority and it shall be the duty of the employee to notify or remind the employer in writing when the deductions become due.

(2) The deductions shall be made from

- (a) the first instalment of the remuneration due to be paid to the employee after the publication of the notice of the rate;
- (b) any subsequent instalment as the Minister may direct; or
- (c) the instalments as may be prescribed by the Regulations.

(3) Any sums deducted from the remuneration of an employee shall be held by the employer on behalf of the rating authority and shall be paid by the employer to that rating authority within thirty days after the deduction is made.

(4) This section applies to

- (a) an employee who resides in the district;
- (b) an employee who to the knowledge of the employer, owns immovable property situated within the area to which the rate relates;

Local Governance Bill, 2016

- (c) an employee in respect of whom a rating authority has notified the employer in writing in connection with any rate imposed by that authority
 - (i) that the employee resides in the district;
 - (ii) that the employee owns immovable property within the area to which the rate relates; or
 - (iii) that the employee is a person required to pay by virtue of being a registered voter in that district despite the fact that the person does not reside in the district.

(5) An employer who fails to pay the amount of general or special rate deducted from the remuneration of an employee to the rating authority within the time stipulated commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than two hundred penalty units or to a term of imprisonment of not less than three months and not more than six months or to both the fine and term of imprisonment.

Rating authority to appoint agent for collection of rates

166. (1) Subject to section 161 on rate collectors, a rating authority may appoint any person by notice in writing to be the agent for the rating authority for the collection of specified basic rate payable by a person or persons of a class.

- (2) The appointed person shall
 - (a) deduct the rate specified in the notice; and
 - (b) hold the sums deducted on behalf of the rating authority and pay the moneys to the rating authority within fifteen days after the day on which the agent was appointed by notice.

Set-off and refund

167. A person is entitled to set off or refund for any sum paid as rates by that person to a rating authority in respect of a deduction from remuneration by an employer or paid to an agent of a rating authority.

Penalty

168. (1) A person who contravenes sections 165 or section 166 commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than two hundred penalty units or to a term of imprisonment of not less than three months and not more than six months or to both the fine and term of imprisonment.

Local Governance Bill, 2016

(2) A rating authority may proceed against an employer required to deduct and pay any rate to a rating authority or a person appointed as agent for the collection of any rates for an amount of rate as if the person was originally liable to pay the rate.

(3) The employer or agent shall be indemnified in respect of any act done in accordance with sections 165 or section 166.

Duty to give information and inspection of premises in respect of rates

169. (1) A rating authority, rate collector, Rate Assessment Committee or any person authorised in writing by the rating authority, may request information from any person that may be reasonably required for the assessment or collection of rates.

(2) A person authorised in writing by a rating authority may on the production of written authority from a rating authority to enter any premises and request the production of books in the premises for inspection and may interview any person present on the premises that may be reasonably necessary at any reasonable time,

(a) verify the accuracy of any information supplied; or

(b) ensure that an employer has been deducting rates from the remuneration of employees.

(3) A person who

(a) fails to supply information requested without reasonable excuse the proof of which shall be on that person,

(b) supplies information on request that that person knows to be false or which the person has no reasonable grounds to believe to be true, or

(c) wilfully obstructs any authorised person in the performance of functions under this section

commits an offence and is liable on summary conviction to a fine of not less than one hundred and not more than two hundred penalty units or to a term of imprisonment for a term of not less than two months and not more than six months or to both the fine and term of imprisonment.

Expenditure of District Assemblies

Expenditure

170. (1) A District Assembly may incur any expenditure necessary for or incidental to the carrying out of a function conferred on the District Assembly under this Act, or by the Instrument which established that District Assembly, but the expenditure shall be included in the approved budget for the District Assembly for the relevant year.

Local Governance Bill, 2016

(2) For the avoidance of doubt, any moneys received by a District Assembly from the Common Fund shall be expended only on projects that form part of the approved development plan for the district.

Writing off of irrecoverable arrears of revenue

171. (1) A District Assembly may write off any sum due and payable to that District Assembly from or by any person for sufficient cause which shall be an irrecoverable debt in any one year, but this shall not exceed an amount to be determined each year by the Minister.

(2) A District Assembly shall inform the Minister in writing of the total sum written off and the reasons for doing so.

Other Financial Matters

Keeping of accounts and publication of annual statement of accounts

172. (1) Each District Assembly shall keep proper accounts and proper records in relation to the accounts and shall prepare immediately after the end of each financial year, a statement of its accounts in the form that the Auditor-General may direct.

(2) Each District Assembly shall publish at its own office and in any other manner directed by the Minister,

(a) the annual statement of its accounts; and

(c) the report on the accounts and statements made by the Auditor-General,

three months after the end of the financial year to which the accounts relate or the receipt of the Auditor-General's report

Power of Minister to give financial instructions

173. (1) The Minister may issue written instructions for the improved control and efficient management of the finances of District Assemblies after consultation with the Minister responsible for Finance.

(2) The instructions may be issued either generally or with respect to a particular District Assembly and shall be complied with by District Assemblies generally or the District Assembly concerned.

Access to records of District Assemblies

174. (1) A person authorised in writing by a sector Minister or the Regional Co-ordinating Council concerned shall, have access to and is entitled to inspect the books, accounts and records of a District Assembly related to the sector at any reasonable time.

(2) The person authorised in subsection (1) may advise the District Assembly on the books, account and records and submit reports on them to the Minister responsible for the sector and the Regional Co-ordinating Council.

Local Governance Bill, 2016

(3) A person who wilfully obstructs an authorised person in the discharge of duties, commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than two hundred penalty units or to a term of imprisonment of not less than one month and not more than three months or to both the fine and term of imprisonment and in the case of a continuing offence to a further fine of one penalty unit for each day on which the offence continues after written notice has been served on the offender.

SIX – AUDIT

Internal Audit

Internal audit

175. (1) Each District Assembly shall have an Internal Audit Unit.
- (2) The staff of the Internal Audit Unit are members of the Local Government Service.
- (3) The Head of the Local Government Service in appointing the staff of the Internal Audit Units of the District Assemblies shall have regard to the standards and procedures determined by the Internal Audit Agency established under the Internal Audit Agency Act, 2003 (Act 658).
- (4) The Head of the Internal Audit Unit of the District Assembly
- (a) is responsible to the District Assembly;
 - (b) shall, at intervals of three months, prepare a report on the internal audit work carried out by the Unit during the three month period immediately preceding the preparation of the report and submit the report to the Presiding Member of the District Assembly;
 - (c) shall make observations necessary as to the conduct of the financial affairs of the District Assembly during the period to which the report relates; and
 - (d) shall forward a copy of each report prepared by the Unit to the District Chief Executive, the Minister, the Internal Audit Agency, the Regional Co-ordinating Council and the Office of the Head of the Local Government Service.
- (5) The Audit Report Implementation Committee of a District Assembly is responsible for the implementation of the recommendations of the internal audit reports.

Local Governance Bill, 2016

External Audit

Auditor-General to audit accounts of District Assemblies

176. (1) The Auditor-General or an auditor approved by the Auditor-General shall, each year, audit the accounts of each District Assembly, together with the books, records, returns and other documents relevant to the accounts and the annual statement of the accounts.

(2) The Auditor-General shall, each year, submit a report to the Minister, Parliament and the relevant District Assembly on the accounts of the District Assembly, together with the books, records, returns and other documents relevant to the accounts and the annual statement of the accounts.

(3) The Auditor-General shall, in the report submitted under subsection (2), draw attention to any irregularities in the accounts audited.

(4) The provisions on audit in a District Assembly shall be subject to any other enactment in relation to the audit of public accounts and the functions of the Auditor-General.

(5) The District Assembly shall take the Auditor-General's report into consideration at its next ordinary meeting or as soon as practicable after that.

(6) The Audit Report Implementation Committee of a District Assembly is responsible for the implementation of the recommendations of the Auditor-General.

Auditor-General may disallow or surcharge

177. (1) The Auditor-General may disallow any item of expenditure which is contrary to this Act and surcharge

- (a) the amount of any expenditure disallowed on the person responsible for incurring or authorising that expenditure;
- (b) any sum that has not been duly brought into account on the person by whom the sum ought to have been brought into account; or
- (c) the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred.

(2) A person aggrieved by a disallowance or surcharge made by the Auditor-General may appeal to the High Court not later than thirty days after the Auditor-General has given notice of the disallowance or surcharge.

Local Governance Bill, 2016

(3) A sum certified by the Auditor-General to be due from any person shall be paid by that person to the District Assembly or other body concerned within thirty days after it has been certified or, if an appeal with respect to that sum has been made within thirty days, after the appeal is finally disposed of or abandoned or fails by reason of non-prosecution.

Recovery of sums certified to be due

178. (1) A sum which is certified by the Auditor-General to be due and which has become payable shall be recoverable as a civil debt.

(2) A certificate signed by the Auditor-General in a proceeding for the recovery of a sum shall be conclusive evidence that the sum certified to be due has been paid and a certificate signed by the designated officer of the District Assembly that the sum certified to be due has been paid after the certificate of the Auditor-General, shall be conclusive evidence of the facts in the certificate.

(3) Where proceedings to appeal against the decision of the Auditor-General have commenced, the certificate signed by the Auditor-General shall not be evidence of the facts stated in the certificate unless the decision is confirmed on appeal.

(4) A certified copy of the finding of the court shall be conclusive evidence of the matter contained in the copy where the decision is varied by the court.

(5) A certificate purporting to be signed by the Auditor-General or by the designated officer of the District Assembly concerned shall be deemed to have been signed by the Auditor-General or by the officer, unless the contrary is proved.

Suspension pending appeal

179. (1) Where the appellant is a member of the District Assembly, an appeal against a disallowance or surcharge arising out of an audit shall operate as a suspension of the member from attending any meeting of the District Assembly or any committee of the District Assembly.

(2) The member shall not take part in the affairs of the District Assembly from the date of the surcharge or disallowance and any person who contravenes this provision commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units and not more than five hundred penalty units.

(3) Prosecution under this section shall not be commenced without the consent in writing of the Attorney-General.

Application of provisions on audit

180. The provisions on audit shall be applicable in so far as the context admits.

PART SEVEN - BY-LAWS

By-Laws and Model By-Laws

District Assembly to make by-laws

181. (1) A District Assembly may make by-laws for the purpose of any function conferred on that District Assembly by this Act or any other enactment.

(2) A District Assembly may

- (a) specify as penalty for contravention of a by-law, a fine of not less than one hundred penalty units and not more than two hundred and fifty penalty units or a term of imprisonment of not less than six months and not more than twelve months or to both the fine and imprisonment;
- (b) specify a further penalty of not more than one penalty unit in the case of a continuing offence for each day on which the offence is continued after written notice of the offence has been served on the offender; and
- (c) make provision for the payment of such fees or charges as the District Assembly may consider fit in the by-laws.

(3) A by-law made by a District Assembly shall be read and construed subject to this Act and any other enactment.

Validity of by-laws

182. (1) Every by-law made by a District Assembly shall be submitted to the Regional Co-ordinating Council to ensure that the by-law is consistent with national legislation.

(2) Where the Regional Co-ordinating Council

- (a) rejects the by-law, the Regional Co-ordinating Council shall notify the District Assembly giving reasons for the rejection; or
- (b) approves the by-law, the Regional Co-ordinating Council shall cause the by-law to be published.

(3) A by-law shall not have effect until the by-law has been

- (a) posted on the premises of the District Assembly concerned and in at least one other public place within the district, and
- (b) published in a daily newspaper of national circulation or in the *Gazette*.

(4) By-laws may be sold to the public at a price to be determined by the District Assembly.

Model by-laws

183. (1) Where the Minister is of the opinion that uniform provision may reasonably be made in respect of a matter for which by-laws may be made, the Minister may, by legislative instrument, make model by-laws in respect of that matter.

(2) Where a model by-law is not expressed to apply throughout the country, that model by-law shall

- (a) apply within the area of authority of the District Assembly that the Minister may specify in the model by-law; and
- (b) be subject to the modifications or omissions that the Minister may consider expedient.

(3) Where prior to the enactment of a model by-law, a by-law exists in relation to the subject-matter of the model by-law, that by-law shall to the extent of the provisions of the model by-law cease to have effect within the area.

Copy of by-laws to be deposited at District Assembly Offices

184. A copy of every by-law made by a District Assembly

- (a) shall be deposited at the office of the District Assembly; and
- (b) shall, at reasonable times, be open to public inspection without the payment of any fee.

Evidence of by-laws

185. A copy of a by-law purporting to be made by a District Assembly shall be evidence in any court as to the making and the contents of that by-law, if the by-law is endorsed with a certificate signed by the Presiding Member and the Secretary to the District Assembly that the copy is a true copy of the by-law and if the by-law is sealed with the seal of the District Assembly.

PART EIGHT – DECENTRALISATION AT THE REGIONAL LEVEL

Regional Co-ordinating Councils

Establishment of Regional Co-ordinating Councils

186. There is established for each region a Regional Co-ordinating Council in accordance with article 255 of the Constitution.

Composition of Regional Co-ordinating Councils

187. (1) A Regional Co-ordinating Council consists of

- (a) the Regional Minister and Deputy Regional Minister;
- (b) the Presiding Member of each District Assembly in the region and the District Chief Executive of each district in the region;
- (c) two chiefs from the Regional House of Chiefs elected by the chiefs at a meeting of the Regional House of Chiefs; and
- (d) the regional heads of the decentralised Ministries in the region as members without the right to vote.

(2) The Regional Minister is the chairperson of the Regional Co-ordinating Council.

(3) The Regional Co-ordinating Director is the secretary to the Regional Co-ordinating Council.

Functions of Regional Co-ordinating Councils

188. (1) A Regional Co-ordinating Council shall

- (a) monitor, co-ordinate and evaluate the performance of the District Assemblies in the region;
- (b) monitor the use of the moneys allocated to the District Assemblies by any agency of central Government; and
- (c) review and co-ordinate public services generally in the region.

(2) The Regional Co-ordinating Council is responsible for the following functions:

- (a) the approval of the by-laws of the District Assemblies in the region subject to their consistency with national legislation, but the Regional Co-ordinating Council may delegate its power of approval to a three member Committee comprising the Regional Co-ordinating Director, a representative of the Attorney-General's Department in the region and the Regional Internal Auditor;
- (b) the provision of back-stopping support for the performance of any function assigned to the District Assemblies in the region in respect of which a particular District Assembly is deficient in terms of skills and workforce;
- (c) the resolution of any conflicts between a District Assembly in the region and any agency of the central Government, public corporation, statutory body, non-governmental organisation or individual;

Local Governance Bill, 2016

- (d) the oversight responsibility for second-cycle educational institutions and regional hospitals in the region on behalf of the Ministries of Education and Health; and
- (e) the performance of any other functions assigned to it by or under an enactment.

Development Planning functions of Regional Co-ordinating Councils

189. (1) A Regional Co-ordinating Council shall

- (a) provide a District Planning Authority with the information and data necessary to assist the Authority in the formulation of a district development plan;
- (b) co-ordinate the plans and programmes of District Planning Authorities and harmonise the plans and programmes with national development policies and priorities for consideration and approval by the Commission;
- (c) monitor and evaluate the implementation of the programmes and projects of the District Planning Authorities within the region;
- (d) act on behalf of the Commission with respect to the national programmes and projects in the region as the Commission may direct; and
- (e) perform any other planning functions that may be assigned by the Commission.

Planning functions of Regional Planning Co-ordinating Unit

190. (1) A Regional Planning Co-ordinating Unit shall be established to perform the planning functions of a Regional Co-ordinating Council.

(2) A Regional Planning Co-ordinating Unit shall comprise the Heads of Regional Departments appointed by the Commission in consultation with the Regional Co-ordinating Council.

(3) The Regional Planning Co-ordinating Unit shall

- (a) advise the Regional Co-ordinating Council on
 - (i) the co-ordination, monitoring and evaluation of district development plans;
 - (ii) matters related to development planning in the region, including spatial and sectorial policies and;
- (b) provide a secretariat for the Regional Co-ordinating Council to perform its planning functions.

(4) The Regional Planning Officer shall be the convenor of the Regional Planning Co-ordinating Unit.

Meetings of Regional Co-ordinating Councils

191. (1) A Regional Co-ordinating Council shall meet at least once a year and shall hold any other meetings that the Council considers necessary at the times and in the places determined by the chairperson.

(2) The Regional Minister shall convene the meetings of the Regional Co-ordinating Council.

(3) The Regional Minister may, by notice to the members of the Regional Co-ordinating Council, convene a special meeting of the Regional Co-ordinating Council for a specified purpose.

(4) The special meeting shall be held at the time and place specified in the notice convening the meeting.

(5) The Regional Minister shall preside at the meetings of the Regional Co-ordinating Council and in the absence of the Regional Minister, the Deputy Minister shall preside.

(6) Matters at a meeting of a Regional Co-ordinating Council shall be decided by a simple majority of the members present and voting and where there is equality of votes, the person presiding shall have a casting vote.

(7) The quorum at a meeting of the Regional Co-ordinating Council is one-third of the membership of the Regional Co-ordinating Council, excluding the heads of the Regional Departments.

(8) The validity of the proceedings of a Regional Co-ordinating Council 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 provided, the Regional Co-ordinating Council shall regulate the procedure for its meetings.

Office of the Regional Co-ordinating Council

192. (1) There shall be an Office of the Regional Co-ordinating Council in each region of the country.

(2) The Offices of the Regional Co-ordinating Councils in existence immediately before the commencement of this Act are continued in existence.

(3) A person assigned from any public office to the Office of the Regional Co-ordinating Council shall be an officer of the Regional Co-ordinating Council.

Functions of the Office of the Regional Co-ordinating Council

193. The Office of the Regional Co-ordinating Council is responsible for assisting the Regional Co-ordinating Council in the performance of its functions.

Regional Co-ordinating Director

194. (1) There shall be a Regional Co-ordinating Director for each Regional Co-ordinating Council.

(2) The President may in accordance with article 195 (1) of the Constitution, appoint a Regional Co-ordinating Director for each Regional Co-ordinating Council.

(3) The President may, delegate the power of appointment under subsection (2) to the Head of the Local Government Service.

(4) The Regional Co-ordinating Director is

(a) the administrative head of the Office of the Regional Co-ordinating Council;

(b) responsible for the co-ordination of the activities of the Departments of the Regional Co-ordinating Council; and

(c) has the status and rank of a Chief Director in the Civil Service.

(5) The Regional Co-ordinating Director is responsible to the Regional Minister in the performance of the functions of office.

(6) The Regional Co-ordinating Director is a member of the Local Government Service.

(7) The Regional Co-ordinating Director shall ensure that the functions and responsibilities of the Office of the Regional Co-ordinating Council are effectively and efficiently carried out.

Staff of the Office of the Regional Co-ordinating Council

195. (1) The Office of the Regional Co-ordinating Council shall have the staff that may be necessary for the proper and effective performance of functions.

(2) The President may, in accordance with section 195 (1) of the Constitution, appoint the staff of the Regional Co-ordinating Council.

(3) The President may delegate the appointment under subsection (2) to the Head of the Local Government Service.

(4) The staff of the Office of the Regional Co-ordinating Council shall perform the functions assigned to them under this or any other enactment.

Departments of the Regional Co-ordinating Council

196. (1) The Departments specified in the Fifteenth Schedule are established as Departments of the Regional Co-ordinating Council.

(2) The Departments of the Regional Co-ordinating Councils shall be headed by Regional Heads of Departments who are responsible for the proper and effective performance of their functions.

(3) The Regional Heads of Departments of the Regional Co-ordinating Councils are responsible to the Regional Minister through the Regional Co-ordinating Director.

(4) The Head of the Local Government Service shall issue Administrative Instructions to specify

(a) how Departments of the Regional Co-ordinating Councils are to be established; and

(b) the details of the reporting relationship between the Regional Heads of Departments of the Regional Co-ordinating Council, the Regional Co-ordinating Director and the Regional Minister.

Functions of the Departments of the Regional Co-ordinating Council

197. The Departments of the Regional Co-ordinating Council

(a) shall co-ordinate, harmonise, monitor and evaluate the performance of the functions of the relevant Departments of the District Assemblies in the region;

(b) is responsible for the implementation of the decisions of the Regional Co-ordinating Council as they affect the Departments; and

(c) shall provide quarterly reports on their co-ordination, harmonisation, monitoring and evaluation activities and on their implementation of the decisions of the Regional Co-ordinating Councils to the Regional Co-ordinating Council through the Regional Co-ordinating Director.

Regional level inter-service and inter-sectorial collaboration and co-operation

198. (1) The Departments of a Regional Co-ordinating Council shall collaborate and co-operate with the other sectors of the public service

(a) in order to ensure a co-ordinated approach to the monitoring and evaluation of the performance of the District Assemblies in the region, and

Local Governance Bill, 2016

(b) in the monitoring of the use of moneys allocated to the District Assemblies by agencies of the central government, and in the review and co-ordination of public services generally in the region.

(2) The Regional Minister shall facilitate the collaboration and co-operation with the other sectors of the public service.

(3) The Regional Heads of Department of the other sectors of the public service shall attend meetings and participate in the deliberations of the Regional Planning Co-ordinating Unit and the Regional Co-ordinating Council to which they are invited and the meetings shall be referred to as the expanded Regional Planning Co-ordinating Unit and the expanded Regional Co-ordinating Council meetings respectively.

(4) The expanded Regional Planning Co-ordinating Unit and the expanded Regional Co-ordinating Council shall oversee the effective merger and amalgamation of the Departments of the District Assemblies referred to in the Fourth and Sixth Schedules and shall resolve any disputes and misunderstandings arising from the merger and amalgamation.

(5) The Regional Heads of Departments of the other sectors of the public service shall provide information on any matter affecting their sectors upon reasonable request by the Regional Minister, the Regional Co-ordinating Director or a Head of Department of the Regional Co-ordinating Council.

(6) The Regional Co-ordinating Council shall hold at least one joint annual meeting with the Heads of the Departments of the Regional Co-ordinating Council and the Heads of the other sectors of the public service to review the performance of the regional level of governance.

Funds of the Regional Co-ordinating Council

199. (1) The Regional Co-ordinating Council shall receive funds from the following sources to be used exclusively for the functions of the Regional Co-ordinating Council, its planning functions and the planning functions of the Regional Co-ordinating Unit;

(a) a percentage of the Common Fund determined by Parliament in the course of approving the formula for the distribution of the Common Fund to be lodged in a Regional Co-ordinating Fund;

(b) moneys obtained by the Driver and Vehicle Licensing Authority under the Driver and Vehicle Licensing Authority Act, 1999 (Act 569) set aside and shared annually among the Regional Co-ordinating Councils by the Administrator of the Common Fund on the basis of a formula approved by Cabinet; and

Local Governance Bill, 2016

(c) gifts and other donations made to the Regional Co-ordinating Council.

(2) These funds shall be in addition to the budgetary allocations made annually to the Regional Coordinating Council in the national budget.

Regional budget

200. (1) Each Regional Co-ordinating Council is responsible for the preparation, administration and control of budgetary allocations to the Regional Co-ordinating Council.

(2) Every Regional Co-ordinating Council shall, before the end of each financial year, submit a regional integrated budget to the Minister for Finance for approval by Parliament.

(3) The regional integrated budget shall cover the budgets of the Office of the Regional Co-ordinating Council and include the aggregate revenue and expenditure of the departments and organisations under the Regional Co-ordinating Council, including the annual monitoring and evaluation plans and programmes of the Office of the Regional Co-ordinating Council and the departments and organisations under the Regional Co-ordinating Council.

(4) The Minister responsible for Finance shall create a budget line in the national budget appropriation for the regional integrated budget.

Regional Minister

201. (1) The President shall, in accordance with article 256 of the Constitution, appoint for each region, a Minister of State who shall be known as the Regional Minister for that region.

(2) A Regional Minister shall

(a) represent the President in the region;

(b) be responsible for the co-ordination and direction of the administrative machinery in the region; and

(c) perform any other functions delegated by the President.

(3) The President may appoint a Deputy Minister for the region to perform the functions determined by the President.

(4) The appointment of a Deputy Minister for a region shall be in consultation with the Minister of State for that region and with the prior approval of Parliament.

Relationship between the Regional Minister and the District Chief Executive

202. (1) The Regional Minister

- (a) is on behalf of the President, responsible for supervising the work of the District Chief Executives of the districts in the region;
- (b) is responsible for monitoring and evaluating the District Chief Executives in the region in the performance of their functions; and
- (c) is responsible for submitting to the President, periodic and annual assessment reports on the performance of the District Chief Executives in the region.

(2) District Chief Executives in the region shall inform the Regional Minister regularly of any new fees, taxes and rates imposed by their District Assemblies and the infrastructure and development projects undertaken or programmed to be undertaken by their District Assemblies.

Regional management

203. (1) The Regional Co-ordinating Council established under section 186 shall co-ordinate and monitor the programmes of government departments at the regional level and keep the Regional Co-ordinating Council informed of their performance.

(2) The Regional Co-ordinating Director shall, within three months after the end of each financial year, prepare an annual report of the work of the Regional Co-ordinating Council in that year and submit the report to the President through the Regional Minister after approval by the Regional Co-ordinating Council.

(3) The relationship of the Regional Co-ordinating Director to the Regional Minister shall be that of a Chief Director to the Minister.

PART NINE - INTER-MINISTERIAL CO-ORDINATING COMMITTEE ON DECENTRALISATION

Establishment and Functions of the Inter-Ministerial Co-ordinating Committee on Decentralisation

Establishment of Inter-Ministerial Co-ordinating Committee on Decentralisation

204. (1) There is established by this Act, an Inter-Ministerial Co-ordinating Committee on Decentralisation, referred to in this Act as the Inter-Ministerial Co-ordinating Committee.

Local Governance Bill, 2016

(2) The Inter-Ministerial Co-ordinating Committee is the key national institutional mechanism for the inter-sectorial policy coordination of decentralisation and for the decentralised local governance system.

(3) The Inter-Ministerial Co-ordinating Committee shall comprise:

- (a) the President or a designated representative as chairperson;
- (b) the Minister for Local Government;
- (c) the Minister for Finance;
- (d) the Minister for Education;
- (e) the Minister for Health;
- (f) the Minister for Food and Agriculture;
- (g) the Minister responsible for Gender, Children and Social Protection;
- (h) the Attorney-General and Minister for Justice;
- (i) the Head of the Local Government Service;
- (j) the Head of the Civil Service; and
- (k) the Chairperson of the National Development Planning Commission.

(4) The Inter-Ministerial Co-ordinating Committee may appoint sub-committees and task forces to assist in the performance of functions.

(5) The Inter-Ministerial Co-ordinating Committee may require a Minister or public officer to attend its meetings or provide information required for the performance of its functions.

(6) The Inter-Ministerial Co-ordinating Committee may co-opt a person or engage the services of experts and consultants for the effective discharge of its functions.

(7) The Inter-Ministerial Co-ordinating Committee may meet at the times and in the places determined by the chairperson and shall regulate its own procedure.

Functions of the Inter-Ministerial Co-ordinating Committee

205. The Inter-Ministerial Co-ordinating Committee is responsible for the inter-sectorial policy coordination of decentralisation and for the decentralised local governance system.

Technical Committee of the Inter-Ministerial Co-ordinating Committee

206. (1) There shall be established a Technical Committee of the Inter-Ministerial Co-ordinating Committee consisting of

- (a) a chairperson appointed by the Inter-Ministerial Co-ordinating Committee,

Local Governance Bill, 2016

- (b) the Chief Director of the Ministry of Local Government,
- (c) the Chief Director of the Ministry of Finance,
- (d) the Chief Director of the Ministry of Education,
- (e) the Chief Director of the Ministry of Health,
- (f) the Chief Director of the Ministry of Food and Agriculture,
- (g) the Chief Director of the Ministry of Gender, Children and Social Protection,
- (h) the Director of Legislative Drafting, Attorney General's Department of the Ministry of Justice,
- (i) the Chief Director of the Office of the Head of Local Government Service,
- (j) the Chief Director of Office of the Head of Civil Service, and
- (k) the Director-General, National Development Planning Commission.

(2) The Technical Committee shall meet at the times and places that the chairperson may determine but shall meet before each meeting of the Inter-Ministerial Co-ordinating Committee to discuss the items for consideration and prepare policy options for the consideration of the meeting.

Secretariat of the Inter-Ministerial Co-ordinating Committee

207. (1) The Inter-Ministerial Co-ordinating Committee shall have a Secretariat headed by an Executive Co-ordinator.

(2) The Secretariat shall ensure the effective implementation of the decisions of the Inter-Ministerial Co-ordinating Committee.

PART TEN – MISCELLANEOUS MATTERS

Acquisition of Immovable Property

Power of District Assembly to acquire land

208. (1) A District Assembly, in furtherance of its incorporation, may acquire land or buildings in the district or outside the district as it considers necessary to perform any function conferred on it.

(2) A District Assembly may, in the best interest of the District Assembly, purchase land, service the land and re-allocate the land to a prospective public or private developer for development.

Development charges on serviced land

209. (1) A District Assembly shall impose a reasonable development charge on a beneficiary of a prospective developer when allocating acquired and serviced land to a prospective developer and may impose other terms that may appear to the District Assembly to be expedient for the development of the district.

(2) The proceeds from a development charge shall be paid into a separately established fund maintained solely for the purpose of further acquisition and servicing of land acquired.

Legal Proceedings and Notices

Notice of suit to be given to District Assembly

210. (1) A suit shall not be commenced against a District Assembly until at least one month after a written notice of intention to commence the suit has been served on the District Assembly by the intending plaintiff or an agent of the plaintiff.

(2) The notice shall state the cause of action, the names and place of abode of the intending plaintiff and the relief which the plaintiff claims.

(3) An action shall not lie against a District Assembly unless the action is commenced within twelve months after the act, neglect or default complained of, or in the case of continuing damage or injury, within twelve months after the date of cessation.

Mode of service on District Assembly

211. (1) Any summons, notice or other document required or authorised to be served on a District Assembly shall be served by delivering or sending the summons, notice or other document by registered post addressed to the District Chief Executive.

(2) A court may, in a particular suit or as regards a particular document, order service on the District Assembly to be effected in another manner and in that case, service shall be effected in accordance with the terms of the court order.

Description of property

212. Where in any criminal proceeding it is necessary to refer to the ownership or description of property belonging to or under the management of a District Assembly, the property may be described as the property of the District Assembly.

Power of entry

213. (1) A person authorised in writing by a District Assembly may enter into any land, building or premises, within the area of authority of the District Assembly to carry out an inspection, inquiry or the execution of works under any by-law made by the District Assembly.

(2) A person authorised by a District Assembly to exercise a power of entry, shall not enter a place known as a sacred grove within the area of authority of the District Assembly.

Publication of notices

214. The publication of a notice or any other document required by this Act to be published shall be deemed to be duly published if the notice or document is fixed

(a) in a conspicuous place on or near the outer door of the office of the District Assembly during office hours, or

(b) in some other conspicuous place within the District for a reasonable time.

Occupier to provide specified particulars

215. (1) A District Assembly may, by notice in writing, require the occupier of premises to state the name and address of the owner of the premises to enable a document to be served on the owner of the premises.

(2) If the occupier refuses or wilfully neglects to provide the name and address of the owner of the premises, or wilfully misstates the name and address of the owner, the occupier commits an offence and is liable on summary conviction in respect of each offence to a fine of not less than twelve penalty units and not more than twenty five penalty units or to a term of imprisonment of not more than one month or to both the fine and imprisonment and in the case of a continuing offence, to a further fine of one penalty unit for each day on which the offence continues, unless cause is shown to the satisfaction of the court why the occupier is unable to provide the details of the owner.

Privileges and Immunities

Freedom of speech and proceedings in District Assembly

216. There shall be freedom of speech, debate and proceedings in every District Assembly and the freedom shall not be impeached or questioned in any court or place.

Immunity from proceedings for acts in District Assembly

217. (1) Civil or criminal proceedings shall not be instituted against a member of a District Assembly or officer of the District Assembly in any court because of anything said by that person in the District Assembly or any matter or thing brought by that person in or before the District Assembly by petition, motion or otherwise.

(2) Where in the opinion of the Presiding Member of a District Assembly, a statement made by a member of the District Assembly is defamatory of any person in the first instance, the Presiding Member shall refer the matter for inquiry to the Public Relations and Complaints Committee of the District Assembly which shall report its findings to the District Assembly not later than fourteen days after the matter was referred.

(3) Where the Committee reports to the District Assembly that the statement made by the member is defamatory of any person, the member who made the statement shall, at the next sitting of the District Assembly, render an apology at the bar of the District Assembly, the terms of which shall be approved by the Committee and communicated to the person who has been defamed.

(4) Where a member refuses to render an apology, the Presiding Member shall suspend that member for the duration of two consecutive meetings of the District Assembly.

(5) A member of the District Assembly who has been suspended shall lose the privileges, immunities and allowances in respect of membership of the District Assembly and the privileges, immunities and allowance shall be forfeited until an apology is rendered.

Immunity from Service as Juror

218. A member of the District Assembly shall not be required to serve on a jury in any court or as a member of any tribunal.

Immunity from service of process and arrest

219. (1) Civil or criminal process from a court shall not be served on or executed in relation to any member of the District Assembly or officer of the District Assembly while the member is on the way to attend or returning from a meeting of the District Assembly.

(2) A certificate of the Presiding Member of the District Assembly to the effect that a member was on the way to, attending or returning from a meeting of the District Assembly shall be conclusive evidence of attendance at the District Assembly.

Immunity from publication of proceedings

220. A person shall not be under a civil or criminal liability in respect of the publication of

- (a) the text or a summary of a report, paper, minutes, note or proceedings of a District Assembly; or
- (b) a contemporaneous report of a meeting of the District Assembly,

unless it is shown that the publication was made with malice or otherwise in want of good faith.

Privileges of witnesses

221. (1) A person summoned to attend and give evidence or to produce any paper, book, record or other document before a District Assembly is entitled to the same privileges as if that person were appearing before a court to give evidence.

(2) A public officer shall not be required to produce any document before a District Assembly if the Presiding Member of the District Assembly certifies that

- (a) the document belongs to a class of documents that would be injurious to public interest to produce; or
- (b) the disclosure of the contents of the document will be prejudicial to the security of the State.

(3) Where there is a doubt as to whether the production of a document is injurious to public interest or prejudicial to the security of the State, the Presiding Member of the District Assembly shall refer the matter to the High Court to determine whether the production or disclosure of the contents of the document will be injurious to the public interest or prejudicial to the security of the State.

(4) An answer by a person to a question put by a District Assembly shall not be admissible in evidence against that person in any civil or criminal proceedings out of the District Assembly, except proceedings for perjury brought under the criminal law.

Contempt of District Assembly

222. (1) An act which

- (a) obstructs or impedes a District Assembly in the performance of its functions,
- (b) obstructs or impedes a member or officer of the District Assembly in the discharge of official duties,
- (c) affronts the dignity of the District Assembly, or

Local Governance Bill, 2016

(d) tends either directly or indirectly to produce a result specified in paragraphs (a), (b) or (c), shall be contempt of the District Assembly.

(2) Where an act which constitutes contempt of a District Assembly is an offence under the criminal law, the exercise by the District Assembly of the power to punish for contempt shall not limit the institution of proceedings under the criminal law.

Obstruction of the Authority of a District Assembly

Obstruction of officers

223. (1) A person who

- (a) wilfully obstructs a member of a District Assembly in the execution of the duties of the member, or
- (b) being the occupier of premises, prevents the owner of the premises from complying with any requirements of the District Assembly,

commits an offence and is liable on summary conviction to a fine of not less than twelve penalty units and not more than twenty five penalty units or to a term of imprisonment of not more than one month or to both the fine and imprisonment and in the case of a continuing offence to a further fine of one penalty unit for each day that the offence continues.

Offence of Unauthorised Sitting and Voting

Penalty for unqualified person sitting or voting in District Assembly

224. A person who

- (a) is elected or appointed as a member of a District Assembly while that person is not qualified to be elected or appointed and sits or votes in the District Assembly,
- (b) sits or votes in a District Assembly after the seat in the District Assembly has become vacant knowing or having reasonable grounds for knowing that the seat has become vacant, or
- (c) sits or votes in a District Assembly after that person has become disqualified from sitting or voting in the District Assembly, knowing or having reasonable grounds for knowing that that person is disqualified,

commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than two hundred penalty units or to a term of imprisonment of not less than three months and not more than six months or to both the fine and the imprisonment.

Local Governance Bill, 2016

Executive Authority and Local Government

Delegation of powers of President or Minister

225. The President or the Minister, with the prior approval of the Cabinet, may by Executive Instrument, delegate any of the functions of the President or Minister under this Act other than the functions of the Minister under section 3, to a public officer subject to the conditions specified in the Instrument.

Provision of information to the President or Minister

226. Each District Assembly and every member or officer of the District Assembly shall furnish the President or the Minister with the information that the President or Minister may require in relation to the functions of the District Assembly.

Provisions on Staff of District Assembly

Staff of District Assembly to give account of moneys and properties in their charge

227. (1) A member of staff of a District Assembly during the continuance of office, or within three months after ceasing to hold office and in a manner that the District Assembly or the Auditor-General may direct, shall prepare and deliver to the District Assembly or as the Auditor-General may direct, a true account in writing of the moneys and property entrusted to that member of staff and the receipts and payments, with vouchers and other documents and records supporting the entries, list of persons from whom or to whom money is due in connection with the office, showing the amount from or to each.

(2) The member of staff shall pay moneys due from that member of staff to the District Assembly or otherwise as the District Assembly or the Auditor-General may direct.

(3) If a person refuses or wilfully neglects to

(a) make a payment required to be made, or

(b) deliver to the District Assembly or as the Auditor-General may direct, an account or list required to be made under this section or delivered after three days' notice signed by

(i) the Presiding Member of the District Assembly,

(ii) three members of the District Assembly, or

(iii) the Auditor-General, and delivered to the usual or last known place of residence of the person, or

(c) make a voucher or other document of record relating to a voucher or to give a satisfactory response in respect of a voucher to the District Assembly or as the Auditor-General may direct,

Local Governance Bill, 2016

an officer of the District Assembly may file a complaint to the court which may order or require the person to make the payment or deliver the document to the District Assembly or as the Auditor-General may direct.

(4) A person who wilfully neglects to comply with the order of the court commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than two hundred penalty units or to a term of imprisonment of six months or to both the fine and the imprisonment and in the case of a continuing offence to a further fine of not more than one penalty unit for each day on which the offence continues.

(5) Nothing in this section shall affect any remedy by action against a person or the surety of that person, except that the member of staff shall not be sued by action and proceeded against under this section for the same cause.

Protection of members and staff

228. Subject to the Constitution, a member of a District Assembly or a member of the staff of a District Assembly or any person acting under the direction of the District Assembly is not personally liable for anything done in good faith for the purposes of this Act.

Recovery of moneys due by way of deduction

229. (1) Despite anything in this Act, where a person is indebted to a District Assembly in any specific sum of money, the District Chief Executive, after consultation with the Attorney-General, may authorise the retention by way of deduction or set-off of the amount of the indebtedness out of any sum of money that may be due or payable by the District Assembly to that person.

(2) A debt owed by a member of staff of the District Assembly may however be recovered by way of deductions from the emoluments of that person if the Presiding Member of the District Assembly directs in writing and the Controller and Accountant-General or any other person authorised by the Controller and Accountant-General shall carry out the request made if the request is reasonable.

Payment of allowances to District Assembly members and staff

230. Model Standing Orders made by the Minister under subsection (6) of section 18 may provide for the payment of transport and other allowances to members of the District Assembly and to persons invited to attend any of the meetings of the District Assembly.

Local Governance Bill, 2016

Authority of District Assembly

Proof of acts of authority

231. Any authorisation, notice or other document purporting to be granted, given or made and any act purporting to be done by a District Assembly or under an instrument, shall be taken to be duly granted, given, made or done by the District Assembly without further evidence unless the contrary is proved.

Final Provisions

Regulations

232. (1) The Minister may, by legislative instrument, make Regulations for carrying into effect the provisions of this Act and in particular

- (a) for the procedure to secure a permit;
- (b) for the provision of notices;
- (c) to prescribe activities that may be carried out without a permit; and
- (d) for consultations between the District Planning Authority and public agencies and local communities.

(2) The Minister may, by legislative instrument, amend with the prior approval of Cabinet a provision of the Schedules except the Sixteenth Schedule.

Consequential amendments

233. The enactments specified in the first column of the Sixteenth Schedule are amended or otherwise affected to the extent specified in the second column of that Schedule.

Interpretation

234. In this Act, unless the context otherwise requires,

- “Administrator” means the head of the District Assemblies Common Fund;
- “Association” means the National Association of Local Authorities of Ghana;
- “audit” includes an annual, interim or any audit but shall not include an internal audit;
- “Audit Report Implementation Committee” means the Committee established under section 30(1) of the Audit Service Act, 2000 (Act 584);

Local Governance Bill, 2016

- “Auditor-General” includes any auditor or public officer authorised by the Auditor-General in writing to act in the name of the officer or on behalf of the Auditor-General;
- “basic rate” means an amount imposed by the District Assembly payable by a person of or above the age of eighteen years and below the age of seventy years who resides within a district;
- “betterment charge” means the determinable percentage of money charged on the increase in value of a property arising out of public works carried out by a District Assembly;
- “buildings and structures” include references to plant and machinery which are attached to and form an integral part of any building or structure;
- “central Government” means the Government of the Republic of Ghana other than local government;
- “civil society organisation” includes a community-based organisation, faith-based organisation, non-governmental organisation, professional or vocational association or similar organisation;
- “Commission” means the National Development Planning Commission established under the National Development Planning Act, 1994 (Act 479);
- “Common Fund” means the Fund established under section 125;
- “community right of space” means a road, street, foot path, pavement, passenger terminal, parking area, any public right of way, school ground, hospital ground, open space, cemetery, playing field, square, durbar ground, market place, public place of assembly, or any space or ground or area for public or community use that exists or is so designated in an approved settlement plan or under the provision of any law;
- “court” means court of competent jurisdiction;
- “designated agencies” means the Organisations, Departments and Services referred to in the Ninth Schedule;

Local Governance Bill, 2016

- “development” within the context of the District Assemblies Common Fund, means programmes and projects of the District Assembly that have the effect of achieving a long and healthy life, access to knowledge, a decent standard of living and the general well-being of the people of the district;
- “District Assembly” includes a Metropolitan and Municipal Assembly;
- “District Chief Executive” includes Municipal and Metropolitan Chief Executive;
- “district level stakeholders” includes chiefs and traditional authorities, opinion leaders, community leaders and civil society organisations;
- “District Planning Authority” means the District Assembly;
- “economic viability” means the ability of an area to provide the basic infrastructural and other developmental needs from the revenue and other resources generated in the area;
- “electoral area” means a local government electoral area specified in the Schedule to the Constitutional Instrument issued by the Electoral Commission for that purpose;
- “general rate” means a rate levied over the whole district for the general purposes of the district;
- “Inter-Ministerial Co-ordinating Committee” means the Inter-Ministerial Co-ordinating Committee on Decentralisation established under section 204;
- “Minister” means the Minister responsible for Local Government;
- “mixed development area” means a use-zoning area where residential, commercial, light industrial or heavy industrial uses have been permitted or may be permitted, together or in any combination thereof, by a District Planning Authority as specified in a Rate Notice;
- “nuisance” means any activity, operation, works, action, neglect or any effect of it on, in, under or over land which is offensive, injurious or prejudicial to amenity, public health, public safety, public peace, public convenience or the local or national economy;
- “other sectors” include non-decentralised departments, state-owned enterprises and public corporations operating in the district ;

Local Governance Bill, 2016

- “physical development” means the carrying out of building, engineering, mining or other operations on, in, under or over land, or the material change in the existing use of land or a building and includes the sub-division of land, the disposal of waste on land including the discharge of effluent into a body of still or running water and the erection of advertisement or other hoarding;
- “prescribed” means by Regulations made under this Act;
- “rating authority” means the District Assembly for the District concerned;
- “Regulations” means the Regulations made under this Act;
- “replacement cost” with respect to buildings, structures and other development means the amount it would cost to provide the buildings, structures and other developments as if they were new on an undeveloped site at the time the premises are being valued;
- “serviced land” means land on which infrastructural services including a road, drainage system, water and other utilities have been provided;
- “session” means a series of meetings of a District Assembly within a period of twelve months;
- “special rate” means a rate made and levied over a specified area in the district for the purpose of a specified project approved by the District Assembly for that area;
- “structural development” includes any kind of work or improvement carried out on or in any land and in particular foundations, excavations, drainage systems, pathways, aprons and other prepared surfaces;
- “sub district structure” means the sub-metropolitan district councils, urban councils, zonal councils, town councils, area councils and unit committees of District Assemblies;
- “total revenue” means the entire revenue collected by or accruing to the central government other than foreign loans, grants, non-tax revenue and revenues already collected by or for a District Assembly under an enactment;
- “Town Council” includes a Zonal Council;
- “traditional authority” means a House of Chiefs or any council or body established or recognised as such under customary law and includes the “tindanas” of the Northern Region and the “wulomei” of the Greater Accra Region; and

Local Governance Bill, 2016

“use-zoning” means the division by a District Planning Authority of a community or township into zones or districts according to present or potential use of immovable properties for the purposes of controlling or directing the use and development of those properties or for the purposes of rating or conserving the value of those properties.

Repeals and savings

235. (1) The following enactments are repealed:

- (a) District Assemblies Common Fund Act, 1993 (Act 455);
- (b) Local Government Act, 1993 (Act 462); and
- (c) Local Government Service Act, 2003 (Act 656).

(2) Despite the repeal of the enactments specified under subsection (1), any statutory instruments made or continued in existence under any of the repealed enactments and in force immediately before the coming into force of this Act, shall continue in force as if made under a corresponding provision.

(3) Any by-law or instrument, including building regulations, or any other thing made or done by a local authority or other body charged with the performance of local government functions in the area of a District Assembly or any part of it and in force immediately before the coming into force of this Act shall continue in force in that district or part of it as if made or done under this Act.

(4) Despite the repeal of the enactments specified under subsection (1), the District Assemblies in existence immediately before the coming into force of this Act, shall continue in existence until the election and appointment of new members of the District Assemblies.

Transitional provisions

236. (1) Staff of the Inspectorate Division of the Ministry of Local Government in existence before the coming into force of this Act shall, on the coming into force of this Act, be absorbed into the Internal Audit Unit of the District Assemblies.

(2) A person absorbed into the Internal Audit Unit of a District Assembly shall be deemed to have been duly employed by the Internal Audit Unit of the District Assembly established by this Act on terms and conditions which are not less in aggregate to terms and conditions attached to the post held by that person before the coming into force of this Act.

FIRST SCHEDULE

(Section 5 (4))

Guidelines for the Appointment of the Thirty Per Cent Membership of the District Assemblies

The following guidelines shall be followed in the appointment of members to a District Assembly:

Groups to be consulted

1. The following shall be consulted in the selection of the thirty per cent membership of a District Assembly:

- (a) chiefs and traditional authorities within the district,
- (b) organised labour within the district,
- (c) immediate past appointed members of the District Assembly,
- (d) womens organisations within the district,
- (e) religious bodies within the district,
- (f) professional bodies within the district,
- (g) farmers and fishermen's associations within the district,
- (h) local associations for the promotion of the most predominant economic and social activities in the district, and
- (i) community associations outside the district dedicated to the promotion of development of their communities.

Criteria for selection

2. The following criteria shall be taken into consideration in the selection of the thirty per cent membership of a District Assembly:

- (a) constitutional and legislative: a nominee shall satisfy all the constitutional and legislative requirements for qualification for the position and in particular must:
 - (i) be a citizen;
 - (ii) be a registered voter; and
 - (iii) have paid all taxes and rates due or made satisfactory arrangements for the payment of their taxes and rates;
- (b) chiefs and traditional authorities must be represented and must constitute not less than thirty per cent of the appointed membership;

Local Governance Bill, 2016

- (c) at least forty per cent of the appointed members must be women;
- (d) religious bodies must have representation in the appointed membership, taking care to balance religious sensitivities;
- (e) professionals, in particular teachers, and intellectuals must be represented; the latter particularly in districts where there are public tertiary institutions;
- (f) in districts with a cross section of ethnic groupings, consideration must be given to appointments from the various groupings, especially the minorities;
- (g) there must be a spatial dimension to the appointments, which must not be concentrated in the district capital or the larger settlements alone;
- (h) literacy in the English language is not a requirement for appointment;
- (i) political party membership or sympathy is not a requirement for appointment;
- (j) the following core values must be taken into account in making the appointments:
 - (i) a nominee must be of good standing and record in the district and must be known to identify with the communities in the district and be of good moral character;
 - (ii) a nominee must be capable of contributing to the improvement of the quality of debate and bringing their personal knowledge, expertise and experience to bear on the harnessing of the resources of the district for development; and
 - (iii) a nominee may not necessarily be normally resident in the district but must be ordinarily resident within the meaning of subsections (1)(c) and (2) of section 7 and be known to be a regular and keen participant in community affairs; and
- (k) generally a person who satisfies more than one of the criteria are preferable. For example, a female teacher who is a queen mother and a leading church member will satisfy criteria (b), (c), (d) and (e).

SECOND SCHEDULE
(Section 20 (2))

Guidelines for the Selection of a Candidate for Appointment as District Chief Executive

The Role of the District Chief Executive in the Local Governance System

1. A person appointed District Chief Executive is:
 - (a) the chairperson of the Executive Committee of the District Assembly;
 - (b) the “manager” of the District Assembly as a body corporate that may sue and be sued and that may own and dispose of property;
 - (c) the chief representative of the central Government in the district;
 - (d) the chairperson of the District Security Committee; and
 - (e) the representative of Ministers of decentralized Departments in the district.

Qualities of the District Chief Executive

2. A person is eligible to hold the position of District Chief Executive if that person is
 - (a) accountable to the people;
 - (b) capable of implementing the agenda of the incumbent President;
 - (c) efficient and effective in promoting development at the local level;
 - (d) able to mobilise the people to participate effectively in the governance of the district and in undertaking development projects in the district;
 - (e) capable of ensuring that the District Assembly is managed efficiently;
 - (f) able to improve the living standards of the poor and the marginalized in the district;
 - (g) able to involve the local people in the governance of the district;
 - (h) able to ensure that the unitary character of the governance arrangement of the country is maintained; and
 - (i) able to ensure that the unity and stability of the district and the country are protected.

Criteria for the selection of a candidate for appointment as a District Chief Executive

3. (1) A person selected for appointment as District Chief Executive shall satisfy the following criteria:

- (a) should at the minimum be a first degree holder;
- (b) must have some connection with the district such as the following:
 - (i) must be an indigene;
 - (ii) must be a long-term resident of the district;
 - (iii) must be familiar with and knowledgeable about the problems of the district; or
 - (iv) must have some other proven connection or identification with the district;
- (c) must be at least a sympathiser of the ruling political party and a believer in the political agenda of the incumbent President;
- (d) must have a record of developmental and public service work;
- (e) must have practical work experience in either the public or private sector;
- (f) must have some expertise or experience in management; or
- (g) must have a proven record of humanitarian work and concern for the poor and the marginalised.

(2) A woman candidate should be preferred as a commitment to pro-women affirmative action and positive discrimination.

Local Governance Bill, 2016

THIRD SCHEDULE

(Section 77)

Decentralised Public Service Sectors

1. Agriculture
2. Community Development
3. Cooperatives
4. Education
5. Finance
6. Health
7. Housing
8. Horticulture and Landscape Designing
9. Industry
10. Public Works
11. Roads
12. Social Welfare
13. Sports
14. Statistics
15. Town and Country Planning
16. Trade
17. Youth

Local Governance Bill, 2016

FOURTH SCHEDULE
(Sections 78 (1), (4) and 198 (4))

Existing Departments under District, Municipal and Metropolitan Assemblies

Metropolitan Assembly	Municipal Assembly	District Assembly
1. Central Administration Department	1. Central Administration Department	1. Central Administration Department
2. Finance Department	2. Finance Department	2. Finance Department
3. Education, Youth and Sports Department	3. Education, Youth and Sports Department	3. Education, Youth and Sports Department
4. Metropolitan Health Department	4. Municipal Health Department	4. District Health Department
5. Agriculture Department	5. Agriculture Department	5. Agriculture Department
6. Physical Planning Department	6. Physical Planning Department	6. Physical Planning Department
7. Social Welfare and Community Development Department	7. Social Welfare and Community Development Department	7. Social Welfare and Community Development Department
8. Works Department	8. Works Department	8. Works Department
9. Trade and Industry Department	9. Trade and Industry Department	9. Trade and Industry Department
10. Natural Resources Conservation, Forestry and Game and Wildlife Department	10. Natural Resources Conservation, Forestry and Game and Wildlife Department	10. Natural Resources Conservation, Forestry and Game and Wildlife Department
11. Disaster Prevention Department	11. Disaster Prevention Department	11. Disaster Prevention Department
12. Roads Department	12. Roads Department	-
13. Transport Department	13. Transport Department	-
14. Waste Management Department	-	-
15. Budget and Rating Department	-	-
16. Legal Department	-	-

Local Governance Bill, 2016

FIFTH SCHEDULE

(Section 78 (2))

Departments Ceasing to Exist in their Present Form

Present Form of Department	New Form of Department at District Level
1. Education Service	1. Department of Education, Youth and Sports
2. Health Service	2. Health Department
1. Fisheries Department 2. Veterinary Services Division	3. Agriculture Department
3. National Board for Small-Scale Industries	4. Department of Trade and Industry

Local Governance Bill, 2016

SIXTH SCHEDULE
(Sections 78 (3) and 198(4))

Departments to be established by District Assemblies

Additional Departments to be established	Departments ceasing to exist in their present form
1. Department of Housing	1. Department of Rural Housing
2. Department of Statistics	2. Ghana Statistical Service
3. Department of Births and Deaths Development	3. Department of Human Resources
4. Revenue Department	-

SEVENTH SCHEDULE

(Section 104 (1) (e))

Matters for Building By-Laws

1. The making and maintenance of streets for the purpose of giving access to premises.
2. The amount of space surrounding new buildings and buildings which are to be extended or altered, so as to ensure free circulation of air.
3. Building lines and the layout of buildings.
4. The level of the ground floor of buildings.
5. The lighting and ventilation of buildings, the height of buildings and the dimensions of rooms and corridors.
6. Reducing the risk of fire in buildings and ensuring sufficient means of exit from new buildings in the event of fire.
7. Preventing the construction of buildings and other structures which would be a disfigurement to the town or neighbourhood or which would not be in keeping with the architectural character of the neighbourhood and the execution of any work which would tend to make existing buildings and structures a disfigurement to the town or neighbourhood or which would not be in keeping with the architectural character of the neighbourhood.
8. The repair and renovation of buildings and other structures, and compelling necessary repairs and renovations to buildings and other structures, to be carried out.
9. The certification of dwelling houses as having been constructed in accordance with requirements of bye-laws made under section 87 as a condition precedent to the habitation of the houses.
10. The construction of hoardings and similar structures and buildings.
11. The use of proper building scaffolding, hoardings, machinery and appliances in connection with the construction, extension, alteration, repair and renovation of buildings and other structures.
12. The conditions to be satisfied by a site for any building or for any class of buildings.
13. Sanitary arrangements and conveniences of, or in connection with new buildings.

Local Governance Bill, 2016

14. Cutting into, laying and pulling down any work suspected to have been executed in contravention of any by-laws made under section 104 or any permit granted under the by-laws.
15. The designation of streets as shopping streets or business streets, and prescribing special requirements to be satisfied in respect of buildings constructed in them.
16. The drainage of streets, lands, compounds and new buildings.
17. The levels, width and construction of streets.
18. The construction of wells.
19. The preservation of trees and other natural amenities, the taking of steps to enhance the scenic beauty of the neighbourhood, the regulation of gardening and the care and conservation of open spaces.
20. The period of duration of any permit provided for under any by-laws and the extension of such period, and for the revocation of such permit if the construction of or the execution of the work to which it relates is not begun within a time specified in such permit.
21. The refusal of a permit to any applicant who has not completed a building or any work under a permit previously granted to the applicant.
22. Prescribing the forms to be used.
23. Prescribing the fees to be paid in respect of any matter or thing prescribed by by-laws.
24. The removal or alteration of any obstruction or projection likely to cause danger or inconvenience to persons using any street.
25. The giving of notices.
26. The deposit of plans, sections and specifications and other particulars by persons intending to lay out streets or to construct, extend, repair or renovate buildings.
27. Inspection by such officers as may be specified, and for the maintenance of building agents on the sites of works, and the keeping of proper plans of the sites.

Local Governance Bill, 2016

EIGHTH SCHEDULE
(Section 106 (3))

Notice

To.....

TAKE NOTICE THAT you are hereby required on or before the.....day of.....to submit a statement in writing under your hand or the hand of some person duly authorised by you for that purpose and served upon the District Chief Executive to show cause why

.....

which has been constructed/executed in contravention of

.....should not be.....

.....

Dated this.....day of.....20.....

.....
District Chief Executive or authorised officer

Note:

1. Give adequate particulars of offending building, structure or work.
2. Specify the by-law or condition of permit contravened.
3. State whether building, structure or work is to be removed, altered or pulled down, and in the case of alteration give adequate particulars of alteration required to be made.

Local Governance Bill, 2016

NINTH SCHEDULE

(Section 114)

*Services, Organisations and Departments to Implement Response Plan and
By-Laws*

1. Ghana National Fire Service
2. Ghana Police Service
3. National Disaster Management Organisation
4. Department of Social Welfare and Community Development

TENTH SCHEDULE

(Section 137 (2))

Licences

1. Dog licences
2. Hawkers licence
3. Extension of Hours licence
4. Hotels and Restaurants licences
5. Beer and Wine Sellers licenses
6. Petroleum Installations licences
7. Palm-wine Sellers licenses
8. Akpeteshie Distillers or Sellers licences
9. Herbalists licences
10. Taxi Cabs licences
11. Lorry Park Overseers licences
12. Taxi Drivers Licences
13. Self-employed Artisans licences
14. Fishing Tolls licences
15. Births and Deaths licences
16. Electronic Communication Servers and Providers licences

Local Governance Bill, 2016

ELEVENTH SCHEDULE

(Section 138 (1))

Vehicle Licences - Description of Vehicle

1. Every cart, truck or wagon, not propelled by mechanical power and used primarily for the conveyance of goods and provision of other services except a wagon, truck or carriage used on Government railway.
2. Every bicycle other than a bicycle belonging to an establishment or Government Department or the Military, Armed Forces or Police Service or other bicycle not propelled by mechanical power.

Local Governance Bill, 2016

TWELFTH SCHEDULE

(Section 139)

Entertainment Licences

1. Concerts, musical or theatrical performances
2. Video shows
3. Cinemas
4. Fairs
5. Circuses
6. Discotheques
7. Clubs
8. Other entertainments to which admission is to be obtained on payment of money or reward, except where the whole proceeds are being devoted to charity.

Local Governance Bill, 2016

THIRTEENTH SCHEDULE
(Section 141 (2) (b))

Fees and Miscellaneous Charges

No.	Fees	Miscellaneous Charges
1.	Cattle pounds	1. Town Hall and Community Centre Receipts
2.	Conservancy	2. District Hearse Hiring
3.	Slaughter House	3. Dislodging of Latrines
4.	Market Dues	4. Hire of Bulldozers and Graders
5.	Market Stalls and Stores	5. Collection of Sand and Gravel and Stones
6.	Lorry Park Dues	6. Slot Machines
7.	Advertisements	7. Stool Land Revenue
8.	Trading Kiosks	8. Toilet Receipts
9.	Restoration of Conservancy Service	
10.	Graveyard Receipts	
11.	Bread Bakers	
12.	Chop Bars	
13.	Corn Mills	
14.	Dressing Stations	

FOURTEENTH SCHEDULE

(Section 142)

Taxes on Income

1. Spare parts dealers
2. Chemical sellers
3. Tailors and dressmakers
4. Sandcrete block manufacturers
5. Musical spinners
6. Radio and television repairers
7. Gold and silver smiths
8. Drinking bar operators
9. Professional photographers
10. Chop bar keepers and cooked food sellers
11. Butchers
12. Refrigeration and air-conditioning workshop owners
13. Hairdressers
14. Garage owners
15. Video operators
16. Cornmill owners
17. Co-operative distillers
18. Scrap dealers
19. Livestock breeders and traders
20. Traders
21. Liquor sellers

Local Governance Bill, 2016

FIFTEENTH SCHEDULE

(Section 196)

Departments of the Regional Co-ordinating Council

1. Department of Social Welfare
2. Department of Community Development
3. Department of Town and Country Planning
4. Public Works Department
5. Department of Parks and Gardens
6. Department of Housing
7. National Board for Small-Scale Industries
8. Registry of Births and Deaths
9. Controller and Accountant-General's Department
10. Department of Feeder Roads
11. Department of Urban Roads
12. Veterinary Services Department
13. Plant Protection and Regulatory Services Department
14. Agricultural Extension Services Department
15. Crops Services Department
16. Department of Agricultural Engineering
17. National Sports Authority
18. National Youth Authority
19. Education Service
20. Ghana Library Authority
21. Health Service
22. Statistical Service
23. Department of Children
24. Department of Women

Local Governance Bill, 2016

SIXTEENTH SCHEDULE

(Section 233)

Consequential Amendments

Column 1(Enactment)	Column 2 (How affected)
1. National Development Planning (System) Act, 1994 (Act 480)	Act 480 is amended by the repeal of sections 2 to 9 and section 20.
2. Driver and Vehicle Licensing Authority Act, 1999 (Act 569)	Act 569 is amended by the repeal of subsection (2) of section 19.
3. Internal Audit Agency Act, 2003 (Act 658)	Act 658 is amended <i>(a)</i> by the repeal of subsections (6) and (7) of section 16; and <i>(b)</i> by the deletion of “and MMDAs” in subsection (3) of section 20.
4. Electronic Communications Act, 2008 (Act 755)	Act 755 is amended by the repeal of subsection (1) of section 95.
5. Registration of Births and Deaths Act, 1965 (Act 301)	Act 301 is amended <i>(a)</i> in section 41 by the substitution for the definition for <i>(i)</i> “district” of “”district” includes the area of authority of a District Assembly;”; <i>(ii)</i> “Registrar” of “”Registrar” includes the Registrar of births and deaths, an assistant registrar, registration officers, district registrars, assistant district registrars, an officer of the District Assembly designated for the purpose by the District Chief Executive;”; and <i>(b)</i> by the substitution for section 44 of “ Application of Act 44. This Act, so far as it relates to the registration of births, foetal deaths and deaths, shall apply to <i>(a)</i> the districts that the Minister may, by legislative instrument, specify; and <i>(b)</i> the area of authority of every District Assembly which shall for the purpose of this Act be deemed to have been specified by the Minister by legislative instrument made under this section.”.

Local Governance Bill, 2016

Date of *Gazette* notification: 29th February, 2016.

Local Governance Bill, 2016

MEMORANDUM

This Bill seeks to review, amend and consolidate the major legislation affecting local government and decentralisation in Ghana.

In 1988, the government embarked on a process of decentralisation drawing on earlier attempts and experiences. The aim of the decentralisation programme was to promote popular participation by shifting the process of governance from command to one of consultation and to devolve the functions, powers, competences, skills, resources and means to District Assemblies to empower them as the executive, legislative, administrative, planning, service delivery, rating and budgeting authorities at the local level.

This was meant to effect a qualitative change in the living conditions of the people, particularly in the rural communities, and led to the enactment of various laws to support the decentralisation programme. Key among them was the Local Government Law of 1988 (PNDCL 207). Further impetus was given to the decentralisation programme with the promulgation of the 1992 Constitution which has Chapter 20 devoted to Decentralisation and Local Government.

Eighteen years later, in 2010, the government undertook a major review of the decentralisation programme through the organisation of ten regional fora and a National Stakeholder Conference on Decentralisation. The outcomes were a Decentralisation Policy Framework and a National Decentralisation Action Plan 2010 to 2014, both of which were launched by the Vice President in November 2010.

As these policies and laws were rolled out piecemeal, and as with most features of governance, they culminated into a multiplicity of laws in the local governance system that has created many opportunities and challenges. Key among these challenges is that over time and with changes in society, some of the laws have become obsolete. Others have become anachronistic. At the operational level, the plurality of legislation on local government and decentralisation has made implementation difficult, if not impractical for local government and decentralisation practitioners, especially District Chief Executives and District Co-ordinating Directors, who are not lawyers but who have to apply and implement the laws on a daily basis.

Local Governance Bill, 2016

This Bill therefore consolidates five major laws on local government and decentralisation. These are the District Assemblies Common Fund Act, 1993 (Act 455), the Local Government Act, 1993 (Act 462) and the National Development Planning (System) Act, 1994 (Act 480). The others are the Local Government Service Act, 2003 (Act 656) and the Internal Audit Agency Act, 2003 (Act 658).

This Bill includes provisions on the critical components of decentralisation provided in article 240 of the Constitution. These are fiscal decentralisation (Acts 455, 462 and 658); political decentralisation (Act 462); decentralised planning (Act 480) and administrative decentralisation (Act 656). The consolidation of these laws will provide for ease of reference to local government and decentralisation legislation. The Bill removes previous inconsistencies and contradictions and updates the laws by the inclusion of amendments and new developments in local government and decentralisation.

After the expiration of the time-frame for the implementation of the Decentralisation Policy Framework (2010-2014) and the National Decentralisation Action Plan (2010-2014), a successor Decentralisation Policy Framework II (2015-2019) and a National Decentralisation Action Plan II (2015-2019) were finalised and launched in 2015 for implementation between 2015 and 2019. The contents of these two documents have also been factored into the Bill.

Highlights of the major changes in the Bill include the promotion of popular participation in local level decision-making. Although this was a major aim of the 1988 decentralisation programme, none of the laws since then, with the possible exception of the National Development Planning (System) Act, 1994 (Act 480) with its public hearing requirement provision, has had provisions on popular participation. *Clauses* 40 to 48 seek to address this. These clauses provide for the participation of the people in bye-laws and fee-fixing resolutions, modalities and platforms for participation and right of stakeholders to petition. Other participatory governance provisions cover the communication by

Local Governance Bill, 2016

District Assemblies and citizens' access to information from a District Assembly and its Departments.

Given the difficulties that Ministers of Local Government have had in the past in driving decentralisation on account of their co-equal status with other Ministers whose power and authority are affected by decentralisation, a novel Inter-Ministerial Co-ordinating Committee on Decentralisation chaired by the President or a representative of the President is established in Part Nine. It consists of the sector heads of the Ministries most critical to decentralisation and it has the overall responsibility for decentralisation policy and implementation. It will be the organ responsible to drive the decentralisation programme generally.

Although the Local Government Law, 1988 (PNDCL 207) and the Local Government Act, 1993 (Act 462) included the Health Service, the Education Service, the National Fire Service and the Departments of Fisheries, Forestry and Game and Wildlife in the list of decentralised departments, the Local Government Service Act, 2003 (Act 656) excluded them from the Schedule of decentralised departments. This has become a major difficulty for practitioners to deal with. The Government has decided that Health, Education and Fisheries should be restored to the Decentralisation Schedule and the consolidation has presented an opportunity to remedy the situation and include the Health Service, the Education Service and the Department of Fisheries in the Fourth Schedule of decentralised departments.

The Local Government Act, 1993 (Act 462) envisaged the establishment of the Local Government Service and the subsequent transfer of the staff of the decentralised departments in the districts from the Civil Service to the Local Government Service. The Local Government Service has since been established under the Local Government Service Act, 2003 (Act 656) and is fully operational. The staff have also been transferred to the Local Government Service. These developments call for a review and amendment of the two laws to bring them in line with the developments.

Local Governance Bill, 2016

Under the Local Government (Departments of District Assemblies) (Commencement) Instrument, 2009 (L.I. 1961), Departments of the District Assemblies have been established and are operational. The Local Government Service Secretariat has also taken steps to address the extra staff needs of the District Assemblies to complement the staff transferred from the Civil Service to the Local Government Service. These changes have been reflected in Part Two.

The Bill reflects major policy changes over the twenty eight years of decentralisation implementation.

Previously, one-third of the members of a District Assembly constituted the Executive Committee of the District Assembly. This was not only unwieldy but also made it difficult for the Executive Committee to be constituted. The Executive Committee under the Bill now comprises the District Chief Executive as the chairperson, the five chairpersons of the statutory sub-committees of the Executive Committee and the chairperson of an ad hoc sub-committee nominated by the District Chief Executive, *clause 19*.

The Head of the Local Government Service is now the Secretary to the Local Government Service Council instead of the situation under Act 656 where the Secretary to the Council was appointed by the Minister for Local Government, *clause 63*.

Appointment of the staff of the Local Government Service and the Departments of the District Assemblies is to be done by the Head of the Local Government Service as an interim measure. Ultimately, the District Assemblies will have the power to “hire and fire” their staff. To this end, the Inter-Ministerial Co-ordinating Committee on Decentralisation established in Part Nine has been given the power to determine as and when a specific District Assembly will be ready to exercise this power and to give directions for them to do so accordingly. Different District Assemblies may therefore be given the power to “hire and fire” at different times.

Local Governance Bill, 2016

After the policy decision that the National Fire Service remain a de-concentrated Department for the time being, the District Assemblies have now been given the responsibility to co-ordinate the activities of the emergency, disaster and relief organisations operating in their jurisdictions. This is provided for in Part Four.

The reports of the Internal Audit Unit of a District Assembly are to be submitted to the Presiding Member of the District Assembly instead of the situation under the Internal Audit Agency Act, 2003 (Act 658) where the reports are submitted to the central Internal Audit Agency with copies to the Regional Co-ordinating Council. This change will make it possible for the District Assemblies to use the reports of the Internal Audit Units as management tools to improve the financial administration of the District Assemblies. Audit, both internal and external, is provided for in Part Six.

The Regional Co-ordinating Councils as de-concentrated levels of governance have now been given defined responsibilities and corresponding sources of income to enable them meet their responsibilities in Part Eight. They have been assigned oversight responsibility for second cycle educational institutions and regional hospitals in the region on behalf of the Education Service and the Health Service. Their sources of funding include budgetary allocations, moneys obtained by the Driver and Vehicle Licensing Authority through vehicle licensing fees and a Regional Co-ordinating Fund funded by a percentage of the District Assemblies Common Fund to be determined by Parliament in the process of approving the formula for the sharing of the Common Fund.

Provisions on the structures and procedures for inter-service and inter-sectoral collaboration and cooperation at the district, regional and national levels have been introduced into the Bill.

By-laws of District Assemblies, provided for in Part Seven, are now to be submitted to the Regional Co-ordinating Councils for them to ensure their consistency with national legislation instead of the Minister for Local Government for approval. The requirement for bye-laws to be

Local Governance Bill, 2016

gazetted before they become valid has been relaxed. Many District Assemblies were not doing this because of the very high cost of publication and as a result, the by-laws could not be enforced by the courts. Bye-laws may now be valid if they are published in the print media or displayed on the premises of the District Assembly and other prominent places in the district.

The power of the President to dissolve or suspend a District Assembly by executive instrument is now restricted to only one year. If the President wants to extend the period beyond one year, it is necessary to renew the executive instrument. This is to prevent the abuse of power against a District Assembly considered hostile, *clause 37*.

The Bill has Ten Parts and the various Parts are commented upon as follows:

Part One deals with political decentralisation. It focuses on districts and District Assemblies and incorporates the provisions of Part One of the Local Government Act, 1993 (Act 462). It provides for the creation of districts and the establishment of District, Metropolitan and Municipal Assemblies, their jurisdiction, composition and structure. It also provides for their functions and terms of office as well as the operations of a District Assembly.

Significant clauses in Part One are *clause 1* that secures the 216 districts in existence before the consolidation. It vests the power for the creation of districts in the President.

Clause 2 deals with demarcation of areas of authority of sub-district structures. The *clause* continues in existence the areas of authority of the Sub-Metropolitan District Councils, Urban Councils, Town Councils, Area Councils and Unit Committees.

Subclause (2) of clause 5 makes it clear that Members of Parliament, as non-voting members of a District Assembly, are to be counted among the seventy percent membership of the District Assembly in the calculation

Local Governance Bill, 2016

of the thirty percent membership to be appointed by the President. This should put an end to the interminable confusion that arises whenever the thirty percent of the appointed membership has to be calculated.

Subclause (4) of clause 5 is new. It provides guidelines to be followed in the appointment of the thirty percent membership of the District Assembly. The guidelines, which are in the First Schedule, cover groups to be consulted and the criteria for the appointment.

Clause 6 provides arrangements to bring into line any District Assembly that falls out of line with other District Assemblies as regards the terms of the period or date for the conduct of a district level election.

Other provisions on the membership of District Assemblies in respect of the qualification and disqualification of District Assemblies, the mode of seeking election, the cessation of office of a member of a District Assembly and the revocation of the mandate of a member of a District Assembly are dealt with respectively in *clauses 7, 8, 9 and 10*.

Clause 11 provides for the emoluments of members of a District Assembly.

The functions of a District Assembly are the content of *clause 12* which expresses them in general terms to be deliberative, legislative and executive in nature.

Clause 13 elucidates the functions of a District Assembly provided under other enactments including sections 296 and 300 of the Criminal Offences Act, 1960 (Act 29).

The Local Government Act, 1993 (Act 462), incorporated by reference, the provisions of sections 296 and 300 of the Criminal Offences Act, 1960 (Act 29) as functions of a District Assembly. Those sections contain some of the most important functions of a District Assembly with respect to the nuisance offences of “throwing rubbish in the street” and “stray cattle”, *clause 13*.

Local Governance Bill, 2016

Clause 14 indicates the relevance of the Public Health Act, 2012 (Act 851) in relation to public health matters of a District Assembly.

Clause 15 makes provision for the delegation of functions of a District Assembly to other bodies or persons.

Clause 16 imposes specific duties on District Assembly members to require them to meet their electorate before and after a District Assembly meeting. A member of a District Assembly is also to participate in the work of the sub-committees of the Executive Committee of a District Assembly and take part in communal labour and development activities. In the past, these duties have not been undertaken for financial reasons.

Clauses 17, 18 and 19 provide for a Presiding Member of a District Assembly, meetings of a District Assembly and the Executive Committee of a District Assembly respectively.

Clause 20 creates the office of a District Chief Executive. *Subclause (2) of clause 20* is new. It provides guidelines to be followed for the nomination of a District Chief Executive. The guidelines which are in the Second Schedule provide for the role of the District Chief Executive in the local governance system, the qualities of the District Chief Executive and the criteria for the nomination of a candidate for appointment as District Chief Executive.

Clause 21 enumerates the functions of the Executive Committee of a District Assembly and *clause 22* provides for the meetings of the Executive Committee.

Clause 23 lists the various sub-committees of the Executive Committee of a District Assembly. The members of each sub-committee are determined by the Executive Committee. *Clause 24* indicates the functions of the sub-committees of the Executive Committee.

Local Governance Bill, 2016

Clause 25 excludes the application of the provisions on functions and meetings of the Executive Committee and sub-committee, to a Metropolitan Assembly.

The composition, jurisdiction and powers of the Public Relations and Complaints Committee of the District Assembly were vague in Act 462. *Clause 26* spells out the membership of the Committee that comprises the Presiding Member as chairperson, four District Assembly members as members and representatives of the District National Commission for Civic Education, Commission on Human Rights and Administrative Justice and civil society organisations in the district as ex-officio members without the right to vote. *Clause 27* also spells out the functions of the Committee which are essentially public relations and Ombudsman functions where the issues in question can be resolved internally.

Clauses 28 and 29 relate to addresses that may be made by a District Chief Executive and Minister of State or other appointee to a District Assembly.

Clauses 30, 31 and 32 provide for the offices that may be created by District Assemblies, the joint committees of District Assemblies and the carrying out of joint commercial activity by a District Assembly.

In view of the anticipated amendments to the Public Procurement Act, 2003 (Act 663) that will mainstream District Assemblies into the procurement process and restore their procurement powers, *clause 33* requires that procurement powers and tender procedures of a District Assembly should be in accordance with the relevant procurement laws.

Clauses 34 and 35 empower a District Assembly to insure its property and to exercise ancillary powers.

Clause 36 stipulates the investigative powers of the President and *clause 37* in a similar vein indicates the powers of the President to declare a District Assembly to be in default of its functions.

Local Governance Bill, 2016

Clause 38 deals with expenses incurred as a result of transferred functions. *Clause 39* mandates District Assemblies to make contributions to the National Association of Local Authorities of Ghana.

Clauses 40 to 48 deal with participatory governance at the local level and seek to promote popular participation in local level decision-making. Under *clause 40*, residents and other district level stakeholders are to be given every opportunity to participate effectively in the activities of a District Assembly and its sub-structures. A district level stakeholder is defined in *clause 234* to include a chief and traditional authority, an opinion leader, community leader and a civil society organisation. Civil society organisation is defined to include a community-based organisation, faith-based organisation, non-governmental organisation, professional or vocational association or similar organisation.

Clauses 41 and 42 provide the procedure to enable a resident and other district level stakeholders participate in the activities of the District Assembly and its sub-structures and identify the modalities and platform for participation.

Clause 43 provides for petitions to be made to a District Assembly and *clause 44* makes it mandatory for a District Assembly to respond to petitions made.

Clause 45 makes it mandatory for the District Chief Executive to report on stakeholder participation in the annual State of the District Address to the District Assembly. *Clauses 46 and 47* are on the District Assembly's communication with the public and access of the public to information from a District Assembly. *Clause 48* deals with the requirement for a District Assembly to observe the principles of inclusion and integration of minorities and marginalised groups.

Part Two, which covers *clauses 49 to 81*, deals with administrative decentralisation. Some of the provision in this Part replicate the provisions of the Local Government Service Act, 2003 (Act 656). *Clause 49* establishes the Local Government Service. *Clause 50* clarifies the member-

Local Governance Bill, 2016

ship of the Local Government Service to include staff of the Regional Co-ordinating Council and regional level decentralised Departments of the Regional Co-ordinating Council. These Departments are based on the Decentralised Departments of District Assemblies as reflected in article 255 (1) (d) of the Constitution. Reference is made in this article to “regional heads of Decentralised ministries in the region” as members of the Regional Co-ordinating Council.

In order to accord the Head Office of the Local Government Service its proper status and position in the governance arrangements of the country, *clause 64* changes the name of the Head Office from the Local Government Service Secretariat to the Office of the Head of Local Government Service. The same *clause* also continues in existence these offices.

Under *clause 76*, the Head of the Local Government Service may delegate the power of appointment of specified categories of staff to the District Assembly. Accordingly, each District Assembly is required to establish a five-member District Appointments Advisory Committee to be chaired by the Head of the Human Resource Department of the District Assembly. The membership should not include District Assembly members.

Offices and Departments of the District Assembly are provided for in *clauses 73 to 80*. These provide for the Office of the District Assembly and its functions, the District Co-ordinating Director and the staff of the Office of the District Assembly. The decentralised sectors at the district level, the Departments of the District Assembly, their staff, the functions of the Departments of the District Assembly whilst inter-service and inter-sectoral collaboration and co-operation are also dealt with under *clause 81*.

The former District Administration is appropriately renamed Office of the District Assembly in *clause 73*. *Clause 75* makes it clear that the District Co-ordinating Director is a member of the Local Government Service and is recruited, promoted and transferred by the Head of the Local Government Service and not the Head of the Civil Service.

Local Governance Bill, 2016

Subclause (2) of clause 76 anticipates that ultimately, staff of the District Assemblies will be “hired and fired” by the District Assembly. It therefore provides that as an interim measure, the staff be appointed by the Head of the Local Government Service.

Subclause (3) of clause 76 is based on the principle of “incremental gradualism”. As and when it is considered that a District Assembly is sufficiently capacitated to “hire and fire” its own staff, the Inter-Ministerial Co-ordinating Committee may divest the Head of the Local Government Service of that function and transfer it to the capacitated District Assembly.

It is the Head of the Human Resources Department of the District Assembly acting on the advice of the Appointments Advisory Committee established under *subclause (4) of clause 76*, who perform the “hiring and firing” function when that function is transferred to the District Assembly.

Clause 77 identifies the decentralised public service sectors in the Third Schedule. These significantly include Education, Health and Fisheries that were previously excluded. The Housing and Statistics sectors are also included, but the Fire, Forestry and Game and Wildlife sectors remain excluded. The President, instead of the Minister for Local Government under Act 462, may however add to or subtract from the list of decentralised sectors.

Clause 78 saves the 16, 13 and 11 Departments of the Metropolitan, Municipal and District Assemblies respectively in existence before the commencement of the consolidated Bill. It then significantly provides that at the district level, the Education Service is to form part of the Department of Education, Youth and Sports; the Health Service and the Environmental Health and Sanitation Department are to form the Department of Health. The Fisheries Department is to form part of the Department of Agriculture and the National Board for Small-Scale Industries is to form part of the Department of Trade and Industry. This

Local Governance Bill, 2016

clause also establishes a Department of Housing out of the Department of Rural Housing, a Department of Statistics out of the Ghana Statistical Service and the Registry of Births and Deaths and a new Department of Human Resource Development.

Clause 79 provides for the staff of the Departments of the District Assembly using the same formula used for the staff of the Office of the District Assembly under *subclauses (4) to (7) of clause 76*.

Clause 80 states the functions of the Departments of a District Assembly.

Clause 81 is new and spells out the critical subject of inter-service and inter-sectoral collaboration and co-operation. The *clause* recognises the presence of devolved and de-concentrated departments as well as services, public corporations and state-owned enterprises all in the district with different reporting lines and yet required to work within the framework of the district development plan for the development of the district and the effective delivery of municipal services to the residents of the district. It therefore provides for collaboration and co-operation and for the District Chief Executive to play a lead role in the system of collaboration and co-operation. *Subclause (3) of clause 81* provides for the heads of the non-decentralised sectors in the district to attend meetings and participate in the deliberations of the Sub-Committees of the Executive Committee of the District Assembly and *subclause (4) of clause 81* requires them to provide information as and when required by the District Chief Executive, the District Co-ordinating Director or the Head of a Department of the District Assembly.

Part Three is on decentralised planning. *Clauses 82 to 89* provide for economic development planning and incorporates the sections of the National Development Planning (System) Act, 1994 (Act 480) that deal with the district economic development planning structures, the District Planning Authority and the District Planning Co-ordinating Unit as well as economic development planning at the district level. For these purposes, the *clauses* continue the District Assemblies as the District Planning

Local Governance Bill, 2016

Authorities for their areas of authority in *subclause* (1) of *clause* 82 and reproduce the sections of Act 480 on district level economic development planning.

Clauses 90 to 111 deal with land use and spatial planning and incorporate almost all the provisions on physical development in the Local Government Act, 1993 (Act 462) as reproduced in the anticipated Land Use and Spatial Planning Bill. For purposes of consolidation, the relevant provisions of the Land Use and Spatial Planning Bill have been reproduced verbatim in the Bill with a caution that the provisions of those *clauses* will not limit the provisions of any other enactment on land use and spatial planning in force.

Part Four is on the provision of emergency, disaster prevention and relief services. It replaces the former Part Three of Act 462 on provision of Fire Services in recognition of the policy decision to retain the National Fire Service as a de-concentrated Service at the district level for the time being. This Part now covers emergency, disaster prevention and relief services that include the provision of fire services and it empowers District Assemblies to prepare response plans and make bye-laws for these contingencies. The plans are to include mitigation, preparedness, response and recovery plans. In implementing the plans and bye-laws, a District Assembly is to co-ordinate the activities of the National Fire Service, the Police Service, the National Disaster Management Organisation and the Department of Social Welfare and Community Development in the district. Special provisions are made in *clauses* 116 to 120 where the emergency in question has to deal with the provision of fire services.

Clause 119 provides the penalty for the willful obstruction or interference with the performance of emergency, disaster prevention and relief services functions or the provision of fire services by a designated agency whilst *clause* 120 stipulates the penalty for giving or causing a false alarm of fire to be given.

Clause 121 deals with enquiries into the origin of a fire outbreak. The *clause* empowers a District Assembly to appoint a committee to enquire into the origin of a fire within its area of authority. The committee

Local Governance Bill, 2016

is required to have the powers of a District Court when holding an enquiry. Furthermore, the *clause* mandates the committee, at the conclusion of its enquiry, to record its findings stating its reasons for the findings and submit a report of its findings to the District Assembly.

Clauses 122 to 124 of the Bill deal with the financial matters of District Assemblies. *Clauses* 122 and 123 provide for district budgets. *Clause* 122 requires a District Assembly to have a budget comprising the aggregate revenue and expenditure of the Office of the District Assembly, the Departments of the District Assembly and the budget for the annual development plans and programmes of the Departments of the District Assembly. Under *clause* 123, each District Assembly is required to submit to the Regional Co-ordinating Council, a detailed budget for the respective district before the end of each financial year.

Clause 124 provides for the revenue of District Assemblies. A District Assembly is required under the *clause* to open and maintain a bank account for revenues and other moneys raised or received by it.

Clauses 125 to 136 deal with the District Assemblies Common Fund. The *clauses* reproduce the provisions of the District Assemblies Common Fund Act, 1993 (Act 455) with notable modifications in *clauses* 134 and 135. The word “development”, as used within the context of the District Assemblies Common Fund, is interpreted in *clause* 234 to mean programmes and projects of the District Assembly that have the effect of achieving a long and healthy life, access to knowledge, a decent standard of living and the general well-being of the people of the district. The purpose of this definition is to clarify the meaning of “development” as used in article 252 (2) of the Constitution given the fact that the District Assemblies Common Fund is meant to provide funding for undertaking developmental projects and programmes in the District Assemblies.

“Total revenue”, as used in article 252 (2) of the Constitution for purposes of calculating the District Assemblies Common Fund, is defined in *clause* 234 to mean the entire revenue collected by or accruing

Local Governance Bill, 2016

to the central government other than foreign loans, grants, non-tax revenue and revenues already collected by or for a District Assembly under an enactment.

Under *clause* 127, the contradiction in the Constitution as regards the procedure for the appointment of the Common Fund Administrator is resolved by combining the two separate and contradictory provisions in articles 70 (1) and 252 (4) of the Constitution.

Clauses 136 to 143 deal with licences, fees and miscellaneous charges, and taxes and other revenue. Under Act 462, these provisions were lumped together under section 86 as “Revenue of Local Government Bodies”. This created some uncertainty because it gave the impression that District Assemblies were collecting different moneys for the same activities. The Bill clarifies the situation by categorising the different kinds of charges.

Clauses 137 to 140 which relate to licences permit District Assemblies to charge fees for licences issued to permit the undertaking of a commercial or any other activity in the district prescribed by the Bill. These include licences for non-motorised vehicles and for entertainment. Licences for operators and providers of electronic communication services have been added to the category of licences issued by the Assemblies. The inclusion has necessitated the repeal of section 95 (1) of the Electronic Communications Act, 2008 (Act 775) which vested that power in the National Communications Authority.

Clause 141 is on fees and miscellaneous charges. The *clause* permits a District Assembly to charge fees for services and facilities provided by the Assembly. These include conservancy fees, slaughter house fees, market dues, lorry park dues and fees for the dislodging of latrines. In accordance with the fiscal decentralisation principle of “finances follow functions”, the *clause* further provides that non-tax revenue collected by a department of a District Assembly is to be retained by the District Assembly and used for the performance of the functions of that department.

Local Governance Bill, 2016

Clauses 142 to 143 which deal with taxes and other revenues enable a District Assembly to collect the income taxes on the incomes of identified economic operators who are mainly in the informal sector of the economy. The list of affected operators is enumerated in the Fourteenth Schedule and includes spare parts dealers, tailors and dressmakers, drinking bar operators, chop bar keepers, cooked food sellers and hairdressers.

Clause 142(2) permits the Minister responsible for Local Government, in consultation with the Minister responsible for Finance, to authorise an appropriate public body to collect the taxes on behalf of a District Assembly. The appropriate public body envisaged under the *clause* is the Domestic Tax Division of the Ghana Revenue Authority. This is because of the technical nature of the computation of income tax. This *clause* was originally in Act 462, but was repealed under section 11 (1) and (2) of the Internal Revenue (Registration of Business) Act, 2005 (Act 684). It is being re-introduced because the activities involved are purely local activities and the operators involved are purely local operators who are easiest identified and taxed by local authorities.

The Bill does not contain any specific provisions on the borrowing powers of District Assemblies due to the imminent enactment of the Local Government (Borrowing) Bill which confers power on Parliament to provide for the borrowing powers of District Assemblies.

Clauses 144 to 169 which deal with rates reproduce the provisions of Part Seven of Act 462 but the provisions are captured in a more comprehensible manner under this Bill.

Clauses 170 and 171 are on the expenditure of District Assemblies. Section 28 of the Local Government Service Act, 2003 (Act 656) provided for the expenditure of the Local Government Service to be a charge on the Consolidated Fund thereby making each expenditure of a District Assembly a charge on the government budget, oblivious of the fact that a District Assembly mobilises its own internally generated funds which are not paid into the Consolidated Fund and which they expend

Local Governance Bill, 2016

on their own. *Clause 170* of the Bill rectifies this anomaly. Under the *clause*, a District Assembly may only incur expenditure that is included in the approved budget for the financial year. In other words, expenditures outside of the budget cannot be charged on the Consolidated Fund. The *clause* is to enable the Ministry of Finance indicate that certain expenditures may be charged to the account of the District Assembly.

Clause 171 repeats section 35 of Act 462 in relation to the writing off of irrecoverable arrears of revenue with some slight modification. The *clause* permits an amount which is to be determined each year by the Minister responsible for Local Government to be written off instead of the maximum amount of ten Ghana Cedis provided for under Act 462. The rationale is to allow flexibility and obviate the need to seek Parliamentary approval each time the limit has to be increased.

Clauses 172 to 174 are on other financial matters dealing with the keeping of accounts and the power of the Minister responsible for Local Government to give financial instructions. The provision in section 93 (2) of Act 462 that provides for the establishment of an Inspectorate Division of the Ministry of Local Government has been deleted because of the decision to merge the staff of the Division with the Internal Audit Unit of the District Assembly.

Clauses 175 to 180 relate to audit. The *clauses* provide for internal and external audit. *Clause 175* reproduces the relevant sections of the Internal Audit Agency Act, 2003 (Act 658) with the necessary modification as they relate to District Assemblies. *Subclause (2)* of *clause 175* provides that the staff of the Internal Audit Unit of District Assemblies are members of the Local Government Service and *subclause (3)* mandates the Head of the Local Government Service, in appointing the staff of the Internal Audit Units of a District Assembly, to have regard to the standards and procedures determined by the Internal Audit Agency.

Under *subclause (4)* of *clause 175*, the Head of the Internal Audit of the District Assembly is responsible to the District Assembly. The Head

Local Governance Bill, 2016

of the Internal Audit Unit is therefore required to submit a quarterly report on the internal audit carried out by the Unit to the Presiding Member of the District Assembly. This is to ensure that the Internal Audit reports can effectively be used as a management tool.

Subclause (4) further requires the Head of the Internal Audit Unit to submit a copy of each report prepared by the Internal Audit Unit to the District Chief Executive, the Minister responsible for Local Government, the Internal Audit Agency and the Regional Co-ordinating Council and the Office of the Head of the Local Government. The provisions of Act 658 that relate to District Assemblies have consequently been repealed in *clause 236*.

Clauses 176 to 180 deal with external audit.

Clauses 181 to 185 are on by-laws and model by-laws. It is largely a reproduction of Part Five of Act 462, except for specific significant changes. Under *subclause (1), of clause 182*, by-laws are to be submitted to the Regional Co-ordinating Council to ensure consistency with national legislation instead of the provision in section 80 (1) of Act 462, under which by-laws are to be submitted to the Minister for Local Government for approval.

Under *subclause (3) of clause 182*, a bye-law becomes effective when it has been posted on the premises of the District Assembly and at least one other public place within the district and published in a daily newspaper of national circulation or published in the *Gazette*. The need for these alternative modes of publication has arisen because the original requirement for the publication in the *Gazette* alone has proven ineffective. The decision of the Ghana Publishing Company, publishers of the *Gazette*, to charge for publication when previously publication had been free, has made publication in the *Gazette* prohibitively expensive. District Assemblies can no longer afford to send their by-laws for publication. As a result, by-laws cannot be enforced by the courts. The changes in *clause 182* are to resolve the problem. *Subclause (4) of clause 182* permits the sale of by-laws

Local Governance Bill, 2016

to the public at prices to be determined by a District Assembly. This is to enable the District Assembly earn revenue.

Clause 185 provides for how evidence of by-laws may be adduced in court in order to avoid any controversy.

Clauses 186 to 203 deal with decentralisation at the regional level. Under *subclause (2)* of *clause 188*, additional functions have been given to the Regional Co-ordinating Councils. These include approval of the by-laws of the District Assemblies, except that the approvals may be delegated to a three member committee comprising the Regional Co-ordinating Director, a representative of the Attorney-General in the region and the Regional Internal Auditor. The Regional Co-ordinating Councils are also required to provide backstopping support to District Assemblies in the region that may require assistance in the performance of their functions. Furthermore, the Regional Co-ordinating Councils are to resolve conflicts of District Assemblies in the region and assume oversight responsibility for second cycle educational institutions and regional hospitals in the region on behalf of the Ministries of Education and Health.

Under *subclause (2)* of *clause 192*, the existing Offices of the Regional Co-ordinating Councils are required to remain in existence with their staff as members of the Local Government Service. This is consistent with the identification of the Regional Co-ordinating Council as a level of the central government decentralised by de-concentration.

Clauses 193 to 197 provide for the functions of the office of the Regional Co-ordinating Council, the position of a Regional Co-ordinating Director, staff of the Office of the Regional Co-ordinating Council, Departments of the Regional Co-ordinating Council and the functions of those Departments.

Clause 198 provides for inter-service and inter sectoral collaboration and co-operation at the regional level. The Regional Planning Co-ordinating Unit provides the technical framework for this activity

Local Governance Bill, 2016

while the Regional Co-ordinating Council provides the political framework.

Clause 199 provides for the first time, for specific ways in which Regional Co-ordinating Councils may be funded. The sources of funds provided for under the *clause* are budgetary allocation through a Regional Co-ordinating Fund funded by a percentage of the District Assemblies Common Fund determined by Parliament. Moneys obtained under the Driver and Vehicle Licensing Authority Act, 1999 (Act 569) are also to be set aside and shared among the Regional Co-ordinating Councils on the basis of a formula approved by Cabinet. As a result of the provision on the Driver and Vehicle Licensing Authority moneys, section 19 (2) of the Driver and Vehicle Licensing Authority Act is repealed in *clause 235* of the Bill. Gifts and other donations may also be made to the Regional Co-ordinating Councils.

Clause 200 introduces the novel regional integrated budget. It integrates the budget of the Office of the Regional Co-ordinating Council and the budgets of the Departments of the Regional Co-ordinating Council into the budget of the Regional Co-ordinating Council to facilitate effective tracking and monitoring of national revenues along the lines of the district composite budget. It is also consistent with article 35 (6) (d) of the Constitution which enjoins the State to make democracy a reality by decentralising the administrative and financial machinery of Government to the regions and the districts.

Clause 201 provides for the appointment of Regional Ministers.

Clause 202 is also new. It defines the relationship between the Regional Minister and the District Chief Executive by providing that the Regional Minister supervises the work of the District Chief Executive on behalf of the President. The Regional Minister is also required under the *clause* to monitor and evaluate the performance of the District Chief Executives in the region and submit an annual assessment report on the performance of the District Chief Executives to the President. District

Local Governance Bill, 2016

Chief Executives are to inform regional Ministers regularly of governance developments undertaken or programmed to be undertaken in their districts. This *clause* puts beyond doubt the fact that in the governance and protocol scheme of things, the District Chief Executive is subordinate to the Regional Minister. The provision is meant to put an end to the perennial conflict between regional Ministers and District Chief Executives in this regard.

The newly-established Inter-Ministerial Co-ordinating Committee on Decentralisation is dealt with in *clauses* 204 to 207. After the realisation that it is a challenge for the sector Minister responsible for Local Government to drive the decentralisation policy and its implementation in relation to colleague Ministers whose sectors are impacted by the policy in terms of loss of power, resources and personnel, the Inter-Ministerial Co-ordinating Committee Decentralisation, chaired by the President or the designated representative of the President has successfully implemented some of the most difficult decentralisation choices since 2010.

Under the Local Government (Departments of District Assemblies) (Commencement) Instrument, 2009, (L.I. 1961), ten Schedule I Departments have been devolved to the district level as Departments of the District Assemblies. Seven Schedule II Departments together with the Education Service and the Health Service are having their enabling enactments reviewed to enable them perform as Departments of the District Assemblies. The staff working in the Departments of the District Assemblies have successfully migrated from the Civil Service to the Local Government Service and the long-awaited district composite budget system has been successfully implemented. These have all occurred under the auspices and direction of the Inter-Ministerial Co-ordinating Committee. In order to ensure the sustainability of this body and enable it continue with its success story, the Inter-Ministerial Co-ordinating Committee on Decentralisation has been given legal backing in the Bill.

Clause 204 provides that the Inter-Ministerial Co-ordinating Committee on Decentralisation is to be chaired by the President or the

Local Governance Bill, 2016

representative of the President and comprises the Ministers responsible for Local Government, Finance, Education and Health. Other Ministers of State represented on the Committee include the Ministers responsible for Food and Agriculture, Gender, Children and Social Protection and the Attorney-General and Minister responsible for Justice. The other members are the Head of the Local Government Service, the Head of the Civil Service and chairperson of the National Development Planning Commission.

Clause 205 provides for the functions of the Inter-Ministerial Co-ordinating Committee on Decentralisation. The main mandate of the Committee is to assume responsibility for the inter-sectoral policy coordination of decentralisation and for the decentralised local governance system.

Clause 206 establishes a Technical Committee of the Inter-Ministerial Co-ordinating Committee on Decentralisation which comprises mainly the Chief Directors of the Ministries represented on the Inter-Ministerial Co-ordinating Committee on Decentralisation whilst *clause 207* establishes a Secretariat for the Inter-Ministerial Co-ordinating Committee on Decentralisation.

Clauses 208 to 236 deal with miscellaneous matters. *Clauses 208 and 209* deal with the acquisition of immovable property and are largely a reproduction of Part Six of Act 462. Similarly, *clauses 210 to 215* on legal proceedings and notices repeat Part Eight of Act 462 and *clauses 216 to 222* which deal with privileges and immunities reproduce Part Nine of Act 462.

Clauses 223 to 231 deal with matters reproduced from Part Eleven of Act 462 with the necessary modification. These *clauses* deal with obstruction of officers of a District Assembly, the offence of unauthorised sitting or voting at a District Assembly meeting and the executive authority and local government. The rest of the clauses provide for the staff of a District Assembly and the authority of a District Assembly.

Local Governance Bill, 2016

The final provisions which deal with the power to make Regulations, consequential amendments, interpretation, repeals and savings and transitional provisions are provided for in *clauses 232 to 236*. *Clause 236* provides for the staff of the Inspectorate Division of the Ministry of Local Government to be absorbed into the Internal Audit Unit of the District Assemblies.

HON. COLLINS DAUDA (MP)
Minister responsible for Local Government

Date: 25th February, 2016.