



Ghana Immigration Service

Legal Handbook

August 2016



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FOREWORD

The International Organization for Migration (IOM) in Ghana proudly partnered with the Ghana Immigration Service (GIS) to produce this Legal Handbook. This new tool will serve to enhance the capacity of law enforcement officers to interpret and apply relevant laws, and more effectively manage borders.

Migration and all its complexities has become a defining feature of the 21st century. In the pursuit of “greener pastures”, more people are electing to leave their country of origin for economic and employment opportunities abroad. Sometimes this mobility however, comes with inequalities and vulnerabilities, especially when it is poorly governed and occurs under conditions of insecurity.

Ghana is no stranger to dynamic population mobility and in recent years has seen the rise of irregular migration patterns that traverse national borders. Like other West African countries, Ghana has porous borders. As a result, there has been an increase in both the smuggling of migrants and the trafficking of foreign nationals for forced labour and sexual exploitation.

Ghanaian youth are among those most vulnerable and affected by these practices. They are often lured by false promises, of well-paying jobs and as a result, risk everything and suffer untold hardships in journeys across the Sahara desert and Mediterranean Sea.

In the midst of these complex migratory challenges, the GIS is mandated to control and facilitate the movement of people across Ghana’s borders and to operate a credible work and resident permit system that meets the socio-economic needs of Ghana. Because these roles and functions are spread across various domestic laws, international protocols and conventions, a standardized classification of information, policies, and regulations are not readily accessible by immigration officers to reference in the performance of their duties. This ambiguity in subject matter has led to immigration officers using

indiscriminate discretion over legal guidelines in their daily work, which undermine efforts to manage migration in an effective manner.

The Legal Handbook therefore fills a critical gap in the capacity of GIS to fulfil its mandate and further promote safe and dignified migration practices. The Legal Handbook includes three main sections that specifically address GIS operations related to immigration laws, security laws and investment laws. This is complimented by an appendix that lists relevant international conventions/protocols, bilateral agreements and other domestic laws pertaining to immigration operations.

IOM and the Ghana Integrated Migration Management Approach (GIMMA) project would like to thank the GIS Technical Working Group (TWG), who worked tirelessly to draft the Legal Handbook. A special thank you also goes to the European Union (EU) who, through the GIMMA project, funded the development of the Legal Handbook and supporting activities.

This landmark legal repository is a testament to the commitment of the Government of the Republic of Ghana to manage migration in an effective and purposeful manner for the benefit of all Ghanaians.



Sylvia Lopez-Ekra,
Chief of Mission
International Organization for Migration - Ghana

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The compilation was done by the GIS Legal Handbook Committee chaired by Ag. Deputy Director Legal, Research and Monitoring, Victoria Ninette Baaba Asare and other members namely; Assistant Director of Immigration, Laud Ofori Affrifah, Head of Enforcement and Intelligence Bureau; Comptroller of Immigration, Kojo Opong Yeboah, Head of Human Resource; Comptroller of Immigration, Francis Palmdeti, Head of Public Affairs; Assistant Comptroller of Immigration, Noah Ahomka Yeboah, Head of Policy Planning, Monitoring and Evaluation Unit, and Deputy Superintendent of Immigration, Abigail Aatieretuo Dabuoh, Legal officer at the Legal, Research and Monitoring Department.

The Legal Handbook Committee held three handbook development workshops and participated in the International Law Trainings in Italy.

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INTRODUCTION

The Ghana Immigration Service (GIS) is statutorily mandated to control and facilitate the movement of people across Ghana's Borders, as well as to operate a credible Work and Residence Permit System that meets the socio-economic needs of Ghana. This mandate is derived from the Immigration Service Act, 1989 (PNDC Law 226) and the Immigration Act, 2000 (Act, 573). The GIS in enforcing these laws regulates the work and residence of persons of other nationalities in Ghana among others. The GIS also performs other functions such as combating human trafficking, money laundering, aspects of refugee management, among others.

However, some of these roles and functions are scattered in various domestic laws, international protocols and conventions which are not readily accessible by Officers in the performance of their duties. This has therefore, led to arbitrariness and the wanton use of discretion on the part of Officers in the performance of their assigned duties and responsibilities, a situation which sometimes brings the Service into disrepute.

It is in response to this challenge that the GIS in its Strategic Plan (2011 – 2015), resolved to put together a Legal Handbook to serve as a quick operational reference manual to facilitate the work of Officers. This Handbook is a compilation of domestic and international legislations, protocols and conventions relevant to the general management of migration in Ghana.

In compiling the Handbook, several domestic and international legislations, protocols and conventions were reviewed for their direct relevance to the operational mandate of the Ghana Immigration Service. Consequently, relevant portions of various legislations and the ECOWAS protocol were extracted and carefully compiled to ensure easy usage. Several other legislations and protocols found remotely relevant to the work of the GIS have also been listed to serve as additional reference material. The Legal Handbook also contains a list of selected bilateral agreements signed between Ghana and other countries as well as some International Organisations accredited to Ghana.

The purpose of this Legal Handbook as earlier mentioned, is mainly to afford immigration officers the opportunity to have a quick reference tool to guide them in efficiently carrying out their daily duties at their various stations. It has been observed that some officers in the exercise of their duties do not avert their minds to the legal regime bordering on immigration operations. Also, some of those who seek to use legal reference materials either do not know the specific legislations to refer to or do not have access to those legislations.

The Legal Handbook has been divided into three parts each addressing specific areas of our operations. Part 1 refers to immigration related laws; Part 2 is a compilation of security related laws and Part 3 focuses on investment related laws. There is also an Appendix which lists relevant international conventions/protocols, bilateral agreements and other domestic laws.



PART 1:
IMMIGRATION RELATED
LAWS

1992 CONSTITUTION OF THE REPUBLIC OF GHANA

CHAPTER 3

CITIZENSHIP

6. Citizenship of Ghana

(1) Every person who, on the coming into force of this Constitution, is a citizen of Ghana by law shall continue to be a citizen of Ghana.

(2) Subject to the provisions of this Constitution, a person born in or outside Ghana after the coming into force of this Constitution, shall become a citizen of Ghana at the date of his birth if either of his parents or grandparents is or was a citizen of Ghana.

(3) A child of not more than seven years of age found in Ghana whose parents are not known shall be presumed to be a citizen of Ghana by birth.

(4) A child of not more than sixteen years of age, neither of whose parents is a citizen of Ghana, who is adopted by a citizen of Ghana shall, by virtue of the adoption, be a citizen of Ghana.

7. Persons entitled to be registered as citizens

(1) A woman married to a man who is a citizen of Ghana or a man married to a woman who is a citizen of Ghana may, upon making an application in the manner prescribed by Parliament, be registered as a citizen of Ghana.

(2) Clause (1) of this article applies also to a person who was married to a person who, but for his or her death, would have continued to be a citizen of Ghana under clause (1) of article 6 of this Constitution.

(3) Where the marriage of a woman is annulled after she has been registered as a citizen of Ghana under clause (1) of this article, she shall, unless she renounces that citizenship, continue to be a citizen of Ghana.

(4) A child of a marriage of a woman registered as a citizen of Ghana under clause (1) of this article to which clause (3) of this article applies, shall continue to be a citizen of Ghana unless he renounces that citizenship.

(5) Whereupon an application by a man for registration under clause (1) of this article, it appears to the authority responsible for the registration that a marriage has been entered into primarily with a view to obtaining the registration, the authority may request the applicant to satisfy him that the marriage was entered into in good faith; and the authority may only effect the registration on being so satisfied.

(6) In the case of a man seeking registration, clause (1) of this article applies only if the applicant permanently resides in Ghana.

8. Dual citizenship

(1) A citizen of Ghana may hold the citizenship of any other country in addition to his citizenship of Ghana.

(2) Without prejudice to article 94 (2) (a) of the Constitution, a citizen of Ghana shall not qualify to be appointed as a holder of any office specified in this clause if he holds the citizenship of any other country in addition to his citizenship of Ghana:

(a) Ambassador or High Commissioner;

(b) Secretary to the Cabinet;

(c) Chief of Defence Staff or any Service Chief;

(d) Inspector-General of Police;

(e) Commissioner, Customs, Excise and Preventive Service;

(f) Director of Immigration Service; and

(g) any other office specified by an Act of Parliament.

(3) Where the law of a country requires a person who marries a citizen of that country to renounce the citizenship of his own country by virtue of that marriage, a citizen of Ghana who is deprived of his citizenship of Ghana by virtue of that marriage shall, on the dissolution of that marriage, become a citizen of Ghana.²

9. Citizenship laws by Parliament

(1) Parliament may make provision for the acquisition of citizenship of Ghana by persons who are not eligible to become citizens of Ghana under the provisions of this Constitution.

(2) Except as otherwise provided in article 7 of this Constitution, a person shall not be registered as a citizen of Ghana unless at the time of his application for registration he is able to speak and understand an indigenous language of Ghana.

(3) The High Court may, on an application made for the purpose by the Attorney-General, deprive a person who is a citizen of Ghana, otherwise than by birth, of that citizenship on the ground that,

(a) the activities of that person are inimical to the security of the State or prejudicial to public morality or the public interest; or

(b) the citizenship was acquired by fraud, misrepresentation or any other improper or irregular practice.

(4) There shall be published in the Gazette by the appropriate authority and within three months after the application or the registration, as the case may be, the name, particulars and other details of a person who, under this article

applies to be registered as a citizen of Ghana or has been registered as a citizen of Ghana.

(5) Parliament may make provision by an Act of Parliament for

(a) the renunciation by any person of his citizenship of Ghana;

(b) the circumstances in which a person may acquire citizenship of Ghana or cease to be a citizen of Ghana.

10. Interpretation

(1) A reference in this Chapter to the citizenship of the parent of a person at the time of the birth of that person shall, in relation to a person born after the death of the parent, be construed as a reference to the citizenship of the parent at the time of the parent's death.

(2) For the purposes of clause (1) of this article, where the death occurred before the coming into force of this Constitution, the citizenship that the parent would have had if he or she had died on the coming into force of this Constitution shall be deemed to be his or her citizenship at the time of his or her death.

CHAPTER 5: FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

General

12. Protection of fundamental human rights and freedoms

(1) The fundamental human rights and freedoms enshrined in this Chapter shall be respected and upheld by the Executive, Legislature and Judiciary and all other organs of government and its agencies and, where applicable to them, by all natural and legal persons in Ghana, and shall be enforceable by the Courts as provided for in this Constitution.

(2) Every person in Ghana, whatever his race, place of origin, political opinion, colour, religion, creed or gender shall be entitled to the fundamental human rights and freedoms of the individual contained in this Chapter but subject to respect for the rights and freedoms of others and for the public interest.

13. Protection of right to life

(1) No person shall be deprived of his life intentionally except in the exercise of the execution of a sentence of a court in respect of a criminal offence under the Laws of Ghana of which he has been convicted.

(2) A person shall not be held to have deprived another person of his life in contravention of clause (1) of this article if that other person dies as the result of a lawful act of war or if that other person dies as the result of the use of force to such an extent as is reasonably justifiable in the particular circumstances,

- (a) for the defence of any person from violence or for the defence of property;
- (b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
- (c) for the purposes of suppressing a riot, insurrection or mutiny; or
- (d) in order to prevent the commission of a crime by that person.

14. Protection of personal liberty

(1) Every person shall be entitled to his personal liberty and a person shall not be deprived of his personal liberty except in the following cases and in accordance with procedure permitted by law:

- (a) in execution of a sentence or order of a court in respect of a criminal offence of which he has been convicted; or

- (b) in execution of an order of a court punishing him for contempt of court; or
- (c) for the purpose of bringing him before a court in execution of an order of a court; or
- (d) in the case of a person suffering from an infectious or contagious disease, a person of unsound mind, a person addicted to drugs or alcohol or a vagrant, for the purpose of his care or treatment or the protection of the community; or
- (e) for the purpose of the education or welfare of a person who has not attained the age of eighteen years; or
- (f) for the purpose of preventing the lawful entry of that person into Ghana, or of effecting the expulsion, extradition or other lawful removal of that person from Ghana or for the purpose of restricting that person while he is being lawfully conveyed through Ghana in the course of his extradition or removal from one country to another; or
- (g) upon reasonable suspicion of his having committed or being about to commit a criminal offence under the Laws of Ghana.

(2) A person who is arrested, restricted or detained shall be informed immediately, in a language that he understands, of the reasons for his arrest, restriction or detention and of his right to a lawyer of his choice.

(3) A person who is arrested, restricted or detained -

- (a) for the purpose of bringing him before a court in execution of an order of a court, or
- (b) upon reasonable suspicion of his having committed or being about to commit a criminal offence under the laws of Ghana, and who is not released,

shall be brought before a court within forty-eight hours after the arrest, restriction or detention.

(4) Where a person who is arrested, restricted or detained under paragraph (a) or (b) of clause (3) of this article is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular, conditions reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

(5) A person who is unlawfully arrested, restricted or detained by any other person shall be entitled to compensation from that other person.

(6) Where a person is convicted and sentenced to a term of imprisonment for an offence, any period he has spent in lawful custody in respect of that offence before the completion of his trial shall be taken into account in imposing the term of imprisonment.

(7) Where a person who has served the whole or a part of his sentence is acquitted on appeal by a court, other than the Supreme Court, the Court may certify to the Supreme Court that the person acquitted be paid compensation; and the Supreme Court may, upon examination of all the facts and the certificate of the Court concerned, award such compensation as it may think fit; or, where the acquittal is by the Supreme Court, it may order compensation to be paid to the person acquitted.

15. Respect for human dignity

(1) The dignity of all persons shall be inviolable.

(2) No person shall, whether or not he is arrested, restricted or detained, be subjected to

- (a) torture or other cruel, inhuman or degrading treatment or punishment;

(b) any other condition that detracts or is likely to detract from his dignity and worth as a human being.

(3) A person who has not been convicted of a criminal offence shall not be treated as a convicted person and shall be kept separately from convicted persons.

(4) A juvenile offender who is kept in lawful custody or detention shall be kept separately from an adult offender.

16. Protection from slavery and forced labour

(1) No person shall be held in slavery or servitude.

(2) No person shall be required to perform forced labour.

(3) For the purposes of this article, “forced labour” does not include

(a) any labour required as a result of a sentence or order of a court;

(b) any labour required of a member of a disciplined force or service as his duties or, in the case of a person who has conscientious objections to a service as a member of the Armed Forces of Ghana, any labour which that person is required by law to perform in place of such service;

(c) any labour required during any period when Ghana is at war or in the event of an emergency or calamity that threatens the life and wellbeing of the community, to the extent that the requirement of such labour is reasonably justifiable in the circumstances of any situation arising or existing during that period for the purposes of dealing with the situation; or

(d) any labour reasonably required as part of normal communal or other civic obligations.

17. Equality and freedom from discrimination

(1) All persons shall be equal before the law.

(2) A person shall not be discriminated against on grounds of gender, race, colour, ethnic origin, religion, creed or social or economic status.

(3) For the purposes of this article, “discriminate” means to give different treatment to different persons attributable only or mainly to their respective descriptions by race, place of origin, political opinions, colour, gender, occupation, religion or creed, whereby persons of one description are subjected to disabilities or restrictions to which persons of another description are not made subject or are granted privileges or advantages which are not granted to persons of another description.

(4) Nothing in this article shall prevent Parliament from enacting laws that are reasonably necessary to provide

- (a) for the implementation of policies and programmes aimed at redressing social, economic or educational imbalance in the Ghanaian society;
- (b) for matters relating to adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law;
- (c) for the imposition of restrictions on the acquisition of land by persons who are not citizens of Ghana or on the political and economic activities of such persons and for other matters relating to such persons; or
- (d) for making different provision for different communities having regard to their special circumstances not being provision which is inconsistent with the spirit of this Constitution.

(5) Nothing shall be taken to be inconsistent with this article which is allowed to be done under any provision of this Chapter.

18. Protection of privacy of home and other property

(1) Every person has the right to own property either alone or in association with others.

(2) No person shall be subjected to interference with the privacy of his home, property, correspondence or communication except in accordance with law and as may be necessary in a free and democratic society for public safety or the economic wellbeing of the country, for the protection of health or morals, for the prevention of disorder or crime or for the protection of the rights or freedoms of others.

19. Fair trial

(1) A person charged with a criminal offence shall be given a fair hearing within a reasonable time by a court.

(2) A person charged with a criminal offence shall,

- (a) in the case of an offence, other than high treason or treason, the punishment for which is death or imprisonment for life, be tried by a judge and jury and,
 - (i) where the punishment is death, the verdict of the jury shall be unanimous; and
 - (ii) in the case of imprisonment, the verdict of the jury shall be by such majority as Parliament may by law prescribe;
- (b) in the case of an offence triable by a Regional Tribunal the penalty for which is death, the decision of the Chairman and the other panel members shall be unanimous;
- (c) be presumed to be innocent until he is proved or has pleaded guilty;

- (d) be informed immediately in a language that he understands, and in detail, of the nature of the offence charged;
- (e) be given adequate time and facilities for the preparation of his defence;
- (f) be permitted to defend himself before the Court in person or by a lawyer of his choice;
- (g) be afforded facilities to examine, in person or by his lawyer, the witnesses called by the prosecution before the Court, and to obtain the attendance and carry out the examination of witnesses to testify on the same conditions as those applicable to witnesses called by the prosecution;
- (h) be permitted to have, without payment by him, the assistance of an interpreter where he cannot understand the language used at the trial; and
- (i) in the case of the offence of high treason, be tried by the High Court duly constituted by three Justices of that Court and the decision by the three Justices shall be unanimous.

(3) The trial of a person charged with a criminal offence shall take place in his presence unless

- (a) he refuses to appear before the Court for the trial to be conducted in his presence after he has been duly notified of the trial; or
- (b) he conducts himself in such a manner as to render the continuation of the proceedings in his presence impracticable and the Court orders him to be removed for the trial to proceed in his absence.

(4) Whenever a person is tried for a criminal offence the accused person or a person authorised by him shall, if he so requires, be given, within a reasonable time not exceeding six months after judgment, a copy of any record of the

proceedings made by or on behalf of the Court for the use of the accused person.

(5) A person shall not be charged with or held to be guilty of a criminal offence which is founded on an act or omission that did not at the time it took place constitute an offence.

(6) No penalty shall be imposed for a criminal offence that is severer in degree or description than the maximum penalty that could have been imposed for that offence at the time when it was committed.

(7) No person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted, shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for the offence, except on the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.

(8) Notwithstanding clause (7) of this article, an acquittal of a person on a trial for high treason or treason shall not be a bar to the institution of proceedings for any other offence against that person.

(9) Paragraphs (a) and (b) of clause (2) of this article shall not apply in the case of trial by a court-martial or other military tribunal.

(10) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

(11) No person shall be convicted of a criminal offence unless the offence is defined and the penalty for it is prescribed in a written law.

(12) Clause (11) of this article shall not prevent a Superior Court from punishing a person for contempt of itself notwithstanding that the act or omission constituting the contempt is not defined in a written law and the penalty is not so prescribed.

(13) An adjudicating authority for the determination of the existence or extent of a civil right or obligation shall, subject to the provisions of this Constitution, be established by law and shall be independent and impartial; and where proceedings for determination are instituted by a person before such an adjudicating authority, the case shall be given a fair hearing within a reasonable time.

(14) Except as may be otherwise ordered by the adjudicating authority in the interest of public morality, public safety or public order the proceedings of any such adjudicating authority shall be in public.

(15) Nothing in this article shall prevent an adjudicating authority from excluding from the proceedings persons, other than the parties to the proceedings and their lawyers, to such an extent as the authority

- (a) may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice; or
- (b) may be empowered by law to do in the interest of defence, public safety, public order, public morality, the welfare of persons under the age of eighteen or the protection of the private lives of persons concerned in the proceedings.

(16) Nothing in, or done under the authority of, any law shall be held to be inconsistent with, or in contravention of, the following provisions:

- (a) paragraph (c) of clause (2) of this article, to the extent that the law in question imposes upon a person charged with a criminal offence, the burden of proving particular facts; or
- (b) clause (7) of this article, to the extent that the law in question authorises a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of the force, except that any court which tries that member and convicts him shall, in sentencing him to any punishment, take into account any punishment imposed on him under that disciplinary law.

(17) Subject to clause (18) of this article, treason shall consist only

- (a) in levying war against Ghana or assisting any State or person or inciting or conspiring with any person to levy war against Ghana, or
- (b) in attempting by force of arms or other violent means to overthrow the organs of government established by or under this Constitution, or
- (c) in taking part or being concerned in or inciting or conspiring with any person to make or take part or be concerned in, any such attempt.

(18) An act which aims at procuring by constitutional means an alteration of the law or of the policies of the Government shall not be considered as an act calculated to overthrow the organs of government.

(19) Notwithstanding any other provision of this article, but subject to clause (20) of this article, Parliament may, by or under an Act of Parliament, establish military courts or tribunals for the trial of offences against military law committed by persons subject to military law.

(20) Where a person subject to military law, who is not on active service, commits an offence which is within the jurisdiction of a civil court, he shall not be tried by a court-martial or military tribunal for the offence unless the offence is within the jurisdiction of a court-martial or other military tribunal under any law for the enforcement of military discipline.

(21) For the purposes of this article, “criminal offence” means a criminal offence under the laws of Ghana.

L.I. 856 ALIENS (REGISTRATION) REGULATIONS, 1974

IN exercise of the powers conferred on the Commissioner responsible for the Interior by section 28 of the Aliens Act, 1963 (Act 160) these Regulations are made this 24th day of December, 1973.

PART 1—REGISTRATION OF ALIENS RESIDENT IN GHANA

1. (1) On the commencement of these Regulations any alien of not less than sixteen years of age who intends to reside in Ghana shall, within fourteen days after he has been granted permit under the Aliens Act, 1963 (Act 160) to remain in Ghana, apply to the District Immigration Officer in the district where he intends to reside to be registered.

(2) Any Alien of not less than sixteen years of age who is resident in Ghana immediately before the commencement of these Regulations shall, within Sixty days after the said commencement, apply to the District Immigration Officer in the district where he resides to be registered.

- (3) Where on or after the commencement of these Regulations an Alien resident in Ghana is less than sixteen years of age such alien shall, within sixty days after attaining the age the age of sixteen years, apply to District Immigration Officer in the district to be registered.
2. (1) Any Alien of not less than sixteen years of age who wishes to change His residence from one district to another district shall, within seven days before the said change, notify in writing the District Immigration Officer where he resides as to –
- (a) The date on which his residence is to be changed, and
(b) His intended place of residence and address at such residence.
- (2) Within twenty-eight days after such alien has taken residence in another district, he shall apply to the District Immigration Officer in that district to be registered.
3. (1) Every application for registration shall be in Form. A set out in the schedule to these Regulations and shall be accompanied with two passport size photographs of the applicant.
- (2) There shall be charged in respect of ach application a registration fee of ₵5.00
4. The District Immigration Officer shall issue to any alien, registered under these Regulations, a certificate of registration in Form B set out in schedule to these Regulations.

Local Register

5. There shall be kept in the office of every District Immigration Officer a register in which there shall be entered in respect of every alien registered the particulars contained in Form A set out in the Schedule of the Regulations.

PART II—ALIENS RESIDENT IN HOTELS OR DWELLING-HOUSES

Aliens to Register in Hotels

6. The Proprietor or manager of any hotel shall not offer accommodation in such hotel to any alien who is not less than sixteen years of age unless such alien completes Form C set out in the Schedule to these Regulations.

Hotel Proprietor or Manager to Submit Return

7. (1) The proprietor or manager of any hotel shall on the Friday of each Week furnish to the commissioner responsible for internal Affairs through the District Immigration Officer or where there is no such officer, through the nearest police station, returns in the form of the particulars contained in Form D set out in the Schedule to these Regulations in respect of all aliens for whom accommodation has been provided in such hotel during that week.

(2) Without prejudice to sub-regulation (1) of this regulation, the Commissioner may request in writing the proprietor or manager of any hotel to keep such records as he may prescribe for the purposes of these Regulations and furnish such records within such period as may be specified in the request.

8. (1) Where an alien of not less than sixteen years of age lodges in a dwelling-House, such alien shall within twenty-four hours after his arrival in the house furnish to the District Immigration Officer in the district where he is resident or where there is no such officer to the nearest Police Station the particulars in Form D set out in the Schedule to these Regulations.

(2) Any alien to whom sub-regulation (1) applies shall within twenty-four hours before his departure from Ghana furnish to the District Immigration Officer in the district where he resides or where there is no such officer to the nearest Police Station the particulars contained in Form E set out in the Schedule to these Regulations

PART III—MISCELLANEOUS

9. The following class of persons are hereby exempted from the provisions of these Regulations—
- (a) a member of the diplomatic or consular services of a Commonwealth or foreign country who is duly accredited to the Republic by the Government of the country concerned.
 - (b) an official of an international organization who is entitled to diplomatic privileges by or under the provisions of any enactment.
 - (c) a person grant diplomatic status by the Republic;
 - (d) a person in the employment of the Republic;
 - (e) the wife of a person referred to in paragraphs (a) to (d); or
 - (f) a member of the armed forces of a friendly power entering Ghana on duty by permission of the Ghana Government.
10. For the purposes of these Regulations, the District Immigration Officer or a Police Officer not below the rank of Inspector shall have the power--
- (a) to enter and inspect the premises of any hotel or dwelling-house; and
 - (b) to examine any records required to be kept by the proprietor or manager of any hotel.
11. Any person who ---
- (a) makes or causes to be made any false statement, representation or return;
 - (b) alters any certificate or copy thereof or any entry made in pursuance of these Regulations;
 - (c) fails or refuses to submit any return or keep any record required under these Regulations;
 - (d) obstructs or impedes any person in exercise of his functions under these Regulations;
 - (e) without lawful authority (proof of which shall be on him) has in his possession nay forged or altered certificate.
 - (f) fails or refuses to register
 - (g) refuses to furnish such information as may be reasonably required for the purposes of these Regulations; or
 - (h) knowingly provides accommodation for any alien who has not complied with the provisions of Part II of these Regulations,

shall be guilty of an offence and on summary conviction be liable to a fine not exceeding ₪200.00 or imprisonment for a term not exceeding 6 months or to both.

12. (1) Except as provided in the sub-regulation (2) of this regulation where an offence is committed under these Regulations by a body of persons then---

- (a) in case of a body corporate other than a partnership, every director or officer of that body shall be deemed to be guilty of that offence; and
- (b) no person shall be deemed to be guilty of an offence by virtue of sub-regulation (1) of this regulation if he proves that the offence was committed without his knowledge or connivance and that he exercised all due diligence to prevent the commission of the offence having regard to all the circumstances.

13. In these Regulations---

“district” means the area of authority of a District Council

“hotel” includes a motel, rest-house or hostel.

14. These Regulations shall come into operation on the 1st day of February, 1974.

L.I. 856. ALIENS (REGISTRATION) REGULATIONS, 1974
J. H. COBBINA
Commissioner responsible for Internal Affairs

SCHEDULE

FORM A

APPLICATION FORM FOR REGISTRATION

1. Name in full.....
2. Sex.....
3. (a) Date of birth.....
(b) Country of birth.....
4. (a) Present nationality.....
(b) How and when acquired.....
(c) Previous nationality, if any.....
5. Particulars of passport or other document establishing identity and nationality.....
6. Business, profession or occupation.....
7. Residence in Ghana (or address if no residence)
.....

8. Name and address of any referee.....
9. Last residence outside Ghana (or address if no residence)
.....
10. (a) Date of arrival in Ghana.....
 (b) Place of entry into Ghana.....
 (c) Mode of arrival in Ghana.....
11. (a) If employed in Ghana
 (i) Name of employer.....
 (ii) Address at which employed

- (b) If engaged in business or profession in Ghana but not employed:
 (i) Name under which business or profession is carried on

- (ii) Address at which business or profession is carried on

Signature or Thumbprint of Applicant

L.I. 856. ALIENS (REGISTRATION) REGULATIONS, 1974

FORM B

REPUBLIC OF GHANA

MINISTRY OF INTERNAL AFFAIRS

ALIENS REGISTRATION CERTIFICATE

REG. NO.

DISTRICT.....

Name.....

Date and place of birth.....

Nationality.....

Occupation.....

Passport No.....

Date and place of issue.....

Name and address of employer

Residential Address.....

Signature or Thumbprint.....

Signature of Issuing Authority of Holder

ENDORSEMENTS

L.I. 856. ALIENS (REGISTRATION) REGULATIONS, 1974

FORM C

PARTICULARS OF ALIENS STAYING AT HOTELS, etc.

TO BE COMPLETED IMMEDIATELY ON ARRIVAL

Name of Hotel, Motel, Rest-house, etc

1. Surname
2. Other name (s)
3. Nationality
4. Sex.....
5. Date of arrival
6. Particulars of Passport or other travel document.....
7. Issued at No.....
8. Arrived here from (give last address in full)
9. Purpose of visit
10. Duration of stay

Signature of Thumbprint of person to Whom the above particulars relate

TO BE COMPLETED ON DEPARTURE

1. Date of departure
2. Destination (give new address in full)

Signature or Thumbprint of person to Whom the above particulars relate

L.I. 856. ALIENS (REGISTRATION) REGULATIONS, 1974

FORM D

**PARTICULARS OF ALIENS STAYING IN
DWELLING-HOUSES**

TO BE COMPLETED IMMEDIATELY ON ARRIVAL

1. Surname
2. Other name (s)
3. Nationality
4. Sex
5. Date of arrival
6. Particulars of Passport or other travel document Issued at
.....No.....
7. Arrived here from (give last address in full)
8. Purpose of visit.....
9. Duration of stay.....
10. Name and Address of house owner/host.....

11. Address of place of residence.....

Signature of Thumbprint of person to Whom the above particulars relate

L.I. 856. ALIENS (REGISTRATION) REGULATIONS, 1974

FORM E

PARTICULARS OF ALIENS STAYING IN

DWELLING-HOUSES

TO BE COMPLETED IMMEDIATELY ON ARRIVAL

1. Surname.....
2. Other name
3. Nationality.....
4. Sex.....
5. Date of departure.....
6. Destination and address.....

Signature of Thumbprint of person to Whom the above particulars relate

Date of Gazette notification: 18th January, 1974.

CITIZENSHIP ACT, 2000 (ACT 591)

THE FIVE HUNDRED AND NINETY-FIRST ACT OF THE
PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

THE CITIZENSHIP ACT, 2000

AN ACT to consolidate with amendments the law relating to citizenship of Ghana; to state in respect of citizenship by birth the legal conditions applicable at the given points in time; to bring the law in conformity with the Constitution as amended and to provide for related matters.

DATE OF ASSENT: 29th December, 2000

BE IT ENACTED by Parliament as follows—

PART I—EXISTING CITIZENSHIP; CITIZENSHIP BY BIRTH

Section 1—Continuation of Existing Citizenship

Every person who on the coming into force of the Constitution was a citizen of Ghana by law shall continue to be a citizen of Ghana.

Section 2—Ascertainment of the Law Applicable to Citizenship by Birth

For ease of ascertaining the law on Ghanaian citizenship by birth, the applicable provisions are in this Part restated.

Section 3—Persons Born before 6/3/57

(1) A person born before 6th March 1957 is a citizen of Ghana by birth if—

(a) he was born in Ghana and at least one of his parents or grandparents was born in Ghana; or

(b) he was born outside Ghana and one of his parents was born in Ghana.

Section 4—Persons Born on or after 6/3/57 but before 22/8/69

(1) A person born on or after 6th March 1957 and before 22nd August 1969 is a citizen of Ghana by birth if—

(a) he was born in or outside Ghana and either of his parents, and also one at least of his grandparents or great-grandparents, was born in Ghana; or

(b) in the case of a person born in Ghana neither of whose parents was born in Ghana, at least one of his grandparents was born in Ghana.

(2) A person is not a citizen of Ghana for the purposes of subsection (1) of this section if at the time of his birth the parent, grandparent or great-grandparent through whom the citizenship is claimed has lost his citizenship of Ghana.

(3) A person born on or after 6th March 1957 and before 22nd August 1969 is a citizen of Ghana by birth if—

(a) he was born in Ghana and at the time of his birth either of his parents was a citizen of Ghana by registration or naturalisation; or

(b) he was born outside Ghana and at the time of his birth both of his parents were citizens of Ghana by registration or naturalisation.

Section 5—Persons Born on or after 22/8/69—Constitution 1969

A person is a citizen of Ghana by birth if he was born in or outside Ghana on or after 22nd August 1969 and before 24th September 1979 and at the date of his birth either of his parents was a citizen of Ghana.

Section 6—Persons Born on or after 24/9/79—Constitution 1979

A person born on or after 24th September 1979 and before 7th January 1993 is a citizen of Ghana by birth if—

(a) he was born in Ghana and at the date of his birth either of his parents or one grandparent was a citizen of Ghana; or

(b) he was born outside Ghana and at the date of his birth either of his parents was a citizen of Ghana.

Section 7—Persons Born on or after 7/1/93—Constitution 1992

A person is a citizen of Ghana by birth if he was born on 7th January 1993 or born after that date in or outside Ghana and at the date of his birth either of his parents or one grandparent was or is a citizen of Ghana.

Section 8—Foundlings

A child of not more than seven years of age found in Ghana whose parents are not known shall be presumed to be a citizen of Ghana by birth.

PART II—ACQUISITION OF GHANAIAN CITIZENSHIP OTHERWISE THAN BY BIRTH

Section 9—Adopted Children

A child of not more than sixteen years of age neither of whose parents is a citizen of Ghana who is adopted by a citizen of Ghana shall, by virtue of the adoption, be a citizen of Ghana.

Section 10—Citizenship by Registration

(1) A citizen of age and capacity of any approved country may upon an application, and with the approval of the President, be registered as a citizen of Ghana if he satisfies the Minister that—

(a) he is of good character;

(b) he is ordinarily resident in Ghana;

(c) he has been so resident throughout the period of five years or such shorter period as the Minister may in the special circumstances of any particular case accept, immediately before the application; and

(d) he can speak and understand an indigenous language of Ghana.

(2) A person who is not a citizen and is or was married to a citizen may, upon an application in the prescribed manner, be registered as a citizen.

(3) Subsection (2) applies to an applicant who was married to a person who was a citizen at the time of the death of that person.

(4) Where the marriage of a person registered as a citizen under subsection (2) is dissolved, the person shall continue to be a citizen unless the citizenship is renounced.

(5) A child of the marriage of a person registered as a citizen under subsection (2) shall continue to be a citizen unless the child renounces the citizenship.

(6) Where upon an application for registration under subsection (2) it appears to the Minister that the marriage had been entered into primarily for the

purpose of obtaining the registration, the Minister shall request the applicant to establish that the marriage was entered into in good faith.

(7) In the case of a man seeking registration, subsection (1) applies only if the applicant is permanently resident in Ghana.

(8) A person shall not be registered as a citizen unless he has taken the oath of allegiance.

Section 11—Registration of Children

The Minister shall register as a citizen of Ghana a child of any person who becomes a citizen of Ghana by registration or naturalisation upon application of the parent or guardian of the child.

Section 12—Effective Date of Registration as Citizen

(1) A person registered under section 10 or 11 is a citizen by registration from the date stated on the certificate of registration

(2) The date stated on the certificate of registration shall be the date of the taking of the oath of allegiance.

Section 13—Naturalisation

(1) The Minister may with the approval of the President grant a certificate of naturalisation to a person of age and capacity who satisfies the Minister that he is qualified under section 14 of this Act for naturalisation.

(2) A person to whom a certificate of naturalisation is granted under subsection (1) shall take the oath of allegiance and become a citizen by naturalisation from the date on which the oath of allegiance is taken.

Section 14—Qualification for Naturalisation

(1) Subject to subsection (2) of this section, a person qualifies for naturalisation if—

(a) he has resided in Ghana throughout the period of twelve months immediately preceding the date of the application;

(b) during the seven years immediately preceding the period of twelve months, he has resided in Ghana for periods amounting in the aggregate to not less than five years;

(c) he is of good character as attested to in writing by two Ghanaians being notaries public, lawyers, or senior public officers;

(d) he has not been sentenced to any period of imprisonment in Ghana or anywhere for an offence recognised by law in Ghana;

(e) he is able to speak and understand an indigenous Ghanaian language;

(f) he is a person who has made or who is capable of making a substantial contribution to the progress or advancement in any area of national activity;

(g) he is a person who has been assimilated into the Ghanaian way of life or who can easily be so assimilated;

(h) he intends to reside permanently in Ghana in the event of a certificate being granted to him; and

(i) he possessed a valid residence permit on the date of his application.

(2) The Minister, may in such special circumstances as he thinks fit and with the approval of the President—

(a) allow a continuous period of twelve months ending not more than six months before the date of the application to be reckoned for the purposes of subsection (1)(a) of this section as though it had immediately preceded the date of the application;

(b) allow residence in an approved country to be reckoned for the purposes of subsection (1)(b) of this section as if it has been residence in Ghana; and

(c) allow periods of residence earlier than seven years before the date of the application to be reckoned in computing the aggregate period mentioned in subsection (1)(b) of this section.

(3) The Minister, in other special circumstances as he thinks fit and with the approval of the President, may modify, vary or waive any one of the qualifications for naturalisation set out in this section except the qualification specified in subsection 1 (e) of this section.

Section 15—Gazette Publications

The Minister shall publish in the Gazette within three months of any application, registration or grant of a certificate of naturalisation, the names, particulars and other details of a person who—

(a) applies to be registered as a citizen;

(b) has been registered as a citizen;

(c) applies for the grant of a certificate of naturalisation;

(d) has been granted a certificate of naturalisation as a citizen.

PART III—DUAL CITIZENSHIP, RENUNCIATION AND DEPRIVATION OF CITIZENSHIP

Section 16—Dual Citizenship

(1) A citizen of Ghana may hold the citizenship of any other country in addition to his citizenship of Ghana.

(2) Without prejudice to article 94(2)(a) of the Constitution, no citizen of Ghana shall qualify to be appointed as a holder of any office specified in this subsection if he holds the citizenship of any other country in addition to his citizenship of Ghana—

- (a) Chief Justice and Justices of the Supreme Court;
- (b) Ambassador or High Commissioner;
- (c) Secretary to the Cabinet;
- (d) Chief of Defence Staff or any Service Chief;
- (e) Inspector-General of Police;
- (f) Commissioner, Custom, Excise and Preventive Service;
- (g) Director of Immigration Service;
- (h) Commissioner, Value Added Tax Service;
- (i) Director-General, Prisons Service;
- (j) Chief Fire Officer;
- (k) Chief Director of a Ministry;
- (l) the rank of a Colonel in the Army or its equivalent in the other security services; and
- (m) any other public office that the Minister may by legislative instrument prescribe.

(3) A citizen of Ghana who—

(a) loses his Ghanaian citizenship as a result of the acquisition or possession of the citizenship of another country shall on the renunciation of his citizenship of that country become a citizen of Ghana;

(b) acquires the citizenship of another country in addition to his Ghanaian citizenship shall notify in writing the acquisition of the additional citizenship to the Minister in such form and such manner as may be prescribed.

(4) A citizen of Ghana who is also a citizen of any other country shall whilst in Ghana be subject to the laws of Ghana as any other citizen.

(5) A citizen who has lost his citizenship as a result of the law in Ghana which prohibited the holding of dual citizenship by a Ghanaian may on an application to the Minister be issued with a certificate of citizenship which shall be effective from the date of issue.

(6) A certificate issued under subsection (5) shall specify whether the citizenship is by birth, adoption, registration or naturalisation.

Section 17—Renunciation of Ghanaian Citizenship

(1) If any citizen of Ghana of age and capacity who is also a citizen of another country makes a declaration of renunciation of citizenship of Ghana, the Minister shall cause the declaration to be registered; and upon the registration, that person shall cease to be a citizen of Ghana.

(2) Where the law of a country requires a person who marries a citizen of that country to renounce the citizenship of his own country by virtue of that marriage, a citizen of Ghana who is deprived of his citizenship of Ghana by virtue of that marriage shall, on the dissolution of that marriage, become a citizen of Ghana.

Section 18—Deprivation of Citizenship

The High Court may on an application by the Attorney-General for the purpose, deprive a person who is a citizen of Ghana, otherwise than by birth or adoption of that citizenship on the ground—

(a) that the activities of that person are inimical to the security of the State or prejudicial to the public morality or the public interest; or

(b) that the citizenship was acquired by fraud, misrepresentation or any other improper or irregular practice.

PART IV—MISCELLANEOUS PROVISIONS

Section 19—Posthumous Children

A reference in this Act to the citizenship status of the parent of a person at the time of the birth of that person shall, in relation to a person born after the death of the parent, be construed as a reference to the citizenship status of the parent at the time of the parent's death.

Section 20—Certificate of Citizenship in Doubtful Cases

The Minister may, on an application made by or on behalf of any person with respect to whose citizenship of Ghana a doubt exists under Part I of this Act, certify that the person is a citizen of Ghana and a certificate issued under this section shall be prima facie evidence that the person was such a citizen at the date indicated in the certificate, but without prejudice to any evidence that he was such a citizen at an earlier date.

Section 21—Evidence

(1) A document purporting to be a notice, certificate, order or declaration or an entry in a register, or a subscription to an oath of allegiance, given, granted or made under this Act shall be received in evidence.

(2) The evidence may be given by the production of a certified true copy of the document by the person.

(3) An entry in a register made under this Act shall be received as evidence of the matters stated in the entry.

Section 22—Offences

Any person who for the purpose of procuring anything to be done or not to be done under this Act makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, commits an offence and is liable on summary conviction to a fine of not less than €500,000 and not exceeding €5 million or a term of imprisonment not exceeding 12 months or to both.

Section 23—Regulations

The Minister may by legislative instrument make Regulations for—

- (a) procedures relating to use of travel documents by holders of dual citizenship;
- (b) form and manner of notification of acquisition of dual citizenship;
- (c) fees chargeable in respect of anything to be done under this Act; and
- (d) generally for giving full effect to the provisions of this Act.

Section 24—Interpretation

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

“approved country” means any country declared by or under the authority of the President to be an approved country by a legislative instrument;

“child” means a person who has not attained the age of eighteen years;

“Minister” means the Minister responsible for the Interior;

“prescribe” means prescribed by legislative instrument under this Act.

(2) A reference in this Act to Ghana in relation to a birth or residence before 6th March 1957 shall be read as a reference to the territories comprised in Ghana on that date.

(3) For the purposes of this Act, a person born aboard a registered ship or aircraft or aboard an unregistered ship or aircraft of the government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or in that country.

(4) For the purposes of this Act, a person is of age if he has attained the age of eighteen years and is of capacity if he is of sound mind.

Section 25—Repeal and Savings

(1) The Ghana Nationality Act, 1971 (Act 361) as amended by the—

(a) Ghana Nationality (Amendment) Decree, 1972 (N.R.C.D. 134);

(b) Ghana Nationality (Amendment) Decree, 1978 (S.M.C.D. 172);
and

(c) Ghana Nationality (Amendment) Decree, 1979 (A.F.R.C.D. 42) is hereby repealed.

(2) Notwithstanding the repeal in subsection (1) of this section any Regulations made under Act 361 or continued in force under that Act and in force immediately before the coming into force of this Act shall continue in force until amended or revoked under this Act.

(3) The repeal of the enactments specified in subsection (1) does not affect the validity of any action taken under any of the enactments before the repeal.

(4) Any person who immediately before the coming into force of this Act is a citizen by adoption, registration or naturalisation acquired validly under any

enactment before the coming into force of this Act shall continue to hold the citizenship subject to the Constitution and the provisions of this Act.

Date of Gazette Notification: 5th January, 2001.

CITIZENSHIP REGULATIONS, 2001 (LI 1690)

IN exercise of the powers conferred on the Minister responsible for the Interior by section 23 of the Citizenship Act, 2000 (Act 591) these Regulations are made this 19th day of July 2001.

Regulation 1—Notification of Citizenship of an Adopted Child

(1) A citizen who has adopted a child of not more than sixteen years of age neither of whose parents is Ghanaian shall notify the Minister of the adoption.

(2) The notification may be made in or outside Ghana but shall be in accordance with the consular practice of the Ministry of Foreign Affairs.

(3) The notification may be made whether the adoption order for the foreign child was made in Ghana or elsewhere.

(4) The notification shall be as in Form 1 set out in Schedule I.

Regulation 2—Oath of Allegiance and Adopted Child

(1) Subject to regulation 6, an adopted child who is sixteen years and above shall take the oath of allegiance.

(2) The adoptive parent shall be present at the oath taking ceremony unless the parent has been excused by the Minister or by a person authorised by the Minister.

(3) An adopted child under twelve years of age shall not be required to take the oath of allegiance.

(4) The date of acquisition of citizenship by the adopted child shall be the date of the court order.

Regulation 3—Application for Citizenship by Registration

(1) An application for citizenship by registration under sections 10 (1), (2), (3) and 11 of the Act shall be as set out in Forms 2, 3 or 4 of Schedule I.

(2) The application shall be signed or marked by the applicant but where the applicant under section 11 is a child, the application shall be signed or marked by the parents or guardian of the child.

Regulation 4—Application for Citizenship by Naturalisation

An application for citizenship by naturalisation under section 13 of the Act shall be in the Form 5 set out in Schedule I.

Regulation 5—Submission of Application

Applications under these Regulations shall be submitted to the Minister or to a person authorised by the Minister.

Regulation 6—Oath of Allegiance

(1) The oath of allegiance to be taken under the Act shall be as provided in Schedule II.

(2) The oath of allegiance shall be endorsed on the certificate of citizenship to which it relates by the Minister or a person authorised by the Minister.

(3) No certificate shall be issued to an applicant unless the oath has been endorsed.

Regulation 7—Issue of Certificates

(1) The Minister shall issue a certificate of registration or naturalisation as in Form 6, 7 or 8 in Schedule I if satisfied that the conditions under the Act have been complied with.

(2) A certificate of citizenship in case of doubt issued by the Minister under section 20 of the Act shall be as set out in Form 9 of Schedule I.

Regulation 8—Investigation of Application of Citizenship

(1) An application for the acquisition of citizenship upon its submission shall be referred by the Minister to the Ghana Immigration Service for investigation.

(2) The Ghana Immigration Service shall submit a report on the investigation with recommendations to the Minister.

Regulation 9—Evidence in Support of Application

(1) An applicant for the acquisition of citizenship by registration or naturalisation shall bear the burden of proving that the qualifications for the registration or naturalisation under the Act have been complied with.

(2) An applicant for naturalisation shall satisfy the Minister that residence prior to the application was in accordance with the Immigration Act, 2000 (Act 573).

Regulation 10—Dual Citizenship

(1) A citizen who holds the citizenship of any other country in addition to the citizenship of Ghana shall register as a dual national in Ghana.

(2) The registration as a dual citizen in accordance with section 16(3) (b) of the Act shall be in Form 10 as set out in Schedule I.

Regulation 11—Certificate of Dual Citizenship

The certificate of dual citizenship issued by the Minister under sub-section (5) of section 16 of the Act shall be as in Form 11 set out in the Schedule I.

Regulation 12—Use of Travel Documents by Dual Nationals

(1) A citizen who holds the citizenship of another country in addition to the citizenship of Ghana shall—

(a) be issued with a Ghana passport or travel documents;

(b) be permitted to remain in the country without limitation if the person entered the country on a Ghana passport; and

(c) leave Ghana on the same passport that the person used to enter the country.

(2) A dual national commits an offence when a Ghana passport is used by the person interchangeably with the passport of another country to deceive an immigration officer and is liable on summary conviction to a fine not exceeding 250 penalty units or to a term of imprisonment not exceeding one year or to both.

Regulation 13—Renunciation of Citizenship

(1) A declaration of renunciation of citizenship of a foreign country made under section 16(3)(a) of the Act, shall be as set out in Form 12 in Schedule I.

(2) A declaration of renunciation of citizenship made under section 17(1) and (2) of the Act shall be as set out in Form 13 in Schedule I.

Regulation 14—Deprivation of Citizenship

(1) Where a person who is a citizen otherwise than by birth, is deprived of citizenship by a High Court, the Court may order that any person in possession of a certificate of registration or naturalisation relating to the deprived person deliver the certificate to the Minister for cancellation within such time as the Court may specify.

(2) A person who fails to comply with an order of the Court under this regulation commits an offence and is liable on summary conviction to a fine not exceeding 100 penalty units or to a term of imprisonment not exceeding six months or to both.

Regulation 15—Registers to be Kept

The Minister shall cause to be maintained registers of persons

- (a) who become citizens by registration or naturalisation,
- (b) who become citizens by renunciation of their citizenship of a foreign country and their declaration to reside in the country;
- (c) who renounce their citizenship;
- (d) who are deprived of their citizenship by the Court.

Regulation 16—Variation of Forms

The Minister may permit the forms contained in Schedule I to be varied to meet the circumstances of any particular case, subject to the observance of the requirements of the Act.

Regulation 17—Certification of Copies

A document may be certified to be a true copy of a document by a written statement signed by the Minister or a person authorised by the Minister.

Regulation 18—Attestation

(1) Applications under the Act shall be signed or marked in the presence of a sponsor listed in sub-regulation (2)

(2) Applications for citizenship by registration or naturalisation shall be supported by two sponsors.

- (a) one of whom shall be a judge of the Superior Court of Judicature namely the Supreme Court, Court of Appeal, High Court or Regional Tribunal; and

(b) one of the following

(i) a medical practitioner;

(ii) an accountant;

(iii) a legal practitioner;

(iv) a head of a recognised educational institution;

(v) a senior officer in the public service not below the rank of an assistant director; or

(vi) a commissioned officer of the Armed Forces not below the rank of a Lieutenant Colonel;.

(3) The sponsors of an application shall complete Form 14 set out in Schedule I.

Regulation 19—Fees

(1) The fees payable under these Regulations shall be as provided in Schedule III.

(2) The amount specified in column 2 shall be paid in respect of the matter specified in column 1 of that Schedule.

Regulation 20—Interpretation

In these Regulations unless the context otherwise requires;

"Act" means the Citizenship Act, 2000 (Act 591);

"citizen" means a citizen of Ghana;

"Minister" means the Minister responsible for the Interior;

Regulation 21—Revocation

The following instruments are hereby revoked

Ghana Nationality Regulations, 1972 (L.I. 747);

Ghana Nationality (Amendment) Regulations 1972 (L.I. 759));

Ghana Nationality (Amendment) Regulations, 1994 (L.I. 1583)).

SCHEDULES

IMMIGRATION ACT, 2000 (ACT 573)

THE FIVE HUNDRED AND SEVENTY-THREE

ACT OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

THE IMMIGRATION ACT, 2000

AN ACT to re-enact with amendments the law relating to immigration; to provide for the admission, residence, employment and removal of foreign nationals and to provide for related matters.

DATE OF ASSENT: 2nd February, 2000

BE IT ENACTED by Parliament as follows

PART I—ENTRY AND DEPARTURE

Section 1—Disembarkation.

A person in charge of a sea-going vessel, aircraft or vehicle arriving at any port or place in Ghana shall not permit a passenger who embarked outside Ghana to disembark until disembarkation has been authorised by the immigration officer.

Section 2—Appearance Before Immigration Officer on Entering Ghana.

(1) A person entering Ghana shall enter at an authorised point and shall proceed to the nearest immigration office, produce his travel document and complete the prescribed forms.

(2) A person who arrives by sea or air in Ghana at a place other than an authorised place or port, shall within forty-eight hours proceed to and report to the immigration officer at the nearest immigration post.

(3) An immigration officer to whom a person reports in accordance with this section shall, if the person is not prohibited from entering Ghana, and he is

satisfied by documentary or other evidence of the person's identity grant that person entry subject to this Act.

(4) An immigration officer may dispense with the personal attendance of any person if he is satisfied by documentary or other evidence of that person's identity and right to enter Ghana.

(5) This section does not apply to any person who enters Ghana in direct transit to a place outside Ghana where that person arrives in:

(a) a vessel which is proceeding to a place outside Ghana and does not disembark from the vessel;

(b) an aircraft, and does not leave the transit area of the airport and leaves Ghana within twenty-four hours of arrival on the same aircraft or another aircraft; or

(c) a vehicle or vessel or aircraft and is escorted by an immigration officer from the point of entry to the exit point, and leaves Ghana within forty-eight hours of arrival.

(6) Any person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding five million cedis or imprisonment for a term not exceeding twelve months or to both.

(7) Subject to this Act, Regulations may provide for passengers in transit without entry visa to enter Ghana for the purpose of seeing places of interest.

Section 3—Illegal Place of Entry and Border-Resident.

(1) A person shall not enter Ghana except by one of the approved places of entry into Ghana.

(2) For the purposes of this section, an approved place of entry is—

(a) a place in Ghana in respect of which landing or docking rights have been granted to an aircraft or vessel; or

(b) a place specified in the Schedule to this Act.

(3) The Minister in consultation with the Immigration Service Board may by legislative instrument amend the Schedule to this Act.

(4) Regulations may be made under this Act to provide for free movement across the border of a border-resident for the purpose of attending to his routine economic or social matters.

(5) Without prejudice to any other penalty imposed by or under this Act a person who contravenes a provision of this section commits an offence and is liable on summary conviction to a fine of not less than one million cedis or to a term of imprisonment of not less than three months and not exceeding twelve months or to both

Section 4—Conditions for Entry into Ghana.

(1) Subject to this Act where an immigration officer is satisfied that a person other than a citizen of Ghana entering Ghana;

(a) is in possession of a valid passport or other travel document and a valid visa to enter Ghana where applicable;

(b) is exempted from obtaining a visa to enter Ghana;

(c) has his name endorsed upon a visa and is in the company of the holder of the visa;

(d) has applied and been granted an emergency entry permit; or

(e) is a person admitted to diplomatic status by the Government of Ghana, the immigration officer may permit that person to enter Ghana for a period that may be specified.

(2) A prohibited immigrant within the meaning of section 8 shall not be permitted to enter Ghana.

(3) Where a person who appears before an immigration officer does not have a visa or an emergency entry permit, the immigration officer may grant him a visa subject to such conditions as may be prescribed by Regulations, and to such other conditions that the immigration officer may impose.

(4) Conditions prescribed for the purpose of this section may relate to—

(a) security to be furnished whether by bond, deposit or otherwise, and the liability of the person who provides the security;

(b) place of residence in Ghana;

(c) occupation or business to be followed or undertaken;

(d) any activities which might offend the religious beliefs of any section of the community;

(e) in the case of permission for passing through Ghana, the route to be followed; and

(f) in the case of any condition or permit in the form of a pass, the return of the pass.

Section 5—Re-entry Visa.

(1) Where a person lawfully in Ghana who is not—

(a) a citizen of Ghana; or

(b) the holder of residence permit, seeks to leave Ghana temporarily he may apply to the Director in the prescribed manner for a re-entry visa authorizing him to re-enter Ghana.

(2) Upon application made under sub-section (1) and the payment of the prescribed fee, the Director may issue to the applicant a re-entry visa to be stamped in the applicant's passport or other travel document and this shall be valid until it expires or is cancelled.

Section 6—Power to Make Enquiries.

The Director or any immigration officer authorised by him may before the issue of any permit or visa under this Act make enquiries or require the production of evidence in order to satisfy himself as to the truth of any statement made in the application for the permit.

Section 7—Power to Detain a Person for Further Examination.

(1) Where an immigration officer is in doubt as to the right of any person to enter Ghana, the officer may send that person to be detained and that person shall remain in custody pending the determination of the matter.

(2) The Director may pending the completion of enquiries in respect of a detained person, release that person from custody upon such directions as he may determine and may for that purpose, issue a temporary permit to that person.

(3) A person who refuses or neglects to comply with a direction given by an immigration officer under sub-section (1) or who leaves the detention area in contravention of sub-section (1) commits an offence and is liable on summary conviction to a fine not exceeding five million cedis or imprisonment for a term not exceeding twelve months or both.

Section 8—Prohibited Immigrant.

(1) A Person other than a citizen of Ghana is a prohibited immigrant for the purposes of this Act if that person:

(a) has a deportation order in force against him made under this Act or any other enactment;

(b) is unable to show that he has the means of supporting himself and his dependants if any, or is destitute and likely to be a burden on the public;

(c) refuses to submit to a medical examination after being required to do so by a health officer;

(d) has been sentenced in a foreign country for any extraditable crime within the Extradition Act of Ghana;

(e) has been certified by a health officer to be medically unfit to enter Ghana;

(f) has been declared by the Minister by executive instrument to be a person whose entry into Ghana is not conducive to the public good;

(g) procures or attempts to bring into Ghana any person for the purpose of prostitution or other immoral purpose;

(h) is a person whose activities are contrary to the laws of Ghana; or

(i) is the dependent of a person to whom any of the provisions of this subsection applies.

(2) A person who enters Ghana while he is a prohibited immigrant commits an offence and is liable on summary conviction to a fine not exceeding ten million cedis or to imprisonment for a term of not less than six months and not exceeding two years or to both.

(3) Where a person is charged with an offence under subsection (2), the burden of proof that he is not a prohibited immigrant lies upon that person.

(4) An immigration officer may—

(a) prevent a prohibited immigrant from entering Ghana, or if he has already entered Ghana, direct him to depart from Ghana by the first

available means, and may use all necessary force to ensure compliance with his directive;

(b) direct a prohibited immigrant not to disembark from any ship, vehicle or aircraft on which he may be, or not to depart from any place where he may be, except to go to some other place approved by the immigration officer; or

(c) arrest a prohibited immigrant without warrant and effect his repatriation or arraign him before a court for an offence under subsection (2).

(5) Where an immigration officer directs a prohibited immigrant to depart from Ghana by the first available means under paragraph (a) of sub-section (4), he may at the same time direct the person in charge or the owner or agent of any vessel, vehicle or aircraft from which the prohibited immigrant disembarked to remove him from Ghana by the first available means.

(6) A person who fails to comply with a directive given under subsection (5) to remove a prohibited immigrant commits an offence and is liable on summary conviction to a fine not exceeding five million cedis or to imprisonment for a term not exceeding twelve months or to both.

(7) Where a directive has been given under paragraph (a) or (b) of subsection (4), the person to whom the directive has been given shall be deemed to be in lawful custody.

Section 9—Embarkation.

A person in charge of a vessel, aircraft or vehicle departing from any port or place in Ghana shall not permit any passenger to embark until embarkation has been authorised by an immigration officer.

Section 10—Appearance Before Immigration Officer of Person Leaving Ghana.

(1) A person leaving Ghana shall appear before an immigration officer at the immigration post at any of the approved places of departure.

(2) The immigration officer may examine a person who appears before him and shall ask that person to complete a form as may be prescribed.

(3) The immigration officer may dispense with personal attendance of any person leaving Ghana if he is satisfied by documentary or other evidence of the person's identity and his right to leave Ghana.

(4) A person who wilfully or recklessly makes a statement to an immigration officer which is false or who refuses to answer a question properly put to him by an immigration officer may be disallowed re-entry into Ghana temporarily.

Section 11—Illegal Exit.

(1) A person shall not leave Ghana, except by an approved place of departure.

(2) Without prejudice to any other penalty imposed by or under this Act, a person, who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than one million cedis or to a term of imprisonment of not less than three months or more than one year or to both.

(3) For the purpose of this section, an approved place of departure is a place mentioned in section 3, sub-section (2) of this Act.

Section 12—Conditions of Departure.

Subject to this Act where an immigration officer is satisfied that a person leaving Ghana:

(a) is not a wanted person;

(b) is in possession of a valid travel document;

(c) has a valid visa to enter the country of destination; and

(d) is not in arrears of payment of fees or penalty to the Director the officer may permit that person to leave Ghana on completing the prescribed form and endorse his passport or travel document.

PART II—RESIDENCE AND EMPLOYMENT OF FOREIGN NATIONALS IN GHANA

Section 13—Residence Permits.

(1) A person who has been lawfully admitted entry into Ghana, may upon an application to the Director in the prescribed manner, be issued with a residence permit.

(2) The Director may grant residence permit for up to a period not exceeding eight years, except that, a residence permit shall not be for more than four years in the first instance.

Section 14—Indefinite Residence Status.

(1) The Director may with the approval of the Minister grant an indefinite residence status to a person who satisfies the Director that he is qualified under section 15 or 16 of this Act for that status.

(2) An application for an indefinite residence status shall be made to the Director in the prescribed form and a copy shall be submitted to the Minister by the Director.

Section 15—Indefinite Residence Status Generally.

(1) Subject to this Act, a person qualifies for indefinite residence status if that person:

(a) has resided in Ghana throughout the period of twelve months immediately preceding the date of the application;

(b) has during the seven years immediately preceding the period of the twelve months, resided in Ghana for a period amounting in the aggregate to not less than five years;

(c) is of good character as attested to in writing by two Ghanaians who are notaries public, lawyers, senior public officers or any other class of persons approved of by the Minister;

(d) has not been sentenced to a period of imprisonment of twelve months or more;

(e) has made or is in the opinion of the Minister capable of making a substantial contribution to development of Ghana;

(f) intends to reside permanently in Ghana upon the grant of the status; and

(g) possesses a valid residence permit on the date of his application.

(2) The Director may in special circumstances and with the approval of the Minister

(a) allow a continuous period of twelve months ending not more than six months before the date of application to be reckoned for purposes of subsection (1)(a) of this section;

(b) allow periods of residence earlier than seven years before the date of application to be reckoned in computing the aggregate period mentioned in subsection 1(b) of this section.

(3) Where a person is granted an indefinite residence status and absents himself from Ghana for more than twelve consecutive months he automatically loses that status.

(4) A person who loses an indefinite residence status under subsection (3) may apply to the Director for reinstatement, except that the application shall be

treated as a fresh application subject to such conditions as the Director may determine.

Section 16—Indefinite Residence Status for Foreign Spouses.

(1) A foreign national married to a citizen of Ghana is entitled to indefinite residence in Ghana if that foreign national:

(a) has resided in Ghana throughout the period of twelve months immediately preceding the date of the application;

(b) has immediately preceding the period of the twelve months, resided in Ghana for an aggregate period of not less than two years;

(c) has not been convicted of any offence and sentenced to a period of imprisonment of twelve months or more;

(d) intends to reside permanently in Ghana upon the grant of the status; and

(e) is in possession of a valid residence permit on the date of the application.

(2) The Director may in such special circumstances as he thinks fit and with the approval of the Minister allow a continuous period of six months and an aggregate period of one year to be substituted for the twelve months and two years respectively provided under paragraphs (a) and (b) of subsection (1).

(3) Where a foreign spouse who is granted an indefinite residence status stays away from Ghana for more than twelve consecutive months that foreign spouse automatically loses the status.

(4) A foreign spouse who loses an indefinite residence status under subsection (3) may apply to the Director for reinstatement, except that the application shall be treated as a fresh application subject to such conditions as the Director may determine.

(5) The separation, divorce or death of a spouse in a marriage to which this section applies shall not affect the indefinite residence status held by the foreign spouse immediately before the occurrence of the event.

(6) Notwithstanding any provision of this section, a foreign spouse whose marriage is no longer in existence may upon application to the Director be granted indefinite residence status subject to evidence that the marriage was contracted in good faith.

Section 17—Right of Abode.

(1) Subject to this section the Minister may on an application and with the approval of the President grant the status of right of abode to any of the following persons:

(a) a Ghanaian by birth, adoption, registration or naturalisation within the meaning of the Citizenship Act who by reason of his acquisition of a foreign nationality has lost his Ghanaian citizenship; and

(b) a person of African descent in the Diaspora.

(2) A Ghanaian citizen to whom paragraph (a) of subsection (1) applies shall produce to the Minister such documentary and other evidence that the Minister may require testifying to the loss of his Ghanaian citizenship by reason of having acquired another citizenship.

(3) A person of African descent in the Diaspora qualifies to be considered for the status of a right of abode if he satisfies the Minister that he:

(a) is of good character as attested to by two Ghanaians who are notaries public, lawyers, senior public officers or other class of persons approved of by the Minister;

(b) has not been convicted of any criminal offence and been sentenced to imprisonment for a term of twelve months or more;

(c) is of independent means:

(d) is in the opinion of the Minister capable of making a substantial contribution to the development of Ghana; and

(e) has attained the age of eighteen years.

Section 18—Consequences of Indefinite Residence Status and Right of Abode Status.

(1) A person with indefinite residence status or a person with right of abode status is—

(a) entitled to remain indefinitely in Ghana;

(b) entitled to enter Ghana without a visa;

(c) entitled to work in Ghana either as self-employed or as an employee without a work permit; and

(d) subject to the laws of Ghana.

(2) A non-Ghanaian child or other non-Ghanaian dependent of a person with

(a) indefinite residence status; or

(b) right of abode status is eligible for a dependency permit.

(3) A dependency permit may on an application be issued by the Director and shall be subject to such conditions as shall be specified therein.

(4) For the purposes of subsection (2) “a child” means a natural or an adopted child under the age of eighteen years.

Section 19—High Court may Revoke the Right of Abode Status.

(1) The High Court may on an application by the Attorney-General deprive a person with a right of abode status of that status on the ground that—

(a) the activities of that person are inimical to the security of the State or prejudicial to public order, public health, morality or public interest;

(b) the right was acquired by fraudulent misrepresentation or any other illegal or irregular means; or

(c) the holder of the status no longer qualifies under this Act.

Section 20—Expiration and Revocation of Permit or Other Authorisation.

(1) A person shall not remain in Ghana after the expiration of any permit issued to him.

(2) Subject to section 19 the Director may during the validity of any permit or visa granted to a person to enter or remain in Ghana

(a) revoke the permit on grounds of fraudulent misrepresentation or concealment or any other illegal practice;

(b) revoke the permit on grounds that the conditions governing the permit have been broken; or

(c) impose fresh conditions in relation to that permit;

and shall take reasonable steps to communicate notice of the revocation, or other fresh conditions to the person concerned.

(3) Where a permit is revoked and notice has been given and the holder of that permit is:

(a) present in Ghana, he shall not remain in Ghana after the revocation and shall be removed from Ghana in accordance with the provisions of this Act and be prohibited from re-entering Ghana temporarily, or in the case of a prohibited immigrant, permanently; or

(b) outside Ghana, he shall be prohibited from re-entering Ghana temporarily, or in the case of a prohibited immigrant, permanently.

(4) A person, who enters or re-enters or remains in Ghana in contravention of any order made under this section, commits an offence and is liable on summary conviction to a fine of not less than one million cedis or to imprisonment for a term of not less than three months or more than one year.

(5) Where a permit is revoked the revocation applies to—

(a) a person whose name is endorsed in the permit;

(b) any spouse of the holder of the permit where the spouse was issued with the permit in consequence of the issue of a permit to the other spouse; and

(c) any dependent of the holder of the permit who is not a citizen of Ghana.

(6) Notification of a revocation to the holder of the permit constitutes notification to the persons mentioned in subsection (5).

Section 21—Removal of Illegal Immigrants.

(1) Where the presence of a person in Ghana is unlawful, that person may be repatriated from Ghana by an order of the Director.

(2) Where a person is ordered to be removed from Ghana under this Act, that person may be arrested and detained for such period as may be necessary for making arrangements for his removal.

(3) A person may for the purpose of subsection (1) be detained in any police station or immigration detention area.

Section 22—Authority of Immigration Officer to Arrest and Prosecute.

An immigration officer enforcing this Act has the authority and powers of a police officer relating to arrest, detention and search.

Section 23—Renewal of Permits.

(1) A person who has been granted a permit to remain in Ghana under section 4 of this Act, may within one month before the permit expires apply to the Director in the prescribed manner for a renewal of the permit.

(2) An application for a renewal of a permit shall be treated as an application for a permit under section 4(1) of this Act, except that the Director may renew the permit with effect from the date of issue or from the date of expiry of the previous permit.

Section 24—Employment of Foreign Nationals.

Subject to this Act a person shall not employ any foreign national in Ghana except in accordance with a permit granted by the Immigrant Quota Committee established under section 25 of this Act.

Section 25—Establishment of Immigrant Quota Committee.

There is hereby established an Immigrant Quota Committee referred to in this Act as “the Committee”.

Section 26—Composition of the Committee.

(1) The Committee consists of the following members:

(a) the Deputy Minister who is the chairman;

(b) the Director of Immigration or his representative not below the position of a Deputy Director; and

(c) a representative of the;

- (i) Ministry of the Interior;
- (ii) Ministry of Employment and Social Welfare;
- (iii) Ministry of Trade and Industry;
- (iv) Registrar-General's Department;
- (v) Ghana Investments Promotion Centre;
- (vi) Bank of Ghana;
- (vii) Statistical Service; and
- (viii) Ghana Employers Association.

(2) The representative of the Ministry of the Interior is the secretary to the Committee.

Section 27—Functions of the Committee.

(1) The Committee is responsible for the consideration of all applications for immigrant quota and work permit and shall submit its recommendations to the Minister for the issue of an immigrant quota and work permit.

(2) The Committee shall be guided in considering an application for immigrant quota and work permit by the relevant investment laws of the country.

(3) The Minister may issue a work permit to any person who is not a prohibited immigrant, a visitor, tourist, transit passenger or student, and who satisfies the Committee that—

(a) he wishes to enter Ghana in order to take up work or employment;

(b) he is qualified to work or undertake employment in the trade, business or calling in respect of which the application is made;

(c) his taking up of the work or employment will be to the benefit generally of Ghana; and

(d) he is lawfully resident in Ghana and is qualified to work as an employee or a self-employed.

Section 28—Work permit and Immigrant Quota.

(1) A work permit granted for the employment of a foreign national shall specify the number and description of persons authorized to be employed.

(2) An approval to fill in an immigrant quota may specify the period for which a foreign national may occupy a particular post while a Ghanaian understudies him to take over on expiry of the period.

(3) A work permit issued to a person shall specify the employer by whom that person is to be employed and the holder shall not without the consent in writing of the Committee engage in any form of paid employment or in any business or professional occupation in Ghana, other than the particular employment, business or professional occupation specified in the work permit.

Section 29—Other Bodies Dealing with Immigrant Quotas.

Without prejudice to the generality of section 27 any relevant body granting immigrant quotas under any other enactment shall continue to exercise that authority subject to the provisions of this Act.

Section 30—Change or Cessation of Employment.

(1) When a foreign national commences work for an employer in Ghana—

(a) the employer shall not later than seven days after the commencement give notice of the commencement date to the Committee with a copy to the Director in the prescribed form, and furnish the Director with a letter of guarantee in the prescribed form in respect of the repatriation expenses of the foreign national; and

(b) the employee shall, not later than seven days after the commencement give notice of the commencement date to the Committee with a copy to the Director in the prescribed form.

(2) When a foreign national ceases to work for an employer in Ghana—

(a) the employer shall not later than seven days after the cessation give notice of the cessation to the Committee in the prescribed form with a copy to the Director and shall comply with the directions of the Director as to arrangements for the repatriation of the foreign national and his dependents; and

(b) the employee shall not later than seven days after the cessation give notice of the cessation to the Committee with a copy to the Director in the prescribed form.

Section 31—Annual Returns.

(1) Not later than fourteen days after the first day of January in each year, a person to whom an immigrant quota has been granted under this Act or any other enactment, shall send to the Committee, with a copy to the Director an annual return in the prescribed form giving the names and addresses of all foreign nationals employed by him in Ghana as at first January and any other particulars which may be prescribed.

(2) Any body corporate which fails to comply with subsection (1) is liable to pay to the Immigration Service a penalty of five million cedis and any individual who fails to comply with subsection (1) is liable to pay a penalty of one million cedis.

(3) A body corporate or an individual that fails to pay the prescribed penalty within seven days commits an offence and is liable on summary conviction to a fine of ten million cedis or a term of imprisonment of not less than six months or more than two years or to both.

Section 32—Renewal of Quotas and Work Permits.

(1) A person who has been granted a permit to work in Ghana under section 27 may one month before the expiry of that permit apply to the Committee in the prescribed manner for the renewal of his permit.

(2) An application for renewal shall be treated as if it were a fresh application.

Section 33—Employers Guarantee.

(1) Where an employer furnishes to the Director a letter of guarantee in the prescribed form in respect of the repatriation of a foreign national, the employer:

(a) is liable to pay under the guarantee the repatriation expenses if the foreign national ceases for any reason to be employed by the employer; and

(b) is liable to pay under the guarantee the repatriation expenses of the dependants of the foreign national in the event of the death of the foreign national.

(2) The employer may be released from his guarantee if the Director is satisfied that alternative security for the repatriation of the foreign national and his dependants has been supplied or if the Director is satisfied that the foreign national and his dependants have left Ghana.

Section 34—Registration of Foreign Nationals in Ghana.

(1) Subject to this Act a foreign national who remains in Ghana for a period exceeding three months shall register with the nearest immigration office in a prescribed manner.

(2) A foreign national who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five million cedis or imprisonment for a term not exceeding twelve months or to both.

PART III—DEPORTATION

Section 35—Person Liable to Deportation.

(1) A foreign national is liable to deportation if—

(a) a court recommendation for his deportation is effective under subsection (2) of this section;

(b) he has been found by a court to be destitute or without means of support or to be of unsound mind or mentally handicapped;

(c) he is a prohibited immigrant;

(d) he is in Ghana without a valid permit, or any of the conditions on which his permit was granted has been broken; or

(e) his presence in Ghana is in the opinion of the Minister not conducive to the public good.

(2) A recommendation for deportation is effective if it is made by a court upon conviction for an offence punishable by a term of imprisonment exceeding three months with or without a fine and

(a) on an appeal against the conviction, the appellate court has upheld the recommendation; or

(b) no appeal has been brought within the time allowed for appeal but the recommendation was made by—

(i) the High Court, or

(ii) an inferior court and has been approved by the Chief Justice.

(3) Where a court makes a finding under paragraph (b) of subsection (1), the court shall report the finding in writing to the Minister.

Section 36—Deportation Order.

(1) The Minister may by executive instrument order the deportation of any person liable to deportation.

(2) The order may be made subject to such conditions as the Minister may impose.

(3) A deportation order may include the dependants of the person to be deported if the Minister so directs.

Section 37—Effect of Deportation Order.

(1) A person to be deported shall leave Ghana in accordance with the requirements of the deportation order and shall so long as the deportation order is in force remain out of Ghana.

(2) A person who enters Ghana when a deportation order made against him is in force commits an offence and is liable on summary conviction to a term of imprisonment not exceeding five years and may be deported without any further deportation order being made.

(3) Where a person to be deported is serving a sentence of imprisonment, he shall unless the Minister otherwise directs, complete the sentence.

Section 38—Power to Arrest.

(1) A person, other than a person under a supervision order issued under section 40 of this Act, who is to be deported or who is liable to deportation may be arrested and detained by the Director under the authority of the Minister until that person is dealt with under subsection (3).

(2) A person to be deported may be conducted in custody to or from any consulate or other place in Ghana if the attendance of that person is required for the purposes of ascertaining his nationality or of making arrangements for his admission to another country.

(3) A person who is to be deported from Ghana may be placed on board a suitable vessel or aircraft by an immigration officer and may be lawfully detained on board the vessel or aircraft, whilst the vessel or aircraft is within the territorial limits of Ghana.

Section 39—Power to Record Identification.

An immigration officer may where a person to be deported is in custody, do all things reasonably necessary for the identification of that person by means of photography, measurement and the taking of fingerprints.

Section 40—Supervision Order.

(1) If, on the expiration of six months from the making of a deportation order, deportation has not been effected, or if, at any time before the expiration of that period, the Minister is satisfied that deportation is for any reason impracticable, or undesirable he may by executive instrument make a further order, to be known as supervision order, with respect to the person to be deported, requiring that person, while in Ghana to observe any conditions specified in the order as to:

- (a) the area in which he is to reside;
- (b) the carrying on by him of political activities;
- (c) reporting to the immigration officer and the police from time to time;
- (d) the means by which he may gain a livelihood; and
- (e) his association with a person with criminal record.

(2) The period of six months in subsection (1) shall in respect of a person serving a term of imprisonment be computed from the end of the term.

(3) A person in respect of whom a supervision order is in force who fails to comply with the requirement of that order, commits an offence and is liable on summary conviction to a fine of not less than five hundred thousand cedis or to imprisonment for a term of not less than two months, or both.

(4) The operation of a deportation order made in respect of any person shall be suspended while a supervision order is in force in relation to that person, but shall revive if the Minister so directs and in that event the supervision order shall cease to have effect.

(5) Subject to subsection (4), a supervision order made in respect of any person shall expire after a period of two years from the date of the order and on the expiration of the supervision order, the deportation order made in respect of that person, shall also expire.

Section 41—Expenses of Deportation.

(1) The Director may apply any money or property that belongs to a person to be deported in payment of the deportation expenses.

(2) The person in charge, the owner and the agent of a vessel, aircraft or vehicle from which any person disembarks in Ghana shall be jointly and severally liable to pay the deportation expenses of that person to the Director if that person

(a) was a member of a crew of the vessel of aircraft and was left in Ghana in contravention of section 42 of this Act; or

(b) is a prohibited immigrant and the Minister has made a deportation order in respect of him, or has been directed to leave Ghana under section 8(4) of this Act.

(3) A person other than a person to whom subsection (2) applies, who is concerned in or connected with the bringing into Ghana of a prohibited immigrant of the description set out in section 8(1) of this Act shall be liable to pay to the Director the deportation expenses of that person.

PART IV—EXEMPTION, DETENTION AND PETITION

Section 42—Exemption of Crew Entering Ghana.

(1) The members of the crew of a vessel or aircraft arriving in Ghana from abroad may be permitted to enter Ghana on satisfactory proof of their identity notwithstanding that they may not have passports, visas, or permits.

(2) No member of the crew of a vessel or aircraft shall be discharged or left behind in Ghana without the consent of an immigration officer.

(3) This section does not apply to a member of the crew of a vessel or aircraft who is a citizen of Ghana.

Section 43—Liability of Master or Other Person For Detention Expenses.

(1) Where any person is in immigration custody under this Act, the master, owner, charterer and agent of the vessel or aircraft which brought that person to Ghana shall be jointly and severally liable for all expenses incurred in the detention and maintenance of that person, except that no liability is incurred where any person detained is subsequently permitted to enter Ghana.

(2) Any expenses to be paid under subsection (1), shall be recoverable as a debt due to the Government of Ghana from the master, owner, charterer and agent of the vessel or aircraft jointly and severally.

Section 44—Power to Search Vessel or Aircraft.

An immigration officer may, for the purpose of satisfying himself whether there is a person he may wish to examine, search any vessel or aircraft and anything on board it or any vehicle taken off a vessel or aircraft.

Section 45—Offence in Ghanaian Territorial Zone.

(1) Where a foreign national is charged with an offence alleged to have been committed aboard a vessel or an aircraft in Ghanaian territorial waters or airspace, the court may—

(a) on convicting the person charged, order that on the expiration of the sentence, or on the sooner readiness of the vessel to proceed to sea or the aircraft to take off, the person be held in custody aboard the vessel or aircraft for conveyance from Ghana; or

(b) on discharging or acquitting the person charged, order that the person be immediately conveyed back to the vessel or aircraft.

Section 46—Submission of Petitions.

(1) Any person other than a prohibited immigrant aggrieved by a—

(a) refusal to grant or renew a permit under this Act;

(b) revocation of a permit under this Act; or

(c) repatriation ordered by an immigration officer may submit a petition to the Minister within seven days of such action and the Minister shall subject to subsection (3) take such action as he considers appropriate.

(2) Subsection (1) does not apply to a deportation order issued under an executive instrument under the hand of the Minister.

(3) The Minister shall in determining a petition under subsection (1) be assisted by a committee comprising the following persons

(a) a representative of the Attorney-General not below the rank of a Senior State Attorney, who shall be the chairman of the committee;

(b) a representative of the Minister for Foreign Affairs not below the rank of a Director; and

(c) one other person appointed by the Minister who shall not be an officer or employee of the Immigration Service.

Section 47—Petition not to Act as Stay of Action.

(1) A petition to the Minister under section 46 shall not act as a stay of the action which has been petitioned against.

(2) Notwithstanding subsection (1) of this section Regulations may provide for conditions in which a person may be permitted to stay in Ghana pending the hearing of a petition made by that person.

PART V—MISCELLANEOUS PROVISIONS AND OFFENCES

Section 48—Refugees.

The Director upon the recommendation of the Refugee Board shall issue any relevant immigrant document in respect of a refugee in Ghana.

Section 49—Prohibited Areas.

(1) The Minister may by legislative instrument declare some areas in Ghana as prohibited to foreign nationals.

(2) A foreign national shall not enter or remain in areas prohibited to foreigners unless he has a valid prohibited area permit granted by the appropriate authority.

(3) A permit granted under subsection (2) shall be subject to such conditions as may be specified in the permit and prescribed by Regulations made under section 55 of this Act, and shall be in a prescribed form.

(4) A person who contravenes subsection (2) commits an offence and is on summary conviction liable to a term of imprisonment of not less than three months or to a fine of not less than five hundred thousand cedis or to both.

Section 50—Returns to the Minister.

The Director shall submit to the Minister in a prescribed form the statistics of immigrants at the end of December of every year including:

- (a) nationality and personal data;
- (b) economic and social activity undertaken;
- (c) reasons for entering;
- (d) date of entry; and
- (e) type of visa issued.

Section 51—Residual Powers.

Notwithstanding anything to the contrary in this Act the Minister may revoke or waive any visa, permit, conditions of entry and any requirement on grounds of—

- (a) national interest;
- (b) compassionate circumstances; or
- (c) any other reasonable ground.

Section 52—Offences.

(1) A person who—

- (a) aids or assists any person to enter Ghana in contravention of this Act;

(b) knowingly harbours any person whom he knows is to be deported or has reasonable grounds to believe has acted in contravention of this Act;

(c) knowingly permits or assists the escape from any vessel, aircraft or vehicle in Ghana of any person to be deported;

(d) disobeys or disregards any obligation imposed or directive given by or under this Act;

(e) knowingly makes or causes to be made any false return, false statement or false representation in connection with any obligation imposed or directive given by or under this Act;

(f) restricts or obstructs, any immigration officer in the execution of his duty;

(g) wilfully and without lawful excuse hinders or obstructs any deportation being effected under this Act;

(h) gives, sells, or lends any registration certificate, card, passport, or permit issued to him under this Act or any other Act in order that it is used by any other person;

(i) by false declaration obtains or attempts to obtain for himself or any other person any registration certificate, card, passport, permit or visa, or any other certificate;

(j) without lawful authority uses or has in his possession any forged certificate or card, passport, permit, visa or other document or any passport, registration certificate or card or other document on which any visa, photo or endorsement, has been unlawfully made or altered, commits an offence and is liable on conviction to a fine not exceeding ten million cedis or imprisonment for a term not exceeding two years or to both.

(2) When a master of a sea-going vessel or captain of an aircraft or driver of a vehicle is charged with the offence, the clearance outwards of the vessel or aircraft or vehicle may be refused until the case has been heard and upon conviction the fine imposed has been paid.

Section 52A – Prohibition of migrant smuggling

(1) A person shall not engage in migrant smuggling.

(2) A person who engages in migrant smuggling commits an offence and is liable on conviction to a fine of not less than six hundred and twenty-five penalty units and not more than one thousand, two hundred and fifty penalty units or to a term of imprisonment of not less than five years and not more than ten years or to both.

(3) For the purposes of this section, migrant smuggling: means the facilitation of the unlawful entry or departure from the country of a person in order to obtain, directly or indirectly, a financial or other material benefit.

(4) For the purposes of this section, facilitation" includes (a) producing, procuring, providing or processing a travel or identity document by fraudulent means; (b) procuring by unlawful means other documentation in support of the processing of a travel or identity document; and (c) enabling a person who is not a national or a permanent resident to remain in the country without complying with the requirement for legally remaining in the country by any of the means mentioned in paragraphs (a) and (b).

Section 53—Burden of Proof.

In any proceedings under this Act or Regulations made under this Act, or on examination by an immigration officer, if the question arises:

(a) whether any person is in possession of a passport, visa or permit;
or

(b) whether any person is a citizen of Ghana, the burden of proof that that person is in possession of a passport, visa or permit or that he is a citizen of Ghana, lies on that person.

Section 54—Carrier Liability.

Where a master of a vessel or a person in charge of an aircraft, or a vehicle aids, abets or permits any person to disembark from the vessel, aircraft or vehicle or to leave the precincts of the port in contravention of any of the provisions of this Act he is liable to pay to the immigration service a penalty of five million cedis and where he fails to pay the penalty within fourteen days of demand, he commits an offence and is liable on summary conviction to a fine not exceeding ten million cedis or to imprisonment for a term not exceeding two years or to both.

Section 55—Regulations.

The Minister in consultation with the Immigration Service Board may by legislative instrument—

- (a) provide for passengers in transit to enter Ghana without entry visa;
- (b) amend the Schedule to this Act;
- (c) provide for free movement across the borders of border-residents;
- (d) provide for the conditions for issue of emergency visas;
- (e) provide for conditions and procedures for the issue and renewal of permits under this Act;
- (f) require a person in charge of any vessel, aircraft or vehicle leaving Ghana or entering Ghana to furnish such information as may be prescribed in respect of persons on board who are not citizens of Ghana;

(g) prescribe for fees to be paid and the forms to be used in respect of any permits and other matters under this Act; and

(h) generally provide for the effective implementation of the provisions of this Act.

Section 56—Interpretation.

In this Act, unless the context otherwise requires—

“authorised point” means an approved place of entry into Ghana;

“a person of African descent in the Diaspora” means a person whose immediate forebears have resided outside the African Continent for at least three generations but whose origin, either by documentary proof or by ethnic characteristics is African;

“border-resident” means a national of a neighbouring country who ordinarily resides within five kilometres radius of either side of Ghana’s territorial frontiers with the Republics of Togo, Burkina Faso and Cote d’Ivoire;

“court” includes a Tribunal;

“dependency permit” means a permit issued by the Minister under Regulations made under section 55 to a dependent;

“dependent” means a child and a spouse;

“deportation expenses” means the amount of all expenses which are incurred in connection with the maintenance and transport and removal from Ghana of a person and his dependants who are deported or otherwise removed from Ghana under the provisions of this Act;

“Director” means the Director of Immigration;

“foreign national” means any person who is not a citizen of Ghana;

"foreign spouse" means a foreign national married to a Ghanaian citizen;

"immigration officer" means any officer of the Immigration Service assigned to act on behalf of the Director of Immigration;

"Minister" means the Minister responsible for the Interior;

"officer" means an immigration officer;

"passport" means a valid travel document issued to the person producing it by or on behalf of the country of which he is a subject or a citizen for a period which, according to the laws of that country, has not expired and which refers to the person, and is furnished with a photograph of him;

"permit" includes a visa, a certificate or other authorisation;

"person entering Ghana" includes a person who has entered Ghana but has not complied with sections 2 and 4 of this Act;

"person leaving Ghana" includes a person who has left Ghana but has not complied with sections 10 and 12 of this Act;

"person to be deported" means any person in respect of whom a deportation order is made who is not a person in respect of whom a supervision order has effect;

"port" means seaport or airport or airfield;

"prescribed" means prescribed by Regulations made under this Act.

"refugee" means a person who owing to well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or unwilling to avail himself of the protection of that country or who not having a nationality and being outside the country of his former habitual residence is owing to such fear unable or unwilling to return to it, or who owing to external

aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to seek refuge in another place outside his country; or any person stipulated by the Government to belong to this class;

“repatriation expenses” has the same meaning as deportation expenses;

“Service” means the Immigration Service;

“vessel” means a sea-going vessel;

“visa” includes a re-entry visa.

Section 57—Repeals or Savings.

(1) The following enactments are hereby repealed

Aliens Act 1963 (Act 160);

Aliens (Amendment) Act 1965 (Act 265);

Aliens (Amendment) Decree, 1974, (NRCD 259); and

Aliens Act 1963 (Commencement) Instrument 1963 (L.I. 247).

(2) Any Regulation, permit, visa, deportation order, supervision orders or authorisation issued, made or given under any of the repealed enactments and in force immediately before the coming into force of this Act shall be deemed to have been issued, made or given under the corresponding provisions of this Act and shall remain in force until otherwise dealt with under this Act.

SCHEDULE

Section 3

Approved places of entry into Ghana

BRONG-AHAFO REGION

Atuna
Dormaa Ahenkro-Gonokrom
Nkrankwanta
Kofibadukrom
Kwamesekrom
Sampa

GREATER ACCRA REGION

Kotoka International Airport
Tema

NORTHERN REGION

Bole-Chache
Tatale

UPPER EAST REGION

Bawku-Missiga
Kulungugu
Mognori
Namoo
Paga
Pulimankon

UPPER WEST REGION

Hamile
Tumu

VOLTA REGION

Aflao
Akanu
Baglo
Batume
Have-Avi
Honuta
Kpoglo
Leklebi Dafor
Leklebi Kame

Menu
Nyive
Shia
Tinjase
Wli Afegame
Yawgu

WESTERN REGION

Ellanda Wharf
Dadieso
Elubo
Half Assini, Newtown
Jaway Wharf
Oseikojokrom
Sewum
Takoradi Harbour
Yaakese

Date of Gazette Notification: 11th February, 2000.

IMMIGRATION REGULATIONS, 2001 (LI 1691)

ARRANGEMENT OF REGULATIONS

IN exercise of the powers conferred on the Minister responsible for the Interior by section 55 of the Immigration Act, 2000, (Act 573) these Regulations are made this 19th day of July, 2001.

Regulation 1—Examination and Condition of Entry

(1) An immigration officer may for the purposes of the Act interview persons entering Ghana or applying for permission or renewal of permission to enter Ghana.

(2) Form A[sic] in the Schedule (Disembarkation) shall be used for the purposes of section 2 (1) of the Act.

Regulation 2—Persons to Produce Passport

(1) A person

(a) entering or leaving Ghana; or

(b) applying for permission or renewal of permission to be or remain in Ghana

shall produce that person's passport to the immigration officer for inspection and stamping where necessary.

(2) A foreign national shall at any time when so requested by an immigration officer of the rank of Inspector or above, produce that national's passport for inspection.

Regulation 3—Visa and Entry Permits

(1) A foreign national, except one from an ECOWAS country, entering Ghana shall have stamped or affixed in that national's passport a visa valid from the date on which the foreign national enters Ghana.

(2) A foreign national who is an exempted person shall not be required to have a visa for entry into Ghana.

(3) A foreign national shall not be required to have a visa or entry permit if that national is in possession of travel documents issued by the Government of Ghana.

(4) An application for an entry visa into Ghana shall be made to the Director or the representative of the Director as in Form B in the Schedule.

Regulation 4—Emergency Entry Visa

(1) A foreign national who seeks to enter Ghana and who appears before an immigration officer without a visa shall in accordance with section 4(3) and 4(4) of the Act be granted emergency visa if the immigration officer is satisfied that the foreign national

(a) is not a prohibited immigrant;

(b) is in possession of a valid passport or travel document;

(c) is proceeding from a country

(i) where Ghana has no diplomatic mission or consulate; or

(ii) where Ghana has a representative, but the entry into Ghana is being sought for an emergency assignment;

(d) has had an application for emergency visa filed on the foreign national's behalf by that national's host with the Director of Immigration indicating

(i) personal details including nationality, place of residence in Ghana, occupation or business to be followed or undertaken while in Ghana;

(ii) particulars of passport;

(iii) proposed date of arrival;

(iv) purpose of visit and duration of stay;

(v) a statement to the effect that the applicant will not undertake or participate in any activity which might offend the religious beliefs of any section of the community;

(vi) in the case of a passenger passing through Ghana, the route to be followed; and

(vii) an undertaking by the applicant to return any pass granted the applicant shall be as in Form C in the Schedule;

(e) has had a security furnished by bond, deposit or a letter of guarantee by the person who guarantees the foreign national's visit.

(2) An emergency visa granted under subregulation (1) shall be valid for fourteen days from the date of issue.

(3) For the purposes of an emergency assignment referred to in subregulation (1) (c)(ii) the following additional conditions shall be satisfied:

(a) the distance between the place of abode of the applicant and the Ghana Consular office should be such that the impromptu nature of the applicant's journey could not make it possible for the applicant to travel to the office for a visa;

(b) the applicant is proceeding to Ghana at a short notice for business transactions;

(c) the applicant is a guest of the Government or a member of a delegation which is coming to Ghana at the instance of the Government of Ghana or any agency of the Government at short notice; or

(d) the entry permit of the applicant who is a person resident in Ghana has expired while the applicant was outside Ghana.

Regulation 5—Re-entry Visa

(1) A foreign national who is lawfully in Ghana and who seeks to leave Ghana temporarily, shall, for the purposes of section 5(1) of the Act, apply to the Director of Immigration for a re-entry visa indicating in the application the following:

- (a) the reason for wishing to re-enter Ghana;
 - (b) the proposed length of stay in Ghana;
 - (c) whether or not the foreign national is in possession of a valid return and onward ticket, and
 - (d) evidence of sufficient funds.
- (2) The application for re-entry visa shall be as in Form D in the Schedule.

Regulation 6—Transit Visa

- (1) An immigration officer may issue a transit visa to a person who intends to pass through Ghana in transit.
- (2) A transit visa shall be for a period determined by the immigration officer but shall not exceed forty-eight hours.
- (3) A transit visa shall be subject to the condition that the person shall not undertake or follow any occupation for reward.

Regulation 7—Transit Passengers

- (1) Where a passenger who arrives in Ghana in transit without entry visa applies for leave to enter the country for the purpose of seeing places of interest, an immigration officer may, subject to the payment of the prescribed fee, grant the passenger a transit permit to enter the country provided that the passenger
- (a) is in possession of a return or onward ticket; and
 - (b) provides evidence of adequate funds, for the purposes of the transit visit.
- (2) A transit permit, granted to any person under sub-regulation (1) shall be for a maximum period of forty-eight hours.

(3) A transit permit is granted only at air, land and sea ports.

Regulation 8—Visitor's Visa

(1) In any situation where a transit visa, a residence permit, an indefinite residence or a right of abode status referred to in regulation 6, 9, 10, 11 and 13 respectively is inapplicable, the immigration officer may grant a visitor's visa.

(2) A visitor's visa shall be subject to the condition that the person to whom it is granted shall not undertake or follow any occupation for reward, except such as may be specified in the visa.

(3) A visitor's visa shall be for a period determined by the immigration officer but shall not exceed two months or in the case of a national of an ECOWAS country three months as provided in the ECOWAS Treaty.

Regulation 9—Residence Permit

(1) The Director of Immigration may grant a residence permit to a foreign national who intends to remain in Ghana for a substantial period.

(2) A residence permit is subject to the condition that the person to whom it is granted shall not undertake any employment or engage in any business, trade or profession except as may be specified in the permit.

(3) A residence permit shall in the first instance be for a period not exceeding four years and may be extended.

(4) A person granted four years residence permit in the first instance may subsequently apply for an extension of the residence permit for a further period and the Director may, if satisfied that the person

(a) has fulfilled all the conditions subject to which the previous permit was granted; and

(b) has not abused any privilege granted that person under the previous permit;

grant an extension of the permit for a period not exceeding four years.

(5) The Director may issue a residence permit to the spouse, or other dependants of a person to whom a residence permit has been issued (referred to as the principal holder) subject to the condition that the person to whom it is issued shall not undertake or follow any occupation for reward.

(6) A residence permit granted to a principal holder's dependant shall be for a period not exceeding that applicable to the principal holder's permit or the residue of the principal holder's permit.

(7) An application for residence permit must be made in Form E in the Schedule to these Regulations.

(8) A residence permit for the purposes of subregulation (5), shall be as in Form F in the Schedule.

Regulation 10—Indefinite Residence Status

(1) A foreign national who wishes to be considered for the grant of indefinite residence status shall, in accordance with section 14 of the Act, submit an application to the Director as in Form G in the Schedule to these Regulations.

(2) On receipt of the application, the Director shall after investigations submit recommendation to the Minister for consideration.

(3) Where an application is approved, the necessary endorsement shall be made in the passport of the applicant by the Director.

Regulation 11—Indefinite Residence for Foreign Spouse

A foreign spouse who wishes to remain in Ghana indefinitely shall submit an application as in Form G in the Schedule and shall attach to the application a marriage certificate as evidence of being a spouse and satisfy conditions spelt out under section 16(1) of the Act, namely that the foreign spouse

- (a) has resided in Ghana throughout the period of twelve months immediately preceding the date of the application;
- (b) has immediately preceding the period of the twelve months, resided in Ghana for an aggregate period of not less than two years;
- (c) has not been convicted of an offence and sentenced to imprisonment for a period of twelve months or more;
- (d) intends to reside permanently in Ghana upon the grant of the status;
- (e) is in possession of a valid residence permit on the date of the application.

Regulation 12—Loss of Indefinite Residence Status by Foreign Spouse

A foreign spouse who loses an indefinite residence status for any reason and who applies to the Director for reinstatement must prove that the reason for the loss of the status related to

- (a) continuous academic pursuit or medical care, or
- (b) any other cause or matter that may be satisfactory to the Director.

Regulation 13—Application for Right of Abode

(1) A person who wishes to be considered for the grant of right of abode shall submit an application as in Form H in the Schedule to the Minister through the Director.

(2) A Ghanaian national who by the acquisition of another nationality cannot hold a Ghanaian nationality because of the laws governing the acquired nationality and who wishes to be granted right of abode shall not be required to produce documentary evidence of financial standing.

(3) A person of African descent in the Diaspora who wishes to be considered for the grant of right of abode, shall be subject to a verification process which requires among other things

(a) an attestation by two Ghanaians who are notaries public, lawyers, senior public officers or other class of persons approved by the Minister to the effect that the applicant is of good character and that they have known the applicant personally for a period of at least five years;

(b) a declaration by the applicant to the effect that the applicant has not been convicted of any criminal offence and been sentenced to imprisonment for a term of twelve months or more;

(c) production by the applicant of documentary evidence of financial standing;

(d) the applicant satisfying the Minister that the applicant is capable of making a substantial contribution to the development of Ghana; and

(e) that the applicant has attained at least the age of eighteen years.

[sic](2) An applicant for right of abode shall submit the application in person

[sic](3) For the purposes of verification under subregulation (3) the applicant must have resided in the country

(a) throughout the period of twenty-four months immediately preceding the date of the application; and

(b) during the seven years immediately preceding the period of twenty-four months referred to in paragraph (a), for a period amounting in the aggregate to not less than five years.

Regulation 14—Security for Repatriation

(1) Where a person seeking entry is required to furnish security in accordance with section 4(4) of the Act, in respect of that person's repatriation expenses, the immigration officer may require

(a) a bond for the sum determined in the terms set out in Form I in the Schedule;

(b) a deposit of the sum determined with the immigration officer; or

(c) a letter of guarantee as in Form J in the Schedule for the sum determined.

(2) The sum determined in this regulation shall be a sum equivalent to the cost of sending the foreign national and dependants of the national from a suitable place in Ghana.

(a) to the country of origin; or

(b) at the discretion of the Director to some other country into which that national and dependants of that person may be admitted in addition to any further sum that may be required for any other related purpose.

(3) Where a person furnishes security by deposit

(a) the immigration officer shall give that person a receipt for the sum deposited, and

(b) when the person leaves Ghana permanently, or is repatriated the immigration officer shall return the sum deposited or the balance remaining after deduction of the deportation expenses to the person who made the deposit.

(4) A bond or guarantee furnished by way of security under the Act or these Regulations may be called in by the Director on behalf of the Republic.

Regulation 15—Notice Given by Director

A notice issued by the Director under section 20 of the Act in relation to

- (a) revocation of a permit on grounds of fraudulent misrepresentation concealment or any other illegal practices;
- (b) revocation of a permit on grounds that conditions governing the permit has been broken;
- (c) imposition of fresh conditions in relation to a permit shall be in Form K in the Schedule.

Regulation 16—Employment of Foreign Nationals

(1) An employer who wishes to apply for a work permit for a person employed by that employer shall submit an application through the Director, who upon investigation shall submit a report to the Immigrant Quota Committee for consideration and approval.

(2) A permit to employ a foreign national shall be as in Form L in the Schedule.

Regulation 17—Notification to the Committee

(1) The forms to be used by

(a) an employer under section 30(1) and (2) of the Act; or

(b) an employee in notifying the Committee that the employee has commenced or ceased to work for the employer shall be in Forms M, N, O, P, Q in the Schedule

(2) The form of the annual return required by section 31 (1) of the Act shall be as in Form R in the Schedule.

Regulation 18—Penalty for Illegal Employment

(1) A person shall not employ a foreigner except in accordance with the provisions of the Act.

(2) Anybody corporate which employs a foreigner in breach of the provisions of section 24 of the Act shall pay to the Immigration Service a penalty in the sum of ten million cedis and any individual who fails to comply with the provisions of section 24 shall pay a penalty in the sum of five million cedis.

(3) A body corporate which fails to pay the prescribed penalty within seven days commits an offence and is liable on summary conviction to pay a fine of 700 penalty units and any individual who fails to pay the prescribed penalty commits an offence and is liable on summary conviction to pay a fine of 350 penalty units.

Regulation 19—Returns of Passengers

(1) Where a vessel or an aircraft takes passengers on board in the country, the master, owner or agent of the vessel or the person in charge of the aircraft shall before the departure of the vessel or the aircraft, give to the immigration officer the name and place of destination of each person on board.

(2) Where a vessel or an aircraft arrives at any port or place in the country with passengers on board who intend to disembark, the master of the vessel or the person in charge of the aircraft shall give to the immigration officer the name and place of embarkation of each person on board.

Regulation 20—Forms to be Completed on Leaving

Form S in the Schedule shall be used for the purpose of section 10(2) of the Act which provides for the examination of a person appearing before the immigration officer and the completion of a prescribed form by that person.

Regulation 21—Exempted Persons

(1) Where an immigration officer is satisfied that a person entering Ghana

(a) is a citizen of Ghana or

(b) is a foreigner who is not a prohibited immigrant and

(i) is a citizen of a country with which Ghana has reciprocal visa exemption agreement;

(ii) a member of the diplomatic or consular service of a foreign country who is duly accredited to the Republic by the government of the country concerned;

(iii) an official of an international organisation who is entitled to diplomatic privileges by or under the provisions of any enactment;

(iv) a person granted diplomatic status by the Republic;

(v) a person in the employment of the Republic;

(vi) the wife of a person in paragraphs (b) to (e);

(vii) a member of the armed forces of a friendly power entering Ghana on duty by permission of the Ghana Government; or

(viii) a person in respect of whom the Minister has granted a waiver under section 51 of the Act;

that person shall be permitted to enter and remain in the country.

(2) Where a person who has been permitted to enter the country under sub-regulation (1) ceases while in the country to possess the qualifications by virtue of which the provisions of sub-regulation (1) apply to that person, that person shall be required to appear before an immigration officer as though that person were entering the country for the first time.

Regulation 22—Interpretation

In these Regulations unless the context otherwise requires

"Act" means the Immigration Act, 2000, (Act 573).

"ECOWAS" means the Economic Community of West African States.

"permit" includes a visa.

Regulation 23— Revocation

The Aliens Regulations, 1963 (L.I. 265) as amended by

(a) Aliens (Amendment) Regulations, 1967 (L.I. 553)

(b) Aliens (Amendment) Regulations, 1974 (L.I. 970)

(c) Aliens (Amendment Regulations, 1977 (L.I. 1103)

(d) Aliens (Amendment Regulations, 1981 (L.I. 1266)

(e) Aliens (Amendment Regulations, 1994 (L.I. 1581) is hereby revoked.

SCHEDULE OF FORMS

IMMIGRATION SERVICE ACT, 2016

ARRANGEMENT OF SECTIONS

Section

The Immigration Service

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2. Members of the Service
3. Object of the Service
4. Functions of the Service
5. Governing body of the Service
6. Functions of the Council
7. Tenure of office of members of the Council

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19. Funds of the Service
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SCHEDULE

THE NINE HUNDRED AND EIGHTH
ACT
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED
IMMIGRATION SERVICE ACT, 2016

AN ACT to provide for the organisation and administration of the Immigration Service and for related matters.

DATE OF ASSENT: 8th March, 2016.

PASSED by Parliament and assented to by the President:

The Immigration Service

Establishment of the Service

1. There is established by this Act the Immigration Service in accordance with article 190 of the Constitution.

Members of the Service

2. The members of the Service are

- (a) the persons holding the posts, specified in the Schedule, and
- (b) any other persons employed by the Service.

Object of the Service

3. The object of the Service is to

- (a) ensure the effective administration and management of migration in the country; and
- (b) contribute to national security.

Functions of the Service

4. (1) For the purpose of achieving the object, the Service shall
- (a) subject to existing laws, examine travel documents of persons entering or leaving the country through the borders;
 - (b) ensure the application and enforcement of laws relating to the immigration and employment of non-Ghanaians in the country;
 - (c) advise on and implement international co-operation agreements with other countries and international organisations on matters relating to migration;
 - (d) manage and patrol the borders of the country;
 - (e) through the Comptroller-General or the duly authorised representative of the Comptroller-General issue visas for entry into the country and permits for residence or work in the country; and
 - (f) perform any other functions as required by law.

(2) The Comptroller-General shall act in consultation with the Minister in the performance of the function specified in subsection (1)(e).

Governing body of the Service

5. (1) The governing body of the Service is a Council consisting of
- (a) a chairperson,
 - (b) the Comptroller-General appointed under section 14,

- (c) one serving officer not below the rank of a Deputy Commissioner,
- (d) one representative of the Ministry of the Interior not below the rank of a Director;
- (e) one representative of the Ministry of Finance not below the rank of Director;
- (f) one representative of the Ministry of Foreign Affairs and Regional Integration not below the rank of a Director,
- (g) one representative of the Attorney-General not below the rank of a Principal State Attorney;
- (h) one representative of the Retired Senior Immigration Officers Association not below the rank of Deputy Commissioner;
- (i) one representative of the Ghana Bar Association who is of at least ten years standing at the Bar; and
- (j) one serving Junior Officer; and
- (k) three other persons nominated by the President one of whom is a woman.

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

Functions of the Council

6. The functions of the Council are to

- (a) advise the Minister on the formulation of policies for the management of the Service;

- (b) determine matters in respect of administration, welfare, training and discipline of officers and employees of the Service;
- (c) advise on matters of appointment and promotion of officers and other employees of the Service above the rank of Senior Inspector;
- (d) consider and approve a Scheme of Service prescribing the terms and conditions of service of the officers and other employees of the Service in line with the Government policy;
- (e) make recommendation to the Minister on bilateral and multilateral co-operation with foreign countries in matters relating to migration and related issues; and
- (f) ensure the proper and effective performance of the functions of the Service.

Tenure of office of members of the Council

7. (1) A member of the Council shall hold office for four years and is eligible for re-appointment but a member shall be appointed for another term only.

(2) Subsection (1) does not apply to the Comptroller-General.

(3) A member of the Council, other than the Comptroller-General, 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 Comptroller-General, 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 9(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

8. (1) The members of the Council shall meet at least quarterly for the dispatch 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 membership of the Council convene an extraordinary meeting of the Council at the place and time determined by the chairperson.

(3) The quorum at a meeting of the Council is seven members of the Council.

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

(5) 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.

(6) The Council may co-opt a person to attend and participate in any of its meetings but a person co-opted is not entitled to vote on any issue for decision by the Council.

(7) Subject to this section, the Council shall regulate its own procedure for meetings.

Disclosure of interest

9. (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;
- (b) request to be recused from the deliberations of the Council in respect of the matter; and
- (c) not 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) is present at or participates in the deliberations of the matter.

Establishment of committees

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

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

(3) Section 9 applies to a member of a committee of the Council.

Secretary to the Council

11. (1)The President shall in accordance with article 195 of the Constitution appoint a Secretary to the Council.

(2)The Secretary shall not be below the rank of an Assistant Commissioner.

(3)The Secretary is not a member of the Council and shall

- (a) keep accurate records of proceedings and decisions of the Council; and
- (b) perform any other function that the Council may direct.

Allowances

12. Members of the Council, members of a committee of the Council and co-opted persons shall be paid the allowances approved by the Minister in consultation with the Minister responsible for Finance.

P.N.D.C.L. 305D

REFUGEE ACT, 1992

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

Prohibition of Expulsion of Refugees

1. Prohibition of expulsion or return of refugees

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

(a) that person's life or freedom would be threatened on account of that person's race, religion, nationality, membership of a particular social group or political opinion, or

(b) that person's life, physical integrity or liberty would be threatened on account of external aggression, occupation, foreign domination or events seriously disrupting public order in that country or any part of it.

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

(a) is a danger to the security of the Republic,

(b) has committed a serious non-political criminal offence outside the Republic prior to that person's entry into the Republic, or

(c) having been convicted of a serious criminal offence in the Republic, constitutes a real danger to the public.

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

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

(a) be declared a prohibited immigrant,

(b) be detained, or

(c) be imprisoned or penalised in any other manner,

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

3. Detention and expulsion of refugees

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

Establishment of Refugee Board

4. Establishment and membership of the Refugee Board

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

(2) The Board shall consist of

(a) the chairman,

(b) one representative each of

(i) the Ministry of the Interior not below the rank of a Director,

(ii) the Ministry of Foreign Affairs not below the rank of a Director,

(iii) the Immigration Service not below the rank of an Assistant-Director of Immigration,

(c) the Inspector-General of Police or the representative of the Inspector not below the rank of an Assistant Commissioner of Police,

- (d) omitted,
- (e) one representative each of
 - (i) the Ministry of Employment, Youth and Social Welfare not below the rank of a Director,
 - (ii) the Bureau of National Investigation with the equivalent rank of an Assistant Commissioner of Police,
 - (iii) the Ministry of Justice not below the rank of a Principal State Attorney,
 - (iv) the Ministry of Education not below the rank of an Assistant Director of Education,
 - (v) the National Mobilisation Programme not below the rank of a Director, and
 - (f) one representative of the Office of the United Nations High Commissioner for Refugees in Ghana who shall participate in deliberations of the Board as an observer.

5. The functions of the Board

The functions of the Board are to

- (a) receive and consider applications for refugee status;
- (b) recognise a person as a refugee or a group of persons as refugees, for the purposes of this Act;
- (c) register, and keep a register of, persons recognised as refugees under this Act;
- (d) seek co-operation with non-governmental organisations on matters relating to refugees;

(e) assist in seeking employment or education for refugees and members of their families;

(f) endeavour to ensure the provision of adequate facilities, advice and services for the reception and care of refugees in Ghana;

(g) administer and manage the Refugee Fund established under this Act;

(h) advise the Minister on matters relating to refugees;

(i) perform all functions conferred upon it under this Act; and

(j) perform any other function that may be assigned to it by the Minister.

6. Meetings of the Board

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

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

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

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

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

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

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

7. Committees of the Board

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

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

Procedure for Application and Grant of Refugee Status, Appeals

8. Application for refugee status

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

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

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

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

9. Appeal on refusal to grant refugee status

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

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

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

(a) invite the representative in Ghana of the United Nations High Commissioner for Refugees to make oral or written representation on the matter;

(b) refer the matter back to the Board for further inquiry and investigation to be made;

(c) make any further inquiry and investigation into the matter that the Minister thinks necessary.

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

10. Residence in the Republic pending recognition

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

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

(b) in the event of the application being unsuccessful, until the applicant has had the opportunity to exhaust the right of appeal under section 9, or

(c) where an appeal has been dismissed, until the applicant has been allowed a reasonable time not exceeding three months, to seek admission to a country of the person's choice.

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

Rights and Duties of Refugees

11. Rights and duties of refugees

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

(a) the articles of the United Nations Convention relating to the Status of Refugees of 1951 set out in Part One of the Schedule;

(b) the Protocol Relating to the Status of Refugees of 1967 set out in Part Two of the Schedule; and

(c) the Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa set out in Part Three of the Schedule.

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

(a) issued with identity cards in the prescribed form,

(b) issued with a residence permit,

(c) issued with the United Nations Travel Document where appropriate, and

(d) subject to all the laws in force in the Republic.

12. Further provisions relating to family members of recognised refugees

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

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

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

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

13. Designated areas for refugees

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

(a) persons with refugee status,

(b) persons who have applied under this Act for refugee status,
and

(c) members of the families of persons referred to in paragraphs (a) and (b),

or any class of refugees shall live.

14. Naturalisation

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

15. Withdrawal of refugee status

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

(a) should not have been so recognised, or

(b) has ceased to qualify as a refugee for the purposes of this Act.

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

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

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

(a) invite the representative in the Republic of the office of the United Nations High Commissioner for Refugees to make oral or written representation in the matter,

(b) refer the matter back to the Board for further investigation,

(c) make any further inquiry and investigation that the Minister thinks fit into the matter.

16. Effect of withdrawal of recognition

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

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

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

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

17. Cessation of refugee status

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

(a) voluntarily re-avails the protection of the country of that person's nationality;

(b) becomes a Ghanaian citizen or acquires the nationality of another country and enjoys the protection of the country of the new nationality;

(c) voluntarily re-establishes in the country which that person left, or outside which that person remained owing to that person's fear of persecution;

(d) can no longer, because of the circumstances in connection with which that person was granted a refugee status have ceased to exist, continue to refuse to accept the protection of that person's country of

nationality; except that this paragraph shall not apply to a person who satisfied the Board that that person has compelling reasons arising out of previous persecution, for refusing to accept the protection of that person's country of nationality or refusing to return to the country of habitual residence; or

(e) refugee status is withdrawn.

Miscellaneous

18. Establishment of Refugee Fund

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

(2) The sources of the Refugee Fund are,

(a) contributions from the Government,

(b) contributions from local and international organisations,

(c) contributions from foreign governments,

(d) moneys realised from projects of the Fund, and

(e) contributions from any other sources.

19. Objects of the Fund

(1) The Refugee Fund shall be used for the

(a) provision of relief aid for refugees,

(b) establishment of settlement projects for refugees, and

(c) funding of any other purposes relating to refugees as may be determined by the Board.

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

20. Bank account

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

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

21. Annual report of the Board

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

22. Audit

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

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

23. Staff for the Board

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

24. Offences relating to false information and penalty

A refugee or person claiming to be a refugee who

(a) makes a false statement, return or representation to an authorised officer or any other person lawfully performing a function under this Act,

(b) refuses to produce to an authorised officer or that other person a document or to furnish that officer or that other person with an information reasonably required for the purposes of this Act,

(c) obstructs a person in the performance of functions under this Act, or

(d) alters a certificate or document issued or made under this Act,

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

25. Regulations

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

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

(a) the procedure for the consideration of applications for grant of refugee status;

(b) method of appeal;

(c) the issue of identification and travel documents to refugees and their families; and

(d) forms to be used for application for grant of refugee status and for other purposes of this Act.

26. Interpretation

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

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

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

“Board” means the Board established under section 4;

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

“member of family” in relation to a refugee means

(a) a spouse of the refugee,

(b) an unmarried child of the refugee under the age of eighteen years, or

(c) any other person who is related to the refugee by blood or marriage and who by reason of old age, infirmity or minority is dependent on the refugee;

“Minister” means Minister responsible for the Interior;

“refugee” means a person who

(a) falls within the definition provided in,

(i) Article 1 of the 1951 United Nations Convention set out in Part One of the Schedule; or

(ii) Article 1 of the 1967 Protocol Relating to the Status of Refugee, set out in Part Two of the Schedule; or

(iii) Article 1 of the 1969 Organisation of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa set out in Part Three of the Schedule; or

(b) belongs to a class of persons declared by the Minister as refugees.

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

(a) when there are serious reasons to believe that, that person has committed a crime against peace, a war crime or a crime against humanity, as defined in an international instrument to which Ghana is a party and which has been drawn up to make provisions in respect of those crimes; or

(b) if that person has been guilty of acts contrary to the purposes and principles of the Organisation of African Unity.

27. Modification of the Aliens Act

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

SCHEDULE

UN CONVENTION RELATING TO THE STATUS OF REFUGEES

ARTICLE 1

DEFINITION OF THE TERM “REFUGEE”

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

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

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

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

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

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

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

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

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

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

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

(a) he has voluntarily re-availed himself of the protection of the country of his nationality; or

(b) having lost his nationality, he has voluntarily re-acquired it; or

(c) he has acquired a new nationality, and enjoys the protection of the country of his new nationality; or

(d) he has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

(e) he can no longer, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality; or

(f) being a person who has no nationality he is, because the circumstances in connexion with which he has been recognised as a refugee have ceased to exist, able to return to the country of his former habitual residence:

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

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

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

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

(a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

(b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;

(c) he has been guilty of acts contrary to the purposes and principles of the United Nations.

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

ARTICLE I

GENERAL PROVISIONS

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

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

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

[Section 11 (a)]

DONE AT GENEVA ON 28 JULY, 1951

E27

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

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

PART ONE

ARTICLE 1

DEFINITION OF THE TERM “REFUGEE”

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

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

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

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

and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

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

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

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

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

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

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

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

(a) he has voluntarily re-availed himself of the protection of the country of his nationality; or

(b) having lost his nationality, he has voluntarily re-acquired it;
or

(c) he has acquired a new nationality, and enjoys the protection of the country of his new nationality; or

(d) he has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

(e) he can no longer, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality; or

(f) being a person who has no nationality he is, because the circumstances in connexion with which he has been recognised as a refugee have ceased to exist, able to return to the country of his former habitual residence:

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

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

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

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

(a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;

(b) he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;

(c) he has been guilty of acts contrary to the purposes and principles of the United Nations.

OAU CONVENTION GOVERNING THE SPECIFIC ASPECTS OF REFUGEE PROBLEMS IN AFRICA

ARTICLE I

DEFINITION OF THE TERM “REFUGEE”

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

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

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

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

(a) he has voluntarily re-availed himself of the protection of the country of his nationality; or

(b) having lost his nationality, he has voluntarily re-acquired it; or

(c) he has acquired a new nationality, and enjoys the protection of the country of his new nationality; or

(d) he has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution; or

(e) he can no longer, because the circumstances in connection with which he was recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality; or

(f) he has committed a serious non-political crime outside his country of refuge after his admission to that country as a refugee; or

(g) he has seriously infringed the purposes and objectives of this Convention.

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

(a) he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provisions in respect of such crimes;

(b) he committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;

(c) he has been guilty of acts contrary to the purposes and principles of the Organisation of African Unity;

(d) he has been guilty of acts contrary to the purposes and principles of the United Nations.

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

ARTICLE II

ASYLUM

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

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

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

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

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

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

PART 2:



SECURITY RELATED LAWS

ANTI-TERRORISM ACT, 2008 (ACT 762)

ACT 762

ANTI-TERRORISM ACT, 2008

AN ACT to combat terrorism, suppress and detect acts of terrorism, to prevent the territory, resources and financial services of this country from being used to commit terrorist acts, to protect the rights of people in this country to live in peace, freedom and security and to provide for connected purposes.

Terrorist Act

1. Prohibition of terrorist act

A person shall not engage in a terrorist act.

2. Terrorist act

(1) An act is a terrorist act if it is performed in furtherance of a political, ideological, religious, racial or ethnic cause and—

- (a) causes serious bodily harm to a person;
- (b) causes serious damage to property;
- (c) endangers a person's life;
- (d) creates a serious risk to the health or safety of the public;
- (e) involves the use of firearms or explosives;
- (f) releases into the environment or exposes the public to—
 - (i) dangerous, hazardous, radioactive or harmful substances;
 - (ii) toxic chemicals; or
 - (iii) microbial or other biological agents or toxins;
- (g) is prejudicial to national security or public safety;

(h) is designed or intended to disrupt—

(i) a computer system or the provision of services directly related to communications;

(ii) banking or financial services;

(iii) utilities, transportation; or

(iv) other essential services; or

(i) is designed or intended to cause damage to essential infrastructure.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction on indictment to a term of imprisonment of not less than seven years and not more than twenty-five years.

3. Acts not considered to be terrorist acts

A protest, demonstration or stoppage of work which disrupts an essential service shall not be considered to be a terrorist act within the meaning of this Act if the act does not result in the harm referred to in section 2 (1) (a),(b),(c) or (d).

4. Terrorist acts in armed conflict

(1) Terrorist act in armed conflict means an act done in the course of an armed conflict which by its nature or context is intended to—

(a) intimidate the population or compel the Government or an international organisation to do or refrain from doing an act; or

(b) cause death or serious bodily injury to a civilian not taking an active part in the hostility.

(2) An act shall not be considered to be a terrorist act in armed conflict if the armed conflict is in accordance with rules of international law applicable to the conflict.

(3) This Act does not—

(a) diminish the other rights, obligations and responsibilities of citizens and the Republic under international law, the purposes and principles of the Charter of the United Nations and international humanitarian law; or

(b) apply to the activities of the armed forces—

(i) during an armed conflict conducted in accordance with international humanitarian law; or

(ii) which are in exercise of their official duties and are in accordance with other rules of international law.

5. Jurisdiction to try offences under this Act

(1) The High Court has jurisdiction for an act which constitutes an offence committed outside this country if the act constitutes an offence in this country where—

(a) the person committing the act is—

(i) a citizen of Ghana; or

(ii) not a citizen of Ghana but is ordinarily resident in this country;

(b) the act is committed to compel the Government to do or refrain from doing an act;

(c) the act is committed against a citizen of Ghana;

(d) the act is committed against property outside the country that belongs to the Republic; or

(e) the person who commits the act is after its commission, found present in Ghana.

(2) The High Court shall order the funds and other assets of—

(a) a terrorist;

(b) financiers of terrorism; or

(c) a terrorist organisation;

to be frozen and any person holding the funds shall, without delay, freeze them.1a

(3) The terms, conditions and time limits applicable to the freezing shall be defined in the order.

(4) A person holding funds to which subsection (2) relates shall report without delay to the Financial Intelligence Centre established under section 4 of the Anti-Money Laundering Act, 2008 (Act 749) the existence of the funds.

Terrorist Offences

6. Provision or collection of property to commit an act of terrorism

A person who—

(a) provides;

(b) collects; or

(c) makes available

by any means, directly or indirectly, property, intending, knowing or having reasonable grounds to believe that the property will be used in full or in part to carry out or in relation to carrying out a terrorist act, commits an offence and is liable on conviction on indictment to a term of imprisonment of not less than seven years.

7. Provision of financial services for commission of a terrorist act

A person who directly or indirectly provides or makes available financial or other related service—

(a) with the intention that the financial or other related service be used—

(i) in whole or in part to commit or facilitate the commission of a terrorist act; or

(ii) to benefit a person who is committing or facilitating the commission of a terrorist act; or

(b) knowing or having reasonable cause to believe that the financial or other related service in whole or in part will be used by or will benefit a terrorist group,

commits an offence and is liable on conviction on indictment to a term of imprisonment of not less than seven years and not more than twenty-five years.

8. Use of property for commission of a terrorist act

A person who—

(a) uses property, directly or indirectly, in whole or in part to commit or in relation to the commission of a terrorist act

(b) acquires or possesses property with the intention that it is to be used or knowing that it will be used, directly or indirectly, in whole or in

part, for the purpose of committing or facilitating the commission of a terrorist act,

commits an offence and is liable on conviction on indictment to a term of imprisonment of not less than seven years and not more than twenty-five years.

9. Arrangements for retention or control of terrorist property

A person who enters into, or becomes involved in an arrangement, knowing that the agreement facilitates the acquisition, retention or control by or on behalf of another person of terrorist property—

(a) by concealing, or removing the property out of the country;

(b) by transfer of the property to a nominee; or

(c) in any other way

commits an offence and is liable on conviction on indictment to a term of imprisonment of not less than seven years and not more than twenty-five years.

10. Dealing with terrorist property

A person who knows that property is terrorist property and—

(a) deals directly or indirectly with that property;

(b) acquires or possesses that property;

(c) enters into, or facilitates, directly or indirectly, a transaction in respect of that property;

(d) converts, conceals or disguises that property; or

(e) provides financial or other related service in respect of that property at the direction of a terrorist group,

commits an offence and is liable on conviction on indictment to a term of imprisonment of not less than seven years and not more than twenty-five years.

11. Support of terrorist act

(1) A person who knows that a group is a terrorist group and—

(a) solicits or gives support to that group for the commission of a terrorist act; or

(b) solicits support for or gives support to that group for the commission of a terrorist act,

commits an offence and is liable on conviction on indictment to a term of imprisonment of not less than seven years and not more than twenty-five years.

(2) For the purpose of subsection (1), support includes—

(a) the provision or an offer to provide, forged or falsified travel documents to a person connected with a terrorist act or to a member of a terrorist group;

(b) the provision or an offer to provide a skill or expertise for the benefit of, at the direction of, or in association with a person or terrorist group;

(c) entering or remaining in a country for the benefit of or at the direction of or in association with any person or a terrorist group.

12. Harboursing of persons committing terrorist acts

(1) A person who harbours or conceals a person knowing or having reason to believe that the person—

(a) has committed, is planning or likely to commit a terrorist act;
or

(b) is a member of a terrorist group,

commits an offence and is liable on conviction on indictment to a term of imprisonment of not less than seven years and not more than twenty-five years.

(2) A person who prevents, hinders or interferes with the apprehension of a person knowing or having reason to believe that the person—

(a) has committed, is planning or likely to commit a terrorist act;
or

(b) is a member of a terrorist group,

commits an offence and is liable on conviction on indictment to a term of imprisonment of not less than seven years and not more than twenty-five years.

13. Provision of a lethal device to a terrorist group

(1) A person who knows or has reasonable cause to believe that—

(a) a group is a terrorist group; or

(b) a person is a member of a terrorist group

and provides or offers to provide an explosive or a lethal device to that group or a member of that group commits an offence and is liable on conviction on indictment to a term of imprisonment of not less than seven years and not more than twenty five years.

(2) A person who provides or offers to provide an explosive or a lethal device to another person knowing that that other person will use the explosive or the lethal device for the benefit of a terrorist group or member of a terrorist group commits an offence and is liable on conviction on indictment to a term of imprisonment of not less than seven years and not more than twenty five years.

14. Recruitment of member of terrorist group

A person who recruits or agrees to recruit another person—

(a) to be a member of a terrorist group; or

(b) to participate in the commission of a terrorist act,

commits an offence and is liable on conviction on indictment to a term of imprisonment of not less than seven years and not more than twenty-five years.

15. Provision of training and instruction to terrorist group

A person who provides or agrees to provide training or instruction—

(a) in the making or use of an explosive or other lethal device;

(b) in carrying out a terrorist act; or

(c) in the practice of military exercises or movements

knowing that the training or instructions is being provided to a member of a terrorist group or to a person engaged in or preparing to engage in a terrorist act commits an offence and is liable on conviction on indictment to a term of imprisonment of not less than seven years and not more than twenty-five years.

16. Incitement, promotion or solicitation of property for a terrorist act

A person who—

(a) incites or promotes the commission of a terrorist act;

(b) incites or promotes membership of a terrorist group; or

(c) solicits property for the benefit of a terrorist group or for the commission of a terrorist act,

commits an offence and is liable on conviction on indictment to a term of imprisonment of not less than seven years and not more than twenty-five years.

17. Provision of facilities to support a terrorist act

(1) A person who—

(a) occupies, leases or is in charge of premises and permits a meeting in respect of an act to be held in that premises;

(b) owns a vessel or is a charterer, lessee, operator, agent or master of a vessel and permits the vessel to be used for the commission of an act;

(c) owns an aircraft or is a charterer, lessee, operator, agent or pilot in charge of an aircraft and permits the aircraft to be used for the commission of an act;

(d) owns or is in possession of a motor vehicle, and permits the motor vehicle to be used for the commission of an act; or

(e) is a lessee or is in charge of a communication equipment, or a facility for the recording, conferencing or meetings through a communication equipment and permits the communication equipment, or facility to be used for the commission of an act,

which that person knows to be a terrorist act commits an offence and is liable on conviction on indictment to a term of imprisonment of not less than seven years and not more than twenty-five years.

(2) In this section “communications equipment” and “communications system” have the same meaning as in the National Communications Authority Act, 1996 (Act 524).

18. Arrangement of meetings in support of a terrorist group

(1) A person who arranges, manages or assists in arranging or managing a meeting which is—

(a) to support a terrorist group;

(b) to further the activities of a terrorist group; or

(c) to be addressed by a person who belongs or professes to belong to a terrorist group,

commits an offence and is liable on conviction on indictment to a term of imprisonment of not less than seven years and not more than twenty-five years.

(2) In this section “meeting” means the coming together of two or more persons whether or not the public is admitted.

Specified Terrorist Entities

19. Order declaring entity to be a specified entity

(1) The Minister may by an application ex parte to the Court seek an order declaring an entity to be a specified entity if there is corroborative evidence to support the information submitted by a person who has knowledge that the entity has—

(a) committed;

(b) attempted to commit;

(c) participated in the commission of; or

(d) facilitated the commission,

of a terrorist act.

(2) The application may also be made by the Minister upon reasonable grounds that an entity is consciously acting—

(a) on behalf of;

(b) at the direction of; or

(c) in association with,

another specified entity.

(3) The entity shall from the date of the order be a specified entity.

(4) A specified entity is proscribed.

20. Revocation of specified entity order

(1) A specified entity may through a representative, make an application to the Court for the revocation of an order made in respect of that entity within thirty days after the date of the order.

(2) The Minister may apply for revocation of the order if satisfied that there are reasonable grounds for the revocation.

(3) The Court may receive in evidence information obtained from the Government, an institution or agency of a foreign state or an international organisation if the information is reliable and relevant even if the evidence is not admissible under the Evidence Act, 1975 (N.R.C.D. 323).

(4) The evidence from the Government, foreign Government, state or international organisation shall be in the form of a deposition and shall be corroborated.

21. Application for review

An applicant aggrieved by the decision of the Court may seek further remedies in Court.

22. Periodic review of specified entity orders

The Court shall on application review specified entity orders and may revoke an order if satisfied that there is no longer justification for the order.

23. Meaning of specified entity

A specified entity means a person, group, trust, partnership, fund, body corporate or unincorporated or an organisation associated with acts of terrorism and declared to be a specified entity.

Search, Seizure and Forfeiture of Property

24. Search

(1) Where the police have reasonable grounds to suspect that there is—

(a) property to be used for the commission of a terrorist act; or

(b) terrorist property

concealed or deposited on premises, the police may enter the premises at any time to search for the property and may search any person who is in or on the premises.

(2) The police may, if necessary, break open premises and forcibly enter for the purpose of conducting the search and may stop, search and detain a conveyance suspected to be connected with an offence under the Act.

(3) A police officer may—

(a) conduct a physical search of a person who the officer has reason to believe is in possession of;

(b) search the property of a person where the officer has reason to believe there may be,

property liable to seizure or forfeiture under this Act.

25. Obstruction of inspection and search

A person who—

(a) refuses a police officer access to a premises or fails to submit to a search;

(b) assaults, obstructs, hinders or delays a police officer in the discharge of a duty imposed by this Act;

(c) fails to comply with a lawful demand of a police officer in the discharge of a duty under this Act;

(d) refuses or neglects to give information required under this Act;

(e) fails to produce, conceals or attempts to conceal property liable to seizure under this Act; or

(f) in relation to a search or inspection furnishes information to a police officer which the person knows to be false,

commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or to imprisonment for a term of not more than two years or to both.

26. Seizure of terrorist property

(1) Where the police have reasonable grounds to suspect that property has been, is being, or may be used to commit an offence under this Act, the property may be seized.

(2) The police shall make an ex parte application to a District Court or Circuit Court for a detention order of the seized property within ten days after the seizure of the property.

(3) The District Court or Circuit Court shall make a detention order in respect of the property referred to in the application where the person who appears to have an interest in the property has had a reasonable opportunity to be heard

and there are reasonable grounds to believe that the property has been, is being, or may be used to commit an offence under this Act.

(4) A detention order is valid for sixty days and may be renewed by the District Court or Circuit Court for a further period of not more than sixty days at a time until the proceedings have been concluded.

(5) The District Court or Circuit Court may release the property referred to in a detention order if—

(a) there are no longer reasonable grounds to suspect that the property has been or will be used to commit an offence under this Act; or

(b) proceedings are not commenced in a Court for an offence under this Act in respect of that property within six months after the date of the detention order.

27. Management of seized property

(1) The District Court or Circuit Court may at the request of the Minister, grant a management order of seized property and—

(a) appoint a person to take control of and manage or otherwise deal with the whole or a part of the property in accordance with the directions of the District Court or Circuit Court;

(b) require a person in possession of the property to give possession of the property to the person appointed under paragraph (a).

(2) The power to manage or otherwise deal with property under this section includes the power to sell the property if the property is of rapidly depreciating value.

(3) A management order shall cease to have effect when the property is returned to an applicant in accordance with this Act or forfeited to the Republic.

28. Destruction of seized property

(1) The District Court or Circuit Court may order the destruction of seized property if satisfied that it is dangerous to detain the property or the property has little or no financial or other value.

(2) Property shall not be destroyed by a person unless an application has been made to the District Court or Circuit Court for a destruction order by an authorised person.

(3) Before making a destruction order, the Court shall require notice to be given to a person with an interest in the property and the person shall be given a reasonable opportunity to be heard.

(4) The Minister may apply to the Court to cancel or vary an order issued under this section.

29. Orders for seizure and restraint of property

(1) The Minister may make an ex parte application to the Court for a seizure or restraint order where there are reasonable grounds to suspect that there is property in premises or in a vessel in respect of which a forfeiture order may be made.

(2) The Justice of the High Court may issue—

(a) a warrant authorising a police officer to search the premises or vessel for the property and seize the property and any other property which the police officer reasonably believes may be forfeited; or

(b) a restraint order prohibiting a person from disposing of or otherwise dealing with an interest in that property other than as may be specified in the order.

(3) The application shall be heard by a Justice of the High Court in chambers.

30. Orders for forfeiture of property

(1) The Minister may make an ex parte application to the Court for an order of forfeiture in respect of terrorist property.

(2) The Minister shall name as respondent to the application only the person who is known to own or control the property that is the subject of the application.

(3) The Court upon hearing the application may direct that notice be served on the interested party.

(4) The Minister shall give notice of the application to the respondent in the manner directed by the Court.

(5) If the Court is satisfied on the balance of probabilities that the property which is the subject of the application is terrorist property, the Court shall order that the property be forfeited to the Republic or be disposed of as directed by the Court.

(6) Where the Court refuses to grant a forfeiture order, the Court shall make an order that the property is not subject to a forfeiture order.

31. Interested parties and forfeiture orders

(1) The Court may in an action relating to forfeiture pursuant to sections 24 to 30, require notice to be given to a person who appears to have an interest in terrorist property and that person shall be added as a respondent to the application.

(2) If the Court is satisfied that the person added as a respondent to the application—

(a) has an interest in the property the subject of the application;

(b) has exercised reasonable care to ensure that the property is not from the proceeds of a terrorist act, would not be used to commit or facilitate the commission of a terrorist act and would not be used by a terrorist group; and

(c) is not a member of a terrorist group,

the Court shall order that the interest of that person shall not be affected by the order and the order shall also declare the nature and extent of the interest of the person.

32. Orders for forfeiture of property on conviction for offences under this Act

(1) Where a person is convicted of an offence under this Act or under any other enactment and the act also constitutes a terrorist act, the Court shall order that property—

(a) used for, or in connection with; or

(b) obtained as proceeds from,

the commission of that offence be forfeited to the Republic.

(2) Before making the order, the Court shall give a person who appears to have an interest in the property in respect of which the order is proposed to be made an opportunity to be heard.

(3) Property forfeited to the Republic shall vest in the Republic either—

(a) at the end of the period within which an appeal may be made against the order where an appeal has not been made against the order; or

(b) on the final determination of the appeal if an appeal has been made against the order.

(4) Property vested in the Republic may be subject to public auction and the proceeds shall be public funds.

33. Appeal and forfeiture orders

(1) A person who claims an interest in property that has been forfeited and who has not been given notice under section 30 (3) or 31 (1) may make an application to the Court of Appeal to vary or set aside the forfeiture order not later than ninety days after the day on which the forfeiture order was made.

(2) Pending the determination of an appeal against an order of forfeiture—

(a) property restrained under section 29 shall continue to be restrained;

(b) property seized under a warrant issued under that section shall continue to be detained,

and a person appointed to manage, control or otherwise deal with the property under that section shall continue in that capacity.

Miscellaneous Matters

34. Intercepted communications

(1) A police officer not below the rank of an Assistant Commissioner of Police may apply ex parte to a Circuit Court for an order to intercept communications for the purpose of obtaining evidence of commission of an offence under this Act.

(2) A police officer not below the rank of an Assistant Commissioner of Police may make the application only with the prior written consent of the Minister.

(3) A Judge of the Circuit Court to whom an application is made under subsection (1) may make an order for the prevention of crime upon reasonable grounds to—

(a) require a communications service provider to intercept and retain a specified communication or communications of a specified description

received or transmitted or about to be received or transmitted by that communications service provider;

(b) authorise a senior police officer to intercept or listen to a conversation provided by a communications service provider;

(c) authorise the senior police officer to enter premises and install on the premises a device for the interception and retention of specified communications or communications of a specified description and to remove and retain the device,

where there is reasonable suspicion of commission of an offence under this Act, or the whereabouts of a person suspected by the police officer to have committed an offence is contained in that communication or communication of that description.

(4) Despite the Evidence Act, 1975 (N.R.C.D. 323) information contained in a communication which is intercepted and retained in a foreign state in accordance with the law of the foreign state and certified by a judge of that foreign state to have been intercepted, is admissible in proceedings for an offence under this Act as evidence of the truth of its contents even if it contains hearsay but shall be corroborated.

35. Power to prevent entry and order the removal of persons

(1) The Director of Immigration or an officer authorised by the Director shall not grant an endorsement or authority to permit a person to enter this country if there are reasonable grounds to suspect that the person is, will or has been involved in the commission of a terrorist act.

(2) Where the Minister responsible for Interior has reasonable grounds to believe that a person in this country, will or has been involved in the commission of a terrorist act, the Minister may order that person to be deported in accordance with the Immigration Act 2000 (Act 573).

(3) A person with respect to whom an order under subsection (2) is made is a prohibited immigrant.

(4) A person with respect to whom an order under subsection (2) is made, may be detained in the manner directed by the Minister responsible for Interior and may be placed on a vessel or aircraft leaving the country.

36. Information relating to passengers on vessels or aircraft and persons entering or leaving the country

(1) The operator of an aircraft or the master of a vessel, arriving or departing from the country or the operator of an aircraft registered in the country or master of a vessel registered in the country departing from a place outside the country, shall provide information—

(a) relating to persons on board, or expected to be on board the aircraft or vessel to the Inspector General of Police;

(b) relating to persons on board or expected to be on board the aircraft or vessel to the competent authority in a foreign state, as required by the laws of that foreign state.

(2) The Director of Immigration may provide to the competent authority in a foreign state information relating to persons entering or leaving the country by land.

(3) The provision of the information shall be deemed not to contravene a provision of law prohibiting the disclosure of the information.

(4) Information provided to the Inspector General of Police shall not be used or disclosed by the Inspector General except to protect national security or public safety.

37. Power to refuse refugee application

The Refugee Board established under the Refugee Act, 1992 (P.N.D.C.L. 305D) shall take into consideration national security and public safety and may refuse the application of a person applying for status as a refugee if the Board has reasonable grounds to believe that the applicant has committed a terrorist act or is or is likely to be involved in the commission of a terrorist act.

37A. Instructions

(1) The Minister shall in pursuance of the United Nations Security Council Resolution 1267 (1999); the United Nations Security Council Resolution 1373 (2001) and the United Nations Security Council Resolution 1718 (2006) and any successor resolutions related to—

(a) the detection, freezing or seizure of terrorists assets;

(b) the financing of the proliferation of weapons of mass destruction; and

(c) any other activity in furtherance of a terrorist act,

issue Instructions to accountable institutions and other related parties for the purposes of preventing and suppressing terrorism and the financing of terrorist acts.

(2) The Minister may by Executive Instrument issue the Instructions referred to in subsection (1).

(3) A person to whom Instructions are issued shall comply with the Instructions.

(4) A person who contravenes a provision of the Instructions issued under subsection (1) commits an offence and is liable on summary conviction to a fine of not less than two thousand five hundred penalty units and not more than five thousand penalty units or to a term of imprisonment of not less than five years and not more than ten years or to both the fine and the imprisonment.

38. Evidence by certificate

A certificate purporting to be signed by an appropriate authority to the effect that a thing or substance described in a certificate is a weapon, is hazardous, radioactive or a harmful substance, a toxic chemical or microbial or other biological agent or toxin, is admissible in evidence without proof of the signature or authority of the person appearing to have signed it in a proceedings under this Act and, in the absence of evidence to the contrary, is proof of the facts stated in the certificate.

39. Regulations

The Minister may by legislative instrument make Regulations—

(a) on the types of financial and other related services which may not be provided to proscribed specified entities;

(b) to specify the reporting procedures required of accountable institutions including directing accountable institutions to report suspicious or unusual transactions to the Financial Intelligence Centre;

(c) to instruct accountable institutions to verify, identify and maintain records;

(d) on the provision of information relating to passengers on vessels or aircraft or any other means of transport and persons entering or leaving the country and specifying the foreign states to which the information may be provided;

(e) to amend the Schedule; and

(f) generally to provide for the effective implementation of the provisions of this Act.

40. Interpretation

In this Act unless the context otherwise requires—

“accountable institution” includes a person specified in the Schedule;

“Committee” means the Implementation Committee established under section 1 of the Instructions for the Implementation of United Nations Security Council Resolutions 1267 (1999), 1373 (2001), 1718 (2006), 1737 (2006), Successor Resolutions and Other Relevant Resolutions, 2013 (E. I. 2);

“communications” means a communication received or transmitted by post or a telegraphic telephone or other communication received or transmitted by electric, magnetic, electro-magnetic, electro-chemical or electro mechanical energy;

“communications service provider” means a person who provides services for the transmission or reception of communications;

“conveyance” means any kind of vehicle for the transport of persons and property by land;

“counter-terrorism convention” means a convention adopted by the United Nations Security Council;

“Court” means High Court;

“entity” means specified entity;

“essential service” includes the police, fire, health and other vital services;

“explosive” includes gunpowder, nitro-glycerine, dynamite or other nitroglycerine admixture, gun cotton, blasting powder, detonators and every other substance used to produce a practical effect by explosion;

“firearm” includes any gun, rifle, machine gun, cap-gun, flint lock gun or pistol, revolver, cannon or other firearms, any gun, air rifle or air pistol whether whole or in attached pieces;

“funds or other assets” include—

(a) financial assets, economic resources, property of every kind, whether tangible or intangible, movable or immovable, however acquired, and

(b) legal documents or instruments in the nature of—

(i) electronic or digital documents, evidencing title to, or interest in, those funds or other assets,

(ii) bank credits, traveller's cheques, bank cheques, money orders, shares, securities, bonds, drafts, or

(iii) other letters of credit and any interest, dividends or other income on or value accruing from or generated by those funds or other assets;

“ideological cause” includes racial or ethnic cause;

“lethal device” includes weapon;

“Minister” means the Attorney-General and Minister responsible for Justice;

“non-governmental organisation” means a civil society group or non-profit body of persons formed to pursue purposes that are lawful and that are non-profit but orientated towards a public interest;

“premises” includes a building, room, place, structure, tent, caravan, land, ship, boat, aircraft;

“property” means an asset of any kind, whether corporeal or incorporeal, moveable or immovable, tangible or intangible and legal documents or instruments in any form including electronic or digital, evidencing title to, or interest in such assets including but not limited to bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, letter of credit;

“record” means a material on which data is recorded or marked and which is capable of being read or understood by a person, computer system or other device;

“suspicious” means a matter which is beyond mere speculation and based on some foundation;

“Republic” means the Republic of Ghana;

“terrorist group” means—

(a) an entity that has as one of its activities and purposes, the commission of, or the facilitation of a terrorist act; or

(b) a specified entity;

“terrorist organisation” means any group of terrorists that—

(a) commits or attempts to commit a terrorist act by any means, directly or indirectly;

(b) participates as an accomplice in a terrorist act;

(c) organises or directs others to commit a terrorist act; or

(d) contributes to the commission of a terrorist act by a group of persons acting with a common purpose where the contribution is made intentionally and with the aim of furthering the terrorist act or with the knowledge of the intention of the group to commit a terrorist act;

“terrorist property” means—

(a) proceeds from the commission of a terrorist act;

(b) property which has been, is being or is intended to be provided or used to commit a terrorist act;

(c) property which has been, is being, or is intended to be provided to or used by a terrorist or a terrorist organisation;

(d) property owned or controlled by or on behalf of, or otherwise related or linked to a terrorist, a terrorist organisation or those who finance terrorism; or

(e) property which has been collected for the purpose of providing support to a terrorist or a terrorist organisation or funding a terrorist act;

“transaction” includes an act which establishes a right or obligation or gives rise to a contractual or legal relationship between the parties to the contract or legal relationship and any movement of funds by any means with a covered institution;

“unusual” means a matter that is suspicious and has a different pattern because it is inconsistent with the client’s profile and does not have an economic or legal explanation;

“utilities” includes electricity and water;

“vessel” means any thing made or adopted for the conveyance by water, of people or property;

“weapon” includes a firearm, explosive, chemical, biological or nuclear weapon;

“weapon of mass destruction” means a weapon that can cause death or significant harm to members of the public, to property or to the environment.

“without delay” means within a matter of hours of—

(a) in the case of the United Nations Sanctions List and freezing actions dealing with third party requests, receipt of information relating to the listing or delisting of a terrorist individual, entity or organisation,

(b) in the case of or designation by the Committee, confirmation by order of the Court, or

(c) upon having reasonable grounds, or a reasonable basis to suspect or believe that an individual, entity or organisation is a terrorist, one who finances terrorism or a terrorist organisation.10a

41. Consequential amendment

(1) (a) The Criminal Procedure Code, 1960 (Act 30) is amended in section 96 (7) by the insertion after the word “of” of the words “acts of terrorism,”.

(b) The Criminal Procedure Code, 1960 (Act 30) is amended in section 147B by the insertion after subsection (1) of the following new subsection—

“(1a) Where sentence is imposed for an offence involving an act of terrorism, the court on sentencing the offender, on its own motion or on the application of the prosecutor or the victim of the offence may make an order for the offender to pay for the value of any property damaged as a result of the terrorist act without limiting any civil action the victim may take.”

(c) The Criminal Procedure Code, 1960 (Act 30) is amended in section 227 (1) by the deletion of the word “male” after the word “Every”.

(2) The Immigration Act 2000 (Act 573) is amended in section 8 by the insertion of a new paragraph after paragraph (i) of subsection (1) of the following—

“(j) is a person declared a specified entity under section 19 of the Anti-Terrorism Act 2008 (Act)”.

42. Modification

The Criminal and Other Offences Act, 1960 (Act 29) shall be read as one with this Act and where there is a conflict this Act shall prevail.

Schedule

ACCOUNTABLE INSTITUTIONS

[Section 40]

1. An entity which is a bank or a non-bank financial institution which carries on any of the following activities—

(a) accepting deposits of money from the public, repayable on demand or otherwise and withdrawable by cheque, draft, orders or by any other means;

(b) financing, whether in whole or in part or by way of short, medium or long-term loans or advances of trade, industry, commerce or agriculture;

(c) the issue and administration of means of payment including credit cards, travellers' cheques, bankers' drafts and other financial instruments;

(d) the trade in foreign exchange, currency market instruments or transferable securities;

(e) securities portfolio management and advice concerned with the portfolio management;

(f) dealing in shares, stocks, bonds or other securities;

(g) leasing, letting or delivering goods to a hirer under a hire-purchase agreement;

(h) the conduct of any business;

(i) the collection of money or acceptance of employer contributions and payment from these funds of legitimate claims for retirement benefits; and

(j) any other business activities that the Bank of Ghana may prescribe or recognise as being part of banking business.

2. Auctioneers.

3. Lawyers.

4. Notaries.

5. Accountants.

6. Religious bodies.

7. Non-governmental organisations.

8. A person whose business or a principal part of whose business consists of providing financial services that involve the remittance or exchange of funds including—

(i) money transfer organisations; and

(ii) mobile money or branchless banking transfer companies.

9. Operators of games of chance.

10. A company carrying on insurance business within the meaning of the Insurance Act, 2006 (Act 724).

11. A real estate company or agent, only to the extent that the real estate company or agent receives funds in the course of the business of the agent to settle real estate transactions.

12. Dealers in precious metals and precious stones.

13. Dealers in motor vehicles.
14. Trust and company service providers.
15. Dealers in oil and gas.
16. Freight forwarders.
17. Mining companies.
18. Timber operators.

ANTI-TERRORISM REGULATIONS, 2012 (LI 2181)

IN exercise of the power conferred on the Attorney-General and Minister responsible for Justice by section 39 of the Anti-Terrorism Act, 2008 (Act 762), these Regulations are made this 7th day of June, 2012.

Regulation 1—Prohibition of financial or other related service to specified entity

(1) A person shall not provide or make available, a financial or other related service to a specified entity.

(2) For the purposes of subregulation (1) and section 7 of the Act, a person provides or makes available a financial or other related service to a specified entity if that person

- (a) gives,
- (b) offers,
- (c) furnishes,
- (d) exchanges,
- (e) trades, or
- (f) transfers

a financial or other related service to that specified entity

(3) A financial or other related service includes a type of service that involves

- (a) transactions in money;
- (f) transactions in a negotiable instrument
- (c) granting of credit;
- (d) leasing;
- (e) hire-purchasing;
- (f) granting of funds;
- (g) dealing in securities
- (h) granting of capital;
- (i) providing means of payment;
- (j) transactions in foreign exchange, or
- (k) insurance business.

Regulation 2—Organisation associated with acts of terrorism or proliferation of weapons of mass destruction

For the purpose of these Regulations and section 23 of the Act, an organisation associated with acts of terrorism or proliferation of weapons of mass destruction includes an organisation that participates in the

- (a) financing

- (b) planning,
- (c) preparation,
- (d) facilitation,
- (e) aiding, or
- (f) perpetration

of acts of terrorism or proliferation of weapons of mass destruction in conjunction with, under the name of, on behalf of or in support of an individual or a terrorist group by an affiliate or derivative of the individual or terrorist group.

Regulation 3—Effect of order declaring entity to be a specified entity

(1) Where an order is made by the High Court declaring a person who is not a citizen of Ghana to be a specified entity by virtue of an application made by the Minister under section 19 of the Act, the Director of Immigration or an officer authorised by the Director of Immigration and the Refugee Board shall consider the order as a reasonable ground to suspect that the person is, will be or has been involved in the commission of a terrorist act or proliferation of weapons of mass destruction

(2) A decision by the United Nations Security Council under Chapter VII of the United Nations Charter designating a person as

(a) involved in, financing or facilitating a terrorist act or proliferation of weapons of mass destruction,

(b) belonging to an organisation involved in a terrorist act or proliferation of weapons of mass destruction, or

(c) subject to a travel ban or other restrictions because of the association of that person with persons involved in terrorist activities or proliferation of weapons of mass destruction

shall be considered as a reasonable ground for the Director of Immigration or an officer authorised by the Director of Immigration and the Refugee Board to suspect that the person is, will be or has been involved in a terrorist act or proliferation of weapons of mass destruction.

(3) The Minister shall, on the advice of the National Security Co-ordinator, issue a directive, without delay, to the Director of Immigration or an officer authorised by the Director of Immigration and the Refugee Board to recognise a designation of a person by an international organisation other than the United Nations, by a State or association of States as a person

(a) involved in, financing or facilitating a terrorist act or proliferation of weapons of mass destruction,

(b) belonging to an organisation involved in a terrorist act or proliferation of weapons of mass destruction, or

(c) subject to a travel ban or other restrictions because of an association with persons involved in a terrorist activity or proliferation of weapons of mass destruction.

(4) Where a directive is issued, the Director of Immigration or an officer authorised by the Director of Immigration and the Refugee Board shall, without delay, consider the designation in the directive as a factor in the determination of the existence of a reasonable ground to suspect that a person is, will be or has been involved in a terrorist act or proliferation of weapons of mass destruction.

(5) The Minister shall publish in the Gazette the directives issued under subregulation (3) within seven days after the directives have been issued.

Regulation 4—Provision of information relating to persons on vessels or aircraft and persons entering or leaving the country

(1) In accordance with section 36 of the Act,

(a) the operator of an aircraft or the master of a vessel arriving or departing from the country, or

(b) the operator of an aircraft or the master of a vessel registered in the country departing from a place outside the country

shall provide the Inspector-General of Police or the competent foreign authority in a foreign State as required by the laws of that foreign State with information on the name, place of embarkation or destination of a person on board or expected to be on board the aircraft or vessel.

(2) The information shall be provided

(a) in the format of a passenger manifest, and

(b) not less than two hours before the departure or arrival of the vessel or aircraft.

(3) Where the Director of Immigration is required to provide information on persons leaving or entering the country to a competent authority in a foreign State as required by the laws of that foreign State, the competent authority shall submit the request in writing and give reasons for the request.

(4) Where the Director of Immigration considers the reasons to be satisfactory, the Director of Immigration shall respond to the request and provide the information relating to

(a) the date of entry or departure or both;

(b) the vessel or aircraft used;

(c) the biometric data of a person; and

(d) any other relevant information.

(5) The Director of Immigration shall within twenty-four hours after the receipt of the request, inform the Inspector-General of Police of a request for information from a foreign State and provide details of the information given.

Regulation 5—Listing or de-listing of terrorist individual, entity or organisation

(1) The Minister responsible for Foreign Affairs shall, without delay, forward to the Minister the listing or de-listing of any individual, entity or organisation by the United Nations Security Council in accordance with Chapter VII of the United Nations Charter as subject to financial sanctions or other restrictions related to terrorism or proliferation of weapons of mass destruction and particularly to the freezing of assets.

(2) The Minister shall, on the receipt of the information, inform institutions including

- (a) the Bank of Ghana;
- (b) the National Insurance Commission;
- (c) the Securities and Exchange Commission;
- (d) the Customs Division of the Ghana Revenue Authority;
- (e) the Ghana Immigration Service;
- (f) the Ghana Real Estate Developers' Association;
- (g) the General Legal Council;
- (h) the Institute of Chartered Accountants;
- (i) the Gaming Commission;
- (j) the Precious Minerals and Marketing Company;

- (k) the Financial Intelligence Centre;
- (l) the Narcotics Control Board;
- (m) the Economic and Organised Crime Office;
- (n) the Ghana Police Service;
- (o) the National Security Council Secretariat; and.
- (p) any other institution that the Minister may determine.

(3) The Minister shall, within twenty-four hours, cause the listing or de-listing of a terrorist individual, entity or organisation to be published in the Gazette and the institutions specified under subregulation (2) shall inform institutions, businesses or individuals which they supervise, represent or license.

(4) An institution, business or individual supervised, represented or licensed by the institutions specified under subregulation (2) shall review its records and activities and take the appropriate action as required by the institution, business or individual including reporting the holding of any asset associated with an individual, entity or organisation listed by the United Nations Security Council.

(5) An accountable institution, business or individual shall submit the required information to the Financial Intelligence Centre established under section 4 of the Anti-Money Laundering Act, 2008 (Act 749) which shall inform the Inter Ministerial Committee on Anti-Money Laundering and Counter Financing of Terrorism established in accordance with the Instructions issued by Executive Instrument by the Minister in accordance with section 37A of the Act.

(6) The Minister shall, on the advice of the Inter Ministerial Committee, seek an order by the High Court under section 5 (2) of the Act or a declaration under section 19 of the Act.

Regulation 6—Freezing of funds of a person engaged in terrorism or proliferation of weapons of mass destruction

(1) Where the High Court issues

(a) an order to freeze the funds of a person engaged in terrorism or proliferation of weapons of mass destruction in accordance with section 5(2) of the Act, or

(b) a declaration that an entity is a specified entity under section 19 of the Act

the Minister shall, within twenty-four hours inform the institutions specified under regulation 5(2) and publish the order in the Gazette within seven days.

(2) The institutions specified under regulation 5 (2) shall monitor and secure compliance with the Act by the institutions, businesses or individuals which the institutions specified under regulation 5 (2) supervise, represent or license.

Regulation 7—Duty of accountable institutions to report on frozen funds

An accountable institution shall report on funds frozen by order of the High Court to the Financial Intelligence Centre in accordance with section 5(4) of the Anti-Terrorism Act, 2008 (Act 762).

Regulation 8—Duty of accountable institution to report on suspicious or unusual transaction

An accountable institution shall report on a suspicious or unusual transaction to the Financial Intelligence Centre in accordance with section 30 of the Anti-Money Laundering Act, 2008 (Act 749) and regulation 32 to regulation 36 of the Anti-Money Laundering Regulations, 2011 (L.I. 1987).

Regulation 9—Website publication of information

The Minister in collaboration with the Minister for Information shall publish and update on a publicly available website the

(a) listings, de-listings, orders and revocations published in the Gazette in accordance with regulations 5 and 6;

(b) duties of accountable institutions, businesses and individuals under the Act; and

(c) points of contact which the relevant regulated sectors and members of the general public can contact for information and guidance concerning the implementation of the Act.

Regulation 10—Offences and penalties

Except as otherwise provided, a person or an accountable institution that contravenes a provision of these Regulations commits an offence and is liable on summary conviction to a fine of not less than two thousand five hundred penalty units and not more than five thousand penalty units or to a term of imprisonment of not less than five years and not more than ten years or to both the fine and the term of imprisonment.

Regulation 11—Interpretation

In these Regulations, unless the context otherwise requires,

"business" includes a trade, profession or vocation, but does not include employment;

"financial instrument" means a physical or electronic document which embodies or conveys monetary value;

"negotiable instrument" includes a cheque, bank draft, traveller's cheque, bill of exchange, money order, postal remittance and any other similar instrument;

"passenger manifest" means a list of the names of passengers, their places of embarkation and disembarkation and other details in a specified format in accordance with the requirements of the Convention on International Civil Aviation and the Convention on Facilitation of International Maritime Traffic, 1965 as amended;

"proliferation of weapons of mass destruction" means the development, manufacture or transfer of nuclear, radiological, chemical or biological

weapons that can cause death or significant harm to members of the public, to property or to the environment; and

"Refugee Board" means the Refugee Board established under section 4 of the Refugee Act, 1992 (P.N.D.C.L. 305D).

DR. BENJAMIN KUNBUOR

Attorney-General and Minister for Justice

Date of Gazette Notification: 8th June, 2012

ACT 29

CRIMINAL OFFENCES ACT, 1960

AN ACT to consolidate and amend the law relating to criminal offences.

PART ONE

General Provisions

CHAPTER ONE

Preliminary Matters

1. Interpretation

In this Act, unless the context otherwise requires,

“administer”, when used with reference to administering a substance to a person, means causing the substance to be taken or introduced into a part of a person’s body, whether with or without the knowledge or consent of that person;

“cattle” means the male, female, or young of an animal of the following kinds, namely, horse, ass, mule, kine, sheep, goat, or swine, and an animal, other than a dog, which is ordinarily kept or used as a beast of burden, or for draught, or for riding, or for the production of wool or of hair;

“citizen” means a citizen of Ghana;

“corporation” does not include a corporation sole;

“criminal offence” has the meaning assigned to it by article 19 of the Constitution;

“deliver” includes causing a person to receive a thing and permitting a person to take a thing, whether directly or by any other person;

“duress” means force, harm, constraint, or threat, used with intent to cause a person against that person’s will to do or to abstain from doing an act;

“Engineer-in-Chief of Public Works” includes an assistant engineer, a district or an assistant district engineer, an inspector, a sub-inspector, a foreman of works, a surveyor, an assistant surveyor, or a foreman of roads;

“export” means export from the Republic;

“felony”, “first degree felony” and “second degree felony” shall be construed in accordance with section 296 of the Criminal and Other Offences (Procedure) Act, 1960 (Act 30);

“gaoler” means the keeper or other officer having the charge of a prison;

“harm” means a bodily hurt, disease, or disorder whether permanent or temporary;

“health officer” includes the Chief Medical Officer, any other medical officer, and a person appointed as health officer;

“import” means to import into the Republic;

“indictable offence” means an offence punishable on indictment;

“judicial proceeding” includes a civil or criminal trial, and an enquiry or investigation held by a judicial officer in pursuance of a duty or an authority;

“jury” includes a Justice in cases where a judge, whether with or without assessors, tries a case without a jury;

“Minister” means Minister responsible for Justice;

“misdemeanour” shall be construed in accordance with section 296 of the Criminal and other Offences (Procedure) Act, 1960;

“night” means the time between the hour of seven in the evening of a day and the hour of six in the following morning;

“order” includes a conviction;

“peace officer” means a person who is, or is acting as, a constable or special constable, or lawfully acting in aid of a constable or special constable;

“person”, for the purposes of a provision of this Act relating to defrauding a person or to committing a criminal offence against the property of a person, includes the Republic; and expressions referring to the “public” refer not only to the citizens of the Republic as a whole, but also—

(a) to the persons inhabiting or using a particular place, or a number of those persons; and

(b) to indeterminate persons as happen to be affected by the conduct with reference to which the expressions are used;

“public place” includes a public way and a building, place, or conveyance to which the public are entitled or permitted to have access, without a condition of making a payment, or on condition of making a payment, and a building or place which is used for a public or religious meeting or assembly, or as an open Court; and acts are done “publicly” —

(a) if they are done in a public place as are likely to be seen by a person, whether that person is or is not in a public place; or

(b) if they are done in a place, which is not a public place, but are likely to be seen by a person in a public place;

“public way” includes a highway, market place, lorry park, square, street, bridge, or any other way which is lawfully used by the public;

“send” includes causing or attempting in any manner to cause a thing to be received by a person;

“summary offence” means a criminal or any other offence punishable on summary conviction under an enactment;

“town” means—

(a) the area of authority of a Municipal or Urban Council;

(b) a place to which the Towns Act applies; or

(c) a place, whether a town or not, which the Minister may, by executive instrument, determine to be a town;

“vehicle” includes a cart, bicycle, tricycle, and any other carriage on wheel;

“will” when used with respect to a document, means a testamentary document, whether the document is formal or informal, complete or incomplete.

2. Company and its officers

(1) A company, includes a partnership or an association whether corporate or unincorporated, and whether the purposes are or are not the carrying on of a trade or business, and whether it is in the course of formation or is actually formed, or is in the course of dissolution, winding-up or liquidation.

(2) A company is in the course of formation as soon as an act is done for the purpose of forming it; and it is immaterial whether or not it is at any time actually formed.

(3) In relation to a company or a corporation—

(a) “officer” includes an auditor, accountant, officer, a chairman, director, trustee, manager, secretary, treasurer, cashier, clerk, or any other person provisionally, permanently, or temporarily charged with a duty or performing a function in respect of the affairs of the company or corporation, whether for or without remuneration;

(b) “account” includes a book, register, balance sheet, or document in writing relating to the affairs of the company or corporation, whether those affairs are or are not the ordinary business or object of the company or corporation.

3. Definition of public officer

(1) The expression “public officer” shall be construed by reference to the definition of “public office” in article 295 of the Constitution, and for the purposes of this Act, includes a person holding an office by election or appointment under an enactment or under powers conferred by an enactment.

(2) A person acting as a minister of religion or as an ecclesiastical officer, of a denomination, is a public officer where that person performs functions in respect of the notification of intended marriage, or in respect of the solemnisation of marriage, or in respect of the making or keeping of a register or certificate of marriage, birth, baptism, death, or burial, but not in any other respect.

(3) For the purposes of this Act—

(a) “civil office” means a public office in the Armed Forces;

(b) “judicial officer” means the holder of a judicial office as defined in article 161 of the Constitution.

(4) It is immaterial, for the purposes of this section, whether a person is or is not entitled to a salary or any other remuneration in respect of the duties of office.

(5) The expression “public election” shall be construed by reference to article 49 of the Constitution, and includes an election the qualification for voting at which, or the mode of voting at which, is determined or regulated by an enactment.

4. General rules of construction

(1) This Act shall not be construed strictly, either as against the Republic or as against a person accused of a criminal offence, but shall be construed amply and beneficially for giving effect to the purposes of this Act.

(2) In the construction of this Act, a Court is not bound by a judicial decision or opinion on the construction of any other enactment, or of the common law, as to the definition of a criminal offence or any other offences or of an element of a criminal offence or of any other offence.

(3) The illustrations set out in this Act form part of this Act and may be used as aids to its construction, but they do not limit the generality of a provision of this Act.

5. Application of Part One to other offences

Where under a provision of a law other than this Act, an offence is created, this Part shall apply, except where a contrary intention appears, to the offence as it applies to a criminal offence under this Act.

6. Jurisdiction of territorial waters

Repealed.4

7. Acts done partly beyond the jurisdiction

Repealed.5

8. Exclusion of the common law

A person is not liable to punishment by the common law for an act.

9. Offences under more than one enactment

(1) Subject to article 19 of the Constitution, where an act constitutes a criminal offence or an offence under two or more enactments, the offender is liable to be prosecuted and punished under either of the two, or any of those enactments, but the offender shall not be punished twice for the same offence, criminal or otherwise.

(2) Subsection (1) does not affect a right conferred by an enactment on a person to take disciplinary measures against the offender in respect of the act constituting the offence.

10. Saving for contempt of court

This Act does not affect the power of a Court to punish a person for contempt of Court.

CHAPTER TWO

General Explanations

11. Intent

(1) Where a person does an act for the purpose of causing or contributing to cause an event, that person intends to cause that event, within the meaning of this Act, although in fact, or in the belief of that person or both in fact and also in that belief, the act is unlikely to cause or to contribute to cause the event.

(2) A person who does an act voluntarily, believing that it will probably cause or contribute to cause an event, intends to cause that event, within the meaning of this Act, although that person does not do the act for the purpose of causing or of contributing to cause the event.

(3) A person who does an act of a kind or in a manner that, if reasonable caution and observation had been used, it would appear to that person—

(a) that the act would probably cause or contribute to cause an event; or

(b) that there would be great risk of the act causing or contributing to cause an event,

intends, for the purposes of this section, to cause that event until it is shown that that person believed that the act would probably not cause or contribute to cause the event, or that there was not an intention to cause or contribute to it.

(4) A person who, intending to cause an event with respect to one or any of several persons or things, or to an indeterminate person or thing as may

happen to be affected by the event, causes the event with respect to that person or thing, and is liable in the same manner as if the intention has been to cause the event with respect to that person or thing.

(5) A person who does an act with intent to assault, harm, kill, or cause any other event to a particular person, which act takes effect, whether completely or incompletely, against a different person, is liable to be tried and punished as if the intent had been directed against that different person.

(6) For the purposes of subsection (5), a ground of defence or extenuation is admissible on behalf of the accused person which would have been admissible if the act had taken effect against the person in respect of whom, or the thing in respect of which, the accused person intended it to take effect.

Illustrations

Subsection (1) A discharges a gun for the purpose of shooting B, and actually hits B. It is immaterial that B. was at a distance, or in a situation where the shot would most probably miss B.

Subsection (2) A, for the purpose of causing the miscarriage of B, administers to B a medicine which A knows to be dangerous to life. It is immaterial that A earnestly desires to avoid causing B's death, and uses every precaution to avoid causing it.

Subsection (3) A discharges a gun among a crowd of persons, and one of them is shot. A may be presumed to have intended to cause harm, unless A can show that A had ground for believing that harm would not be caused.

Subsection (4) A, in the last illustration, is punishable as if A had purposed to cause the harm to the person to whom it was in fact caused.

Subsection (5) A unlawfully strikes at B, but the blow happens to miss B, and to hit a constable. A is punishable as if A had purposed to hit the constable.

12. Negligence

A person causes an event negligently, where, without intending to cause the event, that person causes it by a voluntary act, done without the skill and care that are reasonably necessary under the circumstances.

Illustrations

1. A, a woman who does not have knowledge of midwifery, acts as a midwife, and through her want of skill she causes death. Here, if A knew that a properly qualified midwife or surgeon could be procured, the fact of A so acting without possessing proper skill and without a necessity for so acting, is evidence of negligence, although it appears that she did her best. But if the emergency was sudden, and a properly qualified midwife or surgeon could not be procured, A has not acted negligently, provided she did the best she could under the circumstances.

2. A chemist sells poison so made up as to be liable to be mistaken for a harmless medicine. This is evidence of negligence.

3. If the law directs poisons to be sold only in bottles of a particular kind, and the chemist sells poison in a common bottle, this is evidence of negligence, even though the common bottle is labeled "Poison".

4. A, knowing a horse to be dangerously vicious, rides it through a crowd, and it becomes excited by the noise and throng, and kicks B. A is negligent within the meaning of this section, although A had and used all possible skill in riding.

5. An acrobat carries a child on a tight-rope at a great height. The acrobat happens to miss a foot and the child is killed. The acrobat has acted negligently, although the acrobat had used all possible skill in rope-walking.

13. Causing an event

(1) A person who intentionally causes an involuntary agent to cause an event, shall be deemed to have caused the event.

(2) For the purposes of subsection (1), “involuntary agent” means an animal or any other thing, and also a person who is exempted from liability to punishment for causing the event, by reason of infancy, or insanity, or otherwise, under a provision of this Act.

(3) Where an event is caused by the acts of several persons acting jointly or independently, each of those persons who intentionally or negligently contributed to cause the event has, for the purposes of this Act, and, subject to subsections (4) and (5) and to the provisions of this Part with respect to abetment, caused the event; but a matter of exemption, justification, extenuation, or aggravation which exists in the case of any one of those persons shall have effect in favour of that one person, whether it exists or not in the case of any of the other persons.

(4) A person shall not be convicted of having intentionally or negligently caused an event if, irrespective of the act of that person and the acts of any of the persons acting jointly with that person, the event would not have happened but for the existence of a state of facts, or the intervention of any other event or of any other person, the probability of the existence or intervention of which other event or person the accused person did not take into consideration, and did not have a reason to take into consideration.

(5) Subsection (4) does not apply where a person is charged with having caused an event by an omission to discharge a duty for averting the event.

(6) A person beyond the jurisdiction of the Courts, who causes a voluntary agent to cause an event within the jurisdiction, shall be deemed to have caused the event within the jurisdiction.

(7) Subject to this section, and to the special provisions of a particular section of this Act, it is a question of fact whether an event is fairly and reasonably to be ascribed to a person’s act as having been caused by that act.

(8) A person shall not, by reason of anything in this section, be relieved—

(a) from a liability in respect of an attempt to cause an event;

or

(b) from a liability in respect of a negligent conduct, if the negligent conduct is punishable under this Act irrespective of whether it actually causes an event.

Illustrations

Subsection (1)

1. A gives poisoned sweetmeats to a child, who eats some and gives the rest to other children. A has poisoned the first child and the other children.

2. A induces a child under twelve years to steal a thing for A. A has stolen the thing.⁶

3. A induces a madman to kill himself. A has killed the madman.

4. A causes a dog to harm B. A has caused the harm to B.

Subsection (3) A railway collision is caused partly by the neglect of A, a station master, to signal a train; partly by the neglect of B, a pointsman, to arrange the points; partly by the carelessness of C, D, E, and F, the drivers and guards of the train. A, B, C, D, E, and F, have each caused the collision, although it would not have happened if any one of them had used proper skill and care.

Subsection (4)

1. A rides a vicious horse in a crowd. B wantonly strikes the horse, and it kicks C. In this case, B, and not A, has caused the harm to C.

2. A, who is a signal-man improperly leaves his post. B, who is a trespasser, in A's absence unlawfully alters the signals, and a collision ensues. A is punishable as for having negligently caused the collision by omission to attend to his duty. B is also punishable for having intentionally or negligently caused the collision.

Subsection (6) A, in Lagos, posts a letter to B in Accra, borrowing money from B on the credit of a cargo which A by the letter falsely represent that A has shipped for B. B sends the money on the faith of the representation. A has defrauded B in Accra.

Subsection (8) A shoots from a distance at B who is on horseback, with the intent to maim B. B's horse is startled by the shot and throws B, who is killed by the fall. Here, by reason of the rule in subsection (4), A cannot be convicted of having intentionally or negligently killing B (unless A expected, or had reason to expect, that B's horse would be startled). But A is punishable for the attempt to kill B.

14. Consent

In construing a provision of this Act where it is required for a criminal act or criminal intent that an act should be done or intended to be done without a person's consent, or where it is required for a matter of justification or exemption that an act should be done with a person's consent—

(a) a consent is void if the person giving the consent is under twelve years of age, or in the case of an act involving a sexual offence, sixteen years, or is, by reason of insanity or of immaturity, or of any other permanent or temporary incapability whether from intoxication or any other cause, unable to understand the nature or consequences of the act to which the consent is given;⁷

(b) a consent is void if it is obtained by means of deceit or of duress;

(c) a consent is void if it is obtained by or under the exercise of an official, a parental, or any other authority; and the authority which is exercised other-wise than in good faith for the purposes for which it is allowed by law, is for the purposes of this section, a power unduly exercised;

(d) a consent given on behalf of a person by the parent, guardian of that person, or any other person authorised by law to give or refuse consent on behalf of that person, is void if it is not given in good faith for the benefit of the person on whose behalf it is given;

(e) a consent does not have effect if it is given by reason of a fundamental mistake of fact;

(f) a consent is, for the purposes of this section, obtained by means of deceit or duress, or of the undue exercise of authority, or to have been given by reason of a mistake of fact, if it would have been refused but for the deceit, duress, exercise of authority, or mistake;

(g) the exercise of authority, for the purposes of this section, is not limited to the exercise of authority by way of command, but includes influence or advice purporting to be used or given by virtue of an authority;

(h) a person shall not be prejudiced by the invalidity of a consent if that person did not know, and could not by the exercise of reasonable diligence have known, of the invalidity.

Illustrations

1. A induces a person in a state of incapacity from idiocy or intoxication, or a child under twelve years of age to consent to the hair of that person being cut off by A. The consent is void.⁸

2. A by pretending to have the consent of a child's father, or under pretence of medical treatment, or by threats of imprisonment, induces a child to consent to sexual intercourse. The consent is void.⁹

3. A cruelly beats a child. It is not a defence for A that the child's father authorised the beating, or that the child's father, by the exercise of parental authority, induced the child to consent.

4. A the chairman of a company, consents to B drawing money from the company to which A knows B does not have a right. If A does not honestly believe that the action is in the interest of the company the consent is void, and B commits the criminal offence of stealing unless B has acted in good faith.

5. A induces a woman to consent to having carnal knowledge of her by personating her husband. Her consent is void.

15. Claim of right

A claim of right means a claim of right made in good faith.

16. Fraud

For the purposes of a provision of this Act, where a forgery, falsification, or any other unlawful act is punishable if used or done with intent to defraud, an intent to defraud means an intent to cause, by means of the forgery, falsification, or the other unlawful act, a gain capable of being measured in money, or the possibility of that gain to a person at the expense or to the loss of any other person.

Illustrations

1. A unlawfully alters B's will so as to increase or reduce the amount of the legacy left by B to C. Here A commits the criminal offence of forgery with intent to defraud although A may not have an interest in the matter.

2. A unlawfully alters the date on a bill of exchange, for the purpose of postponing the time at which A or any other person may be called

upon to pay it. Since the postponement may be a gain to A or to the other person, A commits the criminal offence of forgery with intent to defraud.

3. A forges B's signature to a deed, not for the purpose of gain to A or to any other person, but for the purpose of falsely charging C with the forgery. Here A has not committed forgery with intent to defraud, but A is liable to be punished for fabricating evidence.

17. Meaning and use of threats

(1) In this Act, unless the context otherwise requires, "threat" means—

(a) a threat of criminal force or harm, or

(b) a threat of criminal damage to property; or

(c) a threat of libel or of slander; or

(d) a threat that a person shall be prosecuted on a charge of having committed an offence, whether the alleged offence is punishable under this Act or under any other enactment, and whether it has or has not been committed; or

(e) a threat that a person shall be detained.¹⁰

(2) An expression in this Act referring to a threat includes an offer to abstain from doing, or to procure any other person to abstain from doing, anything the threat of which is a threat under subsection (1).

(3) It is immaterial whether the matter of the threat will be executed by the person using the threat or against or in relation to the person to whom the threat is used, or by, or against, or in relation to any other person.

(4) It is immaterial whether a threat or offer is conveyed to a person by words, or by writing, or in any other manner, and whether it is conveyed directly, or through any other person, or in any other manner.

CHAPTER THREE

Attempts to commit Criminal Offences

18. Attempt to commit a criminal offence

(1) A person who attempts to commit a criminal offence shall not be acquitted on the ground that the criminal offence could not be committed according to the intent—

(a) by reason of the imperfection or other condition of the means; or

(b) by reason of the circumstances under which they are used; or

(c) by reason of the circumstances affecting the person against whom, or the thing in respect of which the criminal offence is intended to be committed; or

(d) by reason of the absence of that person or thing.

(2) A person who attempts to commit a criminal offence commits a criminal offence, and except as otherwise provided in this Act, is liable to be convicted and punished as if the criminal offence has been completed.

(3) Where an act amounts to a complete criminal offence, as defined by a provision of this Act, and is also an attempt to commit any other criminal offence, a person who does the act commits a criminal offence and is liable to be convicted and punished under either provision or under this section.

(4) A provision in this Act with respect to intent, exemption, justification, or extenuation, or any other matter in the case of an act, shall apply with the necessary modifications to the case of an attempt to do that act.

Illustrations

Subsection (1)

1. A buys poison and brings it into B's room, intending there to mix it with B's drink. A has not attempted to poison B. But if A begins to mix it with B's drink, though A afterwards desists and throws away the mixture, A commits of an attempt.

2. A points a gun, believing it to be loaded, and meaning immediately to discharge it at B. A has committed the criminal offence of an attempt, although the gun is not in fact loaded.

3. A puts A's hand into B's pocket, with the purpose of stealing. A has committed the criminal offence of an attempt, although there is nothing in the pocket.

4. A performs an operation on B with a view to causing abortion. A has committed the criminal offence of an attempt, although B is not in fact with child.

19. Preparation for committing certain criminal offences

A person who prepares or supplies, or has in possession, custody, or control, or in the possession, custody or control of any other person on behalf of that person, any instrument, materials, or means, with the intent that the instruments, materials, or means, may be used by that person, or by any other person, in committing a criminal offence by which life is likely to be endangered, or a forgery, or a felony, commits a criminal offence and is liable to punishment in like manner as if that person had attempted to commit that criminal offence.

CHAPTER FOUR

Abetment and Conspiracy

20. Abetment of a criminal offence

(1) A person who, directly or indirectly, instigates, commands, counsels, procures, solicits, or in any other manner purposely aids, facilities, encourages, or promotes, whether by a personal act or presence or otherwise, and a person who does an act for the purposes of aiding, facilitating, encouraging, or promoting the commission of a criminal offence by any other person, whether known or unknown, certain, or uncertain, commits the criminal offence of abetting that criminal offence, and of abetting the other person in respect of that criminal offence.

(2) A person who abets a criminal offence shall, if the criminal offence is actually committed in pursuance of, or during the continuance of, the abetment, be deemed to have committed that criminal offence.

(3) A person who abets a criminal offence is, if the criminal offence is not actually committed—

(a) liable to imprisonment for life where the criminal offence abetted was punishable by death; and

(b) in any other case the abettor is punishable in the same manner as if the criminal offence had been actually committed in pursuance of the abetment.

(4) An abettor may be tried before, with, or after a person abetted, and although the person abetted is dead or is otherwise not amenable to justice.

(5) An abettor may be tried before, with, or after any other abettor, whether the abettor and any other abettor abetted each other in respect of the criminal offence or not, and whether they abetted the same or different parts of the criminal offence.

(6) An abettor shall have the benefit of any matter of exception, justification, or extenuation to which the abettor is entitled under this Act, although the person abetted or any other abettor is not entitled to the like benefit.

(7) A person who, within the jurisdiction of the Court, abets the doing beyond the jurisdiction of an act which, if done within the jurisdiction, would be a criminal offence, is punishable as if that person had abetted that criminal offence.

Illustrations

Subsection (1)

1. A encourages B to commit a murder. Here A commits the criminal offence of abetting murder.

2. A offers B ₦20,000 to assault C. Here A commits the criminal offence of abetting an assault on C.11

3. A and B are fighting unlawfully. C and others hinder a peace officer from stopping the fight. Here C and the others have committed the criminal offence of abetting the fight.

Subsection (2) A encourages B to commit unlawful entry. B attempts to commit the unlawful entry, but is discovered and arrested. Here A is punishable as if A had committed the unlawful entry.

Subsection (3) A unlawfully strikes B. B and others immediately set upon A and beat A so that A dies. Here, if the blow struck by A amounts to a provocation to B, (section 53), B may have committed the criminal offence of manslaughter, although the others may have committed the criminal offence of murder.

Subsection (7) A who is in Accra, incites B to carry a ship to sea and scuttle the ship with intent to defraud the underwriters. A is liable under this provision.

21. Abetment and the commission of a different criminal offence

(1) Where a person abets a particular criminal offence, or abets a criminal offence against or in respect of a particular person or thing and the person abetted actually commits a different criminal offence, or commits the criminal offence against or in respect of a different person or thing, or in a manner different from that which was intended by the abettor, and—

(a) it appears that the criminal offence actually committed was not a probable consequence of the endeavour to commit, nor was substantially the same as the criminal offence which the abettor intended to abet, nor was within the scope of the abetment, the abettor is punishable for abetment of the criminal offence which the abettor intended to abet in the manner provided by this Chapter with respect to the abetment of criminal offences which are not actually committed; and

(b) in any other case, the abettor shall be deemed to have abetted the criminal offence which was actually committed, and is liable to punishment accordingly.

(2) Where a person abets a riot or unlawful assembly with the knowledge that unlawful violence is intended or is likely to be used, that person commits the criminal offence of abetting violence of the kind or degree which is committed by any other person in executing the purposes of the riot or assembly, although that person did not expressly intend to abet violence of that kind or degree.

Illustrations

Subsection (1)

1. A incites B to commit robbery by threats, without violence on C. B in attempting to commit the robbery, is resisted, and murders C. Here A commits the criminal offence of abetting robbery, and not of murder.

2. A incites B to steal a horse. B, in pursuance of the incitement, gets the horse by false pretences. Here A commits the criminal offence of abetting the criminal offence which B has committed.

Subsection (2) A number of persons assemble together for the purpose of breaking open a prison and releasing a prisoner by force. Some of them are armed. If murder is committed by one of these in breaking open the prison, all of the persons, whether armed or not, who took part in or otherwise abetted the breaking open the prison, have committed the criminal offence of abetting murder, if they knew that arms were carried and were intended or likely to be used.

22. Duty to prevent a felony

A person who, knowing that another person designs to commit, or is committing a felony, fails to use all reasonable means to prevent the commission or completing the felony commits a misdemeanour.

23. Conspiracy

(1) Where two or more persons agree to act together with a common purpose for or in committing or abetting a criminal offence, whether with or without a previous concert or deliberation, each of them commits a conspiracy to commit or abet the criminal offence.

(2) A person within the jurisdiction of the Courts can be convicted of conspiracy by agreeing with another person who is beyond the jurisdiction, for the commission or abetment of a criminal offence to be committed by them or either of them, or by any other person, within or beyond the jurisdiction.

(3) For the purposes of subsection (2) as to a criminal offence to be committed beyond the jurisdiction, "criminal offence" means an act which, if done within the jurisdiction, would be a criminal offence under this Act or under any other enactment.

Illustrations

Subsection (1)

1. If a lawful assembly is violently disturbed (section 204), the persons who take part in the disturbance have committed conspiracy to disturb it, although they may not have personally committed any violence, and although they do not act in pursuance of a previous concert or deliberation.

2. A and B agree together to procure C to commit a criminal offence. Here, A and B have both committed conspiracy to abet that criminal offence.

Subsection (2). A in Accra and B in Lagos agree and arrange by letter for the scuttling of a ship on the high seas, with intent to defraud the underwriters. Here A has committed a conspiracy punishable under this Act.

24. Punishment for conspiracy

(1) Where two or more persons are convicted of conspiracy for the commission or abetment of a criminal offence, each of them shall, where the criminal offence is committed, be punished for that criminal offence, or shall, where the criminal offence is not committed, be punished as if each had abetted that criminal offence.

(2) A Court having jurisdiction to try a person for a criminal offence shall have jurisdiction to try a person charged with conspiracy to commit or abet that criminal offence.

25. Harboursing criminal

A person who, knowingly or having reason to believe that any other person has committed or has been convicted of a criminal offence, aids, conceals, or harbours that person, with the purpose of enabling that person to avoid lawful arrest or the execution of the sentence, commits a misdemeanour.

CHAPTER FIVE

General Exemptions

26. Infant incapable of committing a criminal offence

For the purposes of the criminal law a person under twelve years of age is incapable of committing a criminal offence.¹²

Illustration

A, aged eleven years administers poison to B. A is not criminally responsible and is considered incapable of understanding the consequences of those actions from a legal perspective.¹³

27. Special verdict in respect of an insane person

Where a person is accused of a criminal offence, the special verdict provided by the Criminal and other Offences (Procedure) Act, 1960 (Act 30) in the case of insanity is only applicable—

(a) if that person was prevented, by reason of idiocy, imbecility, or a mental derangement or disease affecting the mind, from knowing the nature or consequences of the act in respect of which that person is accused; or

(b) if that person did the act in respect of which that person is accused under the influence of an insane delusion of a nature that renders that person, in the opinion of the jury or of the Court, an unfit subject for punishment in respect of that act.

Illustrations

Paragraph (a)

1. If a person by reason of idiocy is incapable of knowing that the act of that person will cause death, the special verdict is applicable to that case.

2. If a person commits homicide by reason of a paroxysm of madness which at the time makes that person incapable of considering that murder is a criminal offence, the special verdict is applicable to that case.

3. The special verdict is not applicable merely because it is proved that by reason of mental derangement the accused has a propensity to homicide.

Paragraph (b)

1. A kills B by reason of an insane delusion that B is attempting to kill A. Here the jury will be justified in finding that A is not a fit subject for punishment.

2. A is subject to insane delusions. In an interval of freedom from these delusions, A kills B. Here the jury ought to take into account the fact that at other times A was subject to delusions.

28. Criminal liability of an intoxicated person

(1) Except as provided in this section, intoxication is not a defence to a criminal charge.

(2) Intoxication is a defence to a criminal charge if by reason of the intoxication the person charged, at the time of the act complained of, did not know that the act was wrong or did not know what that person was doing and—

(a) the state of intoxication was caused without the consent of that person by the malicious or negligent act of another person; or

(b) the person charged was, by reason of intoxication, insane, temporarily or otherwise, at the time of the act.

(3) Where the defence under subsection (2) is established, then—

(a) in a case falling under paragraph (a), the accused person shall be discharged; and

(b) in a case falling under paragraph (b), the special verdict provided for by the Criminal and Other Offences (Procedure) Act, 1960 (Act 30) in the case of insanity shall apply.

(4) Intoxication shall be taken into account for the purpose of determining whether the person charged had formed an intention, specific or otherwise, in the absence of which the person charged would not be guilty of the criminal offence.

(5) For the purposes of this section “intoxication” includes a state produced by narcotics or drugs.

29. Ignorance or mistake of fact or of law

(1) A person shall not be punished for an act which, by reason of ignorance or mistake of fact in good faith, that person believes to be lawful.

(2) A person shall not, except as in this Act otherwise expressly provided, be exempt from liability to punishment for an act on the grounds of ignorance that the act is prohibited by law.

Illustration

Subsection (2) A, in self-defence against an assault, uses greater violence than is justifiable under the provisions of Chapter One of Part Two. Here A cannot claim that A did not know the violence was unlawful.

CRIMINAL AND OTHER OFFENCES (PROCEDURE) ACT, 1960 (ACT 30)

AN ACT to consolidate and amend enactments providing for the procedure to be followed in criminal and other offences and to provide for related matters.

PART ONE

General Provisions

Procedure

1. Procedure for criminal and other offences

(1) A criminal offence under the Criminal Offences Act, (Act 29) 1960 shall be enquired into, tried and dealt with in accordance with this Act.

(2) An offence under any other enactment shall, subject to that enactment, be enquired into, tried and dealt with in accordance with this Act.

2. Mode of trial

(1) An offence shall be tried summarily if

(a) the enactment creating the offence provides that it is punishable on summary conviction, and does not provide for any other mode of trial; or

(b) the enactment creating the offence does not make a first conviction is a term of imprisonment not exceeding six months, whether with or without a fine.

(2) An offence shall be tried on indictment if

(a) it is punishable by death or it is an offence declared by an enactment to be a first degree felony; or

(b) the enactment creating the offence provides that the mode of trial is on indictment.

(3) Any other offence is triable on indictment or summarily.

(4) Subject to the limitations on the jurisdiction of the Court,

(a) the High Court or a Circuit Court is the venue for a trial on indictment;

(b) the High Court, a Circuit Court or a court of summary jurisdiction, is the venue for a summary trial.

Arrest Generally

3. Mode of arrest

In making an arrest a police officer or any other person making the arrest, shall actually touch or confine the body of the person to be arrested, unless there is a submission to the custody verbally or by conduct.

4. Search of place entered by person sought to be arrested

(1) Where a person acting under a warrant of arrest, or a police officer having authority to arrest has reason to believe that the person to be arrested has entered into or is within a place, the person residing in or in charge of the place shall, on demand, allow the person so acting or the police officer free entry to the place and afford reasonable facilities to search the place for the person sought to be arrested.

(2) Where entry to the place cannot be effected in accordance with subsection (1),

(a) the person acting under the warrant, or

(b) the police officer, in a case in which a warrant may issue, but cannot be obtained without affording an opportunity for the escape of the person to be arrested,

may enter the place and search the place for the person to be arrested.

(3) A person acting under a warrant or a police officer who has authority to arrest may, if after notification of authority and purpose and demand of admittance, is unable to obtain admittance, may forcibly enter through an outer or inner door or window of any house or place.

5. Power to break out of any house for purpose of liberation

A police officer or a person authorised to make an arrest may break out of any house, or for the purpose of the liberation of the police officer or any other person who, having lawfully entered for the purpose of making an arrest, is detained within the house.

6. Unnecessary restraint

A person arrested shall not be subjected to more restraint than is necessary to prevent the escape of the person arrested.

7. Notification of substance of warrant

Except when the person arrested is in the actual course of the commission of a criminal offence or is pursued immediately after escape from lawful custody, a police officer or a person making the arrest shall inform the person arrested of the cause of the arrest, and, if the police officer or other person is acting under the authority of a warrant shall notify the person to be arrested of the content of the warrant and, if so required, shall show the warrant to the person to be arrested.

8. Search of arrested person

(1) When a person is arrested by a police officer or any other person, the police officer making the arrest or to whom the other person, makes over the person arrested, may search the person arrested, and place in safe custody the articles, other than necessary wearing apparel, found on the arrested person.

(2) Where the person arrested can be legally admitted to bail and bail is furnished, the person arrested shall not be searched unless there are reasonable grounds to believe that the person arrested has in possession

- (a) a stolen article, or
- (b) an instrument of violence, or
- (c) tools connected with the kind of offence the person arrested is alleged to have committed, or
- (d) articles which may incriminate the person arrested in respect of the offence alleged to have been committed.

(3) The search shall be made with strict decency and where a woman is to be searched, the search shall be made by another woman.

(4) The right to search a person arrested does not include the right to examine the private part of that person.

(5) A police officer or a person making an arrest may take from the person arrested an offensive weapon which is found on the person arrested.

9. Arrested person to be taken to police station

(1) A person who is arrested, whether with or without a warrant, shall be taken with reasonable dispatch to a police station, or other place for the reception of arrested persons, and shall without delay be informed in a language which the person arrested understands and in detail of the nature of the charge that initiated the arrest.

(2) A person arrested shall, while in custody, be given reasonable facilities for obtaining legal advice, taking steps to furnish bail, and otherwise making arrangements for a defence or release.

(3) A person having the custody of a person arrested shall comply with article 15 of the Constitution.

Arrest without Warrant

10. Arrest by police officer without warrant

(1) A police officer may arrest without warrant a person who

- (a) commits an offence in the presence of the police officer;
- (b) obstructs a police officer in the execution of that police officer's duty;
- (c) has escaped or attempts to escape from lawful custody;

(d) possesses an implement adapted or intended for use to unlawfully enter a building, and does not give a reasonable excuse for the possession of the implement; or

(e) possesses a thing which may reasonably be suspected to be stolen property.

(2) A police officer may arrest without warrant a person whom the police officer suspects on reasonable grounds

(a) of having committed an offence;

(b) of being about to commit an offence, in order to prevent the commission of the offence;

(c) of being about to commit an offence, where the police officer finds that person in any highway, yard, building or other place during the night;

(d) of being a person for whom a warrant of arrested has been issued by a Court;

(e) of being a deserter from the Armed Forces; or

(f) of having been concerned in an act committed outside the Republic which, if committed in the Republic would have been punishable as an offence, and for which that person is, under an enactment, liable to be arrested and detained in the Republic.

11. Refusal to give name and residence

(1) Where a person, other than a person liable to be arrested without an order or a warrant under section 10, who has been accused of committing an offence refuses on demand of a police officer to give personal details of the name and residence, or gives a name or residence which the officer has reason to believe is false, that person may be arrested by the officer in order to ascertain the name or residence.

(2) When the true name and residence of that person have been ascertained that person shall be released on executing a bond, with or without sureties, to appear before a Court as required.

(3) Where that person is not resident in the Republic the bond shall be secured by a surety or sureties resident in the Republic.

(4) Where the true name and residence of that person is not ascertained within twenty-four hours from the time of arrest, or that person fails to execute the bond, or fails as required to furnish sufficient sureties, that person shall forthwith be brought before the nearest Court having jurisdiction.

12. Arrest by private person without warrant

(1) A private person may arrest without warrant a person who in the presence of that private person commits

(a) an offence involving the use of force or violence;

(b) an offence by which bodily harm is caused to another person;

(c) an offence in the nature of stealing or fraud;

(d) an offence involving injury to public property; or

(e) an offence involving injury to property owned by, or in the lawful care or custody, of that private person.

(2) A private person may arrest without warrant a person whom that private person reasonably suspects of having committed an offence mentioned in subsection (1) where an offence of that nature has been committed.

13. Arrest by owners of property

Repealed.2

14. Custody of person arrested by private person

(1) A private person who, without a warrant, arrests another person shall without unnecessary delay hand over the person so arrested to a police officer or, in the absence of a police officer, shall take the arrested person to the nearest police station.

(2) Where there is reason to believe that the actions of that person falls within the ambit of section 10, a police officer shall re-arrest that person.

(3) Where there is reason to believe that the person arrested has committed a felony or misdemeanour and refuses to disclose personal details of name and residence, or gives a name or residence which the officer has reason to believe is false, the arrested person shall be dealt with in accordance with section 11 or otherwise released.

15. Custody of persons arrested without warrant

(1) A person taken into custody without a warrant in connection with an offence shall be released from custody not later than forty-eight hours after arrest unless that person is earlier brought before a court of competent jurisdiction.³

(2) A person referred to in subsection (1), may, at any time whether before or after the expiration of the period of thirty days be required to enter into a bond with or without sureties for a reasonable amount to appear before the Court or at the police station or place and at the time as stated in the bond.

(3) The bond may be enforced as if it were a bond executed by order of a Court and conditioned for the appearance of that person before a Court.

(4) Repealed.⁴

16. Police to report arrests

An officer in charge of a police station shall report monthly to the nearest District Magistrate the cases of the persons arrested without warrant within the

limits of the area of authority of the police station and not subsequently charged with an offence, whether those persons have been admitted to bail or not.

Escape and Retaking

19. Recapture of person escaping

Where a person in lawful custody escapes or is rescued, the person from whose custody that person escapes or is rescued may immediately pursue and arrest that person in any place in the Republic.

20. Sections 4 and 5 to apply to arrest under section 19

Sections 4 and 5 shall apply to an arrest under section 19, although the person who makes the arrest is not acting under a warrant and is not a police officer with authority to arrest.

21. Assistance to District Magistrate or police officer

Every person shall assist a District Magistrate or a police officer who reasonably demands aid

- (a) in the taking or preventing the escape of any other person whom the Magistrate or police officer is authorised to arrest;

Search Warrants

88. Issue search warrant and procedure

(1) Where a District Magistrate is satisfied, by evidence on oath, that there is reasonable ground for believing that there is in a building, vessel, carriage, box, receptacle, or place

- (a) a thing on or in respect of which an offence has been or is suspected to have been committed, for which according to law, the offender may be arrested without warrant, or

(b) a thing which there is reasonable ground for believing will afford evidence as to the commission of an offence, or

(c) a thing which there is reasonable ground for believing is intended to be used for the purpose of committing an offence against the person for which, according to law, the offender may be arrested without warrant,

the Magistrate may at any time personally issue a warrant authorising a constable to search the building, vessel, carriage, box, receptacle, or place for that thing, and to seize and carry it before the Magistrate issuing the warrant or any other Magistrate to be dealt with according to law.

(2) Where the thing to be searched for is gunpowder or any other explosive or dangerous or noxious substance or thing, the person making the search shall have the powers and protection as are given by law to a person lawfully authorised to search for that thing, and the thing itself shall be disposed of in the manner as directed by law or, in default of the direction, as directed by the Superintendent of Police.

89. Execution of search warrant

A search warrant may be issued and executed on a Sunday and shall be executed between the hours of 6.30 a.m. and 6.30 p.m., but the Court may, by the warrant, authorise the police officer or other person to whom it is addressed to execute it at any hour.

90. Persons in charge of closed place to allow ingress

(1) Where a building or any other place liable to search is closed, a person residing in or being in charge of the building or place shall, on demand of the police officer or other person executing the search warrant, allow the police officer or that other person free entry and afford reasonable facilities for a search within the building or place.

(2) Where entry into the building or other place cannot be obtained, the police officer or other person executing the search warrant may proceed in the manner prescribed by sections 4 and 5.

(3) Where a person in or about the building or place is reasonably suspected of concealing about that person's body an article for which search should be made, that person may be searched.

(4) Where the person to be searched is a woman, the provisions of section 8 (3) shall be observed.

91. Detention of articles seized

(1) Where an article is seized under a search warrant and brought before a Magistrate, the Magistrate may detain or cause it to be detained, taking reasonable care that it is preserved until the conclusion of the case.

(2) Where an appeal is made, the Magistrate may order the further detention of the article for the purpose of or pending the appeal.

(3) Where an appeal is not made, the Magistrate shall, subject to subsections (4) and (5), direct the article to be restored to the person from whom it was taken, unless the Magistrate is authorised or required by law to dispose of it otherwise.

(4) Where under a warrant, there is brought before a Magistrate a forged bank note, bank note paper, instrument or a thing the possession of which, in the absence of lawful excuse, is an offence according to law, the Magistrate may direct it to be detained for production in evidence or to be otherwise dealt with as the case may require.

(5) Where under a warrant, there is brought before a Magistrate a counterfeit coin or other thing, the possession of which, with knowledge of its nature and without lawful excuse, is an offence according to law, it shall be delivered up to the Superintendent of Police, or to any other person authorised by the Superintendent to receive it, as soon as it has been produced in evidence, or as soon as it appears that it will not be required to be so produced.

92. Provisions applicable to search warrants

Sections 73 (1) and (3), 75, 76, 78, 79, 80 and 83 shall apply to search warrants issued under section 88.

93. Search without a warrant in certain cases

(1) Where a police officer has reasonable cause to believe that an article

(a) which has been stolen or unlawfully obtained,

(b) in respect of which a criminal offence has been, is being or is about to be committed,

is being conveyed, is concealed, or being carried on a person in a public place, or is concealed or contained in a package in a public place for the purpose of being conveyed, the police officer may, where the exigencies of the case so require, without a warrant or written authority arrest, seize and search that person, package or article.

(2) A police officer who arrests a person, conducts a search or seizure, may take possession of and detain an article together with the package containing it, any may also arrest a person conveying, concealing or carrying the article.

94. Search of premises without warrant

(1) A police officer not below the rank of Assistant Superintendent of Police, or who being below the rank is authorised in writing so to do by a police officer not below the rank, may enter a house, shop, warehouse, yard, ship, boat, vessel, beach or any other premises which the police officer has reasonable cause to believe contains property which has been stolen or dishonestly received.

(2) The police officer may search for, seize, and secure, the property which the police officer has reasonable cause to believe has been stolen, or dishonestly received as if the police officer had a search warrant and the property seized corresponded to the property described in the search warrant.

(3) Authorisations, searches, and seizures, given or made under this section shall not be confined to a particular property, but may be general.

95. Saving with respect to certain postal matter

Sections 88 and 93 shall not apply to the case of postal matter in transit by post, except where the postal matter has been, or is suspected of having been, dishonestly appropriated during the transit.

Bail and Recognisances Generally

96. Granting of bail

(1) Subject to this section, a Court may grant bail to a person who appears or is brought before it on a process or after being arrested without warrant, and who

(a) is prepared at any time or at any stage of the proceedings or after conviction pending an appeal to give bail, and

(b) enters into a bond in the prescribed manner with or without sureties, conditioned for that person's appearance before that Court or any other Court at the time and place mentioned in the bond.

(2) Despite anything in subsection (1) or in section 15, but subject to this section, the High Court or a Circuit Court may direct that a person be admitted to bail or that the bail required by a District Court or police officer be reduced, although subsection (1) or section 15 provides otherwise.

(3) The amount and conditions of bail shall be fixed with due regard to the circumstances of the case and shall not be excessive or harsh.

(4) A Court shall not withhold or withdraw bail merely as a punishment.

(5) A Court shall refuse to grant bail if it is satisfied that the defendant

- (a) may not appear to stand trial, or
- (b) may interfere with a witness or the evidence, or in any way hamper police investigations, or
- (c) may commit a further offence when on bail, or
- (d) is charged with an offence punishable by imprisonment exceeding six months which is alleged to have been committed while the defendant was on bail.

(6) In considering whether it is likely that the defendant may not appear to stand trial the Court shall take into account

- (a) the nature of the accusation,
- (b) the nature of the evidence in support of the accusation,
- (c) the severity of the punishment which conviction will entail,
- (d) whether the defendant, having been released on bail on a previous occasion, has wilfully failed to comply with the conditions of the recognisance entered into by the defendant on that occasion,
- (e) whether or not the defendant has a fixed place of abode in the Republic, and is gainfully employed,
- (f) whether the sureties are independent, of good character and of sufficient means.

(7) A Court shall refuse to grant bail

- (a) in a case of acts of terrorism, treason, subversion, murder, robbery, offences listed in Parts I and II of the Narcotic Drugs (Control, Enforcement and Sanctions) Law, 1990 (P.N.D.C.L. 236),

hijacking, piracy, rape, defilement or escape from lawful custody,
or13a

(b) where a person is being held for extradition to a foreign
country.¹⁴

97. General provisions as to recognisances

(1) Where in respect of a bond, the amount has been fixed in which the sureties are to be bound, the bond need not be entered into before the Court, but may, subject to the Rules made in pursuance of this Act be entered into

(a) by the parties before any other Court or before a clerk of a
Court; or

(b) before a Sub-Inspector of Police or other officer of police of
equal or superior rank or in charge of a police station; or

(c) before the Superintendent or other keeper of the prison
where any of the parties is in prison,

and the consequences of the law shall ensue and the provisions of this Act with respect to bonds taken before a Court shall apply as if the bond had been entered into before a Court.

(2) Where a person is required, as a condition of the release, to enter into a bond with sureties, the bond of the sureties may be taken separately and before or after the bonds of the principal, and if so taken the bonds of the principal and sureties are as binding as if they had been taken together and at the same time.

(3) Without limiting the power of the Court to vary an order at a subsequent hearing, a bond for the appearance of a person before the Court may be conditioned for that person's appearance at every time and place to which, during the course of the proceedings the hearing may be adjourned.

98. Discharge from custody

(1) Where the execution of a bond is a condition of the release of a person, that person shall be released as soon as the bond has been executed and if that person is in prison or police custody, the Court shall issue an order of release to the officer in charge of the prison or any other place of detention and the officer on receipt of the order shall release that person.

(2) Subsection (1) or section 96 shall not require the release of a person liable to be detained for a matter, other than that in respect of which the bond was executed.

99. Deposit instead of recognisance

(1) Where a person is required by a Court or an officer to execute a bond, with or without sureties, the Court or officer may, except in the case of a bond for good behaviour, permit that person to deposit a sum of money of an amount determined by the Court or officer in lieu of executing the bond, as security for the due performance of the conditions imposed on that person by the Court or officer requiring the execution of the bond.

(2) On a breach of a condition, proceedings under section 104 may be taken for the forfeiture of the deposit in the same manner and to the same extent as if a bond for the amount of the deposit had in fact been executed.

100. Variation of a recognisance

(1) Where at any time after a bond has been entered into it appears to the Court that for a reason the sureties are unsuitable or that having regard to the circumstances of the case, the amount of the bond is insufficient, the Court may issue a summons or warrant for the appearance of the principal.

(2) On the principal coming before the Court, the Court may order the principal to execute a fresh bond in another amount or with any other surety or sureties, and on failing to do so may commit the principal to prison for a term not exceeding the maximum term for which the principal could have been committed to prison had the principal failed to produce a surety in the first instance.

101. Discharge of sureties

(1) A surety for the appearance or behaviour of a person may at any time apply to a District Magistrate to discharge the bond wholly or so far as it relates to the applicant.

(2) On the application being made the Magistrate shall issue the warrant of arrest directing that the person so released be brought before the Magistrate.

(3) On the appearance of the person pursuant to the warrant, or on that person's voluntary surrender, the Magistrate shall direct the bond to be discharged wholly or so far as it relates to the applicant, and shall call on that person to find other sufficient sureties, and on failing to do so that person may be committed to prison.

102. Recognisances in respect of juveniles

Where the person in respect of whom a Court makes an order requiring that a bond be entered into is a juvenile, the Court shall not require the juvenile to execute the bond, but shall require a relative, guardian or any other fit person with or without sureties to execute a bond on condition that the juvenile shall do what is required under the Court's order.¹⁵

103. Persons bound by recognisance absconding may be committed

Where it appears to a Court, on information on oath, that a person bound by bond to appear before a Court or police officer is about to leave the Republic, the Court may cause that person to be arrested and may commit that person to prison until the trial, unless the Court admits that person to bail on further recognisance

104. Forfeiture of recognisance

(1) Where it is proved to the satisfaction of a Court by which a recognisance under this Act has been taken, or when the recognisance is for appearance before a Court, to the satisfaction of that Court, that the recognisance has been forfeited, the Court shall record the grounds of proof, and may call on a person

bound by the recognisance to pay the penalty or the forfeiture, or to show cause why it should not be paid.

(2) Where sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover it by forfeiting the sum of money deposited in pursuance of section 99 or by issuing a warrant for the attachment and sale of the movable property belonging to that person or the estate of that person if deceased.

(3) The warrant may be executed within the area of the jurisdiction of the Court which issued it; and it shall authorise the attachment and sale of movable property, belonging to that person, when endorsed by a Magistrate within whose area of jurisdiction the property is found.

(4) Where the penalty is not paid and cannot be recovered by attachment and sale, the person so bound is liable, by order of the Court which issued the warrant, to imprisonment without hard labour for a term not exceeding six months.

(5) Repealed.16

(6) Where a surety to a recognisance dies before the recognisance is forfeited, the estate of the surety shall be discharged from the liability in respect of the recognisance.

(7) Where a person who has furnished security is convicted of an offence the commission of which constitutes a breach of the conditions of that person's recognisance, a certified copy of the judgment of the Court by which that person was convicted may be used as evidence in proceedings under this section against the surety of that person and, if the certified copy is so used, the Court shall presume that the offence was committed by that person unless the contrary is proved.

SECURITY AND INTELLIGENCE AGENCIES ACT, 1996 (ACT 526)

AN ACT to make provision in respect of the National Security Council, to provide for the establishment of regional and district security councils, to specify the state agencies responsible for implementing government policies on the security of the Republic and issues relating to internal and external security and to provide for related matters.

National Security Council

1. The National Security Council

The National Security Council as established by article 83 of the Constitution consists of

- (a) the President,
- (b) the Vice-President,
- (c) the Ministers holding the portfolios of foreign affairs, defence, interior and finance and any other Ministers as determined by the President,
- (d) the Chief of Defence staff and two other members of the Armed Forces,

- (e) the Inspector-General of Police, the Commissioner of Police responsible for the Criminal Investigation Department and one other member of the Police Service,
- (f) the Director-General of the Prisons Service,
- (g) the Director of External Intelligence,
- (h) the Director of Internal Intelligence,
- (i) the Director of Military Intelligence,
- (j) the Commissioner of Customs, Excise and Preventive Service, and
- (k) three persons appointed by the President.

2. Procedure at meetings of the Council

- (1) The President shall preside at the meetings of the Council and in the absence of the President the Vice-President shall preside.
- (2) The President may, acting in consultation with the Council, invite any other persons as the President considers necessary for the deliberations of the Council.
- (3) The person invited to participate in the deliberations of the Council under subsection (2) shall not vote on a matter for decision before the Council.
- (4) The Council shall regulate the procedure at its meetings.

3. Secretary to the Council

The Secretary to the Cabinet is the secretary to the Council.

4. Functions of the Council

The functions of the Council in accordance with article 84 of the Constitution include

- (a) considering and taking appropriate measures to safeguard internal and external security;
- (b) ensuring the collection of information relating to security and the integration of the domestic, foreign and security policies relating to it so as to enable the security services and any other departments and agencies of the Government to co-operate more effectively in matters relating to national security;
- (c) assessing and appraising the objectives, commitments and risks in relation to the actual and potential military power in the interest of national security; and
- (d) taking appropriate measures regarding the consideration of policies on matters of common interest to the departments and agencies of the Government concerned with national security.

Regional and District Security Councils

5. Establishment of regional and district security councils

- (1) There shall be a security council for each Region and district.
- (2) The regional and district security councils shall operate as committees of the Council and shall perform in the regions and districts the functions determined by the Council.
- (3) A regional security council is answerable to the Council in the performance of its functions.
- (4) A district security council is answerable to the relevant regional security council in the performance of its functions.

6. Membership of regional security council

(1) A regional security council shall consist of

- (a) the Regional Minister, as the chairman,
- (b) the Deputy Regional Minister or Ministers,
- (c) the chief executive of the Metropolitan, Municipal or District Assembly in the regional capital,
- (d) an officer of the Armed Forces nominated by the Chief of Defence Staff,
- (e) the Regional Police Commander,
- (f) the Regional Crime Officer,
- (g) the regional officer of the internal intelligence agency specified in section 10,
- (h) the Customs, Excise and Preventive Service officer in charge of the Region,
- (i) the Prisons Service officer in charge of the Region,
- (j) the immigration officer in charge of the Region,
- (k) the Fire Service officer in charge of the Region, and
- (l) two other persons nominated by the Regional Minister in consultation with the national security co-ordinator appointed under section 18.

(2) A regional security council shall regulate the procedure at its meetings.

7. Functions of regional security council

A regional security council shall in relation to the Region

- (a) perform the functions of the Council assigned to it by the Council, and
- (b) provide early warning to the Government of the existence or likelihood of a security threat to the Region, to the country or to the Government.

8. Membership and procedure of district security council

(1) A district security council shall consist of

- (a) the District Chief Executive, as the chairman,
- (b) the District Police Commander,
- (c) the District Crime Officer,
- (d) the district representative of the internal intelligence agency,
- (e) the Customs, Excise and Preventive Service officer in charge of the district,
- (f) the immigration officer in charge of the district,
- (g) the Fire Service officer in charge of the district, and
- (h) two other persons nominated by the District Chief Executive in consultation with the co-ordinator.

(2) A district security council shall regulate the procedure at its meetings.

9. Functions of a district security council

A district security council shall in relation to the district

- (a) perform the functions of the Council assigned to it by the Council, and
- (b) provide early warning to the Government of the existence or likelihood of a security threat to the district, to the country or to the Government.

The Internal and External Intelligence Agencies

10. National security intelligence agencies

The departments existing immediately before the coming into force of this Act and known as the Bureau of National Investigation and the Research Department respectively are hereby continued in existence under this Act as the internal and external intelligence agencies of the Republic.

11. Governing body of the intelligence agencies

The governing body of the intelligence agencies is the National Security Council.

12. Functions of the intelligence agencies

The intelligence agencies shall

- (a) collect, analyse, retain and disseminate as appropriate information and intelligence regarding activities that may constitute threats to the security of the Republic or the Government;
- (b) safeguard the economic wellbeing of the Republic against threats posed by the acts or omissions of persons or organisations both inside and outside the country;

- (c) protect the Republic against threats of espionage, sabotage, terrorism, hijacking, piracy, drug trafficking and similar offences;
- (d) protect the Republic against the activities of persons, both national and non-nationals, intended to overthrow the Government or undermine the constitutional order through illegal political, military, industrial or any other means or through any other unconstitutional method; and
- (e) perform any other functions directed by the President or the Council.

13. Appointment of directors

- (1) A director shall be appointed for each of the intelligence agencies provided under this Act who shall be the head of the relevant agency.
- (2) The directors shall be appointed by the President in accordance with article 195 of the Constitution and on the terms and conditions determined by the President.

14. Functions of the directors

A director appointed under section 13

- (a) is responsible for the efficient and effective performance of the functions of the intelligence agency of which the director is the head;
- (b) shall control and administer the intelligence agency under the director subject to the directions given by the President or the Council;
- (c) shall pursue and ensure political party neutrality of the intelligence agency in the performance of its functions.

15. Other employees of the intelligence agencies

(1) The President shall appoint, in accordance with article 195 of the Constitution, any other staff and employees required for the effective performance of the functions of the intelligence agencies.

(2) The President may in accordance with article 195 (2) of the Constitution delegate the power of appointment under this section.

(3) Other public officers may be seconded or transferred to any of the intelligence agencies.

16. Committees

The Council may, for the performance of the functions provided in this Act appoint committees consisting of members of the Council or non-members or both, and assign to the committee any of its functions, except that a committee composed entirely of non-members may only advise the Council.

17. Ministerial responsibility for the intelligence agencies

(1) The President shall assign ministerial responsibility for the intelligence agencies to the Minister whom the President considers appropriate.

(2) The Minister assigned responsibility under subsection (1) shall, in respect of each year, submit a report to Parliament on the intelligence agencies.

National Security Co-ordinator

18. Appointment of national security co-ordinator

(1) The President shall appoint, in accordance with article 195 of the Constitution, an officer to be designated as the national security co-ordinator.

(2) The terms and conditions of service of the co-ordinator shall be stated in the letter of appointment.

19. Functions of the co-ordinator

The functions of the national security co-ordinator are,

- (a) to co-ordinate on a day-to-day basis the activities of the national, regional and district security councils and the activities of the intelligence agencies;
- (b) to collate and evaluate intelligence reports relating to national security and ensure dissemination of the information within the Government as appropriate;
- (c) to determine in consultation with the directors of the intelligence agencies the manpower level requirements of the intelligence agencies;
- (d) to assist the relevant intelligence agency to gather defence intelligence both internal and external and use the information to detect and prevent threats to the security of the Republic; and
- (e) to perform any other functions relating to the functions specified in this section directed by the President or the Council.

20. Staff for office of the co-ordinator

(1) The President shall appoint, in accordance with article 195 of the Constitution to assist the co-ordinator in the performance of functions, the employees that the President considers necessary.

(2) The President may in accordance with article 195 (2) of the Constitution delegate the power of appointment of public officers under this section.

(3) Other public officers may be transferred or seconded to the Office of the Co-ordinator.

Complaints Tribunal and Warrants

21. Investigation of complaints

(1) A person who is aggrieved by an omission of an intelligence agency may submit a written or oral complaint to the director of that intelligence agency.

(2) The director shall examine the complaint and take appropriate action within a period not exceeding thirty days from the date of receipt of the complaint.

(3) A person who has made a complaint to a director under this section may, where

(a) action is not taken on the complaint within the period specified, or

(b) that person is dissatisfied with the action taken by the director,

submit a written complaint to the Chief Justice who shall refer the complaint to the tribunal provided for under section 22.

22. Complaints tribunal

(1) The Chief Justice shall on receipt of a complaint, appoint within a period of sixty days, a tribunal of three persons to examine and determine the issues in the complaint.

(2) The tribunal shall consist of

(a) a Justice of the High Court, a retired Justice of the High Court or a lawyer who qualifies to be appointed a Justice of the High Court, and

(b) two other persons one of whom is a person with considerable knowledge of the area of the subject matter of the complaint and operation of intelligence activities in general.

23. Examination of complaints

- (1) The tribunal shall examine and determine a complaint referred to it by the Chief Justice.
- (2) The tribunal shall not determine a complaint which
 - (a) it considers frivolous or vexatious or is not made in good faith, or
 - (b) is the subject matter of an action before a Court, or
 - (c) it considers to be prejudicial to national security.

24. Proceedings at investigation

- (1) The tribunal may exclude from its proceedings persons, other than parties to the proceedings and their lawyers, where it considers it necessary in the interest of defence, public safety, public order, public morality or the protection of the private lives of persons concerned in the proceedings.
- (2) The tribunal may call a witness who, and request the production of documents, which it considers necessary in the interest of justice.
- (3) A witness appearing before the tribunal shall be paid travelling and any other allowances determined by the Chief Justice.
- (4) The tribunal shall give a fair hearing to the persons appearing before it, and for that purpose, the rules of procedure of the High Court shall apply to proceedings of the tribunal with the modifications that are necessary.

25. Notification to the director

The tribunal shall not commence the examination of a complaint referred to it by the Chief Justice unless it has submitted to the director of the intelligence

agency concerned a written notice together with the substance of the complaint.

26. Representation before tribunal

A person appearing before the tribunal may

- (a) make a representation to the tribunal,
- (b) be represented by a lawyer chosen by that person, and
- (c) produce the evidence that person considers necessary for the investigations.

27. Decision of the tribunal

- (1) On the conclusion of an investigation of a complaint the tribunal shall notify the director concerned and the complainant of its decision.
- (2) Where the tribunal decides that compensation in the form of money should be paid to the complainant, the tribunal shall direct that the money is paid from public funds.

28. Appeal to the Court of Appeal

An appeal against a decision of the tribunal lies as of right to the Court of Appeal.

29. Application for warrant

- (1) Where a director of an intelligence agency or an employee designated by the director, has reasonable grounds to believe that a warrant is required to enable the agency to perform a function under this Act, the director or the designated employee may apply for the issue of a warrant.

(2) The application for the warrant shall be made in writing to a Justice, the chairman of a tribunal or a senior police officer with the rank of superintendent or above.

30. Matters to be specified in an application for warrant

(1) An application for a warrant shall specify

(a) the facts relied on to justify the belief, or reasonable grounds, that a warrant is required to enable the intelligence agency to investigate a threat to security or to perform its functions under this Act;

(b) that the urgency of the matter is of a nature that it would be impracticable to carry out the investigation using other investigative procedures or that without a warrant under this section it is likely that information of importance relating to a threat to security or the performance of the functions under this Act would not be obtained;

(c) where the purpose is to intercept communication,

(i) the type of communication proposed to be intercepted, the type of information, records, documents or things proposed to be obtained and the powers in paragraphs (a) and (b) proposed to be used; and

(ii) the identity of the person, if known, whose communication is proposed to be intercepted or who has possession of the information, record, document or thing proposed to be obtained;

(d) the person or class of persons to whom the warrant is proposed to be directed;

(e) a general description of the place where the warrant is proposed to be executed, if a general description of that place can be given;

(f) the period, not exceeding sixty days, for which the warrant requested is to be in force where necessary;

(g) a previous application made in relation to a person identified pursuant to paragraph (c) (ii), the date on which the application was made, the name of the Justice to whom the application was made and the decision of the Justice in respect of the application.

(2) A warrant authorising the interception of communications shall be signed personally by a Justice of the Superior Court of Judicature.

31. Effect of warrant

(1) A warrant issued under section 29 shall authorise a person in a class of persons to whom the warrant is issued, to exercise the powers specified in the warrant for the purpose of intercepting communications, obtaining information, records, documents or things of the type specified in the warrant.

(2) The warrant shall further authorise the provision of assistance to the person exercising the powers specified in the warrant by a person who believes that, on reasonable grounds, that person is exercising the powers in accordance with a warrant.

Financial and Miscellaneous Provisions

32. Expenses of Council and the intelligence agencies

Parliament shall provide from the Consolidated Fund the moneys required for the expenses of the Council and the intelligence agencies.

33. Accounts and audit

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

(2) The books of account shall be audited by the Auditor-General each financial year.

34. Retirement benefits^{1a}

Officers and employees in the intelligence agencies are entitled, with respect to their employment in the intelligence agencies, to the retirement benefits that are applicable to the Police Service.

35. Oaths

(1) A director and any other employee of an intelligence agency shall, before the commencement of functions under this Act, take the oath of allegiance and the oath of secrecy provided in the Schedule.

(2) A director and any other employee shall on ceasing to be an employee, be sworn out of office in accordance with the oath provided in the Schedule.

36. Authorised disclosure of information

(1) An employee of an intelligence agency shall not disclose an information obtained in the performance of a function under this Act except as required by virtue of this Act or any other enactment.

(2) Despite subsection (1), an intelligence agency may permit the disclosure of information by an employee under this Act,

(a) to a public officer who has authority to investigate an alleged contravention of a law or to the Attorney-General, if the information is required for an investigation or prosecution;

(b) to the Minister responsible for Foreign Affairs, if the information relates to the conduct of the international affairs of the country;

(c) to the Minister responsible for Defence or a person designated by the Minister, if the information is relevant to the defence of the country;

(d) to the Chief Justice, if the information is required by a Court of competent jurisdiction;

(e) to a Minister of State or person in the public service, if in the opinion of the director the disclosure of the information is essential in the public interest, and the public interest outweighs an invasion of privacy that may result from the disclosure.

37. Offences to disclose information and identity

(1) Subject to the Constitution and to section 36, a person shall not disclose an information obtained by that person or to which that person had access in the performance of functions under this Act or to which that person had access in the administration or enforcement of this Act and from which there can be inferred the identity of

(a) any other person who is or was a confidential source of information or assistance to the intelligence agency, or

(b) a person who is or was an employee engaged in covert operational activities of the intelligence agencies.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a term of imprisonment not exceeding ten years.

38. Disclosure before Parliament

(1) An employee of an intelligence agency shall not be required to produce before Parliament a document or any other evidence where

(a) the Speaker certifies

(i) that the document or the other evidence belongs to a class of documents or evidence, the production of which is injurious to the public interest, or

(ii) that the disclosure of the evidence or of the contents of the document will be injurious to the public interest; or

(b) the Council certifies

(i) that the document or any other evidence belongs to a class of documents or evidence the production of which is prejudicial to the security of the Republic, or

(ii) that disclosure of the evidence or of the contents of the document will be prejudicial to the security of the Republic.

(2) Where there is doubt as to the nature of a document or any other evidence referred to in subsection (1), the Speaker or the Council shall refer the matter, in accordance with article 135 of the Constitution, to the Supreme Court for determination whether the production, or the disclosure of the contents, or the document or any other evidence would be injurious to the public interest or prejudicial to the security of the Republic.

39. Application of Evidence Act, 1975

The provisions on disclosure of information in this Act are without prejudice to the privileges conferred on a person under the Evidence Act, 19752 in relation to disclosure of evidence.

40. Protection of employees

Subject to the Constitution, an employee of an internal intelligence agency has in the performance of functions under this Act, the same rights and powers as are conferred by law on a police officer in the performance of functions and has the same protections.

41. Regulations

(1) The Council may, by legislative instrument, make Regulations for the effective implementation of this Act.

(2) Without limiting the effect of subsection (1), the Regulations may provide for matters on discipline of the employees.

(3) An instrument issued under this section signed personally by the President or the Minister assigned responsibility for the intelligence agencies.

42. Interpretation

In this Act, unless the context otherwise requires,

“co-ordinator” means the national security co-ordinator appointed under section 18;

“Council” means the National Security Council established by article 83 of the Constitution, and referred to in section 1;

“director” means the director of an intelligence agency;

“district security council” means a district security council established under section 5;

“employee” means a person who is appointed as an employee of the intelligence agencies or has become an employee of an agency under this Act whether by transfer, secondment or otherwise;

“functions” include powers and duties;

“intelligence agencies” means the internal or external intelligence agencies referred to in section 10;

“Justice” means a Justice of the Superior Court of Judicature;

“regional security council” means a regional security Council established under section 5;

“security services” means the services connected with national security as determined by the Council;

“threats to security” includes

(a) espionage or sabotage that is against the Republic or is detrimental to the interest of the Republic, or activities directed towards or in support of that espionage or sabotage;

(b) foreign influenced activities within or relating to the Republic that are detrimental to the interest of the Republic and are clandestine or deceptive or involve a threat to a person; or

(c) activities within or relating to the Republic directed towards or in support of the threat or use of acts of serious violence against persons or property for the purpose of achieving a political objective within the Republic or a foreign state.

43. Savings

A person employed for the Bureau of National Investigations or the Research Department immediately before the coming into force of this Act becomes, on the coming into force of this Act, an employee of the respective intelligence agency.

Schedule

FORMS OF OATH

[Section 35]

OATH OF OFFICE

I, _____ do (in the name of the Almighty God

swear) (solemnly affirm) that I will faithfully and impartially to the best of my abilities perform the functions required of me as (the director/an employee) of the intelligence agencies. So help me God.

OATH OF SECRECY ON TAKING OFFICE

I, _____ do (in the name of the Almighty God swear)

(solemnly affirm) that I will not, without due authority, disclose or make known to a person an information acquired by me by reason of the functions performed by me on behalf of or under the direction of the intelligence agencies or by reason of an office or employment held by me pursuant to the Security and Intelligence Agencies Act, 1996. So help me God.

OATH OF ALLEGIANCE

I, _____ do (in the name of the Almighty God swear)

(solemnly affirm) that I will bear true faith and allegiance to the Republic of Ghana; to the President of Ghana, to the Government of Ghana, as by law established; that I will uphold the sovereignty and integrity of the Republic of Ghana; and that I will preserve, protect and defend the Constitution of the Republic of Ghana. So help me God.

OATH OF SECRECY ON LEAVING OFFICE

I, _____ having resigned from my appointment in or

having had my appointment terminated by, the Internal and External Intelligence Agency, do hereby (in the name of God swear) (solemnly affirm)

that I will not directly communicate or reveal which was considered knowledge in the official duties save as may be specifically help me God.



or indirectly a matter to a person by me or came to my discharge of my former may be required for or as permitted by law. So

PART 3: INVESTMENT RELATED LAWS

FOREIGN EXCHANGE ACT, 2006 (ACT 723)

AN ACT to provide for the exchange of foreign currency, for international payment transactions and foreign exchange transfers; to regulate foreign exchange business and to provide for related matters.

23. Court orders and admissibility of evidence

(1) A Court may, in addition to a sanction imposed for an offence committed under this Act, make an order for the offender to comply with the requirement to give information or to produce a document within a specified period.

(2) The piece of information or a document obtained in accordance with sections 21 and 22 is admissible in evidence for the prosecution of the person from whom it was obtained.

24. Search and seizure

(1) If the Court is satisfied by information given under oath by a person authorised by the Bank to act for the purpose to determine

(a) that an offence under this Act has been or is being committed and that evidence of the commission of the offence has been found at the premises specified in the information or in the vehicle, vessel, aircraft or any other means of transport specified in the information, or

(b) that a document required to have been produced under sections 22 and 23 and which has not been produced, may be found at the specified premises or in the specified vehicle, vessel or aircraft, the Court may issue a search warrant authorising a police officer or an officer of the Customs, Excise and Preventive Service or the Immigration Service together with any other person indicated in the warrant, to enter at any time within one month from the date the warrant was issued

(c) the premises specified in the information, or

(d) any premises upon which the vehicle, vessel or aircraft may be as specified in the information.

(2) A person authorised by the warrant to search premises or the vehicle, vessel or aircraft, may

(a) search any person who is found in, or who the authorised person has a reasonable ground to believe has recently left or is about to enter, the premises or the vehicle, vessel or aircraft,

(b) seize

(i) property found on that person or on the premises or in the vehicle, vessel or aircraft, which the authorised person has reasonable ground to believe to have been used in connection with the commission or to be evidence of an offence under this Act; or

(ii) any document which the authorised person has reasonable ground to believe should have been produced as required by sections 21 (3) and 22 (2).

(3) An authorised person may use reasonable force to exercise a power mandated by a warrant.

(4) Where there is a reasonable ground to suspect that a person has committed an offence under this Act, a police officer or an officer of the Customs, Excise and Preventive Service or the Immigration Service shall seize any property in that person's possession or control which appears to that police officer or that officer of the Customs, Excise and Preventive Service or officer of the Immigration Service to be

(a) relevant evidence, or

(b) to have been used in connection with the commission of an offence in contravention of this Act.

(5) Where money is seized, the seizing authority shall deposit the money with the Bank by the next working day.

25. Notice

(1) Where property is seized as a result of a search, the person who effected the seizure shall, within one month after the seizure, give notice in writing of the seizure and the reasons for the seizure to the owner of the property.

(2) The requirement of notice is not applicable where

(a) the property was seized in the presence of the owner,

- (b) the owner of the property cannot be identified, or
- (c) within one month after the seizure, a person is charged with the offence for which the property has been seized.

(3) Where property is in the possession of a prescribed authority and a period of one month has lapsed from

- (a) the date of seizure, or
- (b) the date of notice of the seizure if the notice has been given,

the property shall, by order of Court, be forfeited to the Republic unless, within that period, the owner has claimed the property by giving notice of the claim in writing to the Bank.

(4) Where the Bank has received a notice of claim and a period of three months has elapsed from the date of receipt of the notice, the property shall be released to the owner unless, within that period, the Republic has instituted proceedings in a Court for the forfeiture of the property.

26. Recovery or forfeiture

(1) Where proceedings for the recovery or forfeiture of property have been instituted in a Court, the Court may order the property to be forfeited to the Republic if the Court finds that the property was used in connection with the commission of an offence under this Act.

(2) Where property has come into the possession of a prescribed authority, whether as a consequence of the seizure of the property or otherwise, the liability of the property to forfeitures shall not be affected by the fact that the owner of the property was not connected in any way which rendered the property liable to forfeiture.

27. Retention of seized property

(1) Despite the other provisions of this Act, where property is in the possession of a prescribed authority, whether in consequence of the seizure of the property or otherwise, and the prescribed authority is satisfied that there is a reasonable ground to suspect the property to be evidence of the commission of an offence under this Act, the prescribed authority may retain the property for a period of twelve months from the date it came into the prescribed authority's possession.

(2) If a person is within the twelve months period prosecuted for an offence under this Act and the property is or can be properly adduced in evidence, the property shall be retained by the prescribed authority until the prosecution has been determined.

(3) A prescribed authority is a person to whom power of the Bank is delegated, or on whom a function is conferred by this Act, including a police officer or an officer of the Customs, Excise and Preventive Service.

(4) The powers conferred by this section in relation to property shall be in addition to and not in derogation from, any power otherwise exercisable in relation to that property.

Miscellaneous Provisions

33. Interpretation

In this Act, unless the context otherwise requires,

“account” means a facility or an arrangement by which a financial institution does any one or more of the following:

- (a) accepts deposits of currency;
- (b) allows withdrawals of currency or transfers into or out of the account,

(c) pays cheques or payment orders drawn on a financial institution or cash dealer or collects cheques or payment orders on behalf of a person, and

(d) supplies a facility or an arrangement for a safe deposit box;

“authorised person” means an officer of the Customs, Excise and Preventive Service and any other person indicated in a warrant;

“Bank” means Bank of Ghana;

“bank” means any bank other than the Bank of Ghana;

“court” means court of competent jurisdiction;

“currency” means

(a) coins, money or notes of the Republic or of another country that is designated as legal tender and that circulates as and is customarily used and accepted as a medium of exchange in the country of issue,

(b) “travellers cheques” or other financial instruments denominated in the currency of Ghana or in foreign currency,

(c) any right to receive coins or notes in respect of a credit or balance with a financial institution or a non-resident;

“financial institution” means a licensed bank or other institution which carries on any form of financial business and that is specified as a financial institution by the Bank of Ghana;

“foreign currency” means a currency other than the legal tender of Ghana and includes travellers cheques and the right to receive foreign currency in respect of any credit or balance with a licensed bank or non-resident;

“foreign exchange” means

- (a) banknotes, coins or an electronic unit of payment in a currency other than the currency of Ghana which is, or has been legal tender outside Ghana;
- (b) financial instruments denominated in foreign currency; and

includes a right to receive banknotes or coins in respect of any balance at a financial institution located within or outside Ghana;

“foreign exchange business” means the business of buying, selling, borrowing, lending, receiving or paying foreign exchange;

“Governor” means the Governor of the Bank of Ghana;

“licensed dealer” means a person issued with a licence under this Act;

“local currency” means banknotes and coins issued by the Bank of Ghana and includes the right to receive the banknotes or coins in respect of a balance at a financial institution located within or outside Ghana;

“material particular” means of a substantial degree;

“Minister” means the Minister for Finance and Economic Planning;

“non-resident” means a person other than a resident of the country;

“notice” means publication in the mass media;

“payment” means a transfer of foreign exchange made for the purpose of

- (a) discharging a liability or acquiring an asset,
- (b) creating a balance at a financial institution that can be drawn upon, or

- (c) making a gift or a donation;

“person” includes a company or an association or body of persons corporate or unincorporated;

“prescribed authority” includes a court, a person on whom official functions are conferred by or under this Act, a police officer, an officer of the Customs, Excise and Preventive Service, other than an officer, a security agency of the Government or a person authorised by a security agency;

“resident” means—

- (a) a person who has been ordinarily resident in Ghana for one year or more,
- (b) the Government of Ghana and any of its diplomatic representatives located outside Ghana,
- (c) a company, firm or enterprise with the principal place of business or centre of control and management located in Ghana,
- (d) a branch of a company, firm or other enterprise with the principal place of business located outside Ghana, and
- (e) a corporation, firm or enterprise incorporated in Ghana,

and excludes a foreign diplomatic representative or an accredited official of that representation located within Ghana, an office of an organisation established by international treaty located within Ghana, or a branch of a company, firm or enterprise, with Ghana the principal place of business, located in Ghana;

“travellers cheque” means an instrument issued by a bank or similar institution which is intended to enable the person to whom it is issued to obtain bank notes or coins in the currency of Ghana or in a foreign currency from another person on the credit of the issuer;

“transaction” means the record of a financial business or conduct.

FREE ZONE ACT, 1995 (ACT 504)

As amended

THE FIVE HUNDRED AND FOURTH

ACT OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

THE FREE ZONE ACT, 1995

AN ACT to enable the establishment of free zones in Ghana for the promotion of economic development; to provide for the regulation of activities in free zones and for related purposes.

DATE OF ASSENT: 31ST AUGUST, 1995

BE IT ENACTED by Parliament as follows—

PART I—ESTABLISHMENT OF FREE ZONES BOARD AND RELATED PROVISIONS

Section 1—Establishment of Free Zones Board.

There is established by this Act a Board to be known as the Free Zones Board, referred to in this Act as the "Board".

Section 2—Composition of the Board.

(1) The Board shall consist of—

- (a) a Chairman who shall be the Minister for Trade and Industry; and
- (b) eight other persons four of whom shall be appointed from the private sector.

(2) The members of the Board shall be appointed by the President in consultation with the Council of State and shall include at least two women.

Section 3—Functions of the Board.

The functions of the Board are to—

- (a) grant licences to applicants under this Act;
- (b) assist applicants for licences under this Act by providing services for obtaining other relevant licences, permits and facilities;

(c) examine and recommend for approval agreements and treaties relating to the development and activities of the free zones;

(d) monitor the activities, performance and development of free zone developers and enterprises;

(e) ensure compliance by free zone developers and enterprises of this Act and any other laws relevant to free zone activities;

(f) register and keep records and data on the programmes of developers, operators and enterprises in free zones;

(g) perform such other functions as are incidental to the foregoing.

Section 4—Tenure of Office of Members of the Board and Allowances.

(1) A member of the Board other than the Chairman shall hold office for a term of four years and is eligible for re-appointment.

(2) A member of the Board other than the Chairman may at any time resign his office in writing addressed to the President through the Chairman or may be removed from office by the President in consultation with the Council of State for stated reasons.

(3) Members of the Board shall be paid such allowances as the Minister responsible for Finance shall determine.

Section 5—Meetings of the Board.

(1) The Board shall meet for the dispatch of business at such times and places as the Chairman may determine but shall meet at least once every month.

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

(3) The quorum for a meeting of the Board shall be five of the members.

(4) Questions at a meeting of the Board shall be determined by a majority of members present and voting and where there is equality of votes the person presiding shall have a casting vote.

(5) The Board may co-opt any person to attend any of its meetings except that a person co-opted does not have the right to vote on any matter before the Board for decision.

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

(7) A member of the Board who has an interest in a contract proposed to be entered into on behalf of the Board shall disclose in writing to the Board the nature of his interest and shall be disqualified from participating in any deliberations of the Board in respect of the contract.

(8) A member of the Board who infringes subsection (7) of this section is liable to be removed from the membership of the Board.

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

Section 6—Committees of the Board.

The Board may for the discharge of its functions appoint committees of the Board comprising members of the Board or non-members or both and may assign to them such functions as the Board may determine except that a committee composed entirely of non-members may only advise the Board.

PART II—ESTABLISHMENT OF FREE ZONES; DEVELOPERS OF FREE ZONES

Section 7—Declaration of Free Zone.

(1) Subject to the Constitution and any other enactment in force relating to the acquisition of property, the President may on the recommendation of the Board by notice published in the Commercial and Industrial Bulletin, declare—

(a) any area of land or building as a free zone;

(b) any airport, river port, seaport, or lake port as a free port.

(2) A declaration under subsection (1) of this section shall specify the area and the scope of activities in the free zone concerned.

Section 8—Qualification of Free Zone Developers.

(1) No person shall—

(a) develop;

(b) manage; or

(c) develop and manage a free zone unless it is a body corporate registered under the Companies Code, 1963 (Act 179) or a partnership registered under the Incorporated Private Partnership Act, 1962 (Act 152).

(2) The body corporate or partnership shall be licensed to develop, manage, or develop and manage the free zone under this Act.

Section 9—Rights and Responsibilities of a Free Zone Developer.

(1) Subject to the Constitution, a free zone developer may for the purpose of its activities—

(a) acquire land within the area declared in respect of it; and

(b) lease or sub-lease real property it owns, has leased or has the right to use, sell or lease and may sell or rent buildings to free zone enterprises.

(2) It shall be the responsibility of a developer to—

(a) construct and maintain buildings, warehouses, factory shells and provide or contract other persons to provide utilities or services such as water, electric power, telecommunications and sewerage;

(b) develop all other infrastructure necessary for the enhancement of the efficient and effective activities of the zone, in accordance with any regulations made under this Act;

(c) provide fencing and enclosures to separate the zone from the national customs territory, and ensure security of the zone;

(d) provide and contribute to the cost of facilities for such on site customs services as shall be determined by the Customs, Excise and Preventive Services (CEPS);

(e) undertake any investment or financial venture to facilitate and promote the development of the zone; and

(f) submit, within such periods as the Board may direct, reports on development in the relevant zone to the Board.

Section 10—Sub-Contracting by Developers.

(1) A licensed developer may undertake or sub-contract the management, control and promotion of the free zone development in the declared area.

(2) The developer shall apply for a licence for any person to whom a sub-contract has been given by it under subsection (1).

(3) The application for a licence for a sub-contract shall be made to the Board and shall be accompanied with the executed sub-contract.

PART III—FREE ZONE ENTERPRISES

Section 11—Export Free Zone Enterprises.

Subject to the provisions of this Act any person may apply for a licence to establish an enterprise in a free zone.

Section 12—Qualification of Enterprise.

(1) No person shall carry on a trade, business or industry within a free zone unless it is registered under—

(a) the Companies Code 1963 (Act 179); or

(b) the Incorporated Private Partnership Act, 1962 (Act 152) and is the holder of a licence authorising the carrying on of that trade, business or industry under this Act.

(2) A company or partnership qualified under subsection (1) and licenced under section 16 shall be referred to as a free zone enterprise.

Section 13—Rights and Responsibilities of a Free Zone Enterprise.

(1) A free zone enterprise shall have the right to produce any type of goods and services for export but shall not produce any goods that are environmentally hazardous.

(2) A free zone enterprise shall be free to—

(a) store, warehouse, pack, unpack and repack, divide, sub-divide, group, breakdown, assemble, disassemble, bottle, rebottle, can, recan, decant, alter, sample, display, grade, test, classify, mark, label, relabel, finish, handle, mix, combine, clean, manipulate, restore, join,

transform, transit and tranship, transfer, mount, refine, salvage, destroy, demolish, confect, process and manufacture any foreign or domestic raw material, intermediate, semi-finished or finished goods or components for export or re-export;

(b) render and sell any type of information processing, computer-aided design, computer-aided printing and publishing, software development tele-marketing and any other similar and related services;

(c) render and sell financial, banking, insurance, commercial, advisory, repair and maintenance, professional training and other services subject to all relevant laws and regulations for the time being in force; and

(d) carry out any other activities relevant to its licence as may be considered necessary by the Board.

Section 14—Change of Line of Production.

A free zone enterprise may change its production lines and process as often as it considers necessary subject to prior approval of the Board.

PART IV—LICENSING

Section 15—Application for Licences to Develop a Free Zone or operate an Enterprise in a Free Zone.

(1) An application for a licence to develop, manage or establish an enterprise in a free zone shall—

(a) be in writing;

(b) be submitted to the Secretariat of the Board;

(c) specify the zone to be developed or managed or both or the trade, business or industry for which the licence is required; and

(d) be accompanied with such information as the Board may require.

(2) The Board shall cause response to be made to an application within twenty-eight working days from the date of the receipt of the application.

Section 16—Grant of Licence to Developers and Enterprises.

(1) The Board may grant a licence authorising—

(a) the development or management or both of a free zone; or

(b) the carrying on of a trade, business or industry within the free zone.

(2) No licence shall be granted for the carrying on of—

(a) the business of banking, unless the applicant is also registered and licensed under the Banking Law 1989 (P.N.D.C.L. 225); or

(b) the business of insurance unless the applicant is also registered under the Insurance Law 1989 (P.N.D.C.L. 227).

(3) A licence issued under this section shall be under the signature of the Chairman of the Board.

Section 17—Conditions of Licence.

The Board may attach to a licence such conditions as it thinks appropriate concerning employment skills, development, impact on the environment, creation of job opportunities and degree of export orientation.

Section 18—Revocation.

(1) The Board may revoke a licence where it is satisfied that there has been a breach of condition attached to the licence.

(2) The Board may upon the request of the licensee vary at any time the conditions attached to the licence.

(3) Before revoking a licence, the Board shall give not less than fourteen working days notice of its intentions to the licensee and shall consider any representations made to it by the licensee.

Section 19—Register.

(1) The Board shall establish and maintain a register of licences granted under section 16 of this Act.

(2) There shall be entered in the register in respect of each licence—

(a) the name of the person to whom the licence is granted: and

(b) the zone to be developed or managed or both or the trade, business or industry to which the licence relates.

(3) The register shall be kept by the Board and shall be open for inspection by the public subject to such fee as the Board may determine.

Section 20—Transfer of Licence.

No licensee shall transfer a licence issued in respect of it to any other person without the prior approval of the Board.

PART V—IMPORT AND EXPORT

Section 21—Non-Application of Import Laws to Free Zones.

The laws for the time being in force relating to the importation and exportation of goods and services other than consumer goods for commercial purposes shall not apply to—

(a) the bringing of goods directly from a country outside Ghana into a free zone;

(b) the dispatch of goods for export out of a free zone to a country outside Ghana, except in so far as such laws are made applicable by regulations made under this Act.

Section 22—Exemption from Taxes of Import into Free Zone Area.

(1) The imports of a free zone developer, sub-contractor or enterprises into a free zone or single-factory zone shall be exempt from direct and indirect taxes and duties.

Section 23 —Sales in National Customs Territory.

(1) The Minister may by legislative instrument authorise the sales of up to 30 percent of the annual production of goods and services of a free zone and single factory zone enterprise to the national customs territory.

(2) Sales of goods from free zone enterprises or single factory zones to the national customs territory shall be considered as imports and shall be subject to the rules and regulations relating to imports into the national customs territory.

(3) Damaged or rejected goods, or samples may be sold by the free zones and single- factory zones to the national customs territory; and such goods shall be considered as part of the 30 percent of annual production of the free zones and single-factory zones authorised to be sold to the national customs territory and as such shall be subject to the applicable duties and taxes.

(4) An instrument issued under subsection (1) of this section shall provide penalties for contravention of any authority provided in it.

Section 24—Sales from National Customs Territory to Free Zones.

(1) Sales of goods and services by a domestic enterprise from the national customs territory to enterprises in the free zone and single-factory zone shall be considered as exports.

(2) A domestic enterprise shall be eligible to benefit from the prevailing export incentives available to a national exporter and shall not require an export licence for sale of any goods and services to enterprises in the free zone or single-factory zone.

(3) An enterprise in a free zone or single-factory zone may purchase goods and services sold by a domestic enterprise with local currency obtained through conversion of foreign currency through the banks and any licensed foreign exchange bureau.

Section 25—Entry into Free Zone by Officers.

(1) An authorised officer of any of the Revenue Services, member of the Police Force or an officer authorised by the Minister may, in the discharge of their official duties, at any time enter and inspect a free zone, buildings, aircraft, ships, boats or vehicles in the free zone.

(2) An officer exercising any power of entry or inspection shall on request produce his authorisation.

(3) Any person who prevents or obstructs an entry authorised by subsection (1) of this section or attempts to do so, commits an offence and is liable on summary conviction to a fine not exceeding US\$1,000 or its equivalent in cedis or imprisonment for a term not exceeding six months or to both.

Section 26—Responsibility of Customs, Excise and Preventive Service.

(1) The Customs, Excise and Preventive Service shall be responsible for the control of zero-rated goods—

(a) within a free zone;

(b) in transit between two free zones; and

(c) in transit between a free zone and a point of entry into or exit out of Ghana.

(2) The Minister after consultation with the Minister responsible for customs and excise and the Commissioner of Customs, Excise and Preventive Service may by legislative instrument make regulations—

(a) adopting or modifying for the purposes of this Act any of the regulations relating to customs operations;

(b) governing the movements of persons, vehicles or goods into and out of a free zone, from and out to other parts of the customs territory;

(c) covering the keeping, storage and handling of goods in free zones;

(d) covering the keeping and preserving of accounts and records in a specified form in respect of goods in free zones; and

(e) relating to the provision of security by bond or otherwise on goods in transit between free zones and points of entry and exit from and to other countries.

Section 27—Missing Dutiable Goods.

Where goods stored in a free zone are found to be missing without an acceptable explanation, the Commissioner may request the licensee to pay the duty on the goods at the rate in force at the time in addition to any penalty which may be imposed by the Commissioner.

PART VI—INCENTIVES

Section 28—Tax Concession.

(1) Free zone developers and enterprises granted licences under this Act shall be exempted from the payment of income tax on profits for the first ten years from the date of commencement of operation.

(2) The income tax rate after ten years shall not exceed a maximum of 8 per cent.

(3) A shareholder shall be exempted from the payment of withholding taxes on dividends arising out of free zone investments.

Section 29—Investors.

(1) A foreign investor may take and hold a maximum of 100 per cent of the shares in any free zone enterprise.

(2) A domestic investor may take and hold a maximum of 100 per cent of the shares in any export free zone enterprise.

(3) Foreign and domestic investors shall have equal status within the export free zones.

Section 30—Investment Guarantees, Transfer of Profits.

Subject to this section any enterprise in a free zone shall be guaranteed unconditional transfer through any authorised dealer bank in freely convertible currency of—

(a) dividends or net profits attributable to the investment;

(b) payments in respect of loans servicing where a foreign loan has been obtained;

(c) fees and charges in respect of any technology transfer agreement; and

(d) the remittance of proceeds (net of all taxes and other obligations) in the event of sale or liquidation of the enterprise or any interest attributable to the investment.

Section 31—Guarantee against Expropriation.

(1) No enterprise in a free zone shall be nationalized or expropriated by Government and no person who owns, whether wholly or in part, the capital of an enterprise shall be compelled by law to cede his interest in the capital to any other person.

(2) There shall not be any acquisition of an enterprise to which this Act applies by the state unless the acquisition is in the national interest or for a public purpose and under a law which makes provision for—

(a) payment of fair and adequate compensations; and

(b) a right of access to the High Court for the determination of the investor's interest or right and the amount of compensation to which he is entitled.

(3) Any compensation payable under this section shall be paid without undue delay and authorisation for its repatriation in convertible currency, where applicable, shall be issued.

Section 32—Dispute Settlement Procedures.

(1) Where a dispute arises between a licensee in a free zone and the Government in respect of any activities in the free zone, all efforts shall be made through mutual discussion to reach an amicable settlement.

(2) Any dispute between a licensee and the Government in respect of any activities in a free zone which is not amicably settled through mutual discussions may be submitted at the option of the aggrieved party to arbitration as follows—

(a) in accordance with the rules of procedure for arbitration of the United Nations Commission of International Trade Law; or

(b) in the case of a foreign investor, within the framework of any bilateral or multilateral agreement on investment protection to which the Government and the country of which the investor is a national are parties; or

(c) in accordance with any other national or international machinery for the settlement of investment disputes agreed to by the parties.

(3) Where in respect of any dispute, there is disagreement between the licensee and the Government as to the method of dispute settlement to be adopted, the choice of the licensee shall prevail.

Section 33—Operation of Foreign Currency Account.

(1) Each free zone enterprise shall be permitted to operate a foreign currency account with banks in Ghana.

(2) The terms and conditions under which the accounts shall be operated shall be set out in the licence granted under section 16 of this Act.

(3) The Central Bank shall be consulted by the Board on the terms and conditions referred to in subsection (2) of this section.

Section 34—Employment in Free Zones.

(1) Free zone developers and enterprises shall be free to negotiate and establish contracts of employment with employees that include wage scales, minimum working hours, employee suspension and dismissal, settlement of disputes arising between employers and employees, and other such terms of employment as shall be consistent with I.L.O. Conventions on workers rights and conditions of service.

(2) Work and resident permits shall be required for any foreign national who wishes to live in Ghana and work in a free zone.

(3) Application for work and resident permits for foreign employees of free zone enterprises shall be submitted to the Board which shall take the necessary action in consultation with the Immigration Service.

(4) A foreign employee shall pay appropriate tax to the Government of Ghana on income earned in Ghana including income earned in the free zone during that period of work in accordance with existing income tax legislation and subject to the provisions of any double taxation agreement between the Government of Ghana and the Government of the foreign employee.[As substituted by Free Zone (Amendment) Act, 2002 (Act 618)]

Section 35—Residence in Free Zones and Identity Cards.

(1) The Board shall issue identity cards to all employees of licensed operators in a free zone.

(2) A person who enters or leaves a free zone may be subject to inspection by any person authorised by the Board to do so.

(3) A person who obstructs or prevents any person authorised by the Board in performance of his functions under subsection (2) of this section commits an offence and is liable on summary conviction to a fine not exceeding US\$500.00 or its equivalent in cedis or to imprisonment for a term not exceeding six months or to both.

PART VII—ADMINISTRATION AND MISCELLANEOUS PROVISIONS

Section 36—Secretariat of the Board.

(1) The Board shall have a Secretariat.

(2) The Minister for Trade and Industry shall assign to the Secretariat of the Board such public officers as the Board may require for the implementation of its functions.

(3) The Minister may by legislative instrument make regulations on the functions of the Secretariat.

Section 37—Monies for Expenditure of the Board.

There shall be provided to the Board by Parliament such monies as it may require to meet its expenditure.

Section 38—Annual Report.

The Minister shall submit to Parliament as soon as practicable and in any event not more than six months after the end of each financial year a report dealing generally with the activities of the Board during the financial year to which the report relates.

Section 39—Offences by Corporate Bodies.

(1) Where an offence is committed under this Act, regulations made under this Act or any other law by a body of persons—

(a) where the body of persons is a body corporate every director and officer of the body corporate shall be deemed to be guilty of the offence; and

(b) where the body of persons is a firm or partnership every partner shall be considered to be guilty of the offence.

(2) A person shall not be guilty of an offence by virtue of this section if he proves that the act constituting the offence was committed by a person other than himself and without his knowledge or connivance and that he exercised all due diligence to prevent the commission of the offence having regard to all the circumstances.

Section 40—Smuggling.

A person who—

(a) in contravention of any provision of this Act carries or attempts to carry anything into or out of a free zone; or

(b) conceals anything with intent to illegally carry it into or out of a free zone,

commits an offence and is liable on conviction to imprisonment of not less than three months or more than five years.

Section 41—Regulations.

(1) The Minister may make regulations for the effective implementation of this Act including regulations which exempt licensed enterprises from the provisions of existing laws and regulations.

(2) Regulations may provide for offences and prescribe penalties for contravention which shall not exceed a fine of ₵2 million or imprisonment for a term not exceeding twelve months or both.

Section 42—Repeal.

The Ghana Industrial Free Zone Authority Decree 1979 (S.M.C.D. 157) is hereby repealed.

Section 43—Interpretation.

In this Act unless the context otherwise requires—

“Centre” means the Ghana Investment Promotion Centre;

“Commissioner” means the Commissioner of Custom, Excise, and Preventive Service;

“enterprise” means an industry, project, undertaking or business for commercial purposes or any part of it;

"free zone" means an area or building declared as a free zone by publication in the Commercial and industrial Bulletin and includes single factory zones, free port, free airport, free river or lake port;

"developer" means a person who acquires a free zone area and is licensed for its use or uses it for operations allowed under this Act or rents or sells it or provides services to enterprises which wish to carry on or are carrying on business within the zone and includes agents or sub contractors of the developer;

"domestic enterprise" means an enterprise incorporated in Ghana and operating outside a free zone;

"goods" include both animate and inanimate things;

"importer" and "exporter" mean respectively owner or person for the time being in possession of or beneficially interested in any goods at the time of the importation or exportation;

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

"single-factory zone" means a factory, or building declared as a free zone;

"national exporter" means any exporter other than a free zone exporter;

"Revenue Services" means the Customs, Excise and Preventive Service and the Internal Revenue Service.

Date of Gazette Notification: 15th September, 1995.

FREE ZONE REGULATIONS, 1996 (LI 1618)

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SCHEDULES

IN exercise of the powers conferred on the Minister responsible for Trade and Industry by sections 26 (2) and 41 of the Free Zone Act 1995 (Act 504), and after consultation with the Minister responsible for customs and excise and the Commissioner of Customs, Excise and Preventive Service in accordance with section 26 (2) of Act 504, these Regulations are made this 22nd day of February, 1996.

PART I—FREE ZONE DEVELOPERS

Regulation 1—Free Zone Areas.

(1) Where any area of land, building or any other place has been declared a free zone by the President under section 7 of the Act, any person who qualifies under the Act and desires to be a developer, may apply to the Board for a licence to develop in the free zone.

(2) Any person who qualifies under the Act may lease properties or propose properties he already owns for the creation, development and operation of a free zone.

Regulation 2—Application for Licence.

(1) Application for a developer's licence shall be in Form 1 specified in the Schedule to these Regulations, the form may be obtained from the Secretary to the Board and shall be submitted on completion to the Executive Secretary.

(2) The form shall consist of an original copy and three duplicates and shall on submission be accompanied with the following documents of the applicant—

- (a) copies of certificate of incorporation;
- (b) copies of company regulations;
- (c) partnership agreement where applicable; and
- (d) any other document the Board may direct.

Regulation 3—Consideration of Application.

(1) The Executive Secretary shall put the application before the Board as soon as the application documents are found to be in order and shall where insufficient information is provided, request the applicant to provide the missing information.

(2) An application submitted under regulation 1 shall be considered and determined by the Board and response shall be notified to the applicant within 28 working days of the receipt of the application at the Secretariat of the Board.

(3) Where an applicant is required to provide any further information for the purpose of his application by the Board, the application with the additional information supplied shall be determined by the Board and the applicant informed thereon within 28 working days of the supply of the information.

Regulation 4—Re-Submission of Application.

An applicant whose application is rejected for failure to satisfy any licensing condition on first application, may re-submit a fresh application for consideration by the Board; and the fresh application shall be dealt with within a period of 28 working days after the date of its receipt at the Secretariat of the Board.

Regulation 5—Grant of Developer's Licence and Commencement of Development.

(1) The Board may grant a free zone developer's licence in Form 2 specified in the Schedule to the applicant subject to such conditions as shall be attached thereto.

(2) A licensed developer shall commence development activities within 6 months of receipt of the free zone developers licence.

Regulation 6—Revocation of Developer's Licence.

(1) The Board may where it is satisfied that a licensee under this regulation has failed to utilize the licence contrary to any condition of the licence, revoke the licence.

(2) No licence shall be revoked by the Board unless the Board has given the licensee—

(a) at least 14 working days notice of its intention to revoke the licence;

(b) the reasons for the intended revocation;

(c) an opportunity to make representations to the Board; and any representations made have been considered by the Board.

(3) Where a developer's licence is revoked for inability to commence development within the stipulated period, and he wishes to be reconsidered for a new licence, a fresh application shall be submitted to the Board and there shall be attached to the application the reason why the new application should be reconsidered by the Board.

Regulation 7—Construction Activities.

(1) The construction of buildings, factory, shell and other related structures in a free zone shall conform to established building standards provided for the purpose by the planning authority and shall be in conformity with the building regulations or in accordance with other international standards recognised by the planning authority.

(2) A licensed developer shall for the purpose of development in the free zone—

(a) erect suitable fences or enclosures and provide markings that define, for customs and security purposes, the area of the free zone which is under his management and control;

(b) specify the places approved by the Board for persons, goods and vehicles entering or leaving the free zone; and

(c) provide such office accommodation, signs, notices and other facilities as the Board shall consider necessary to enable officers of C.E.P.S. carry out their duties.

Regulation 8—Compliance with Environmental Regulations.

A developer shall in his operations comply with the environmental regulations, standards, procedures and requirements laid by the Environmental Protection Agency; and shall accordingly within the free zone adopt operational practices which promote a safe and healthy environment in the free zone.

Regulation 9—Report to the Board.

A developer shall submit to the Board after every 6 months a report in Form 3 specified in the Schedule on his activities, performance and development in the free zone in respect of the preceding two years.

Regulation 10—Notification of Termination of Activities.

A developer who intends to terminate his operations shall notify the Board at least 6 months before the date of the termination of his activities.

PART II—FREE ZONE ENTERPRISES

Regulation 11—Application for Free Zone Enterprise Licence.

(1) A person who intends to operate as an enterprise in a free zone for a manufacture, commercial or service activity under the Act shall submit a completed relevant application in Form 4, 5 or 6 specified in the Schedule to these Regulations to the Executive Secretary to the Board.

(2) The form shall consist of an original and three duplicates and shall be submitted with the following documents of the applicant—

- (a) copies of certificate of incorporation;
- (b) copies of company regulations;
- (c) partnership agreement where applicable;
- (d) tax clearance certificate, where applicable;
- (e) evidence of possession or lease of real property or intention to acquire the property; and
- (f) any other document the Board may direct.

Regulation 12—Consideration of Application of Enterprise.

The provisions in regulations 3 and 4 on the consideration and reconsideration of an application for a developer's licence shall apply to an application of a free zone enterprise.

Regulation 13—Licence for Free Zone Enterprise.

(1) Upon approval of an application submitted to the Board under this Part, the Board shall issue a free zone enterprise licence in the relevant Form 7 provided in the Schedule to these Regulations to the applicant.

(2) The licence shall state specifically the activities to be carried on by the licensed enterprise.

(3) A free zone enterprise shall commence its operations within 6 months of the date of receipt of the licence.

(4) Where a licensed enterprise fails to start operations within the time specified in sub-regulation (3) of this regulation, the licence may on an application by the licensee be renewed only once by the Board.

Regulation 14—Revocation of Enterprise Licence.

(1) The Board may, where it is satisfied that a licensee under this regulation has failed to utilize the licence contrary to any condition of the licence, revoke the licence.

(2) No licence shall be revoked by the Board unless the Board has given the licensee—

(a) at least 14 working days notice of its intention to revoke the licence;

(b) the reasons for the intended revocation;

(c) an opportunity to make representations to the Board; and any representations made have been considered by the Board.

Regulation 15—Activities of Licensed Enterprise.

(1) A licensed enterprise shall carry on in the free zone only activities and operations authorised by the Board and specified in its free zone enterprise licence.

(2) Any new, modified or additional activities intended to be undertaken by a licensed enterprise shall be notified in writing to the Board at least 30 days before proceeding with the new, modified or additional activities and shall only be undertaken after approval by the Board.

Regulation 16—Compliance with Relevant Laws.

Every free zone enterprise shall comply with the Factories, Offices and Shops Act 1970 (Act 328) on health, safety and other standard requirements; and the provisions in regulations 7 and 8 of these Regulations relating to the erection of structures and compliance with environmental laws shall apply to every free zone enterprise.

Regulation 17—Erection of Fences, Etc.

(1) For the purpose of ensuring security and facilitating customs operations, free zone enterprises shall erect fences or enclosures which shall be at least 2.5m high.

(2) The enterprise or factory building shall be located at least 3 metres inside the enclosure; except that where the building for the factory is already in existence before the coming into force of these regulations, and the building does not comply with this requirement, an application may be made through the Board to the planning authority for an exemption.

Regulation 18—Annual Contribution for Administrative Services.

Each free zone enterprise shall pay to the Board the annual contribution determined by the Board towards the cost of general administrative service rendered by public officials for enterprises in the free zone.

Regulation 19—Reports to the Board.

The management of a licensed enterprise shall prepare and submit to the Board after every 6 months a report in Form 8 in the Schedule to these Regulations on the performance of the enterprise for the information of the Board.

Regulation 20—Notification of Termination of Activities.

The management of a licensed enterprise who intends to terminate the activities of the enterprise shall notify the Board at least 6 months before the termination of activities.

PART III—WORK, RESIDENCE AND ENTRY PERMIT

Regulation 21—Work, Residence and Entry Permit.

(1) A licensed developer and enterprise wishing to employ expatriates whose skills are not available in Ghana shall obtain work and resident permits for each foreign employee.

(2) A foreigner designated by a free zone investor to represent his interest shall obtain work and resident permits.

(3) Application for a work and resident permit shall be submitted to the Board at least two months prior to the intended date of employment.

(4) An application submitted under sub-regulation (3) shall be accompanied with a medical certificate of the state of health of the prospective employee endorsed by the employer.

(5) The Secretariat of the Board shall submit the application if found acceptable by the Board to the Immigration Service for processing.

(6) The duration of a resident permit for an employee in a free zone shall not exceed a period of 2 years.

(7) The following fees which include the processing fees of the Immigration Service shall be paid to the Board by an applicant in respect of the periods specified—

(a) 1st and 2nd year	..	US\$200.00 per annum
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- | | | |
|-------------------------|----|----------------------|
| (b) 3rd and 4th year | .. | US\$800.00 per annum |
| (c) 5th year and beyond | .. | US\$500.00 per annum |

(8) A work permit is not transferable and the fee is not refundable.

Regulation 22—Entry Visa.

(1) A foreign free zone investor or employee may obtain an entry visa from a Ghana Mission abroad or its accredited representative, but the permit may be obtained on arrival at a point of entry in Ghana if the Director of the Immigration Service has prior notification from the Board concerning the arrival of the investor or employee.

(2) A foreign investor or employee may be issued a temporary entry permit on arrival at a point of entry in the country pending the determination of his status by the Immigration Service in consultation with the Board.

PART IV—CUSTOMS OPERATIONS

Regulation 23—Entry of Goods into Free Zone.

(1) No goods shall be brought into a free zone for delivery unless the delivery is to a licensed developer or enterprise.

(2) Exemption from import duties and similar charges on goods for delivery in a free zone shall not be granted to any person other than a licensed developer or enterprise or his authorised agent.

(3) Customs documents relating to the importation or delivery of goods to a free zone shall bear the licence number of the licensed enterprise and a declaration that the goods are intended for delivery within the zone.

Regulation 24— Movement Into and Out of Free Zone.

(1) No person shall—

- (a) leave a free zone for any part of the national customs territory;
- (b) enter a free zone from the national customs territory;
- (c) remove or be concerned in the removal or bringing in of any vehicles between a free zone and any part of the national customs territory; or
- (d) remove or be concerned in the removal or bringing in of any goods between a free zone and any part of the national customs territory except at places on the perimeters of the free zones approved for the purpose by the Board either generally or for particular persons or particular classes of goods and during such hours as the Board may specify.

(2) Where in respect of any particular consignment, personnel or classes of goods, the Board—

- (a) approves places other than the ordinary or the known approved places; or
- (b) permits the movement of persons or vehicles between a free zone and any part of the national customs territory other than at the ordinary and known approved places; or
- (c) permits the removal or bringing in of goods at hours other than the ordinary known hours specified by the Board;

the approval or permission shall be subject to such special conditions as to security or otherwise as the Board shall impose and all persons concerned shall comply with the conditions.

Regulation 25—Declaration of Removal of Goods.

No person shall remove any goods from a free zone unless prior to the removal a declaration in Form 9 in the Schedule to these Regulations together with a completed C.E.P.S. Single Administration Document

(S.A.D.S.) has been delivered to an officer of C.E.P.S. at the free zone and any import duties or other duties applicable have been paid to C.E.P.S. or arrangements acceptable to C.E.P.S. have been made for its payment.

Regulation 26—Customs Check Point.

(1) A person leaving a free zone for another part of the State or entering a free zone from another part of the State shall stop at the customs check-point and shall allow the officer at the check-point to examine and take an account of any goods carried or conveyed by him.

(2) A person in charge of a vehicle whether leaving a free zone for another part of the State or entering a free zone from another part of the State shall stop at the customs check-point and shall allow the officer at the check-point to examine the vehicle and goods if any and take an account of any goods.

(3) A person who stops at a customs check-point shall answer such questions relating to his journey and to goods carried or conveyed by him as may be put to him by the officer at the check-point.

(4) A person conveying goods from a free zone into another part of the State or into a free zone from another part of the State shall carry with him a report or manifest in Form 9 in the Schedule to these Regulations, signed by the carrier of the goods and showing—

(a) a description and quantities of the goods in each package;

(b) the names and addresses of the consignor and consignee of each package, and where the consignor or consignee listed on the document is a licensed enterprise, the number of the licence.

(5) Form 9 shall be produced together with the goods to the officer at the customs check- point for inspection.

Regulation 27—Records of Movement of Goods.

(1) A licensed enterprise shall keep in respect of any trade, business or manufacture carried on by it in the free zone, records and accounts in such form as the Board shall approve, and within such period as the Board shall specify, in respect of goods—

(a) brought into or removed from the free zone by it;

(b) received by it from another licensed enterprise; and

(c) disposed of by it to another licensed enterprise.

(2) Records and accounts required to be kept under sub-regulation (1) of this regulation shall be kept at the business premises of the licensed enterprise.

(3) The records together with all other books and documents containing particulars on which the records and accounts are based, shall be preserved by the licensed enterprise for as long as any of the goods to which they relate remain within the free zone and in any event for at least 3 years from the making of the record.

Regulation 28—Inspection of Goods, Records and other Documents.

(1) A licensed enterprise shall at all times at the request of a customs officer allow the officer—

(a) to examine goods held by it within the free zone;

(b) to inspect and take extracts from records, trade books, accounts and other books and documents required to be kept by it under the Act and regulations made under it.

(2) A licensed enterprise of which a request has been made for inspection under sub-regulation (1) of this regulation shall forthwith produce the documents required, allow access to the goods and shall render to the customs officer assistance to enable him examine the goods, inspect the documents and take extracts where required.

Regulation 29—Temporary Export of Goods from a Free Zone for Purposes of Processing.

(1) Goods and semi processed products of a free zone enterprise may be temporarily exported to the national customs territory on approval from C.E.P.S. for a period not exceeding three months for further processing and returned to the free zone for final processing of manufacture and eventual export.

(2) Form 10 in the Schedule to these regulations shall be used for the purposes of temporarily exporting goods and shall be completed and delivered to the customs officer at the customs check-point.

Regulation 30—Exemption of Goods from Taxes and Duties.

(1) In accordance with sections 21 and 22 of the Act, imports and exports in transit to or from a free zone shall be exempt from customs duties, transit duties, tonnage taxes, excise duties and other direct and indirect taxes, charges and levies.

Regulation 31—Sales of 30 Percent in National Customs Territory.

(1) Thirty percent of the annual production of goods and services of a free zone enterprise may be sold in the national customs territory and shall be subject to the applicable taxes and duties.

(2) Goods given free of charge to any person in a free zone and intended to be used or consumed in the national customs territory outside the free zone shall be subject to the applicable taxes and duties and shall be regarded as part of the 30% of the total annual production to be sold in the national customs territory.

PART V—INDUSTRIAL RELATIONS

Regulation 32—Employment in Free Zone.

(1) Free zone employers shall be entitled to freely negotiate and establish contracts of employment with their employees that specify, among others, the wages, overtime payment, hours to be worked, employee suspension and dismissal conditions, settlement of disputes arising between employers and workers, and other terms of employment.

(2) Free zone employers shall pay to their employees wages which shall not be below the recommended minimum wage prevailing in the country at any given time.

Regulation 33—Application of Existing Labour Laws.

For the avoidance of doubt, and except otherwise provided by law, the laws, rules and regulations, on workers rights and conditions of service for the time being in force in Ghana in respect of social security and pensions, workmen's compensation, public holidays and under I.L.O. Conventions to which Ghana is a party shall apply to domestic employees of a free zone developer and enterprise.

Regulation 34—Training of Employees.

(1) Free zone employers shall utilise at least an additional one percent of their total wage and salary bill (excluding over-time pay, allowances and bonuses) towards the training of their employees from the country.

(2) The employers shall for the purpose of sub-regulation (1) furnish the Board with their training programmes and records every 6 months from commencement of work.

Regulation 35—Interpretation.

In these Regulations unless the context otherwise requires—

"Act" means the Free Zone Act, 1995 (Act 504);

"approved place" means a place on the perimeter of a free zone designated by the Board as the place where persons, goods and vehicles may enter and leave the free zone;

"Board" means the Free Zone Board established under section 1 of the Act;

"C.E.P.S." means the Customs, Excise and Preventive Service;

"Commissioner" means the Commissioner of C.E.P.S.;

"developer" has the same meaning as provided under the Act;

"free zone" and "goods" have the same meaning as provided under the Act;

"Planning authority" means any body or institution assigned responsibility by law to regulate construction of buildings and structures in the area of the free zone concerned; and

"zone" means a free zone.

Schedules

ACT 865 GHANA INVESTMENT PROMOTION CENTRE ACT, 2013

AN ACT to provide for the Ghana Investment Promotion Centre as the agency of Government responsible for the encouragement and promotion of investments in Ghana, to provide for the creation of an attractive incentive framework and a transparent, predictable and facilitating environment for investments in Ghana and for related matters.

The Ghana Investment Promotion Centre

1. Application of the Act

- (1) This Act applies to enterprises in Ghana.
- (2) Despite subsection (1), this Act shall not be interpreted to restrict compliance with the requirements of any other enactment.

2. The Centre

(1) There is established by this Act a body corporate to be known as the Ghana Investment Promotion Centre.

(2) For the performance of its functions, the Centre may acquire and hold movable and immovable property, dispose of property and enter into a contract and be engaged or participate in any other transaction.

(3) Where there is a hindrance to the acquisition of property, the property may be acquired for the Centre under the State Lands Act, 1961 (Act 125) and the cost shall be borne by the Centre.

3. Object of the Centre

The object of the Centre is to—

- (a) create an enhanced, transparent and responsive environment for investment and the development of the Ghanaian economy through investment; and
- (b) encourage, promote and facilitate investment in the country.

4. Functions of the Centre

The Centre shall for the purposes of attaining its object, actively encourage, promote and facilitate investments into and within Ghana, and shall—

- (a) formulate investment promotion policies and plans, promotional incentives and marketing strategies to attract foreign and local investments in advanced technology industries and skill-intensive services which enjoy good export market prospects;
- (b) initiate and support measures that will enhance the investment climate in Ghana for both Ghanaian and non-Ghanaian enterprises;

- (c) initiate, organise and participate in promotional activities such as exhibitions, conferences and seminars for the stimulation of investments, to present Ghana as an ideal investment destination;
- (d) collect, collate, analyse and disseminate information about investment opportunities and sources of investment capital, incentives available to investors, the investment climate and advise upon request on the availability, choice or suitability of partners in joint venture projects;
- (e) register, monitor and keep records of all enterprises in Ghana;
- (f) register and keep records of all technology transfer agreements;
- (g) identify specific projects and prepare project profiles on investments and joint venture opportunities in Ghana and attract interested investors for participation in those projects;
- (h) bring about harmonisation in investment policy formulation through coordination of the activities of all other institutions and agencies; and
- (i) perform any other functions that are necessary for the attainment of the objects of this Act.

Governance of the Centre

5. Governing body of the Centre

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

- (a) a chairperson;

- (b) the Governor of the Bank of Ghana or a representative of the Governor not below the rank of Deputy Governor;
- (c) the Director-General of the National Development Planning Commission;
- (d) a representative of the Ministry of Trade not below the rank of Deputy Minister;
- (e) a representative of the Ministry of Finance not below the rank of Deputy Minister;
- (f) the Chief Executive Officer of the Centre; and
- (g) four other members appointed from outside the Public Service at least two of whom are women and one nominated by the Private Enterprise Federation.

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

(3) The President shall, in making the appointments under this section, have regard to the expertise, knowledge and experience of the person in matters relating to investments and private sector development.

6. Functions of the Board

(1) The Board shall provide policy guidance and give advice to ensure the proper and effective performance of the functions of the Centre.

(2) The Board may, in the implementation of the objects of the Centre—

- (a) design, review, formulate and adopt a national strategy for promoting domestic and foreign investment;

- (b) approve the investment promotion operations and marketing plans proposed by the Chief Executive Officer for implementation by the Centre;
- (c) identify obstacles to investment in Ghana and make proposals and suggestions to the President through the Minister on steps which should be taken to remove the obstacles and foster effective linkages between the appropriate institutions and agencies towards the removal of obstacles of investment; and
- (d) make recommendations to the President through the Minister on incentives for the promotion of investment and the eligibility criteria for the incentives and priority areas of investment.

7. Tenure of Board members

- (1) A member of the Board shall hold office for a term not exceeding four years and is eligible for re-appointment for another term only.
- (2) Subsection (1) does not apply to the Chief Executive Officer of the Centre.
- (3) A member of the Board may at any time resign from office in writing addressed to the President.
- (4) A member of the Board who is absent from three consecutive meetings of the Board without a reasonable cause ceases to be a member of the Board.
- (5) The President may by a letter addressed to a member revoke the appointment of that member.
- (6) Where a member of the Board is, for a reasonable cause, unable to act as a member, the Minister shall determine whether the inability would result in the declaration of a vacancy.
- (7) Where there is a vacancy—

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

8. Meetings of the Board

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

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

(3) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, a member of the Board appointed by the President under section 5 (1) (d) shall be elected by the members present from among their number to preside.

(4) The quorum for a meeting of the Board is five members including the Chief Executive Officer or any person acting as the Chief Executive Officer.

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

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

(7) Except as otherwise expressly provided by this Act, the Board shall determine the procedures for its meetings.

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

9. Disclosure of interest

(1) A member of the Board who has an interest in a matter for consideration by the Board shall in respect of the deliberations of the Board on that matter—

- (a) disclose the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and
- (b) request to be recused from the deliberations of the Board in respect of that matter; and
- (c) not participate in the deliberations of the Board in respect of the matter.

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

- (a) fails to disclose that interest; or
- (b) fails to request to be recused and participates in the deliberations on the matter.

10. Establishment of committees

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

(2) A committee comprised entirely of non-members shall be advisory.

(3) Without limiting subsection (1), the Board shall have a committee to be known as the Technical Committee.

11. Technical Committee

(1) The Technical Committee comprises—

- (a) two representatives of the Centre including the Chief Executive Officer;
- (b) one representative, not below the rank of Director or analogous grade, of—
 - (i) the Ministry responsible for Finance;
 - (ii) the Ghana Revenue Authority;
 - (iii) the Bank of Ghana;
 - (iv) Environmental Protection Agency;
 - (v) Ghana Ports and Harbours Authority;
 - (vi) National Communications Authority;
 - (vii) Registrar-General's Department;
 - (viii) the Lands Commission;
 - (ix) the Ghana Immigration Service;
 - (x) the National Development Planning Commission;
and
- (c) one representative of the private sector nominated by the Private Enterprise Federation.

(2) The Technical Committee shall—

- (a) advise on the process and procedures to facilitate the acquisition of permits and licences and obtaining exemptions and access to utility services;
- (b) advise on the appropriate tax regimes for the enhancement of an enabling investment environment;
- (c) provide feedback on practical experiences and assist in the resolution of the operational challenges of investors;
- (d) provide technical information on the investment opportunities, regulations and policies for the purpose of attracting and retaining foreign direct investment in Ghana; and
- (e) perform any other function or activity that the Board may determine.

(3) A member of the Technical Committee other than the Chief Executive Officer shall hold office for a period of four years and is eligible for re-appointment but shall not be appointed for more than two terms.

(4) The Technical Committee shall hold its meetings on the dates and at the times and places that the Chief Executive Officer may determine, but shall meet at least once every three months.

(5) The Chief Executive Officer shall preside at meetings of the Technical Committee and in the absence of the Chief Executive Officer, the designated representative of the Chief Executive Officer shall preside.

(6) The Technical Committee may co-opt any person to attend a meeting of the Committee, except that a person who is co-opted shall not have a right to vote on any matter which is before the Committee for decision.

12. Allowances

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

13. Branch offices of the Centre

(1) The Board may establish branch offices of the Centre in places determined by the Board.

(2) A branch office of the Centre shall perform the functions of the Centre that the Board may direct.

14. Executive oversight

(1) The Centre is responsible to the President.

(2) The President may, in writing, designate a Minister to have oversight responsibility of the Centre.

(3) The Minister designated under subsection (2) may give directives to the Board on matters of policy and the Board shall comply.

Administration, Financial and Miscellaneous Matters

15. Chief Executive Officer of the Centre

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

(2) The Chief Executive Officer shall be a person who has appropriate qualifications, relevant experience and knowledge of the private sector, strong business orientation and proven experience in managing and motivating multidisciplinary teams of professionals.

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

(4) The Chief Executive Officer shall hold office for a period of not more than four years and may be eligible for reappointment for another term only.

16. Functions of the Chief Executive Officer

The Chief Executive Officer—

- (a) is responsible for the day-to-day administration of the Centre and is answerable to the Board in the performance of the functions under this Act;
- (b) shall perform any other functions determined by the Board; and
- (c) may delegate a function to an officer but shall not be relieved from the ultimate responsibility for the performance of the delegated function.

17. The Secretary and other staff of the Centre

(1) The Centre shall have an officer to be designated the Secretary who shall perform—

- (a) the functions of keeping accurate records of proceedings and decisions of the Board; and
- (b) other functions that the Board or the Chief Executive Officer may direct.

(2) The Centre shall have offices and staff that are necessary for the proper and effective performance of its functions.

(3) The President shall in accordance with article 195 of the Constitution appoint the officers and staff of the Centre.

(4) Other public officers may be transferred or seconded to the Centre or may otherwise give assistance to the Centre.

(5) The Board may for the efficient discharge of the functions of the Centre engage consultants and advisers that it considers necessary on terms and conditions that the Board considers necessary.

18. Divisions of the Centre

The Board may, on the recommendations of the Chief Executive Officer, create Divisions of the Centre that the Board considers necessary for the efficient discharge of the functions of the Centre.

19. Collaboration with other public institutions

Ministries, Departments, Agencies and other public institutions shall collaborate with the Centre in the performance of its functions under this Act.

20. Expenses and funds of the Centre

(1) The funds of the Centre include—

- (a) moneys approved by Parliament;
- (b) fees and charges that accrue to the Centre in the performance of its functions;
- (c) donations, grants and gifts; and
- (d) any other moneys that are approved by the Minister responsible for Finance.

(2) The Centre shall with the prior approval of the Minister responsible for Finance open a bank account into which moneys received by the Centre shall be paid.

(3) The Centre may—

- (a) invest the moneys in the manner approved by the Minister responsible for Finance; and
- (b) in consultation with the Minister responsible for Finance reinvest any of its investments.

(4) Despite subsection (3), the Centre shall not invest in government securities.

21. Accounts and audit of the Centre

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

(2) The Board shall submit the accounts of the Centre to the Auditor-General for audit within six months after the end of the financial year.

(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 Minister.

(4) The financial year of the Centre is the same as the financial year of the Government.

22. Annual report

(1) The Board shall submit to the President through the Minister, within two months after the receipt of the auditor's report, a report on the accounts, activities and operations of the Centre during the preceding year.

(2) The annual report of the Centre shall include—

- (a) a copy of the audited accounts of the Centre together with the Auditor-General's report on the audited accounts and

any further information that the Board considers appropriate; and

(b) any other information that the President may request.

(3) The President shall, through a Minister designated for the purpose, present to Parliament the report on the activities and operations of the Centre within two months after receiving the annual report of the Board.

23. Establishment of enterprises

A person who intends to establish an enterprise for the purposes of this Act shall incorporate or register the enterprise in accordance with the Companies Act, 1963 (Act 179) and other laws that are relevant to the establishment of the enterprise.

24. Registration of enterprises with the Centre

(1) An enterprise in which foreign participation is permitted under this Act shall after its incorporation or registration and before commencement of operations be registered with the Centre.

(2) The Centre shall within five working days from the date of receipt of a completed registration form register the enterprise if the Centre is satisfied that—

(a) all the relevant documents for registration are in order;

(b) the minimum foreign equity capital requirement has been complied with; and

(c) the fees required for registration has been paid.

(3) An enterprise in which foreign participation is permitted under this Act shall renew its registration with the Centre every two years.

25. Registration of wholly owned Ghanaian enterprises with the Centre

An enterprise which is wholly owned by a Ghanaian—

- (a) may after being incorporated or registered be registered with the Centre; and
- (b) after being registered with the Centre shall be entitled to the benefits and incentives set out in this Act.

26. Benefits and incentives

(1) An enterprise registered by the Centre is entitled to the benefits and incentives that are applicable to an enterprise of a similar nature under the Internal Revenue Act, 2000 (Act 592), Value Added Tax Act, 1998, (Act 546) and under Chapters 82, 84, 85 and 98 of the Customs Harmonised Commodity and Tariff Code Schedule to the Customs, Excise and Preventive Service (Management) Act, 1993 (P.N.D.C.L. 330) and any other relevant law.

(2) An enterprise whose plant, machinery, equipment or parts of the plant, machinery or equipment are not zero-rated under the Customs Harmonised Commodity and Tariff Code Schedule to the Customs, Excise and Preventive Service Management Act, 1993 (P.N.D.C.L. 330) may submit an application for exemption from import duties and related charges on the plant, machinery or equipment or the parts of the plant, machinery or equipment to the Centre for onward submission to the Minister responsible for Finance.

(3) The Centre shall before submitting a request for exemption to the Minister responsible for Finance determine whether the request will facilitate changes in technology and promote the specialised use of machinery, equipment or other items necessary for the establishment and operation of the enterprise.

(4) For the purpose of promoting identified strategic or major investments, the Board may in consultation with appropriate government agencies and with the approval of the President—

- (a) specify priority areas of investment and their applicable benefits and incentives; and
 - (b) negotiate specific incentive packages for strategic investments in addition to the incentives available to any enterprise under the tax, customs and other laws referred to in subsection (1).
- (5) The Board shall publish—
- (a) in the Gazette and on its website the criteria for determining what constitutes strategic investments and shall designate an investment that satisfies the criteria, as strategic investment; and
 - (b) the details of special incentives awarded through negotiation under this section.

Entry, Admission and Protection of Investment

27. Activities reserved for Ghanaians and Ghanaian owned enterprises

- (1) A person who is not a citizen or an enterprise which is not wholly owned by citizen shall not invest or participate in—
- (a) the sale of goods or provision of services in a market, petty trading or hawking or selling of goods in a stall at any place;
 - (b) the operation of taxi or car hire service in an enterprise that has a fleet of less than twenty-five vehicles;
 - (c) the operation of a beauty salon or a barber shop;
 - (d) the printing of recharge scratch cards for the use of subscribers of telecommunication services;

- (e) the production of exercise books and other basic stationery;
- (f) the retail of finished pharmaceutical products;
- (g) the production, supply and retail of sachet water; and
- (h) all aspects of pool betting business and lotteries, except football pool.

(2) The Minister in consultation with the Board may by legislative instrument amend the list of enterprises reserved for citizens and enterprises wholly owned by citizens.

28. Enterprises eligible for foreign participation and minimum foreign capital requirement

(1) A person who is not a citizen may participate in an enterprise other than an enterprise specified in section 27 if that person—

- (a) in the case of a joint enterprise with a partner who is a citizen, invests a foreign capital of not less than two hundred thousand United States Dollars in cash or capital goods relevant to the investment or a combination of both by way of equity participation and the partner who is a citizen does not have less than ten percent equity participation in the joint enterprise; or
- (b) where the enterprise is wholly owned by that person, invests a foreign capital of not less than five hundred thousand United States Dollars in cash or capital goods relevant to the investment or a combination of both by way of equity capital in the enterprise.

(2) A person who is not a citizen may engage in a trading enterprise if that person invests in the enterprise, not less than one million United States Dollars in cash or goods and services relevant to the investments.

(3) For the purpose of this section, “trading” includes the purchasing and selling of imported goods and services.

(4) An enterprise referred to in subsection (2) shall employ at least twenty skilled Ghanaians.

(5) The minimum foreign capital requirement of this section shall not apply to the foreign spouse of a citizen of Ghana to the extent that—

- (a) the foreign spouse is or has been married to a citizen of Ghana for a minimum period of five years continuously or holds an indefinite resident permit prior to registration of an enterprise;
- (b) the marriage has been duly verified as having been validly conducted; and
- (c) the foreign spouse is ordinarily resident in Ghana.

(6) A citizen of Ghana who loses the citizenship by reason of the assumption of the citizenship of another country shall not be required to comply with the minimum capital requirement of this section.

29. Export trading and other enterprises exempted

(1) The minimum capital requirement specified in section 28 does not apply to—

- (a) portfolio investments; or
- (b) an enterprise set up solely for export trading and manufacturing.

(2) For the purpose of this section, “export trading” includes export of goods or produce that originate from Ghana.

Investment Guarantees

30. Prohibition against discrimination

Unless specifically provided for under an applicable legislation—

- (a) a foreign investor, employer or worker shall enjoy the same rights and be subject to the same duties and obligations applicable to citizens;
- (b) the Centre, an official agency or any other legal representative of the Centre shall not discriminate against an investor from a particular country or give special treatment to a prospective foreign investor based on that investor's country of origin or nationality;
- (c) a foreign investor is subject to the same laws that apply to domestic enterprises, particularly in relation to—
 - (i) licences or other permits that are required of enterprises for conducting specific business activities;
 - (ii) maintenance of business books and records in accordance with the recognised accounting standards;
 - (iii) insurance requirements that apply to similar enterprises; and
 - (iv) taxes required to be paid by enterprises which engage in similar activity.

31. Guarantee against expropriation

(1) Subject to the Constitution, any other relevant law and subsections (2) and (3)—

- (a) an enterprise shall not be nationalised or expropriated by Government; and
- (b) a person who owns, whether wholly or in part, the capital of an enterprise shall not be compelled by law to cede that person's capital to another person.

(2) The Republic shall not acquire an enterprise to which this Act applies unless the acquisition is in the national interest or for a public purpose and the acquisition is done under a law which makes provision for—

- (a) payment of fair and adequate compensation; and
- (b) a right of access to the High Court for the determination of the investor's interest or right and the amount of compensation to which the investor is entitled.

(3) Compensation payable under this section shall be paid without undue delay and authorisation shall be granted for the repatriation of the compensation in convertible currency, where applicable.

32. Investment guarantees, transfer of capital, profits and dividends and personal remittances

Subject to the Foreign Exchange Act, 2006 (Act 723) and the Regulations and Notices issued under the Foreign Exchange Act, an enterprise shall, through an authorised dealer bank, be guaranteed unconditional transferability in freely convertible currency of—

- (a) dividends or net profits attributable to the investment made in the enterprise;
- (b) payments in respect of loan servicing where a foreign loan has been obtained;

- (c) fees and charges in respect of a technology transfer agreement registered under this Act; and
- (d) the remittance of proceeds, net of all taxes and other obligations, in the event of sale or liquidation of the enterprise or any interest attributable to the investment in the enterprise.

33. Dispute resolution procedures

(1) Where a dispute arises between a foreign investor and the Government in respect of an enterprise, effort shall be made through mutual discussion to reach an amicable settlement.

(2) A dispute between a foreign investor and the Government in respect of an enterprise to which this Act applies which is not amicably settled through mutual discussions within six months may be submitted at the option of the aggrieved party to arbitration as follows—

- (a) in accordance with the rules of procedure for arbitration of the United Nations Commission of International Trade Law; or
- (b) in the case of a foreign investor, within the framework of any bilateral or multilateral agreement on investment protection to which the Government and the country of which the investor is a national are parties; or
- (c) in accordance with any other national or international machinery for the settlement of investment dispute agreed to by the parties.

(3) Where in respect of a dispute, there is disagreement between the investor and the Government as to the method of dispute settlement to be adopted, unless there is any arbitration agreement to the contrary, the method of dispute settlement shall be mediation under the Alternative Dispute Resolution Act, 2010 (Act 798).

Expatriate Labour and Employment

34. Labour and employment

(1) An enterprise registered under this Act shall abide by the applicable labour legislation.

(2) Labour relations between an enterprise owned by an investor and the employees of the enterprise may be regulated by agreements made between the enterprise and the employees, but the agreements shall not establish standards lower than the mandatory requirements under the laws of Ghana.

(3) Subject to this Act and any other applicable legislation, an investor may employ—

(a) persons of any nationality to positions of management for the purpose of the conduct of investments and business activities; and

(b) non-managerial staff of any nationality, but a citizen of similar qualification and experience shall have the first option.

35. Automatic expatriate quotas

(1) An enterprise which has a paid up capital of—

(a) not less than—

(i) fifty thousand United States Dollars and not more than two hundred and fifty thousand United States Dollars is entitled to an automatic expatriate quota of one person;

(ii) two hundred and fifty thousand United States Dollars and not more than five hundred thousand United States Dollars is entitled to an automatic expatriate quota of two persons;

(iii) five hundred thousand United States Dollars and not more than seven hundred thousand United States Dollars is entitled to an automatic expatriate quota of three persons; and

(b) more than seven hundred thousand United States Dollars is entitled to an automatic expatriate quota of four persons.

(2) An enterprise that intends to employ an expatriate shall apply to the Centre for facilitation of the employment and the application shall specify the number of expatriates to be employed, in accordance with the quotas specified in subsection (1).

(3) The application shall be decided on by the Centre on the advice of the Ghana Immigration Service in consultation with the regulator of the relevant sector.

(4) Despite subsection (1), the Ghana Immigration Service may refuse to grant a visa to an expatriate to whom a quota relates, if the Ghana Immigration Service has sufficient reason to believe that that expatriate is not a desirable person who should be permitted to enter the country.

36. Assistance to enterprises

The Centre shall provide to an enterprise any assistance and guidance that the enterprise requires and act as a facilitator between the enterprise and relevant Ministries, Departments, Agencies and other public institutions.

37. Technology Transfer Agreements

(1) An enterprise may enter into a technology transfer agreement that the enterprise considers appropriate for the enterprise.

(2) A technology transfer agreement entered into under subsection (1) shall be registered with the Centre.

(3) The Centre shall maintain a record of technology transfer agreements.

- (4) The Centre on the receipt of a technology transfer agreement—
- (a) intended for registration shall review the agreement; and
 - (b) shall on registration of the agreement, monitor and ensure compliance with the terms and conditions of the agreement.
- (5) A technology transfer agreement registered under this Act comes into force on the date of the registration.
- (6) A technology transfer agreement may be renewed with the approval of the Centre and the regulator of the relevant sector and is subject to registration by the Centre.
- (7) A technology transfer agreement shall, in addition to this Act, be governed by Regulations in force relating to that agreement.

Compliance Monitoring and Appeals

38. Monitoring

- (1) The Centre shall monitor enterprises to which this Act applies to ensure compliance with this Act and Regulations made under this Act.
- (2) The Centre in the performance of its monitoring functions may request for relevant information from an enterprise and the enterprise shall comply with the request.
- (3) An enterprise shall permit an officer or designated agent of the Centre, who provides proof of identity, to enter its premises at a reasonable time in pursuance of the monitoring function of the Centre.

39. Appeal against decisions of the Centre

- (1) A person dissatisfied with a decision of the Centre may appeal to the Board of the Centre against the decision.

(2) The appeal shall be made within sixty days after the appellant has been informed of the decision.

(3) The Board shall within seven days after the receipt of the appeal set up a three member committee chaired by a member of the Board to determine the appeal.

(4) The committee shall, subject to the rules of natural justice and any procedures that may be prescribed by Regulations determine its own procedure.

(5) The committee shall determine an appeal within twenty-one days after the submission of the appeal and may—

- (a) affirm the decision of the Centre;
- (b) vary the decision of the Centre; or
- (c) revoke the decision of the Centre.

(6) A person dissatisfied with the decision of the Board may apply to the High Court for judicial review.

Offences and Penalties

40. Offences

A person commits an offence if that person—

- (a) is required by this Act to register with the Centre but fails to register or renew a registration with the Centre;
- (b) engages in an activity other than an activity for which that enterprise has been registered under this Act;

- (c) applies any benefit conferred by or under this Act for purposes other than the purpose for which the benefit was conferred;
- (d) refuses or neglects to give any information which the Centre reasonably requires for the purpose of this Act;
- (e) refuses without lawful excuse to admit an officer or a designated agent into the premises of that enterprise or otherwise obstructs an officer or a designated agent of the Centre in the performance of the functions of the officer or the designated agent;
- (f) deliberately or negligently submits false or misleading information to the Centre;
- (g) lets out a stall or store in a market to a foreigner; or
- (h) otherwise contravenes a provision of this Act.

41. Penalties

(1) An enterprise which commits an offence under section 40 is liable on summary conviction to a fine of not less than five hundred penalty units and not more than one thousand penalty units and in the case of a continuing offence to an additional fine of not less than twenty-five penalty units and not more than fifty penalty units in respect of each day that the offence continues.

(2) The Centre may in addition to the conviction under subsection (1), in consultation with the appropriate agency—

- (a) suspend the registration of an enterprise;
- (b) cancel the registration of an enterprise;

- (c) order the payment or part-payment to the appropriate agency of fees, taxes, duties and other charges in respect of which benefits were granted to the enterprise;
- (d) revoke some or all of the incentives granted to the enterprise;
- (e) advise the Bank of Ghana to suspend any remittance including transfer of capital, profits and dividends from or by that enterprise; and
- (f) take any other action that the Board considers appropriate.

42. Regulations

(1) The Minister in consultation with the Board may by legislative instrument make Regulations to—

- (a) prescribe for matters relating to technology transfer;
- (b) revise the list of enterprises reserved for citizens and enterprises wholly owned by Ghanaians;
- (c) prescribe procedures for the grant of licences and privileges or exemptions;
- (d) prescribe the fees available in respect of registration, licensee privilege and exemptions; and
- (e) prescribe generally for the effective implementation of this Act.

(2) The Board may make rules necessary for the efficient and effective implementation of this Act and the rules may provide for—

- (a) the procedure by which applications may be submitted for registration; and
- (b) the supervision, control and reporting of progress of an enterprise to which this Act applies.

(3) The Chief Executive Officer shall—

- (a) give public notice of the Regulations, rules and of amendments of the Regulations and rules; and
- (b) maintain at the offices of the Centre, a complete and updated set of the Regulations and rules for inspection by an interested party.

43. Interpretation

In this Act, unless the context otherwise requires—

“benefits” include facilities, entitlements and exemptions conferred on an enterprise to which this Act applies;

“Board” means the Board of Directors of the Centre appointed under section 5 (2);

“capital” means cash contributions, plant, machinery, equipment, buildings, spare parts, raw materials and other business assets other than goodwill;

“capital goods” means goods—

- (a) intended for use in the production of other goods and services and not intended for final consumption; or
- (b) which do not have multiple uses and can only be considered as inputs in the production of goods and services;

“Centre” means the Ghana Investment Promotion Centre established in section 2 (1) of this Act;

“Constitution” means the 1992 Constitution of the Republic of Ghana;

“direct investment” means investment made to acquire a lasting interest in an enterprise operating in the economy of Ghana and intended to give the investor an effective control in the management of the enterprise;

“enterprise” means an industry, project, undertaking or business or an expansion of that industry, undertaking, project or business or any part of that industry, undertaking, project or business;

“expropriation” means the compulsory acquisition of private property by Government for public use upon the payment of the appropriate compensation;

“finished pharmaceutical product” means any chemical substance or product meant for the consumption of the end user;

“foreign capital” means convertible currency, plant, machinery, equipment, spare parts, raw materials and other business assets other than goodwill that enters the country without an initial disbursement of the foreign exchange of this country and that are intended for the production of goods and services related to an enterprise to which this Act applies;

“foreign investor” means a non-citizen, natural or juridical, who makes an investment in the country pursuant to this Act;

“Ghanaian” means a citizen of Ghana or a company, partnership or association or body, whether corporate or unincorporated, which is wholly owned by a citizen of Ghana;

“Government” means any authority by which the executive authority of Ghana is duly exercised;

“indirect investment” means an act or contract by which an investor makes a contribution, whether tangible or intangible, to an enterprise in Ghana without

obtaining an equity interest in the enterprise but under which the investor is entitled to returns based on profits generated by the enterprise;

“investment” includes direct and indirect investments and portfolio investments;

“investment priority plan” means the investment priority plan prepared and published by the Centre;

“investor” means any person, natural or juridical, who makes an investment in the country including a foreign investor;

“joint venture” means an investment in an enterprise between a Ghanaian company or individual and a foreign company or individual;

“market” means a public place whether open or enclosed, established and managed by local custom, or specifically designated by the appropriate local government authority or its agents and which has selling sites in the nature of stores and stalls among others for the purpose of selling and buying;

“Minister” means the Minister designated in writing by the President of the Republic as the Minister responsible for the Centre under section 14;

“pharmaceutical product” means any chemical substance or product intended for use in the medical diagnosis, cure, treatment or prevention of disease;

“portfolio investment” means an investment in shares or bonds which are mandatorily convertible into shares or other securities traded on the Ghana Stock Exchange;

“priority area” means an area of investment determined to be of national priority pursuant to section 4;

“public service” means public service as defined in article 190 of the Constitution of the Republic of Ghana;

“strategic investment” means an investment in a priority area determined by the Board;

“technology transfer agreement” means an agreement with an enterprise which has a duration of not less than eighteen months and which involves—

(a) the assignment, sale and licensing of all forms of industrial property, except trademarks, service marks and trade names when they are not part of transfer of technology;

(b) the provision of technical expertise in the form of feasibility studies, plans, diagrams, models, instructions, guides, formulae, basic or detailed engineering designs, specifications and equipment for training, services involving technical advisory and managerial personnel and personnel training;

(c) the provision of technological knowledge necessary for the installation, operation and functioning of the plant and equipment, and turnkey projects; and

(d) the provision of technological knowledge necessary to acquire, install and use machinery, equipment, intermediate goods or raw materials which have been acquired by purchase, lease or other means;

“trading enterprise” means an enterprise which has its principal activity being the purchase and sale of goods, whether imported or not, and provision of services, whether the purchase and sale of goods and services are carried out in a market or any other place; and

“United States Dollars” or “US\$” means the lawful currency of the United States of America.

44. Repeals and savings

(1) The Ghana Investment Promotion Centre Act, 1994 (Act 478) is repealed.

(2) Despite the repeal under subsection (1), an enterprise registered under that Act shall subject to subsection (5) continue in force as if registered under this Act.

(3) An application pending before the Ghana Investment Promotion Centre established under the Ghana Investment Promotion Centre Act, 1994 (Act 478) is deemed to be pending before the Centre established in section 2.

(4) Where registration is continued in force by virtue of subsection (2), the registration shall in addition to other benefits that are applicable to the enterprise under this Act continue to enjoy the benefits applicable to that registration before the commencement of this Act.

(5) Despite the provision of section 28 (1) (a) of this Act, a joint venture or an enterprise which has been registered under the Ghana Investment Promotion Centre Act, 1994 (Act 478), before the commencement of this Act shall be considered to have been registered under this Act.

(6) An immigrant quota in existence immediately before the commencement of this Act in respect of an enterprise to which this Act applies shall continue in force until the immigrant quota expires or is renewed under this Act.

(7) A technology transfer agreement registered with the Ghana Investment Promotion Centre before the commencement of this Act is deemed to be registered with the Centre established by this Act.

45. Transitional provisions

(1) The assets, rights, obligations and liabilities of the Ghana Investment Promotion Centre established under the Ghana Investment Promotion Centre Act, 1994 (Act 478) and in force immediately before the commencement of this Act, are transferred to the Centre.

(2) A person in the employment of the Ghana Investment Promotion Centre immediately before the commencement of this Act shall, on the coming into force of this Act, be deemed to have been duly employed by the Centre 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 commencement of this Act.



PART 4:

INTERNATIONAL PROTOCOLS

**ECOWAS PROTOCOL RELATING TO FREE
MOVEMENT OF PERSONS, RESIDENCE
AND ESTABLISHMENT (A/P.1/5/79)**

CONTRACTING PARTIES

RECALLING that sub-paragraph (d) of paragraph 2 of Article 2 of the Treaty of the Economic Community of West African States calls on Member States to ensure by stages the abolition of the obstacles to free movement of persons, services and capital; **RECALLING** also that paragraph 1 of Article 27 of the Treaty of the Economic Community of West African States confers the status of Community citizenship on the citizens of Member States, and also enjoins Member States to abolish all obstacles to freedom of movement and residence within the Community; **RECALLING** further that paragraph 2 of Article 27 of the Treaty of the Economic Community of West African States further calls on Member States to exempt Community citizens from holding visitor's visa and residence permits and allow them to work and undertake commercial and industrial activities within their territories; **CONVINCED** of the need to spell out in this Protocol the various stages to be undergone to accomplish complete freedom of movement as envisaged by sub-paragraph (d) of paragraph 2 of Article 2 and Article 27 of the Treaty of the Economic Community of West African States; **HAVE AGREED AS FOLLOWS:**

PART I Definitions

ARTICLE 1

In this Protocol: "**Treaty**" means the Treaty of the Economic Community of West African States; "**Council of Ministers**" means the Council of Ministers established by Article 6 of the Treaty of the Economic Community of West African States; "**Executive Secretary**" means the Executive Secretary of the Economic Community of West African States; "**Commission**" means the Trade, Customs, Immigration, Monetary and Payments Commission established by Article 9 of the Treaty of the Economic Community of West African States; "**Community**" means the Economic Community of West African States;

Member State" or "**Member States**" means a Member State or Member States of the Economic Community of West African States; "**A citizen of the Community**" means a citizen of any Member State; "**A valid travel document**" means a passport or any other valid travel document establishing the identity of the holder with his photograph, issued by or on behalf of the

Member State of which he is a citizen and on which endorsement by immigration and emigration authorities may be made. A valid travel document shall also include a laissez-passer issued by the Community to its officials establishing the identity of the holder.

PART II General Principles on Movement of Persons, Residence and

Establishment

ARTICLE 2

1. The Community citizens have the right to enter, reside and establish in the territory of Member States. 2. The right of entry, residence and establishment referred to in paragraph 1 above shall be progressively established in the course of a maximum transitional period of fifteen (15) years from the definitive entry into force of this Protocol by abolishing all other obstacles to free movement of persons and to the right of residence and establishment. 3. The right of entry, residence and establishment which shall be established in the course of a transitional period shall be accomplished in three phases, namely: Phase I – Right of Entry and Abolition of Visa Phase II – Right of Residence Phase III – Right of Establishment 4. Upon the expiration of a maximum period of five (5) years from the definitive entry into force of this Protocol the Commission, based upon the experience gained from the implementation of the first phase as set out in Article 3 below, shall make proposals to the Council of Ministers for further liberalization towards the subsequent phases of freedom of residence and establishment of persons within the Community and these phases shall be dealt with in subsequent Annexes to this Protocol.

PART III Implementation of the First Phase:

Abolition of Visas and Entry Permit

ARTICLE 3

1. Any citizen of the Community who wishes to enter the territory of any other Member State shall be required to possess valid travel document and international health certificate. 2. A citizen of the Community visiting any

Member State for a period not exceeding ninety (90) days shall enter the territory of that Member State through the official entry point free of visa requirements. Such citizen shall, however, be required to obtain permission for an extension of stay from the appropriate authority if after such entry that citizen has cause to stay for more than ninety (90) days.

ARTICLE 4

Notwithstanding the provisions of Article 3 above, Member States shall reserve the right to refuse admission into their territory any Community citizen who comes within the category of inadmissible immigrants under its laws.

PART IV Movement of Vehicles for the Transportation of Persons

ARTICLE 5

In order to facilitate the movement of persons transported in private or commercial vehicles the following provisions shall apply:

1. Private Vehicles

A private vehicle registered in the territory of a Member State may enter the territory of another Member State and remain there for a period of ninety (90) days upon presentation of the documents listed hereunder to the competent authority of that Member State:- (i) Valid driving licence (ii) Matriculation Certificate (Ownership Card) or Log Book (iii) Insurance Policy recognised by Member States.(iv) International Customs carnet recognised within the Community.

2. Commercial Vehicles

A commercial vehicle registered in the territory of a Member State and carrying passengers may enter the territory of another Member State and remain there for a period not exceeding fifteen (15) days upon presentation of the documents listed, hereunder to the competent authority of that Member State: (i) Valid driving licence (ii) Matriculation Certificate (Ownership Card) or Log Book (iii) Insurance Policy recognised by Member States (iv)

International customs carnet recognised within the Community. During the period of fifteen (15) days the commercial motor vehicle shall however not engage in any commercial activities within the territory of the Member State entered.

PART V Miscellaneous Provisions

ARTICLE 6

Each Member State shall deposit at the Executive Secretariat specimen of travel documents defined in Article 1 in the present Protocol with a view to communicating them to all Member States.

ARTICLE 7

Any dispute that may arise among Member States regarding the interpretation or application of this Protocol shall be amicably settled by direct agreement. In the event of failure to settle such disputes, the matter may be referred to the Tribunal of the Community by a party to such disputes and the decision of the Tribunal shall be final.

ARTICLE 8

1. Any Member State may submit proposals for the amendment or revision of this Protocol. 2. Any such proposals shall be submitted to the Executive Secretary who shall communicate them to other Member States not later than thirty days after the receipt of such proposal. Amendments or revisions shall be considered by the Council of Ministers after Member States have been given one month's notice thereof.

ARTICLE 9

Member States undertake to co-operate among themselves by exchanging information on such matters that are likely to affect the effective implementation of this Protocol. Such information shall also be sent to the Executive Secretary for necessary action in accordance with the provisions of the Treaty.

ARTICLE 10

The provisions of this Protocol shall not operate to the prejudice of citizens of the Community who are already in residence and establishment in a Member State provided they comply with the laws in general and in particular the immigration laws of that Member State.

ARTICLE 11

1. A decision to expel any citizen of the Community from the territory of a Member State shall be notified to the citizen concerned as well as the government of which he is a citizen and the Executive Secretary of ECOWAS. 2. The expenses incurred in the expulsion of a citizen shall be borne by the Member State which expels him. 3. In case of expulsion the security of the citizen concerned as well as that of his family shall be guaranteed and his property protected and returned to him without prejudice to his obligations to third party. 4. In case of repatriation of a citizen of the Community from the territory of a Member State, that Member State shall notify the government of the State of origin of the citizen and the Executive Secretary. 5. The cost of repatriation of a citizen of the Community from the territory of a Member State shall be borne by the citizen himself or in the event that he is unable to do so by the country of which he is a citizen.

ARTICLE 12

The provisions of the present Protocol shall not affect more favourable provisions contained in agreements that have already been concluded between two or among several Member States.

PART VI Final Provisions:

Deposit and Entry into Force

ARTICLE 13

1. This Protocol shall enter into force provisionally upon signature by Heads of State and Government of Member States and definitively upon ratification by at least seven signatory States in accordance with the constitutional procedures applicable for each signatory State. 2. This Protocol and all the instruments of ratification shall be deposited with the Executive Secretariat which shall transmit certified true copies of this Protocol to all Member States and notify them of the dates of deposits of the instruments of ratification and shall register this Protocol with the Organisation of African Unity, the United Nations and such other organisations as the Council shall determine. 3. This Protocol shall be annexed to and shall form an integral part of the Treaty. IN FAITH WHEREOF WE THE HEADS OF STATE AND GOVERNMENT OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES HAVE SIGNED THIS PROTOCOL **DONE AT DAKAR THIS 29TH DAY OF MAY 1979 IN SINGLE ORIGINAL IN THE ENGLISH AND FRENCH LANGUAGES, BOTH TEXTS BEING EQUALLY** *Signed H.E. Colonel Mathieu KEREKOU President of People's Republic of Benin* *Signed H.E. Mr. Aristides PEREIRA President of the Republic of Cape Verde*

Signed H.E. General Frederick William Kwasi AKUFFO The Head of State and Chairman of the Supreme Military Council of Republic of GHANA

Signed H.E. Dr. Lansana Beavogui Prime Minister For and on behalf of the Head of State and Commander-in-Chief of the People's Revolutionary Armed Forces of President of

*the People's Revolutionary
Republic of GUINEA*

**Signed H.E. Mr. Felix HOUPHOUET-
BOIGNY** *President of the Republic of
IVORY-COAST*

Signed H.E. Mr. Luiz Cabral
*President of the Republic of
Guinea Bissau*

GHANA VISA REGIME

S/NO	COUNTRY/ORGANISATION	VISA REQUIREMENT
1.	ECOWAS States: Nigeria, Senegal, Gambia, Guinea, Guinea Bissau, Sierra Leone, Burkina Faso, Togo, Ivory Coast, Mali, Niger, Liberia, Benin, Cape Verde	Visa not required for all types of passports
2.	Cuba, Brazil, Iran, Hong Kong, Germany	Visa not required for Service and diplomatic passport holders
3.	Singapore, Trinidad and Tobago, Mauritius	Visa not required for all types of passports
4.	Southern and Eastern African countries: Lesotho, Botswana, Namibia, Malawi, Swaziland, Tanzania, Uganda, Zimbabwe, Kenya	Visa not required for all types of passports
5.	African Union, Regional Economic Communities, United Nations and its specialised agencies	Visa not required for official passports
6.	Egypt and Rwanda	Gratis visa
7.	Member States of African Union	Visa required

APPENDIX

Domestic Laws Reviewed

1. Human Trafficking Act, 2005 (Act 694)
2. Appointment of Public Prosecutors (amendment) Instruments.1980. (E.I 7)
3. Diplomatic Immunities Act 1962 (Act 148)
4. Passports and Travel Documents Act, 1965 (N.L.C.D 155)
5. Refugees Act, 1992 (PNDCL 305D)
6. Anti-Money Laundering, 2008 (Act 749)
7. Anti-Money Laundering Regulations, 2011 (L.I 1987)
8. Criminal Offences Act,1960 (Act 29)
9. Economic and Organized Crime Office Act, 2010 (Act 804)
10. Evidence Act, 1975 (Act 323)
11. Ghana Maritime Security Act, 2004 (Act 675)
12. National Commission on Small Arms and Light Weapons Act, 2007 (Act 736)
13. Companies Act, 1960 (Act 179)
14. Factories Offices and Shops Act 1970 (Act 328)
15. Minerals and Mining Act, 2006 (Act 703)
16. Executive Instrument 2 (E.I. 2)
17. Aliens Enterprises Licensing Regulation 1970 (L.I. 670)
18. Children's Act, 1998 (Act 560)
19. Environmental Protection Agency Act, 1994 (Act 490)
20. Immigration Service Act,1989 (PNDC Law 226)
21. Data Protection Act, 2012 (Act 843)
22. Extradition Act, 1960 (Act 22)
23. Flag and Arms Protection Act 1959 (No. 61)
24. Foreign Enlistment Act, 1961 (Act 75)
25. Narcotic Drugs (Control, Enforcement and Sanctions) Law, 1990 (PNDCL 236)
26. National Identity Register Act 2008 (Act 750)
27. Ghana Maritime Authority Act, 2002 (Act 630)

28. Internal Revenue Act, 2000 (Act 592)
29. Labour Act, 2003 (Act 651)
30. Labour Regulations, 2007 (L.I. 1833)
31. Maritime Zones (Delimitation) Act 1986 (PNDCL 159)
32. Security and Intelligence Agencies Act, 1996 (Act 526)
33. State Secrets Act, 1962 (Act 101)
34. Whistleblower Act, 2006 (Act 720)
35. Fisheries Act, 2002 (Act 625)
36. Forestry Commission Act, 1999 (Act 571)
37. Minerals Commission Act, 1993 (Act 450)
38. Mutual Legal Assistance Act, 2010 (Act 807)
39. Petroleum Commission Act, 2011 (Act 821)
40. Petroleum (Local Content & Local Participation) Regulations, 2003 (LI 2204)
41. Tourism Act, 2011 (Act 817)
42. Credit Reporting Act, 2007 (Act 726)
43. Electronic communication Act, 2008 (Act 775)
44. Gaming Act, 2006 (Act 721)
45. Fees and Charges (Miscellaneous Provisions) Act, 2009 (Act 793)
46. National Identification Authority, 2006 (Act 770)
47. National Pensions Act, 2008 (Act 766)
48. Representation of the People's Amendment Act, 2006 (Act 609)
49. Statistical Service Act, 1985 (PNDCL 135)
50. Marriages Act, 1884-1895 (Cap 127)
51. Forests Act, 1927 (Cap 157)

International Conventions and protocols reviewed

1. International Convention for the Suppression of the Traffic in Women and Children, 30/09/1921;
2. Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of other, 21/03/1950;
3. Final Protocol to the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of other, 21/03/1950;
4. Protocol relating to the Status of Refugees, 1967;
5. International Convention on the Protection of the Rights of Migrant Workers and Members of their Families (1990);

6. UN Convention Against Transnational Organized Crime, 2000;
7. UN Protocol Against Smuggling of Migrants by Land, Sea and Air, 2000;
8. UN Protocol to Prevent, suppress and Punish Trafficking of Persons, Especially Women and Children, 2000;
9. African Charter on Human and Peoples' Rights, 1981;
10. African Charter on the Rights and Welfare of the Child, 1997;
11. ECOWAS Protocol relating to Free Movements of Persons, Residence and Establishment, 1986;
12. ECOWAS Supplementary Protocol on the Second Phase on Free Movement of Persons (Rights of Residence), 1986;
13. ECOWAS Supplementary Protocol on the Implementation of the Third Phase (Right of Establishment) of the Protocol relating to Free Movements of Persons, Residence and Establishment, 1990;
14. International Convention on the Protection of the Rights of All Migrant Workers and members of their Families, New York;

Final Protocol to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, New York;

GHANA VISA REGIME

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