

**P.N.D.C.L.64**

**GHANA NATIONAL PETROLEUM CORPORATION ACT, 1983**

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**P.N.D.C.L. 64**

**GHANA NATIONAL PETROLEUM CORPORATION ACT, 1983**

**AN ACT to provide for the establishment of the Ghana National Petroleum Corporation and for related matters.**

Establishment of the Corporation

**1. Establishment of Ghana National Petroleum Corporation**

- (1) There is hereby established a body corporate to be known as the Ghana National Petroleum Corporation.
- (2) The Corporation shall have perpetual succession and a common seal and may sue and be sued in its corporate name.
- (3) The Corporation may, for and in connection with the carrying out of its objects, acquire, hold and dispose of movable and immovable property and may enter into a contract or any other transactions.
- (4) Where there is a hindrance to the acquisition by the Corporation of property, the property may be acquired for the Corporation under the State Property and Contracts Act, 1960 (C.A.6), or under the State Lands Act, 1962 (Act 125), and each Act shall apply to an acquisition with the modifications that are necessary to provide for the vesting of the property acquired in the Corporation and for the cost of the acquisition to be defrayed by the Corporation.

**2. Objects and functions of the Corporation**

- (1) The objects of the Corporation are to undertake the exploration, development, production and disposal of petroleum.
- (2) Without limiting the generality of subsection (1), the Corporation shall
  - (a) promote the exploration and the orderly and planned development of the petroleum resources of the Republic;
  - (b) ensure that the Republic obtains the greatest possible benefits from the development of its petroleum resources;

1. This Act was issued as the Ghana National Petroleum Corporate Law, 1983 (P.N.D.C.L 64) made on the 16th day of June, 1983 and notified in the *Gazette* on 5th August, 1983.

- (c) obtain the effective transfer to the Republic of appropriate technology relating to petroleum operations;
  - (d) ensure the training of citizens and the development of national capabilities in all aspects of petroleum operations; and
  - (e) ensure that petroleum operations are conducted in such manner as to prevent adverse effects on the environment, resources and people of Ghana.
- (3) Subject to this Act and any other enactment the Corporation may
- (a) advise the Minister and the National Energy Board on matters relating to petroleum operations;
  - (b) engage in petroleum operations, alone or in association with others;
  - (c) enter into petroleum exploration and production agreements and any other petroleum contracts providing for the assistance, participation or co-operation of contractors in connection with petroleum operations;
  - (d) alone or in association with others, buy, sell, trade, store, exchange, import or export petroleum and for this purpose, acquire or operate any installations, facilities or means of transportation;
  - (e) engage in research and development programme related to petroleum; and
  - (f) engage in any other activities, alone or in association with others, as may be necessary or desirable for the carrying out of petroleum operations.

### **3: Powers of the Corporation**

The Corporation shall for the attainment of its objects under section 2 exercise the following powers:

- (a) with the approval of the Minister, form subsidiary and affiliate companies, branches or agencies in or outside the Republic to carry out activities which the Corporation is authorised to undertake;
- (b) enter into contracts and agreements with individuals or firms in or outside the Republic and with the approval of the Minister purchase or own shares in other companies engaged in activities related to the objects of the Corporation or sell or transfer those shares;
- (c) purchase, lease, establish, complete, expand, repair and manage factories, plants, installations and facilities that are necessary in connection with the exploration, development, production and disposal of petroleum and subject to the approval required by an enactment, provide and manage road, marine and aviation communications as well as means of transport and any other facilities;
- (d) to execute service or work contracts or consultancy agreements with firms or individuals, either citizens or otherwise;
  - (e) to own patent rights and to acquire licences and leases and the right to obtain and use any kind of information concerning inventions, designs and processes relating to the petroleum industry;
- (j) to execute agreements with purchasers for the export of crude oil and natural gas.

- (g) where expedient, to employ agents or contractors to carry out petroleum operations on its behalf;
- (h) to establish welfare and provident funds for the benefit of its employees; and
- (j) to do any other things and perform any other functions necessary or expedient for the purpose of attaining its objects and carrying out its activities.

#### **4. Corporation set up as a commercial venture**

(1) The Corporation shall conduct its affairs on sound commercial lines and, in particular, shall take the necessary steps to ensure that, taking one year with another, its revenues are sufficient to produce on the fair value of its assets, a reasonable return.

(2) In determining what constitutes a reasonable return, the Corporation shall take into account the relevant economic and financial considerations, including but not limited to the need to generate net operating income in an amount sufficient,

- (a) to meet interest payments on borrowings and to provide for the repayment of loans made to the Corporation;
- (b) to provide for a reasonable proportion of the funds needed for expanding the Corporation's activities and for increasing its working capital;
- (c) to provide reserves for replacement of fixed assets and equipment, expansion or any other purposes as required under section 18 and to the extent that the Board considers necessary;
- (d) to provide for contributions to any welfare or provident fund established by the Corporation; and
- (e) to make the required payments into the Consolidated Fund under section 21.

#### The Board

#### **5. The board of directors**

(1) The governing body of the Corporation is a board of directors consisting of

- (a) the chairman appointed under paragraph (c) of this subsection,
- (b) the managing director of the Corporation,
- (c) six other persons appointed by the President on the advice of the Minister, one of whom shall be appointed as chairman.

(2) A person does not qualify for appointment as a member of the Board unless that person is qualified in terms of section 6.

(3) The chairman and the other members to be appointed under subsection (1) (c) shall be appointed from among persons who by virtue of their careers in the Government or public service or of their specialised knowledge are capable of contributing to the work of the Board.

(4) The remuneration of the members of the Board shall be determined by the President on the advice of the Minister.

(5) A member of the Board appointed under subsection (1) (c) shall hold office for a term of three years or a shorter term as determined by the President and shall continue in office until a successor is appointed or shall cease to hold office on resignation or removal.

(6) A member of the Board is eligible for re-appointment.

(7) The President, on the recommendation of the Minister, may remove a member of the Board from office before the expiration of the term of office if in the opinion of the President it is in the national interest to do so.

(8) A member appointed under subsection (1) (c) may at any time resign from office by giving notice in writing addressed to the President, and in the event of the death, resignation or removal of a member another person shall, subject to this Act, be appointed to hold office until the expiration of the term of office of that member.

## **6. Qualification of director**

A person qualifies to be appointed a member of the Board or the managing director of the Corporation if that person

- (a) is a citizen;
- (b) has not been sentenced to death or to a term of imprisonment exceeding twelve months without the option of a fine;
- (c) has not been convicted of an offence involving dishonesty;
- (d) has not been declared an insolvent or a bankrupt under a law in force in Ghana;
- (e) is not adjudged to be a person of unsound mind.

## **7. Meetings of the Board**

(1) The meetings of the Board shall be held at the time and place determined by the chairman but the Board shall meet at least once in every month.

(2) The meetings of the Board shall be held on written notice to the members and the notice shall state the agenda for the meeting.

(3) The notice shall be delivered to each member of the Board at least seven days prior to the meeting to which the notice relates unless a majority of the members of the Board decide to waive the requirements in respect of the notice under subsection (2).

(4) Subject to subsections (2) and (3) the meetings of the Board shall be called by the chairman or at the written request of the managing director or of any four directors; but when the chairman is absent the meetings may be convened by the managing director.

(5) The quorum at every meeting of the Board shall be a number determined by the Board.

(7) The minutes of the meetings of the Board shall be kept by a secretary appointed for that purpose by the Board and shall be signed by the chairman and kept in the custody of the secretary.

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

(9) The Board may adopt rules not inconsistent with this Act for the proper conduct of its meetings.

## **8. Functions of the Board**

(1) The Board shall, subject to this Act, have general control of the management, property, business and funds of the Corporation and any other affairs and concerns of the Corporation.

(2) In addition to subsection (1), the Board shall

- (a) submit to the Minister the annual report and the annual balance sheet and the profit and loss statement of the Corporation not later than three months following the end of the financial year of the Corporation or at an earlier date specified by the Minister;
- (b) advise the Minister and the National Energy Board on the terms and conditions for the sale, distribution and export of crude oil and petroleum products;
- (c) prepare and submit to the National Energy Board for review, before the end of each financial year of the Corporation by a date specified by the Board, the budget and work programme for the succeeding financial year;
- (d) approve items of income and expenditure in the budget, subject to the guidelines established by the Minister;
- (e) adopt regulations concerning employment, retirement, administrative and technical matters, accounting and auditing;
- (f) subject to the guidelines and directives issued by the Minister, act as conciliator or appoint arbitrators in the settlement of disputes or claims affecting the Corporation and, in general, take an appropriate action of a legal nature for safeguarding the Corporation's interests;
- (g) execute contracts on behalf of the Corporation;
- (h) recommend to the Minister the formation of affiliate or subsidiary companies;
- (i) administer the rights and powers vested in the Corporation by this Act;
- (j) administer, invest and utilise the welfare and provident funds of the Corporation's employees, with due regard for the interests of the employees, where
  - (i) the welfare and provident funds of the Corporation's employees do not constitute part of the Corporation's assets and funds; and
  - (ii) the Board submits to the Minister an annual comprehensive report on the actions taken with respect to the welfare and provident funds;

- (k) submit proposals to the Minister with respect to the utilisation of the Corporation's general reserves; and
- (l) do any other acts, not inconsistent with this Act or any other enactment as may be expedient or necessary for the achievement of the objects of the Corporation.

### **9. Delegation of functions**

- (1) The Board may delegate any of its functions under this Act to the managing director of the Corporation.
- (2) The managing director is responsible to the Board for the due execution of a function delegated under subsection (1).

#### *Administration*

### **10. Managing director**

(1) The Corporation shall have a managing director who shall be the chief executive of the Corporation and is responsible, subject to directions of the Board, for the day-to-day business of the Corporation, for the implementation of the policy and decisions of the Board and for the administration, organisation and control of the employees of the Corporation.

(2) Subject to section 6, the managing director shall be appointed by the President on the advice of the Minister given in consultation with the Public Services Commission and shall hold office for a period of five years upon the terms and conditions specified by the President in its instrument of appointment, and may be re-appointed for a further period of five years.

(3) The appointment of the managing director may be terminated by the President by six months' notice or the payment of six months' emoluments in lieu of that notice and in addition the managing director is entitled to receive the benefits that had accrued at the time of the termination.

(4) The managing director may, by writing, addressed to the President, resign the appointment by giving six months' notice.

(5) Where the office of the managing director becomes vacant the Board shall notify the Minister who shall, subject to section 6, recommend another person for appointment by the President.

(6) A senior officer of the Corporation shall be designated by the Board to perform the functions of the managing director in the event of where the office of the managing director has become vacant or the managing director is temporarily absent or is otherwise incapable of performing the functions of office.

(7) Subject to the general directions of the Board, the managing director may delegate to a senior officer of the Corporation any of its functions under this Act and may impose conditions with respect to the exercise of the delegated functions, but nothing in this subsection shall be construed so as to absolve the managing director from ultimate responsibility for an act done by a person in pursuance of a delegation.

**11. Staff**

- (1) The Corporation shall engage the employees the Board considers necessary for the efficient performance of its functions under this Act.
- (2) The terms and conditions of service of the employees shall be governed by Regulations made in that respect by the Board under section 27.

**12. Accounts and audit**

- (1) The Auditor-General shall each year audit the books and accounts of the Corporation.
- (2) The Auditor-General shall
  - (a) ensure that the operations of the Corporation are in conformity with its approved budget;
  - (b) examine the annual balance sheet and profit and loss account of the Corporation and certify that these are in conformity with the Corporation's records and submit a report on the operations of the Corporation to the Board and the Minister within three months after the end of the financial year of the Corporation.
- (3) The books of account of the Corporation and its subsidiary and affiliate companies shall be kept in the form determined by the Board on the advice of the Auditor General.
- (4) For the purpose of performing functions under this Act, the Auditor-General shall have access, during normal business hours to the books, records, and any other documents of the Corporation and also inspect the projects being undertaken by the Corporation.

**13. Internal auditor**

- (1) The Corporation shall have an internal auditor who shall be appointed by the Board with the approval of the Minister on the terms and conditions determined by the Board.
- (2) Subject to this Act, the internal auditor is responsible to the managing director for the performance of functions.
- (3) The internal auditor shall, as part of the functions under this Act, at intervals of three months prepare a report on the internal audit during the period of three months immediately preceding the preparation of the report and shall as soon as practicable after the preparation of the report, submit the report to the managing director.
- (4) The internal auditor shall make in the report the necessary observations regarding the conduct of the financial affairs of the Corporation during the period to which the report relates.
- (5) The managing director shall as soon as practicable after receiving the report forward copies to the chairman of the Board and the Auditor-General.
- (6) This section shall be read and construed as one with the Internal Audit Agency Act, 2003 (Act 658), and where there is a conflict, that Act shall prevail.

Financial and Miscellaneous Provisions

**14. Financial year of the' Corporation**

The financial year of the Corporation shall be the same as the financial year of the Government.

**15. Borrowing powers**

- (1) Subject to subsection (2), the Corporation may borrow sums required for the purpose of meeting any of its obligations or performing any of its functions.
- (2) Subject to article 181 of the Constitution, the power of the Corporation to borrow money shall be exercisable only on the recommendation of the Minister and with the approval of the Minister responsible for Finance as to the amount, source of the loan and the term and conditions under which the loan may be effected.
- (3) An approval given for the borrowing of money under subsection (2) may be general or limited to a particular borrowing and may be with or without conditions.
- (4) The Minister responsible for Finance may approve the guarantee on the conditions the Minister thinks fit of the repayment of principal and the payment of interest on the authorised borrowing made under this section.

**16. Government advances and grants**

- (1) The Government may from time to time approve advances and grants to the Corporation out of money provided by the Government for that purpose.
- (2) Subject to article 174 of the Constitution, the President may, acting on the advice of the Minister, approve special levies as may be imposed on crude oil imported into Ghana to provide funds for the Corporation during the first five years of its establishment.
- (3) The Corporation shall, at the times and in the manner directed by the Minister responsible for Finance, make payments of the amount so directed in or towards the repayment of the advances made to the Corporation under subsection (1), and the payments of interest on the sum outstanding for the time being in respect of the advances at the rate directed by the Minister.

**17. Debt securities and sinking fund**

The Corporation may, with the approval of the Minister responsible for Finance

- (a) create and issue debt securities for the purpose of exercising its borrowing powers under section 15;
- (b) establish a sinking fund for the redemption of any debt securities so created; and
- (c) suspend its contributions to the sinking fund for the periods of time and subject to the conditions as may be approved.

**18. Reserve fund**

(1) The Corporation shall establish and maintain a reserve fund to provide for expenditures which may reasonably be anticipated in the carrying out of the Corporation's long-term plan and the annual work programme approved by the Minister.

(2) The management of the reserve fund, the sums of money to be carried from time to time to its credit, the charges to be made against the fund and any other application of the fund shall be as approved by the Minister responsible for Finance on the recommendation of the Minister.

**19. Special foreign exchange account**

(1) The Corporation shall, with the approval of the Bank of Ghana, open a special foreign exchange account into which shall be paid the moneys received in foreign exchange by the Corporation.

(2) The Bank of Ghana shall supervise and monitor the operation of the special foreign exchange account by the Corporation to ensure that it is in conformity with the approved purposes for which the account was established.

(3) The purposes for which the special foreign exchange account may be used shall include

- (a) repayment of principal and interest due in foreign exchange on any of the borrowings made under section 15;
- (b) payment for goods and services imported from outside the Republic;
- (c) any other payments that are required to be made in foreign exchange in respect of transactions related to the objects of the Corporation.

(4) The Corporation shall, at the end of every period of ninety days, transfer to the Bank of Ghana from the credit balance of its special foreign exchange account the sums of money that are not required within the succeeding period of ninety days for the purposes specified in subsection (1).

**20. Payment of taxes**

Except as otherwise provided in this Act, the Corporation is liable to pay tax under the appropriate enactment as if it were a company registered under the Companies Act, 1963 (Act 179).

**21. Payment into the Consolidated Fund**

On approval by the Minister of the annual profit and loss account, the surplus remaining after provision for taxes and the reserve fund established under section 18 has been made shall be transferred to the Consolidated Fund.

**22. Importation of goods**

(1) The Corporation may, subject to the requirements of an enactment relating to the importation of goods, import from outside the Republic materials, machinery and equipment that are exclusively required for its operations in the Republic, including component parts of machinery and plants, tools, instruments, spare parts, chemicals, minerals, means

of transport, safety, and telecommunications facilities, pipelines and pumps, loading and jetty equipment, part installations, laboratory equipment, and any other items that the Minister responsible for Finance may approve.

(2) The materials, machinery and equipment imported by the Corporation under subsection (1) are not liable to customs duties or any other taxes and charges, but the Corporation is liable to pay handling and warehousing expenses and port dues and charges in respect of those items.

(3) A contractor or sub-contractor of the Corporation engaged in petroleum operations shall be exempted from import or export duty and any taxes, charges, fees, duties or any other imports other than the normal charges payable in respect of service actually rendered by agencies of the Republic, with respect to the import into or export from the Republic of plant, material, goods or equipment of any kind which are to be used for petroleum operations and which will, on the conclusion of those operations, become the property of the Corporation or be re-exported from Ghana.

(4) The materials, machinery or equipment in respect of which an exemption has been granted under subsection (2) or (3) shall not be disposed of in the Republic or re-exported outside Ghana by the Corporation, a contractor or subcontractor of the Corporation without the approval in writing of the Ministry responsible for Fuel and Power.

(5) The materials, machinery and equipment in respect of which an exemption is granted under subsection (2) or (3) shall not be sold in the Republic unless, prior to the sale, the seller has paid to the Commissioner of Customs, Excise and Preventive Service the import duty that he would otherwise have paid in respect of those items if the exemption had not been granted under subsection (2) or (3).

(6) Despite subsection (3) and subject to article 174 of the Constitution the Minister responsible for Finance may grant exemption in respect of fees and charges payable in respect of the import or export of goods to be used in connection with petroleum operations if the exemption is necessary for the carrying out of the purposes of this Act.

(7) The personal and household effects other than those specified in the Schedule of a non-Ghanaian employee recruited from outside Ghana by a contractor engaged in petroleum operations are not liable to import duty if the personal and household effects were imported into Ghana within six months after the arrival in Ghana of that employee to assume duty.

(8) The Minister responsible for Finance may by notice published in the *Gazette* amend the Schedule to this Act.

### 23. Confidential information

(1) A member of the Board, the Auditor-General or an auditor or an employee of the Corporation shall not disclose or divulge an information which is considered by the Corporation to be of a confidential nature to a person other than the Minister, a member of the National Energy Board or of the Board or an employee or any other appointee of the Corporation in the course of official business.

(2) In case of violation of subsection (1),

(a) where the offender is a member of the Board that member shall be dismissed from the Board by the President on the advice of the Minister;

(b) where the offender is an employee of the Corporation, the employee shall be dismissed on approval by the Board.

#### **24. Ministerial approval**

(1) The approval of the Minister shall be required for any of the following acts of the Corporation:

- (a) entering into petroleum exploration and production agreements;
- (b) adopting long-term plans;
- (c) adopting annual budgets; and
- (d) approving the annual balance sheet and statement of accounts.

(2) The Minister may, after consultation with the National Energy Board and with the Board and management of the Corporation prescribe policy guidelines to be followed by the Corporation in the conduct of its activities, and the Corporation shall comply with those guidelines.

#### **25. Vesting of assets and liabilities**

(1) On the coming into force of this Act, there shall be transferred to and vested in the Corporation the assets and liabilities of the Petroleum Department of the Ministry of Fuel and Power and the Corporation shall exercise the rights and discharge the obligations that are related to those assets and liabilities.

(2) On or after the coming into force of this Act, the Corporation is responsible for the discharge of the liabilities and contracts incurred or entered into by the Petroleum Department before the coming into force of this Act in respect of any of the functions to be performed by the Corporation under this Act, and the matters relating to those liabilities and contracts shall be carried out by the Corporation as if the Corporation incurred those liabilities or entered into those contracts.

#### **26. Transfer of staff**

There shall be transferred to the Corporation the members of staff of the Petroleum Department of the Ministry of Fuel and Power that the Minister considers necessary and those members of staff shall, subject to this Act, be deemed to be employees of the Corporation.

#### **27. Regulations**

Subject to this Act, the Board may with the approval of the President make Regulations providing for the conditions of service of the managing director and the other employees of the Corporation.

#### **28. Transitional provisions**

Until the Board of the Corporation is duly constituted under section 5, the governing body of the Corporation shall be an Interim Management Committee appointed in accordance with the Interim Management Committees (Public Boards and Corporations) Law, 1982 (P.N.D.C.L. 6) to perform the functions of the Board under this Act.

## 29. Interpretation

In this Act, unless the context otherwise requires,

**"affiliate company"** means any shareholder of a contractor owing five percent or more shares in the business of the contractor or any entity which controls, or is controlled by, or is under a common control with, the contractor;

**"Auditor-General"** includes an auditor appointed by the Auditor-General;

**"Board"** means the board of directors as the governing body of the Corporation as established by section 5;

**"citizen"** means a citizen of Ghana;

**"contractor"** means a person, firm, body corporate or any other entity which has entered into a petroleum agreement with the State and the Corporation to engage in the exploration and production of petroleum pursuant to the Petroleum (Exploration and Production) Act, 1983;2

**"Corporation"** means the Corporation established by section 1;

**"crude oil"** means hydrocarbons which are solid or liquid under normal atmospheric conditions and includes condensates and distillates obtained from natural gas;

**"natural gas"** means all hydrocarbons which are gaseous under normal atmospheric conditions and includes wet gas, dry gas and residue gas remaining after the extraction of liquid hydrocarbons from wet gas;

**"petroleum"** means crude oil or natural gas or a combination of both;

**"petroleum operations"** means exploration, development, production, transportation and disposal of petroleum;

**"petroleum product"** means any product derived from petroleum by any refining treatment process;

**"subsidiary company"** means a subsidiary of the Corporation established under the Companies Act, 1963 (Act 179).

## SCHEDULE

[Section 22 (7»)]

### Items not Qualified for Customs Exemption

Foodstuffs and alcoholic or non-alcoholic beverages for human consumption.  
Tobacco, tobacco products and smokers' requisites.  
Disinfectants and insecticides packed in containers of 10 litre contents or less.  
Fuel and lubricating oils.  
Medicines.

2. P.N.D.C.L 84.

SCHEDULE-continued

Soap and other detergents.

Tyres and tubes for passenger cars, motor cycles and motorised or non-motorised bicycles.

Unused leather and leather wares.

Wood and wood products.

Paper and paper articles.

Textiles other than those used for industrial purposes.

Unused clothing and footwear.

Glass and glaziers' requisites.

Hand tools.

Office requisites and office machinery.

Passenger cars for not more than 11 passengers, as well as spare parts and accessories thereof.

Motor bicycles.

Firearms and ammunition.

Office furniture.

Medical instrument.

Sanitary articles.

Unused air~ conditioners, other than for working spaces.

Unused furniture and other mechanical or non-mechanical appliances, apparatuses and household articles.

Sports and pleasure craft and the engines thereof.