

ACT 310

GHANA WATER AND SEWERAGE CORPORATION ACT, 1965

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Establishment and Administration

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ACT 310

GHANA WATER AND SEWERAGE CORPORATION ACT, 1965.

AN ACT to establish the Water and Sewerage Corporation, to provide for its functions and maintenance and to provide for related matters.

1. The Act was assented to on 22nd October, 1965 and came into force on 1st September, 1966.

*Establishment and Administration***I. Establishment of the Corporation**

(1) There is hereby established a body corporate to be known as the Water and Sewerage Corporation.

(2) The Corporation is a body corporate with perpetual succession and a common seal, may sue and be sued in its corporate name and may, for the purposes of this Act, enter into a contract and any other transaction.

(3) The Corporation may, for the performance of its functions under this Act, acquire and hold movable or immovable property and may sell, lease, mortgage or otherwise alienate or dispose of that property.

2. Objects of the Corporation

(1) The objects of the Corporation are

- (a) the provision, distribution and conservation of the supply of water for public domestic and industrial purposes, and
- (b) the establishment, operation and control of sewerage systems.

(2) For the purposes of subsection (1), the Corporation shall

- (a) prepare long-term plans in consultation with the appropriate co-ordinating authority established by the President;
- (b) conduct research relative to water, sewerage and connected subjects;
- (c) make engineering surveys and plans;
- (d) construct and operate works;
- (e) set the standards relative to water supply and sewerage in collaboration with the appropriate authorities selected for the purposes of this Act by the President;
- (j) determine adequate rates, charges or fees, and effective methods for collection of the fees for water and sewerage services furnished to users; and
- (g) conduct any other related or incidental activity.

(3) For the purpose of carrying out its objects the Corporation may, by its officers, other employees or agents

- (a) after giving notice to the owner or occupier of any land or premises, enter on that land or premises and dig trenches, lay pipes and do any other acts reasonably necessary for the carrying out of any of those objects, and
- (b) enter a road or place to which the public have access for the carrying out of any of those objects.

(4) The Corporation shall do as little damage as possible in the exercise of its powers under subsection (3), and shall pay compensation for damage caused by the exercise of those powers, and the liability for, and the amount of the compensation shall, in case of a dispute, be settled in accordance with the Arbitration Act, 1961 (Act 38).

3. The Board

- (1) The governing body of the Corporation is a Board consisting of,
- (a) the chairman,
 - (b) the person appointed as the managing director of the Corporation or the representative of that director,
 - (c) the Chief Director of the Ministry responsible for the Corporation, or the representative of the Director,
 - (d) the Chief Director of the Ministry of Economic Affairs, or the representative of the Director, and
 - (e) three other persons.²

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

(3) The chairman and the other members of the Board specified under subsection (2) (e) shall hold office for a period of three years.³

(4) A person is not qualified to be a member of the Board who is a member of a District Assembly or any other body having authority to enact laws which have effect throughout the Republic.

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

(6) A person shall not be appointed as the chairman or member of the Board unless that person has experience of, and has demonstrated competence in, public utility operation and practice, industry, trade, finance, science and administration and is not an employee of the Corporation and not more than one of those persons is employed by the Government.⁴

(7) The Board may pay to its members, other than the managing director, subsistence, travelling and any other allowances at the rates approved by the Minister.

(8) The managing director shall be appointed for the period and on the terms and conditions determined by the Presidents

(9) The chairman and a member of the Board appointed under subsection (1) (e) may resign from office by notice in writing addressed to the President, and may be removed from office by the President if that person

- (a) becomes a person of unsound mind,

2. Substituted by the Ghana Water and Sewerage Corporation Act, 1961 (Amendment) Decree, 1969 (N.L.C.D.391).

3. Amended by the Ghana Water and Sewerage Corporation Act, 1965 (Amendment) Decree, 1969 (N.L.C.D.391).

4. Subsections (4), (5) and (6) were inserted by the Ghana Water and Sewerage Corporation Act, 1965 (Amendment) Decree, 1969 (N.L.C.D. 391) as subsection (3) (a), (b) and (c).

5. Amended by the Ghana Water Sewerage Corporation Act, 1965 (Amendment) Decree, 1969 (N.L.C.D. 391). This subsection was subsection (5).

- (b) is declared insolvent or bankrupt under a law in force in the Republic or in any other country,
- (c) suspends payment or compounds with the creditors of that person,
- (d) is absent from three consecutive meetings of the Board without a reason that appears to the President to be sufficient,
 - (e) is sentenced to death or to imprisonment for a term exceeding twelve months without the option of a fine or is convicted of an offence involving dishonesty,
- (j) is guilty of serious misconduct in relation to the functions as chairman or member of the Board, or
- (g) being a person possessed of professional qualifications is disqualified or suspended, otherwise than at the personal request of that person, from practicing that person's profession in the Republic or in any other country by order of a competent authority made in respect personally of that person.

(10) Where the office of the chairman or a member of the Board appointed under subsection (1) (e) becomes vacant before expiration of the term of office, the President shall, without prejudice to subsection (12), appoint another person to hold office for the unexpired portion of that term of office.

(11) Where it appears to the President that a member of the Board is unable, owing to absence from the Republic, or illness or any other sufficient cause to perform the functions of office under this Act, the President may appoint another person to hold that office until the President is satisfied that the member is able to perform those functions or until the term of that member expires, whichever occurs first

(12) A member is eligible for re-appointment.

4. Execution of functions

The Corporation shall perform its functions in accordance with this Act, being guided by the Minister in matters of general policy.

5. Meetings of the Board

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

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

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

(4) The quorum at a meeting of the Board is four.

6. Amended by the Ghana Water and Sewerage Corporation Act, 1965 (Amendment) Decree, 1969 (N.L.C.D.391). "

(5) The Board may make by-laws or any other instruments, not inconsistent with this Act, for the purpose of regulating its business or any other matter falling within the scope of its functions.

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

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

6. Chief executive

Subject to the directions given by the Board on matters of general policy the managing director is the chief executive officer of the Corporation and is charged, subject to those directions, with the conduct of its business, its administration and organisation, and subject to article 195 of the Constitution with the selection, control and dismissal of the staff and employees of the Corporation and with the determination of their conditions of service.

7. Corporation to be run on practice as a public utility enterprise

The Corporation shall manage its affairs in accordance with the practices observed in public utility enterprises and in particular shall perform its functions under this Act so as to ensure that, taking one year with another, its revenues are equal to or greater than its outgoings.

Financial Provisions

8. Borrowing powers

(1) Subject to article 181 of the Constitution, the Corporation may obtain loans and other credit facilities on the guarantee of the Government from the National Investment Bank or from any other bank approved by the Minister responsible for Finance.

(2) In addition to subsection (1), the Corporation may, with the prior approval of the Minister responsible for Finance, borrow money from any other source.

(3) For the purposes of the technical arrangements in connection with the raising of a loan under subsection (2), the Corporation shall, if the National Investment Bank agrees, use the services of that Bank.

9. Assets and reserves

(1) There shall be vested in the Corporation the assets that are transferred to the Corporation by the Minister by executive instrument and any other assets transferred to it by any other persons.

(2) The Corporation may receive grants from the Government for development and as working capital.

(3) The Corporation shall establish and maintain by annual payments from its earnings a depreciation fund for the replacement of fixed assets which become worn out or become obsolete, and shall establish the capital sinking funds required for expansion and development financing.

10. Liability and responsibility

(1) The Corporation is responsible for the liabilities and contracts incurred or entered into by any other person or authority before the date of the commencement of this Act in respect of an object of the Corporation and specified in an executive instrument made by the Minister under this subsection and the matters relating to those liabilities and contract shall be carried out on and after that date by the Corporation as if the Corporation were the other person or authority.

(2) The Corporation shall continue in employment the employees of that other person or authority on and after that date on the terms and conditions fixed by the Corporation.

11. Accounts

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

(2) Subject to the directions as to form that the Minister responsible for Finance, and the Minister may jointly give, the Corporation shall prepare, in respect of each financial year, a statement of accounts which shall include

- (a) a balance sheet, a statement of income and expenditure and a statement containing the information which, had the Corporation been a company registered under the Companies Act, 1963 (Act 179) , would be required to be laid before the company by the directors at an annual meeting, and
- (b) . any other information in respect of the financial affairs of the Corporation required by the Minister or the Minister responsible for Finance.

(3) The Corporation shall, as soon as possible, but within six months⁷ after the end of each financial year, submit an annual report to the Minister, in the form that the Minister prescribes, which shall include the statements of account specified in subsection (2) and the Minister shall as soon as practicable lay the report before Parliament.

(4) The Corporation shall submit to the Minister any other report of its financial affairs required by the Minister.

12. Audit

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

(2) The Auditor-General shall, not later than six months after the end of each financial year forward to the Minister a copy of the audited accounts of the Corporation for the financial year immediately preceding.

13. Auditor's report

(1) The Auditor-General shall report annually to the Minister the result of the examination of the accounts and financial statement of the Corporation, and the report shall state whether

- (a) proper books of account have been kept by the Corporation;

7. "Six" has been Substituted for "three" in view of clause (5) of article 187 of the Constitution. 8. See footnote 7.

(b) the financial statement of the Corporation

- (i) was prepared on a basis consistent with that of the preceding year and is in agreement with the books of account;
- (ii) in the case of the balance sheet, gives a true and fair view of the state of the Corporation's affairs as at the end of the financial year; and
- (iii) in the case of the statement of income and expenses, gives a true and fair view of the income and expenses or profit and loss of the Corporation for the financial year,

and the Auditor-General shall call the attention of the Minister to any other matter falling within the scope of the examination which should be brought to the attention of Parliament.

(2) The Auditor-General shall from time to time make to the Corporation or to the Minister any other reports necessary or that the Minister responsible for Finance or the Minister may require.

Miscellaneous

14. Regulations

The Board may, with the approval of the Minister, by legislative instrument, make Regulations

- (a) in respect of a matter required under this Act to be prescribed;
- (b) fixing water rates, sewerage charges and other fees necessary for giving effect to a matter specified in this Act;
- (c) for the prevention of the wastage of water;
- (d) for the suspension of water supply;
- (e) for the prevention of the pollution of water;
- (f) for the inspection of the appliances by which or in connection with which water is supplied or sewerage systems are established;
- (g) for the conditions of service of the staff of the Corporation including conditions for the establishment of a provident fund or pension fund scheme; and
- (h) for any other matter for carrying out the principles and provisions of this Act.

15. Relations with local authorities

(1) A council within the meaning of the Local Government Act, 1993 (Act 462) shall exercise an object conferred or deemed to be conferred under that Act, subject to the directions given by the Corporation, if the object is connected with or incidental to an object of the Corporation specified in section 2.

(2) The Corporation shall have preference over any other authority in the use of water resources for public, domestic and industrial purposes and where there is a doubt as to the meaning of the expression "public domestic and industrial purposes" in section 2 the doubt shall be resolved by the Minister.⁹

9. The words "whose decision shall be final" have been omitted as offending clause (3) of article 125 of the Constitution.

16. Exemption from tax

Subject to article 174 of the Constitution, the Corporation shall be exempt from the payment of income tax or any other prescribed tax.

17. Interpretation

In this Act, unless the context otherwise requires,

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

"**Board**" means the governing body established under section 3;

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

"**District Assembly**" includes a Municipal or Metropolitan Assembly;

"**financial year**" means the financial year of the Government;¹¹

"**functions**" include powers and duties;

"**Minister**" means the Minister to whom the functions under this Act have been assigned by the President.

18. Repeal

*Spent*¹¹

19. Commencement

*Spent*¹²

10. Substituted by section 1 of the Ghana Water and Sewerage Corporation ACT, 1965 (Amendment) Decree, 1968 (N.L.C.D. 247). The Decree further provided that,
- "2. (1) Notwithstanding anything in the principal enactment before the commencement of this Decree the period beginning with the commencement of the principal enactment and ending on the 31 day of December, 1966 shall for all purposes be deemed to have been the first financial year of the Water and Sewerage Corporation.
- (2) For the purposes of the definition of the financial year of the said Corporation as substituted by paragraph] of this Decree the period beginning with the 1st day of January, 1968 and ending on the 30th day of June, 1968 shall be deemed to be a financial year."
11. This section provided that,
- "The Waterworks Ordinance, (Cap. 67) is hereby repealed:
- Provided that any statutory instrument made under that Ordinance, and in force on the day immediately before the date of commencement of this Act shall, until such instrument is amended or rescinded, continue in force under the corresponding provisions of this Act."
12. This section provided that,
- "The Act should come into force on a date appointed by legislative instrument. The Ghana Water and Sewerage Corporation Act, 1965 (Commencement Instrument) 1966 (LI. 5)9 appointed the 1st day of September, 1966, as the day on which the Act shall come into force."