

FORESTRY COMMISSION ACT - 1999 (ACT 571)

Section 1 Forestry Commission Established.

- (1) There is established by this Act a Forestry Commission referred to in this Act as "the Commission".
- (2) The Commission shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.
- (3) The Commission may for the discharge of its functions under this Act, acquire and hold any movable or immovable property, dispose of the property and enter into any contract or other transaction.
- (4) Where there is any hindrance to the acquisition of any property under sub-section (3) of this section the property may be acquired for the Commission under the State Lands Act, 1962 (Act 125).

Section - 2 - Object and Functions of the Commission.

- (1) The Commission shall be responsible for the regulation of the utilization of forest and wildlife resources, the conservation and management of those resources and the co-ordination of policies related to them.
- (2) Without limiting the scope of subsection (1) of this section the Commission shall-
 - (a) Regulate the utilization of forest and timber resources by
 - i. Vetting and the registration of contracts to market timber and such other forest and wildlife products as the Commission may determine;
 - ii. The establishment of procedures to track the movement of timber, wood and wildlife products;
 - iii. Monitoring the harvesting, marketing of forest and wildlife products and related contracts;
 - iv. Promoting the development and dissemination of appropriate industrial standards and trade guidelines for timber, wood and wildlife products;

v. The conduct of pre-shipment inspection and examination of timber, wood and wildlife products;

vi. Advising on approvals to establish new timber industries and the registration of approved timber processors and traders in forest and wildlife products;

(b) Manage the nation's forest reserves and protected areas by

i. Proper planning for the protection, harvesting and development of forest and wildlife resources in a sustainable manner;

ii. Monitoring the condition and extent of the nation's forest and wildlife resources;

iii. Controlling the harvesting of forest and wildlife products;

iv. Making recommendations to the Minister on the grant of timber rights and wildlife licences;

v. Advising the Minister on forest and wildlife policy with particular regard to management practices that sustains resources and improve productivity;

(c) Assist the private sector and the other bodies with the implementation of forest and wildlife policies by

i. Advising and the provision of technical services with regard to matters of resource protection, management and development and of market intelligence pertaining to the timber and wildlife industries;

ii. Co-operating and liaising with national and international bodies and organizations on forestry and wildlife conservation and utilization;

iii. Supporting the development of forest plantations for the restoration of degraded forest reserves, the increased production of industrial timber and the expansion of the country's protected forest cover;

iv. The provision of training management and technical skills for related industries;

v. Advising the appointing authority on matters concerning employment, discipline and training of staff;

(d) Undertake the development of forest plantations for the restoration of degraded forests areas, the expansion of the country's forest cover and the increase in the production of industrial timber; and

(e) Undertake such other functions as are incidental to the foregoing, or as the Minister may direct. Ministerial responsibility and directions by the Minister

3. (1) The Minister responsible for forestry shall have ministerial responsibility for the Commission.(2) The Minister may give general directions in writing to the Commission on matters of policy.

Section 3 Ministerial Responsibility and Directions by The Minister.

(1) The Minister responsible for forestry shall have ministerial responsibility for the Commission.

(2) The Minister may give general directions in writing to the Commission on matters of policy.

Section 4 Membership of the Commission.

(1) The Commission shall be composed of the following members-

- a) A chairman;
- b) The Chief Executive of the Commission;
- c) A representative of the National House of Chiefs;
- d) A representative of the timber trade and industry;
- e) A representative of the wildlife trade and industry;
- f) A representative of the Ghana Institute of Professional Foresters;
- g) A representative of non-governmental organizations involved in forest and wildlife management;
- h) A representative of the Lands Commission; and
- i) Three other persons with financial, commercial or managerial experience nominated by the Minister at least one of whom shall be a woman.

(2) The members of the Commission shall be appointed by the President in consultation with the Council of State.

Section 5 Tenure of office of Members.

(1) A member of the Commission other than the Chief Executive and the representative of the Lands Commission shall hold office for a period not exceeding four years and is on the expiration of that period eligible for re-appointment.

(2) A member of the Commission other than an ex-officio member may at any time by letter addressed to the President through the Minister, resign his office.

(3) A member other than an ex-office member who is absent from four consecutive meetings of the Commission without reasonable excuse shall cease to be a member.

(4) The chairman or any other member of the Commission may be removed from office by the President for inability to perform the functions of his office or for stated misbehaviour or for any other just cause.

(5) The chairman of the Commission shall through the Minister notify the President of vacancies that occur in the membership of the Commission within one month of such occurrence.

Section 6 Meetings of the Commission.

(1) The Commission shall meet for the despatch of business at such times and in such places as the Commission may determine but shall meet at least once every two months.

(2) The chairman may convene a special meeting and shall upon the request of not less than one-third of the membership of the Commission convene a special meeting of the Commission within fourteen days upon the receipt of that request.

(3) The quorum at a meeting of the Commission shall be six members and shall include the Chief Executive or the person acting in that capacity.

(4) Every meeting of the Commission shall be presided over by the chairman and in his absence,

by a member of the Commission elected by the members present from among their number.

(5) Decisions of the Commission shall be determined by a majority of the members present.

(6) The chairman or the person presiding at a meeting of the Commission shall in event of equality of votes have a second or casting vote.

(7) The Commission may co-opt any person to act as an adviser at its meetings but no co-opted person is entitled to vote at the meeting.

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

(9) Except as otherwise provided in this section, the Commission shall regulate the procedure for its meetings.

Section 7 Disclosure of Interest.

(1) A member of the Commission who has a personal interest, directly or indirectly in any matter being considered or dealt with by the Commission shall disclose the nature of his interest at a meeting of the Commission and shall not take part in any deliberation or decision of the Commission with respect to the matter.

(2) A member who fails to disclose his interest under subsection (1) shall be removed from the Commission.

Section 8 Committees of the Commission.

The Commission may for the discharge of its functions appoint committees of the Commission comprising members of the Commission or non-members or both and assign to any such committee such functions of the Commission as the Commission may determine except that a

committee composed exclusively of non-members of the Commission may only advise the Commission.

Section 9 Allowances for Members.

The chairman and the other members of the Commission shall be paid such allowances as shall be determined by the Minister.

Section 10 Divisions of the Commission.

(1) The Commission may establish such divisions in the Commission as it considers necessary for the effective achievement of the object and functions of the Commission.

(2) Without limiting the scope of subsection (1) and subject to the power of the Commission to re-organise the divisions as it considers appropriate the following are hereby established as Divisions of the Commission-

(a) Forest Services Division;

(b) Forest Products Inspection Division;

(c) Timber Export Development Division ; and

(d) Wildlife Division.

(3) Each Division of the Commission shall have as its head an officer designated as Executive Director.

(4) Each Executive Director shall be responsible for the day-to-day management of his Division and answerable to the Commission through the Chief Executive in the performance of his functions and duties.

(5) The functions and numerical staff strength of each Division of the Commission shall be determined by the Commission.

(6) The Divisions of the Commission shall be located in such places as the Commission may determine.

(7) The Commission may delegate its functions under this section to the Chief Executive.

Section 11 Other Units in the Commission.

There shall be established by the Commission the following as units of the Commission which shall constitute a part of the secretariat of the Chief Executive

- (a) Planning, Monitoring and Evaluation Unit;
- (b) Local Unit;
- (c) Internal Audit Unit,
- (d) Finance and Administration Unit,
- (e) Research and Information Management Unit; and
- (f) Such other units as the Commission may determine.

Section 12 Chief Executive.

(1) There shall be appointed for the Commission a Chief Executive who shall be the executive and administrative head of the Commission.

(2) The Chief Executive shall be appointed by the President in accordance with the advice of the Commission given in consultation with the Public Services Commission and shall hold office for

such period and upon such other terms and conditions as shall be specified in his letter of appointment.

Section 13 Functions of the Chief Executive.

The Chief Executive shall subject to policy directives of the Commission, be responsible for-

- (a) ensuring the efficient and effective implementation of the functions of the Commission and the directives of the Commission;
- (b) the day-to-day management and administration of the-
- (c) Planning, Monitoring and Evaluation Unit;
- (ii) Legal Unit;
- (iii) Internal Audit Unit;
- (iv) Finance and Administration Unit;
- (v) Research and Information Management Unit; and
- (vi) Such other units as the Commission may determine.

Section 14 The Duties of the Divisions of the Commission.

(1) For the purpose of determining the duties and functions of the Divisions of the Commission, the Chief Executive shall draw up for consideration and approval by the Commission a service charter which shall set out the duties and responsibilities of each Division under the Commission.

(2) The service charter may be revised by the Commission.

Section 15 Delegation by Chief Executive.

The Chief Executive may delegate any of his functions to an officer of the Commission subject to any conditions that he may impose but he shall not be relieved from ultimate responsibility for the discharge of the delegated function.

Section 16 Secretary to the Commission.

(1) The Head of the Legal Unit shall be the Secretary to the Commission.

(2) The Secretary shall arrange the business of the Commission and shall keep minutes of meetings of the Commission.

(3) The Secretary shall perform such other duties as the Commission or the Chief Executive may direct.

(4) The Secretary shall in the performance of his duties be answerable to the Chief Executive.

Section 17 Executive Directors and Other Staff of the Commission.

(1) The Executive Directors and other staff and employees of the Commission shall be appointed by the President in accordance with the advice of the Commission given in consultation with the Public Services Commission.

(2) Other public officers may be seconded or transferred to the Commission.

Section 18 Delegation of Power to Appoint Public officers.

The President may in accordance with article 195(2) of the Constitution delegate his power of appointment of public officers under this Part.

Section 19 Funds of the Commission.

(1) The funds of the Commission shall be-

(a) such monies as Parliament may provide to the Commission for the performance of its functions;

(b) monies due to the Commission under this Act and any other enactment;

(c) loans granted to the Commission; and

(d) grants.

(2) For the purposes of increasing its funds, the Commission may determine the fees to be charged-

(a) for provision of advice and technical services;

(b) in respect of the development of plantation and game ranches; and

(c) for provision of technical and advisory services and market intelligence to operators in the timber industry.

(3) The Commission may in respect of-

(a) its functions to conduct pre-shipment inspection and examination of timber and forest products;

(b) its functions to vet contracts for the exportation of timber; wood and wildlife products; and

(c) entrance by any person to a protected area charge such levy or fee as the Minister may on the

recommendation of the Commission by legislative instrument prescribe.

(4) The funds of the Commission shall not include the Export Levy payable to the Commission under the Trees and Timber Decree, 1974 (N.R.C.D. 273) as amended.

Section 20 Bank Account of the Commission and Payment Into Consolidated Fund.

(1) Monies accruing to the Commission under section 19 shall be paid into such bank accounts as the Commission may with the approval of the Minister and the Minister for Finance determine with the exception of monies mentioned in section 19(1) (a) and (c).

(2) At the end of each financial year, after the Commission has made provision for bad and doubtful debts, depreciation of assets and payment of all liabilities, any excess remaining after that shall be paid into the Consolidated Fund.

Section 21 Borrowing Powers.

Subject to the provisions on loans as contained in article 181 of the Constitution and any other enactment, the Commission may obtain loans and other credit facilities on the guarantee of the government from such bank and institutions as the Minister may approve.

Section 22 Execution of Contracts.

(1) The use of the seal of the Commission shall be authenticated by two signatures, namely-

(a) the Chief Executive or in his absence another officer of the Commission authorised by the Commission to authenticate the use of the seal; and

(b) a member of the Commission determined by the Commission.

(2) The Commission may under its common seal empower any person to act as its attorney to execute deeds on its behalf in any place outside Ghana and every deed signed by the attorney on behalf of the Commission under his seal shall be binding on the Commission and have the same

effect as if it were issued under the common seal of the Commission.

(3) Any instrument or contract which if executed or entered into by a person other than a body corporate would not require to be under seal, may be executed or entered into on behalf of Commission by the Chief Executive or any member of the Commission if the person has previously been authorised by a decision of the Commission to execute or enter into that particular agreement or contract.

(4) The provisions of this section shall be subject to section 12 of the Contracts Act, 1960 (Act 25).

Section 23 Annual Budget and Corporate Plans of Commission.

(1) The Commission shall, not later than 3 months before the end of each financial year, cause to be prepared and submitted to the Minister for the approval of Parliament, an annual budget in respect of the following financial year comprising estimates of expected recurrent, maintenance, development and capital expenditure of the Commission in that financial year.

(2) The budget shall be in such form as the Minister for Finance may direct.

(3) The Chief Executive shall prepare budget estimates for each financial year and shall present them to the Commission for its approval not later than 5 months before the end of the preceding financial year.

(4) The Chief Executive shall also prepare corporate plans for such periods as the Commission may direct.

Section 24 Performance Contract.

(1) The Chief Executive shall enter into a performance contract with the Ministry for such period and on such conditions as shall be specified in the contract.

(2) Each Executive Director shall also enter into a performance contract with the Commission for such period and upon such condition as shall be specified in the contract.

Section 25 Accounts and Audit.

(1) The Commission shall keep books of account and proper records in relation to them; and the books of account and records of the Commission shall be in such form as the Auditor-General may approve.

(2) The books of account of the Commission shall be audited within 3 months after the end of each financial year by the Auditor-General or by an auditor appointed by him.

Section 26 Internal Auditor.

(1) The Head of the Internal Audit Unit shall be the internal auditor of the Commission.

(2) Subject to this Act the internal auditor shall in the performance of his functions be answerable to the Chief Executive.

(3) As part of his functions under this Act, the internal auditor shall, at intervals of 3 months, prepare a report on the internal audit work carried out by him during the period of 3 months immediately preceding the preparation of the report, and submit the report to the Chief Executive.

(4) The internal auditor shall make in each report such observations as appear to him necessary as to the conduct of the financial affairs of the Commission during the period to which the report relates.

(5) The internal auditor shall send a copy of each report prepared under this section to the Minister and the Commission.

Section 27 Financial Year.

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

Section 28 Annual Report and Other Reports.

(1) The Commission shall submit to the Minister as soon as practicable and in any event not more than 6 months after the end of each financial year a report dealing generally with the activities and operations of the Commission during the year to which the report relates and shall include-

- (a) the audited accounts of the Commission and the Auditor-General's report on the accounts;
- (b) a statement of the Commission's budget and operational plans for the next financial year; and
- (c) such other information as the Commission may consider necessary.

(3) The Minister shall within three months after receipt of the annual report submit the report to Parliament with such statements as he considers necessary.

Section 29 Access to Information.

For the purposes of the attainment of the object of the Commission and the performance of its functions under this Act or any other law, the Commission shall have access to information and records of any department of state which are reasonably necessary for the purpose.

Section 30 Regulations.

The Minister may on the recommendations of the Commission make Regulations by legislative instrument to give effect to the provisions of this Act.

Section 31 Dissolution of Specified Bodies.

The following bodies, agencies and offices in existence immediately before the coming into force of this Act are hereby dissolved-

- (a) the Forestry Department of the Ministry of Lands and Forestry;
- (b) the Forest Products Inspection Bureau;
- (c) the Department of Game and Wildlife of the Ministry of Lands and Forestry;
- (d) the Forestry Commission established under the Forestry Commission Act, 1993 (Act 453);
and
- (e) the Timber Export Development Board.

Section 32 Repeal.

(1) The following enactments are hereby repealed-

- (a) the Forest Products Inspection Bureau Law, 1985 (P.N.D.C.L. 117);
- (b) the Forest Commission Act, 1993 (Act 453);
- (c) the Timber Export Development Board Law, 1985 (P.N.D.C.L. 123); and
- (d) the Wild Animals Preservation (Amendment) Law, 1983 (P.N.D.C.L. 55).

(2) Notwithstanding the repeal under subsection (1) any instrument, contract, licence or registration made or issued under any of the repealed enactment and valid on the date of the coming into force of this Act shall remain valid until otherwise dealt with.

(3) Notwithstanding the repeal of the enactments specified under subsection (1), where

(a) any of the repealed enactments confers a power on a public body, agency or Institution which now constitutes a Division under the Commission to collect any levy or fees in respect of a function performed under that enactment, and

(b) the power is transferred to the Commission under this Act,

that power shall continue to be exercised by the relevant or corresponding Division under this Act for the collection of the levy or fees.

Section 33 Transfer of Personnel.

(1) The President shall in accordance with the advice of the Commission given in consultation with the Public Services Commission and within such period as the President shall determine upon the coming into force of this Act, transfer to the Commission such number, as the President may determine, of personnel employed immediately before the coming into force of this Act by any of the bodies, agencies and offices dissolved under section 31.

(2) Where a person to whom subsection (1) applies is not transferred under the subsection the appointing authority shall deal with the appointment as he considers fit including payment of the applicable retirement benefits and severance awards.

(3) The President may delegate his power under subsections (1) and (2) to the Commission a member of the Commission or to any public officer.

(4) A transfer to the Commission shall for the purposes of pension or other retirement benefits constitute a continuous service in the public service.

(5) The terms and conditions of service of a person transferred to the Commission under sub-clause (1) shall not be less favourable than those applicable to him immediately before the coming into force of this Act.

Section 34 Transfer of Assets and Liabilities.

Subject to section 33(1), the assets, rights, obligations and liabilities of-

- (a) the Forestry Department of the Ministry;
- (b) the Game and Wildlife Department of the Ministry;
- (c) the Forestry, Commission in existence immediately before the coming into force of this Act;
- (d) the Forest Products Inspection Bureau; and
- (e) the Timber Export Development Board are hereby transferred to the Commission established under section 1 of this Act.

Section 35 Modification and Consequential Amendments.

(1) Unless the context otherwise requires a reference in any enactment in existence immediately before the coming into force of this Act to "Chief Conservator of Forests"; the "Forestry Commission"; the "Forestry Department"; the "Game and Wildlife Department"; the "Forest Products Inspection Bureau" or the "Timber Export Development Board" shall be read and construed as a reference to the Forestry Commission established under section 1 of this Act.

(2) Without prejudice to subsection (1) the enactments specified in column 1 of the Schedule to this Act are amended to the extent indicated in relation to them in column 2 of the Schedule.

Section 36 Interpretation.

In this Act unless the context otherwise requires-

"Commission" means the Forestry Commission established under section 1 of this Act,

"Minister" means the Minister responsible for Forestry;

"Ministry" means the Ministry responsible for Forestry;

"prescribed" means prescribed by legislative instrument;

"protected area" means forest or wildlife reserve;

"timber grader" means a person who examines and inspects timber to determine its quality.