

TRUSTEES (INCORPORATION) ACT, 1962 (ACT 106)

As amended by

TRUSTEES (INCORPORATION) (AMENDMENT) LAW, 1993 (PNDCL 311)1

ARRANGEMENT OF SECTIONS

Section

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Schedule

THE HUNDRED AND SIXTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

THE TRUSTEES (INCORPORATION) ACT, 1962

AN ACT to re-enact and apply to the whole of Ghana the law enabling trustees of voluntary associations and bodies established for any religious, educational, literary, scientific, sports, social, or charitable purpose to be incorporated, to hold land and to have perpetual succession.

DATE OF ASSENT: 21st February, 1962

BE IT ENACTED by the President and the National Assembly in this present Parliament assembled as follows:—

Section 1—Grant of Certificate of Registration as a Body Corporate.

(1) The trustees of any unincorporated voluntary association of persons or body established for any religious, educational, literary, scientific, sports, social, or charitable purpose shall apply, in manner hereinafter mentioned, to the Minister for a certificate of registration as a corporate body.

(2) The Minister, having regard to the extent, nature, and objects and other circumstances of such body or association may grant a certificate accordingly, subject to such conditions or directions generally as he thinks fit to insert in the certificate.

(3) Such conditions or directions may include, in particular, provisions relating to the qualifications and number of the trustees, their tenure and vacation of office, the mode of appointing new trustees, the custody and use of the official seal, the amount of the land which the trustees may hold, and the purposes for which the land may be applied.

(4) Upon the grant of the certificate, the trustees shall become a body corporate by the name described in the certificate, and shall have perpetual succession and an official seal, and power to sue and be sued in such corporate name, and subject to the conditions and directions contained in the said certificate, to hold and acquire, and by instruments under the official seal to convey, assign, and demise any land now or hereafter belonging to, or held for the benefit of, that body or association, in like manner, and subject to such restrictions and provisions as the trustees might, without such incorporation, hold or acquire, convey or assign, or demise the land for the purposes of that body or association.

Section 1A—Application of Act 106 to Religious Bodies.

The provisions of the Trustees (Incorporation) Act, 1962 (Act 106) shall apply to the trustees of an unincorporated voluntary association of persons or body established for a religious purpose.[Inserted and to be cited as Trustees (Incorporation) (Amendment) Law, 1993 (PNDC L 311) s.1]

Section 2—Vesting of Estate in Body Corporate.

The certificate of incorporation shall vest in the body corporate all land, of what nature and tenure soever, belonging to or held by any person or persons in trust for that body or association.

Section 3—Particulars Respecting Application.

An application to the Minister for a certificate under this Act shall be in writing, signed by the person or persons making it, and shall contain the several particulars specified in the Schedule, or such of them as are applicable to the case. The Minister may require such declaration or other evidence in verification of the statements and particulars in the application, and such other particulars, information, and evidence (if any) as he thinks proper.

Section 4—Nomination of Trustees and Filling up Vacancies.

(1) Before a certificate of incorporation is granted, the Minister shall be satisfied that the trustees have been effectually appointed.

(2) Where a certificate of incorporation is granted vacancies in the number of the trustees shall from time to time be filled up so far as shall be required by the constitution or settlement of the said body or association, or by any such conditions or directions as aforesaid, by such legal means as would have been available for the appointment of new trustees of that body or association if no certificate of incorporation had been granted, or otherwise as shall be required by such conditions or directions as aforesaid.

(3) The appointment of every new trustee shall be certified by, or by the direction of, the trustees to the Minister upon the completion of the appointment.

(4) Within one month after the expiration of each period of five years after the grant of a certificate of incorporation, or whenever required by the Minister, a return shall be made to the Minister by the then trustees of the names of the trustees at the expiration of each such period, with their residences and additions.

Section 5—Certificate to be Evidence of Compliance with Requisitions.

A certificate of incorporation so granted shall be conclusive evidence that all the preliminary requisitions herein contained and required in respect of incorporation have been complied with, and the date of incorporation shall be the date specified in the certificate.

Section 6—Record of Applications and Documents.

The Minister shall direct a record to be kept of all such applications for and certificates of incorporation, and shall direct all documents sent to him under this Act to be preserved, and any person may require a copy or extract of any such document to be certified under the hand of a person appointed for that purpose by the Minister.

Section 7—Enforcement of Conditions of Certificate.

(1) All conditions and directions inserted in any certificate of incorporation shall be binding upon and performed or observed by the trustees as trusts of the body or association.

(2) The Minister may, whenever he is of the opinion that conditions contained in any certificate of incorporation are not being complied with or that the activities of the association or body, of its trustees, are contrary to public order or morality, make application to the High Court for the certificate to be cancelled.

(3) A certificate under the hand of the Minister that the activities of an association or body, or of its trustees, are contrary to public order or morality shall be sufficient evidence of the matter so certified.

(4) The High Court in cancelling a certificate may make such order as it thinks fit for the disposal of both movable and immovable property held by the trustees.

Section 8—Power to Require Application for Incorporation or Appointment of Trustees.

(1) The Minister may, by executive instrument, require the trustees of any association or body to which section 1 of this Act applies to apply for incorporation under that section.

(2) In the event of there being no trustees, or of any vacancy in the number of the trustees, of any such association or body, the Minister may by executive instrument direct the association or body to appoint trustees, or to fill up the vacancies, as the case may require.

Section 9—Gifts to Vest in Body Corporate.

After the incorporation of the trustees of any association or body pursuant to this Act, every donation, gift, and disposition of land, theretofore lawfully made (but not having actually taken effect), or thereafter lawfully made, by deed, will, or otherwise to or in favour of that body or association, or the trustees thereof, or otherwise for the purposes thereof, shall take effect as if the same had been made to, or in favour of, the corporate body or otherwise for the like purposes.

Section 10—Official Seal.

(1) The official seal of the body corporate shall have such device as may be approved by the Minister, and until an official seal is provided the seal of some person may be authorised by the Minister for use as the official seal of the body corporate.

(2) All instruments to which the official seal of the body corporate has been affixed, in apparent compliance with the regulations for the use of the official seal referred to in section 1 of this Act, shall be binding on the body corporate, notwithstanding any defect or circumstances affecting the execution of the instrument.

Section 11—Regulations.

The Minister may, by legislative instrument, make regulations for such matters (including the charging of fees) as he thinks proper for the enforcement of the provisions of this Act.

Section 12—Interpretation.

In this Act unless the context otherwise requires—

"body" includes an office instituted for any purpose mentioned in section 1 of this Act, and "trustee" includes the occupant of the office;

"body corporate" , in the case of the incorporation of a sole trustee, includes a corporation sole;

"Minister" means the Minister to whom functions under this Act are assigned by the President;

"trustees" includes a sole trustee.

Section 13—Repeal.

(1) The Land (Perpetual Succession) Southern Ghana and Ashanti Ordinance (Cap. 137) is repealed.

(2) Every instrument made under the repealed enactment and in force immediately before the commencement of this Act shall continue in force as if made under this Act.

SCHEDULE

(Section 3)

The objects of the body or association, and the rules and regulations of the same, together with the date of, and parties to, every deed, will, or other instrument (if any) creating, constituting, or regulating the same.

A statement and short description of the land which at the date of application is possessed by, or belonging to, or held on behalf of the body or association.

The names, residences, and additions of the trustees of the body or association.

The proposed title of the body corporate, of which title the words "trustee(s)" and "registered" shall form part, unless the Minister otherwise directs.

The proposed device of the official seal.

The regulations for the custody and use of the official seal.