

Zongo Development Fund Bill, 2017

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ENTITLED

ZONGO DEVELOPMENT FUND ACT, 2017

AN ACT to establish Zongo Development Fund to provide financial resources for investment in education, infrastructure and businesses to develop and transform the social and economic conditions of Zongo communities; and to provide for the management of the Fund and for related matters.

Passed by Parliament and assented to by the President:

Establishment of the Zongo Development Fund

Establishment of the Fund

1. (1) There is established by this Act a Fund to be known as the Zongo Development Fund.

(2) The Fund is a body corporate with perpetual succession and a common seal, which may sue and be sued and have in all respects the powers of a body corporate.

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Objects

2. (1) The object of the Fund is to provide financial resources to support investments in basic infrastructure, education, businesses, sanitation and the security needs of the Zongo communities in order to transform their socio-economic conditions and make them centres of opportunity.

(2) For the purpose of achieving the object of the fund, moneys from the Fund shall be applied to relevant activities that the Board of Trustees may determine, including

- (a) investment in strategically targeted economic and social infrastructure such as schools, water resources, roads, energy, sanitation and health facilities to create the necessary pre-conditions for the transformation of the Zongo communities;
- (b) financing the education and training of the youth at all levels of the educational ladder, and to grant scholarships and other forms of financial assistance to academically brilliant but genuinely needy students.
- (c) supporting local private businesses to create jobs and incomes in order to improve the lives of the people;
- (d) financing programmes that will make the youth employable;
- (e) development of programmes to support the promotion of culture and arts in such communities;
- (f) enhancing security in the Zongo communities;
- (g) management and investment of contributions made to the Fund;
- (h) provision of social protection for the poor and vulnerable children, men and women;
- (i) provision of moneys to support other development projects or activities as the Minister in consultation with the Board may determine.

Powers of the Fund

3. (1) The Fund shall have power to invest in, procure, maintain, divest from, sell or otherwise realise assets and investments of any kind.

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(2) Subject to article 181 of the Constitution and any other enactment, the Board may obtain loans and other credit facilities guaranteed by Government from such institutions and bodies as the Minister may approve.

(3) The Fund may for the performance of its functions acquire and hold movable and immovable property and may enter into a contract or any other transaction.

(4) Where there is a hindrance to the acquisition of property the property may be acquired for the Fund under the State Property and Contracts Act, 1960 (CA.6) or State Lands Act, 1962 (Act 125) and the Board shall bear the costs.

Independence of the Fund

4. (1) Except as otherwise provided in this Act, the Fund shall be independent in the performance of its functions.

(2) The Fund shall be accountable to the Minister on the achievement of its objectives and compliance as set out in this Act and in the guidelines of the Fund.

Head Office

5. The Fund shall have its head office in Accra and may, where it considers necessary for the performance of its functions, open branches subject to the approval of the Minister.

Sources of money for the Fund

6. The sources of money for the Fund are

- (a) moneys that the Minister with the approval of Parliament may determine;
- (b) grants, donations, gifts and other voluntary contributions to the Fund from any other person, donor and international organisation;
- (c) minimum of Fifty million United States Dollars equivalent specifically earmarked for the Fund from every annual National budget
- (d) moneys generated by the Fund in pursuance of the functions of the Fund under this Act;
- (e) internally generated funds; and
- (f) other moneys or properties that may in any manner become lawfully payable to and vested in the Board for the benefit of the Fund.

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Bank account for the Fund

7. (1) Moneys of the Fund shall vest in the Board.

(2) The Board shall open and operate a bank account on behalf of the Fund with the approval of the Controller and Accountant-General.

(3) Any person in possession of money intended for the Fund shall within seven days after receipt of the money, pay the money into a bank account opened under sub-section (2).

Board of Trustees and Management of the Fund

Appointment of Board of Trustees

8. (1) There is established by this Act a Board of Trustees for the Fund comprising of the following members:

(a) a chairman

(b) one representative of the Minister of Finance;

(c) one representative of National Chief Imam;

(d) one representative of National Council of Zongo;

(e) one representative of National Council Muslim Chiefs;

(f) one representative of National Christian Council;

(g) the Chief Executive Officer of Zongo Development Fund;

(h) six appointees by the office of the President.

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

(3) The President shall in appointing the Chairman and other members of the Board under subsection (1) have regard to the integrity knowledge, expertise and experience of the persons and in particular their knowledge in matters relevant to the functions of the Board.

Functions of the Board

9. (1) The Board shall be responsible for the attainment of the object of the Fund, the making of the operational policy and general supervision of the management and affairs of the Fund and such other functions conferred upon it by any other provision of this Act.

(2) For the purpose of subsection (1), the Board shall

(a) pursue appropriate policies to achieve the object of the Fund;

(b) collect or arrange to be collected moneys lawfully due to the Fund by the Office of the President;

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- (c) ensure accountability of the Fund by defining appropriate procedures of the Fund;
- (a) prepare and publish criteria for the disbursement of moneys from the Fund;
- (e) disburse moneys from the Fund;
- (j) invest some of the moneys from the Fund in safe securities that the Board considers financially beneficial to the Fund;
- (g) receive and examine reports from designated persons or institutions in respect of financial assistance granted those persons; and
- (h) perform any other functions assigned to it under this Act or incidental to the achievement of the objects of the Fund.

Tenure of office of Members

10. (1) A member of the Board, shall hold office for a period of not more than four years and is eligible for re-appointment but a member shall not be appointed for more than two terms.

(2) Subsection (1) does not apply to the Chief Executive Officer of the Fund.

(3) A member of the Board may at any time resign from office in writing addressed to the President through the Minister.

(4) A member of the Board other than the Chief Executive Officer who is absent from three consecutive meeting of the Board without sufficient 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, for sufficient reason is 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) or 13(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.

Duties and liabilities

11. (1) A member of the Board has the same fiduciary relationship with the Fund and the same duty to act with loyalty and in good faith as a director of a company incorporated under the Companies Act, 1963 (Act 179) and also as a trustee.

(2) Without limiting subsection (1), a member of the Board has a duty

- (a) to act honestly in the performance of the functions of the member;
- (b) to exercise the degree of care and diligence in the performance of the member's functions that a reasonable person in that position would be expected to exercise in the circumstances of the Fund;
- (c) not to use information acquired by virtue of the member's position as a member of the Board so as to gain, directly or indirectly, a benefit for the member to the detriment of the Fund; and
- (d) not to make improper use of the member's position so as to gain, directly or indirectly, a benefit for the member or for any other person or cause loss to the Fund.

(3) A member of the Board who contravenes subsection 2(a) or (b) commits an offence and is liable on summary conviction to a fine of not less than fifty thousand penalty units and not more than one hundred thousand penalty units.

(4) A member of the Board who contravenes subsection 2(c) or (d) commits an offence and is liable on summary conviction to a fine of not less than fifty thousand penalty units and not more than one hundred thousand penalty units or to a term of imprisonment of not less than five years and not more than ten years or both.

Meetings of the Board

12. (1) The Board shall meet at least once every three months for the despatch 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 Board convene an extraordinary meeting of the Board at the place and time determined by the chairperson.

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(3) The quorum at a meeting of the Board is seven members of the Board or a greater number determined by the Board in respect of an important matter.

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

(5) Matters before the Board 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 Board may co-opt a person to attend a Board meeting but that person shall not vote on a matter for decision at the meeting.

(7) The proceedings of the Board shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

(8) Subject to this section, the Board may determine the procedure for its meetings.

Disclosure of interest

13. (1) A member of the Board 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 consideration of the matter; and
- (b) recuse himself or herself and not participate in the deliberation 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 the matter before the Board; and

- (a) fails to disclose that interest; and
- (b) is present and participate in the deliberations of the matter.

Committees of the Board

14. (1) The Board may for purposes of achieving the object of the Fund appoint committees of the Board comprising members of the Board or non-members or both and may assign to them such of its functions as the Board may determine except that a Committee composed entirely of non-members may only advise the Board.

(2) A committee of the Board shall be chaired by a Member of the Board.

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(3) Without limiting subsection (1) the Board may have an Advisory Committee.

(4) The Board may engage the services of experts and consultants as determined by the Board.

Allowances

15. Members of the Board and members of a committee of the Board shall be paid allowances approved by the Minister responsible for Finance.

Ministerial directives

16. (1) The Minister may give directives in writing to the Board on matters of policy and the Board shall comply.

(2) The directives shall be consistent with Government policy on the development of Zongo deprived communities.

Administrative and Financial Matters

Appointment of Chief Executive Officer and functions

17. (1) There shall be appointed by the President, in accordance with Article 195 of the Constitution and on the advice of the Board given in consultation with the Public Services Commission, a Chief Executive Officer for the Fund and two deputies Administration and Finance and Operations.

(2) The Chief Executive Officer and his two deputies shall hold office on the terms and conditions specified in the letter of appointment.

(3) The Chief Executive Officer shall be the Secretary to the Board and shall be the head of the secretariat of the Fund.

(4) Subject to the directives of the Board, the Chief Executive Officer shall be responsible for the day to day management of the Fund and shall ensure the implementation of the decisions of the Board.

(5) The Chief Executive Officer may, subject to such conditions as he may determine, delegate some functions of his office to any officer of the Secretariat of the Board except that he shall not be relieved from ultimate responsibility for the discharge of the delegated functions.

Internal Auditor

18. (1) There shall be appointed an Internal Auditor of the Fund who shall be responsible to the Chief Executive Officer in the performance of his duties.

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(2) The Internal Auditor shall at the end of every three months submit a report of the audit of the Fund carried out by him in respect of that period to the Chairman of the Board and the Administrator.

(3) The Chairman of the Board shall submit a copy of the report to the Minister and the Minister responsible for Finance.

Appointment of other staff

19. (1) The President, acting in accordance with the advice of the Board, shall appoint the Internal Auditor, Regional and District Coordinators and other employees necessary for the effective performance of the functions of the Board.

(2) There shall be regional secretariat for the effective running of the Fund.

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

(4) Other public officers may be transferred or seconded to the Secretariat of the Fund.

Secretariat of the Board

20. (1) The Government shall provide a Secretariat for the Board.

(2) The Chief Executive Officer may delegate his secretarial function to an officer designated as Secretary when it becomes necessary.

Disbursement from the Fund

21. (1) The moneys of the Fund shall be disbursed in accordance with the policy guidelines of the Fund.

(2) The Board shall in writing provide arrangements for disbursement of moneys from the Fund.

(3) Cheques and other promissory notes may only be issued upon the directives of the Board and shall be signed by the Chief Executive Officer and two members of the Board unless the Board determines that sums, not exceeding specified amount may be signed by the Chief Executive Officer only.

Expenses of the Fund

22. (1) The salaries of employees of the Fund shall be the same as those applicable to employees of equivalent status in the Public Service and shall be charged on the Fund.

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(2) All other administrative expenses of the Fund shall be paid out of the Fund subject to the approval of the Minister acting in consultation with the Minister for Finance.

Internally generated funds

23. (1) Subject to the Ministries, Departments and Agencies (Retention of Funds) Act, 2007 (Act 735), the Fund is authorised to retain moneys realised in the performance of its functions.

(2) The preparation and submission of estimates and the reporting and accounting of estimates are subject to the Financial Administration Act, 2003 (Act 654).

(3) The provisions of Article 187 of the Constitution which relates to the Auditor-General shall apply to the moneys retained under this Act.

(4) Despite any other provision in any enactment to the contrary:

(a) internally generated funds can only be utilised when the activities on which the expenditure will be incurred have been programmed and approved in the Fund's expenditure budget by Parliament;

(b) the Fund can only incur expenditure for a particular month if the records of collection for the previous month, bank lodgements and expenditure returns for the previous month, have been submitted to the Ministry of Finance; and

(c) internally generated funds shall not be used for the payment of salaries, staff benefits and other allowances except where the allowances are directly related to the provisions of services that will lead to increased revenue.

Investment Policy Statement

24. (1) The Board shall, in consultation with the Minister, issue an Investment Policy Statement in pursuance of the object of the Fund.

(2) The Fund may develop, adopt and as appropriate from time to time amend, revoke or supplement appropriate codes of practice, regulations, internal guidelines or procedures consistent with this Act, and in furtherance of the object of the Fund.

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(3) The Board shall publish the Investment Policy Statement in the *Gazette* and in at least one state owned daily newspaper.

(4) Where the Board amends or revokes the Investment Policy Statement or part thereof, it shall publish the amendment or revocation in the *Gazette* and in at least one state owned daily newspaper.

Application for funding

25. (1) No money shall be paid by the Board under section 2(2)(*l*) of this Act unless the Board enters into a written agreement

(*a*) with the recipient in the case of a person of twenty-one years or above; or

(*l*) with a parent or guardian of the recipient, in the case of a person under twenty-one years of age.

(2) The agreement shall specify the terms and conditions of the payment of the money and shall include the following:

(*a*) the amount of the money;

(*l*) the purpose to which the money is to be applied;

(*c*) the conditions for repayment, if any;

(*a*) the period of repayment, if any;

(*e*) interest payable, if any; and

(*u*) guarantors.

(3) An agreement made under this section is exempt from stamp duty.

Fund-raising

26. (1) Without prejudice to section 17 of this Act there is established by this Act a Zongo Development Fund–Raising Committee of the Board.

(2) The Zongo Development Fund–Raising Committee shall comprise at least five members of the Board and such other persons as the Board shall in consultation with the Minister determine except that there shall be on the Committee at least one representative from each region of the country.

(3) There shall also be appointed by the Board in consultation with the Minister, Regional Fund-Raising Committee comprising such persons resident in each region as the Board shall determine.

(4) The National and Regional Fund-Raising Committees shall be assigned such functions as the Board shall determine.

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Tax exemption

27. The Fund is exempt from the payment of all tax.

Accounts and audit

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

(2) The Board shall submit the accounts of the Fund to the Auditor-General for audit within three 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 Internal Audit Agency Act, 2003 (Act 658) applies to this Act.

Financial year

29. The Financial Year of the Fund shall be the same as the financial year of the Government.

Annual reports

30. (1) The Board shall, within one month after the receipt of the audit report, submit an annual report to the Minister covering the operations of the Fund for the year to which the report relates.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall within one month after the receipt of the annual report submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Board shall also submit to the Minister any other reports which the Minister may require in writing.

Miscellaneous

Regulations

31. The Minister may, by legislative instrument, make regulations for the effective implementation of this Act.

Offences

32. A person who without lawful justification or excuse
- (a) prevents or attempts to prevent by force, intimidation, threat or in any other manner, an employee or authorised agent of the Fund from performing the functions of the Fund under this Act;
 - (b) knowingly makes a false statement to, or deliberately misleads or attempts to mislead the Fund or an employee or authorised agent of the Fund;
 - (c) induces or attempts to induce by any means a member of the Board or Committee of the Board, an employee or authorised agent of the Fund; or
 - (d) discloses confidential information obtained by or submitted to the Fund in the course of the performance of its functions,
- commits an offence and is liable on summary conviction to a fine of not more than two hundred penalty units or to a term of imprisonment for not more than one year or to both.

Interpretation

- “Board” means Board of Trustees of Zongo Development Fund;
- “education” means education in an approved basic school, second-cycle school and accredited tertiary institutions;
- “Fund” means Zongo Development Fund;
- “Investment Policy Statement” means guidelines issued by the Board to be adhered to by the Fund in respect of the investments of the Fund, and published in accordance with section 24 of this Act;
- “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 oriented towards public interest;
- “poor person” means a person who is unable to cater for basic human needs or the additional necessities of health services, shelter, clothing and education;

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“scholarship” means an award made to a citizen from a Zongo community in the form of tuition, fee, maintenance and other allowances for the whole or part of the duration of any course of study;

“social protection interventions” means the implementation of formal and informal mechanisms directed towards the provision of social assistance and capacity enhancement to poor, vulnerable and excluded persons in society;

“Trustees” means members of the Board of Trustees;

“vulnerable and excluded person” means a person who has severe livelihood insecurity and is unable to cope with multiple life cycle risks and shocks; and

“Zongo” means communities in Ghana described as Zongo by its residents, Chief of the town and District/Municipal/Metropolitan Assemblies; and which has been occupied by generations of residents from time immemorial.

Date of *Gazette* notification: 14th July, 2017.

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MEMORANDUM

The purpose of the Bill is to establish the Zongo Development Fund to help develop Zongos to become centres of opportunity.

There is no dispute about the fact that from time immemorial the needs of the Zongo communities were not adequately captured in national development planning. Consequently Zongos have peculiar infrastructure deficits, social services deficit, economic deficits and poor sanitation management, which place them in a situation that merits special attention. It is for this reason that the establishment of a Zongo Development Fund has been made one of the seven components of Government's new major economic initiatives designed to take giant leaps in a holistic transformation of Ghana.

In developing the initiative, Government was also guided by the Directive Principles of State Policy enshrined in Chapter Six of the 1992 Constitution. Articles 36 to 39 of the 1992 Constitution among other things, require the Government in the formulation of policy to take into consideration the welfare and happiness of every person in the country; to provide adequate means of livelihood and suitable employment and public assistance to the needy; to undertake even and balanced development; to provide equal access to education; to adapt and develop cultural values and preserve and protect places of historical interest and artefacts.

The foregoing provisions justify the need to establish the Zongo Development Fund.

The benefits to be derived from the establishment of the Fund by residents of the Zongo communities and the nation at large are wide-ranging. Their living standards will improve as the provision of basic infrastructure such as schools, roads, streets, electricity, water resources, good sanitation, health facilities and job creation opportunities will be enhanced and eventually reduce poverty. Furthermore, the youth will receive special financial assistance in the pursuit of higher education, while those not inclined to tertiary education may be trained in other vocations. New business ventures will emerge while existing ones are expected to expand. In addition, the development gap between Zongos and other communities will be reduced. Finally, the success of this project will

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contribute significantly to the success of the broader development agenda of Government.

Given the importance of the Bill, its implementation will be taken care of directly by the Office of the President, where a Minister of State at the Presidency will oversee its day-to-day implementation.

The Bill consists of four groups of clauses namely the Establishment of the Zongo Development Fund, Board of Trustees and Management of the Fund, Administration and Financial Matters, and Miscellaneous Matters.

Clause 1 establishes the Zongo Development Fund as a body corporate.

Clause 2 deals with the objects of the Bill which are to provide financial resources to support investments for basic infrastructure, education, businesses, good sanitation and security needs of Zongo communities in the country.

It is expected that the provision of these amenities will reduce poverty, deprivation, the uneven development gap, and ultimately accelerate the implementation of the policy of developing the country from the district level to the national level.

For the purposes of *clause 2*, moneys for the Fund shall be applied to relevant activities that the Board of Trustees may determine including investment in strategically targeted economic and social infrastructure; supporting local private business to create jobs and incomes in order to improve the lives of the people and financing programmes that will make the youth employable. Moneys from the Fund will also be applied to support the development of programmes to support the promotion of culture and arts in the Zongo communities and provide social protection for the poor and vulnerable children, men and women as well as development projects or activities that the Minister in consultation with the Board may determine.

Clause 3 sets out the powers of the Fund.

Clause 4 provides for the independence of the Fund.

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Clause 5 stipulates that the Head Office of the Fund shall be in Accra, but provides the option for the Fund to open branches subject to the approval of the Minister.

Clause 6 specifies the sources of money for the Fund, which include moneys approved by Parliament, moneys specifically earmarked for the Fund, grants, donations, gifts, voluntary contributions, internally generated fund and other moneys lawfully payable to the Fund.

Clause 7 vests the moneys of the Fund in the Board. The Board is required to open and operate a bank account in the name of the Fund.

Clause 8 establishes the Board of Trustees of the Fund, and enumerates the membership as well as the considerations to be taken into account when appointments are made.

The functions of the Board are contained in *clause 9* of the Bill. The Board is required to ensure the attainment of the object of the Fund. In this regard the Board has the responsibility to pursue appropriate policies to achieve the object of the Fund, ensure accountability of the Fund, prepare and publish criteria for the disbursement of moneys from the Fund, disburse moneys from the Fund and invest some moneys in safe securities, beneficial to the Fund.

Clauses 10 and *11* deal with the tenure of office of members of the Board of Trustees and the duties and liabilities of members of the Board respectively.

Clauses 12 to *15* contain standard provisions on meetings of the Board, disclosure of interest, committees of the Board and allowances respectively.

The statutory powers conferred on the Minister to give directives to the Board for compliance is the content of *clause 16*.

Clause 17 provides for appointment of the Chief Executive Officer of the Fund and the functions of the Chief Executive Officer. The Chief Executive Officer is responsible for the day-to-day management of the Fund and also acts as Secretary to the Board.

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The appointment of an Internal Auditor and other staff of the Fund are dealt with in *clauses 18 and 19*.

Clause 20 provides for Secretariat for the Board.

The financial matters of the Fund are provided for in *clauses 21 to 26*.

Clause 21 stipulates how moneys from the Fund can be disbursed. The salaries of the employees of the Fund and all other administrative expenses are catered for in *clause 22*. Provision is made for the handling of internally generated funds in *clause 23*. *Clause 24* provides for the investment policy statement of the Fund. *Clause 25* requires a written agreement between applicants and the Fund prior to the release of moneys for educational or other support.

Clause 26 relates to fund-raising matters.

Clause 27 exempts the Fund from the payment of tax.

Clauses 28 to 30 provide for the accounts and audit, the financial year and the annual reports of the Fund respectively.

Finally, *clauses 31 to 33* provide for Regulations, offences and interpretation respectively.

HON. ABU-BAKAR SADDIQUE BONIFACE (MP)
Minister of State for Inner-City and Zongo Development

Date: 10th July, 2017.