

STATUTORY CORPORATIONS ACT, 1964 (ACT 232)

As amended by

STATUTORY CORPORATIONS ACT, 1964 (AMENDMENT) DECREE, 1972 (NRCD 120)¹

STATUTORY CORPORATIONS (AMENDMENT) DECREE 1973 (NRCD 209)

STATUTORY CORPORATIONS (AMENDMENT) DECREE 1973 (NRCD 209).²

ARRANGEMENT OF SECTIONS

Section

1. Power to establish statutory corporations.
2. Matters for which an instrument may provide.
3. General powers of a corporation.
4. Dissolution of a corporation.
5. Existing corporations.
6. Marketing Corporations.
- 6A. Restriction of execution etc against statutory corporation.
- 6B. Miscellaneous provisions relating to accounts and audits of statutory corporations.
7. Repeal and saving.



REPUBLIC OF GHANA

**THE TWO HUNDRED AND THIRTY-SECOND
ACT
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED
THE STATUTORY CORPORATIONS ACT, 1964**

AN ACT to re-enact with amendments the Statutory Corporations Act, 1961 (Act 41), to make provision as respects the continuance of existing statutory corporations; and for purposes connected with the matters aforesaid.

DATE OF ASSENT: 6th April, 1964

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

Section 1—Power to Establish Statutory Corporations.

The President may, by legislative instrument, provide for the establishment as a body corporate—

- (a) of an existing organisation or body, not being already a body corporate; or
- (b) of a new organisation or body:

Provided that an existing organisation or body shall not be so established unless it was originally constituted by or under the authority of a Minister or is required to act in accordance with directions given by a Minister or is otherwise under Government control.

Section 2—Matters for which an Instrument may Provide.

(1) An instrument made under the foregoing section may make provision for such incidental or supplementary matters as appear to the President to be necessary or expedient for or in connection with the establishment and functioning of the corporation.

- (2) The incidental or supplementary matters referred to in the foregoing subsection include—
 - (a) the name of the corporation and the composition and functions of the corporation and its governing body;

- (b) the staff of the corporation (including the transfer to the corporation of public officers), their remuneration, pensions and allowances;
- (c) the application or continued application as respects any person employed by the corporation of any enactment relating to pensions, with or without modifications;
- (d) the provision of finance for the corporation, including the provision thereof out of moneys provided by the National Assembly or charged upon the Consolidated Fund;
- (e) the exemption of the property and activities of the corporation from any tax, rate or duty, subject to the prior approval of the Minister responsible for administering the enactment which authorises the tax, rate or duty;
- (f) the application of any enactment relating to the compulsory acquisition of land or any other property, with or without modifications; and
- (g) the making of bye-laws or other instruments by the corporation to regulate matters falling within the scope of its functions.

(3) Where provision is made in an instrument for the transfer of public officers to a corporation, the employment of such officers by the corporation shall be deemed to be approved employment for the purposes of any enactment relating to the transfer of such officers from the Public Service.

(4) Where an existing organisation or body is established as a corporation by an instrument made under section 1 of this Act, then, without prejudice to the generality of subsection (1) of this section the instrument may provide for transferring to the corporation the assets and liabilities of the existing organisation or body.

Section 3—General Powers of a Corporation.

Every corporation established under this Act—

- (a) shall have perpetual succession and a common seal;
- (b) may sue and be sued in its own name;
- (c) subject to the provisions of the instrument by which it was established shall have power, for any purpose which, in the opinion of its governing body, is necessary or expedient for or in connection with the proper exercise of the functions of the corporation, to acquire and hold any movable or immovable property, to sell, lease, mortgage or otherwise alienate or dispose of any such property, and to enter into any other transaction.

Section 4—Dissolution of a Corporation.

The President may by legislative instrument dissolve a corporation established or continued in existence under this Act or a corporation established by any instrument made under the Statutory Corporations Act, 1961 (Act 41), and may make such provision as appears to him to be necessary or expedient for winding up the affairs of the corporation.

Section 5—Existing Corporations.

(1) Any corporation established by an Act and any corporation established by an instrument made under the said Statutory Corporations Act, 1961, being in either case a corporation which

is in existence immediately before the coming into operation of this Act, shall on and after the relevant date continue in existence as a corporation established by an instrument made under section 1 of this Act; and accordingly any Act or instrument by which such a corporation is established shall on the relevant date be deemed to be repealed or revoked (as the case may be).

(2) For the purpose of continuing any such corporation in existence the President shall have power, by legislative instrument, to make such provisions as appear to him necessary or expedient for that purpose and any instrument made for such purpose shall be deemed to be an instrument made under section 1 of this Act.

(3) For the purposes of this section a corporation shall be regarded as being continued in existence, notwithstanding that the name or the composition of the corporation is changed, if the object and functions of the corporation as continued remain substantially the same as the objects and functions of the corporation as originally established.

(4) In this section the expression "the relevant date" means the date of the coming into operation of a legislative instrument made for the purpose mentioned in subsection (2) of this section.

Section 6—Marketing Corporations.

(1) In the case of a corporation established or continued in existence under this Act, being a corporation which has as one of its objects the regulation of the marketing or export of any foodstuff, product or article, the President shall, without prejudice to his powers under section 1 or section 5 of this Act, have power, in the instrument establishing or continuing in existence the corporation,—

(a) to provide for the manner in which the price of such foodstuff, product or article is to be determined;

(b) to provide that no person shall sell or buy such foodstuff, product or article except in accordance with the terms of the instrument; and

(c) to make such other provisions as appear to him to be necessary or expedient for the purpose of enabling the corporation effectively to perform its functions in connection with the regulation of such marketing or export; and for that purpose to make provisions affecting persons generally or any class or description of person specified in the instrument.

(2) An instrument made under the foregoing subsection may create offences for the contravention of any of its provisions and may provide a penalty therefor, so however, that the penalty for any one such offence shall not exceed, in the case of a fine, one thousand pounds, or in the case of imprisonment, a term of one year, or both such fine and imprisonment.

Section 6A—Restriction of Execution, etc. against Statutory Corporation.

(1) In any action, suit or other proceeding against a statutory corporation (whether established by or under this Act or by or under any other enactment), no execution or attachment or process in the nature thereof shall be issued against that statutory corporation without the fiat of the Attorney-General.

(2) An application for the Attorney-General's fiat under this section shall be in writing accompanied by a copy of the relevant judgment and such other information as the Attorney-General may request.

(3) Where the Attorney-General grants his fiat a copy thereof shall be filed in the Court in relation to whose judgment the fiat was sought and a copy shall be served on the person on whose behalf the application for the fiat was made.

(4) As far as practicable, an application for a fiat under this section shall be dealt with by the Attorney-General within one month after receipt thereof.

(5) Where the Attorney-General refuses to grant his fiat under this section any money which may by the judgment in question be awarded against the statutory corporation shall be paid by the corporation from its funds. [As Inserted by the Statutory Corporations Act, 1964 (Amendment) Decree 1972 (NRCD 120) s. 1].

Section 6B—Miscellaneous Provisions Relating to Accounts and Audit of Statutory Corporations.

(1) The following provisions of this section shall apply to every statutory corporation whose accounts are required by law to be audited by the Auditor-General whether the corporation was established under this Act or by or under any other enactment.

(2) Unless the provisions of the enactment by or under which the corporation was established or under which the corporation exists expressly states otherwise, every statutory corporation shall cause to be prepared and submitted to the Auditor-General for the purposes of audit by him its draft accounts not later than three months after the expiry of the financial year of the Corporation to which it relates.

(3) It shall be the duty of the Auditor-General to notify the Commissioner responsible for the corporation, the Commissioner responsible for Finance, the Board or other governing body of the corporation as well as the Managing Director or other Chief Executive of the Corporation, of any failure by any corporation to comply with the provisions of subsection (2) of this section.

(4) Where any statutory corporation fails to submit a draft of its accounts within the period prescribed by subsection (2) of this section, the Commissioner responsible for the corporation or the Commissioner responsible for Finance acting in consultation with the Commissioner responsible for the corporation (if any) may, in writing, direct that all the emoluments or any part thereof of all or any of the officers responsible for the preparation and submission of the draft accounts of the corporation in question, or of any other officer in respect of whom the Commissioner giving the direction is satisfied that he is responsible for or has materially contributed to the failure of the corporation to comply with the said subsection (2) of this section, should be withheld until such time as the draft accounts of the corporation are duly submitted to the Auditor-General or such earlier time as the said Commissioner may specify and such direction shall be complied with.

(5) The liability of any person to be dealt with under subsection (4) of this section shall be without prejudice to any other liability of such person whether criminal or civil.

(6) Except where the Commissioner responsible for Finance otherwise directs, no person shall employ any person who is or was the accountant of any statutory corporation or who is or was

in any way responsible for the keeping or preparation and submission of the accounts of any statutory corporation for the purpose of audit by the Auditor-General, unless there is produced to him a certificate issued by the corporation in question to the effect that the person to be employed has, to the satisfaction of the said corporation, done all that he was required to do with respect to the preparation and submission for audit by the Auditor-General of the accounts of the corporation.

(7) Any person who—

(a) contravenes any direction given under subsection (4) of this section, or

(b) contravenes the provisions of subsection (6) of this section,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding €1,000.00 or to a term of imprisonment not exceeding one year or to both. [As Inserted by the Statutory Corporations (Amendment) Decree, 1973 (NRCD 209) s. 1].

2. Section 6B of the Statutory Corporations Act, 1965 (Act 232) as inserted by this Decree shall apply to the corporations referred to in subsection (1) of that section, as if in the case of the accounts of those corporations for any financial year of each corporation which has expired before the commencement of this Decree, the time within the draft accounts of the corporation is required to be submitted to the Auditor-General by section (2) of the said section is a period not later than six months after the date of publication of this Decree in the Gazette. [As inserted and to cited as the Statutory Corporations (Amendment) Decree, 1973 (NRCD 209) s. 2].

Section 7—Repeal and Saving.

(1) The Statutory Corporations Act, 1961 (Act 41), is hereby repealed.

(2) Notwithstanding the said repeal any instrument made under that Act and in force immediately before the commencement of this Act shall continue in force until revoked under section 4 or section 5 of this Act.