

MINERALS COMMISSION ACT, 1993 (ACT 450)

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REPUBLIC OF GHANA

**THE FOUR HUNDRED AND FIFTIETH
ACT
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED
THE MINERALS COMMISSION ACT, 1993**

AN ACT to establish a Minerals Commission, provide for its composition and functions relating to the regulation and management of the utilization of minerals in Ghana and provide for related matters.

DATE OF ASSENT: 6TH JULY, 1993

BE IT ENACTED BY PARLIAMENT, as follows—

Section 1—Establishment of a Commission.

- (1) There is established by this Act a Minerals Commission, in this Act, referred to 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 purpose of its functions acquire, hold or dispose of property whether movable or immovable.
- (4) Where there is any hindrance to the acquisition of any property under subsection (3) of this section, the property may be acquired for the Commission under the State Property and Contracts Act, 1960 (C.A. 6) or the State Lands Act, 1962 (Act 125).

Section 2—Functions of Commission.

- (1) The Commission shall be responsible for the regulation and management of the utilization of the mineral resources of Ghana and the co-ordination of the policies in relation to them
- (2) For purposes of subsection (1) of this section, the Commission shall—

- (a) formulate recommendations of national policy for exploration and exploitation of mineral resources with special reference to establishing national priorities having due regard to the national economy;
- (b) advise the Minister on matters relating to minerals;
- (c) monitor the implementation of laid down government policies on minerals and report on this to the Minister;
- (d) monitor the operations of all bodies or establishments with responsibility for minerals and report to the Minister;
- (e) receive and assess public agreements relating to minerals and report to Parliament
- (f) secure a firm basis of comprehensive data collection on national mineral resources and the technologies of exploration and exploitation for national decision making; and
- (g) perform such other functions as the Minister may assign to it.

Section 3—Composition of the Commission.

(1) The Commission shall consist of—

- (a) a Chairman;
- (b) the Chief Executive of the Commission; and
- (c) seven other persons at least two of whom shall be women.

(2) The members of the Commission shall be appointed by the President.

(3) The President shall in making an appointment under this section have regard to the integrity, knowledge, expertise and experience of the person and in particular his knowledge in matters relevant to the functions of the Commission.

Section 4—Qualification of Members of the Commission.

(1) No person is qualified to be a member of the Commission who—

- (a) has been adjudged or otherwise declared—
 - (i) bankrupt under any law in force in Ghana and has not been discharged; or
 - (ii) to be of unsound mind or is detained as a criminal lunatic under any law in force in Ghana; or
- (b) has been convicted—
 - (i) for high crime under the Constitution or for treason or for an offence involving the security of the State, fraud, dishonesty or moral turpitude; or
- (c) has been found by the report of a commission or a committee of inquiry to be incompetent to hold public office or is a person in respect of whom a commission or committee of inquiry has found that while being a public officer he acquired assets unlawfully or defrauded the State or misused or abused his office, or wilfully acted in a manner prejudicial to the interest of the State, and the findings have not been set aside on appeal or judicial review; or

(d) is under sentence of death or other sentence of imprisonment imposed on him by a court,
or

(e) is otherwise disqualified by a law for the time being in force.

(2) Notwithstanding subsection (1) of this section a member of the Commission shall cease to be a member if, in the case of a person possessed of professional qualification, he is disqualified from practising his profession in Ghana by an order of any competent authority made in respect of him personally or if he ceases to be a member otherwise than at his own request.

Section 5—Tenure of Office of Members of the Commission.

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

(2) A member of the Commission other than the Chief Executive may at any time by notice in writing to the President resign his office.

(3) A member who is absent from four consecutive meetings of the Commission without sufficient cause shall cease to be a member.

Section 6—Allowances for Members.

The Chairman and the other members of the Commission shall be paid such allowances as the Minister, in consultation with the Minister responsible for Finance, may determine.

Section 7—Filling of Vacancies.

The Chairman of the Commission shall notify the President of vacancies which occur in the membership of the Commission within three months of the occurrence of the vacancy.

Section 8—Removal.

The Chairman or a member of the Commission may be removed from office by the President for inability to perform the functions of his office, for stated misbehaviour or for any other just cause.

Section 9—Meetings.

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

(2) The Chairman shall upon the request of not less than one third of the membership convene a special meeting of the Commission.

(3) The quorum at a meeting of the Commission shall consist of four 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) Questions before the Commission shall be decided by a majority of the members present and voting.

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

(7) A member of the Commission who has any interest in a contract proposed to be made with the Commission or any matter for discussion by the Commission shall disclose the nature of his interest of the Commission and shall, unless the meeting otherwise direct, be disqualified from participation in any deliberations on that contract or matter and shall in any case be disqualified from voting on any decision on that contract or matter

(8) A member who fails to disclose his interest under subsection (7) of this section shall be removed from the Commission.

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

Section 10—Power to Co-opt.

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.

Section 11—Chief Executive.

(1) The Commission shall have a Chief Executive who shall be appointed by the President in consultation with the Minister and the Public Services Commission.

(2) The Chief Executive shall be a member of the Commission.

(3) The Chief Executive shall hold office upon such terms and conditions as the President may in consultation with the Minister determine.

(4) Subject to such general directives as the Commission may give, the Chief Executive shall be responsible for the day-to-day administration of the Commission and ensure the implementation of the decisions of the Commission.

(5) The Chief Executive shall be responsible for the organisation and control of the employees of the Commission.

(6) The Chief Executive may delegate the day-to-day administration of the Commission to any officer but the Chief Executive shall not be relieved from ultimate responsibility for the discharge of any delegated function.

Section 12—Staff of Commission.

(1) The President may acting in accordance with the advice of the Commission given in consultation with the Public Services Commission appoint such officers or employees as may be necessary for the effective implementation of the functions of the Commission.

(2) The President may delegate his functions under subsection (1) by directions in writing to the Commission, any member of the Commission or to any public officer.

(3) The Commission may engage the services of such consultants and advisers as it may determine.

Section 13—Funds of Commission.

(1) The funds of the Commission shall include—

(a) Government subventions;

(b) any loans granted to the Commission;

(c) any monies accruing to the Commission in the course of the performance of its functions under this Act or any other enactment;

(d) gifts; and

(e) monies from any other source.

(2) All sums of monies received on account of the Commission may be paid into such banks as may be determined by the Commission to the credit of the Commission's general, current or deposit account; and the Commission may invest any monies not required for immediate use.

Section 14—Borrowing Powers.

(1) The Commission may obtain loans and other credit facilities on the guarantee of the Government from such banks as the Minister and the Minister responsible for Finance may approve.

(2) Notwithstanding subsection (1) the Commission may with the prior approval of the Minister and the Minister responsible for Finance borrow money from any other source.

(3) The Commission may borrow temporarily by way of overdraft or otherwise such sums as it may require for meeting its current obligations or discharging its functions under this Act.

(4) The Minister responsible for Finance may on behalf of the Government guarantee the performance of any obligation or undertaking of the Commission under this Act.

(5) This section is subject to the provisions on loans in article 181 of the Constitution.

Section 15—Relationship with Other Authorities.

Government departments and agencies and all public authorities shall co-operate fully with the Commission in the performance of its functions under this Act.

Section 16—Account and Audit.

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

(2) The books and accounts of the Commission shall, within four months after the end of each financial year, be audited by the Auditor-General or by an auditor authorised by him.

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

Section 17—Annual Report.

(1) The Commission shall, as soon as possible, after the expiration of each financial year but within six months after the termination of the year, submit to the Minister an annual report

dealing generally with the activities and the operations of the Commission within that year which shall include—

(a) a copy of the audited accounts of the Commission together with the Auditor-General's report on it; and

(b) such other information as the Minister may require.

(2) The Minister shall within two months after receiving the annual report of the Commission submit the report to Parliament with such statement as he may consider necessary.

(3) The Commission shall also submit to the Minister such other reports on its activities as the Minister may in writing request.

Section 18—Regulations.

The Minister may on the advice of the Commission by legislative instrument make regulations—

(a) providing for the establishment of committees for the control of and the administration of any particular mineral; and

(b) generally for the effective implementation of the provisions of this Act.

Section 19—Dissolution of Existing Commission.

(1) The Minerals Commission existing on the coming into force of this Act under the Minerals Commission Law, 1986 (P.N.D.C.L. 154) is dissolved and accordingly that Law is repealed by this Act.

(2) Subject to the provisions of this Act any rights, assets, property obligations, liabilities and staff of the dissolved Commission are transferred to the Commission established under this Act.

Section 20—Interpretation.

In this Act unless the context otherwise requires—

"Commission" means the Minerals Commission established under section 1 of this Act;

"minerals" means any substance in solid or liquid form occurring naturally in or on the earth, or on or under the seabed, formed by or subject to geological process but does not include mineral oil and natural gases;

"Minister" means the Minister responsible for Energy and Mines.