

PETROLEUM HUB DEVELOPMENT CORPORATION ACT, 2020 (ACT 1053)

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REPUBLIC OF GHANA

**THE ONE THOUSAND AND FIFTY-THIRD
ACT
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED**

PETROLEUM HUB DEVELOPMENT CORPORATION ACT, 2020

AN ACT to establish the Petroleum Hub Development Corporation to promote and develop a Petroleum and Petrochemicals Hub and to provide for related matters.

DATE OF ASSENT: 29th December, 2020.

PASSED by Parliament and assented to by the President

Petroleum Hub Development Corporation

Section 1—Establishment of the Corporation

(1) There is established by this Act, the Petroleum Hub Development Corporation, as a body corporate.

(2) For the performance of the functions of the Corporation, the Corporation may, acquire and hold property, dispose of property and enter into a contract or any other related transaction.

(3) Where there is a hindrance to the acquisition of land, the land may be acquired for the Corporation under the Land Act, 2020 (Act 1036) and the cost shall be borne by the Corporation.

Section 2—Object of the Corporation

The object of the Corporation is to promote and develop a Petroleum and Petrochemicals Hub in the country referred to in this Act as the "Hub".

Section 3—Functions of the Corporation

(1) To achieve; the object under section 2, the Corporation shall perform the following functions:

(a) plan and implement strategies for the development of the Hub in the country;

- (b) undertake preparatory works for the promotion and development of the Hub;
 - (c) facilitate the provision of basic utilities for companies and service providers for the development of the Hub;
 - (d) assist companies that seek to operate in the Hub to acquire[sic] all relevant licences and permits from the relevant regulatory bodies to develop and operate the facilities with the Hub;
 - (e) coordinate and facilitate investment activities in the Hub;
 - (f) collaborate with investors for the development of the Hub;
 - (g) monitor and evaluate the development of the Hub to ensure value retention for the country;
 - (h) facilitate the availability of an industry-ready workforce to drive the growth of the Hub;
 - (i) ensure the participation of Ghanaians in technical and managerial functions of the companies operating within the Hub;
 - (j) compile, keep and maintain a register of companies and service providers operating within the Hub;
 - (k) maintain and preserve records of the Corporation and publish the records in the medium that the Board considers appropriate; and
 - (l) perform any other function ancillary to the object of the Corporation.,
- (2) For the purpose of paragraph (d) of subsection (1), "relevant regulatory bodies" include the
- (a) Environmental Protection Agency;
 - (b) Ghana Ports and Harbours Authority;
 - (c) National Petroleum Authority; and
 - (d) Petroleum Commission.

Section 4—Powers of the Corporation

- (1) For the purpose of achieving the object under section 2, the Corporation may,
- (a) enter into a joint venture with a company operating within the Hub;
 - (b) in collaboration with relevant bodies, establish a mechanism to ensure the requisite transfer of skills and knowledge to Ghanaians engaged in activities in the Hub;
 - (c) facilitate the establishment of industrial parks
 - (i) to promote the manufacture of downstream petrochemical and chemical products; and
 - (ii) for the provision of services in the Hub; and
 - (d) promote the economy and efficiency of the Hub.
- (2) Without limiting subsection (1), the Corporation may engage in any activity to promote the development of infrastructure for the Hub.

Governing body of the Corporation

Section 5—Governaning body of the Corporation

- (1) The governing body of the Corporation is a Board consisting of
- (a) a chairperson nominated by the President;
 - (b) the Chief Executive Officer;
 - (c) a representative of the Free Zones Authority not below the rank of a Director nominated by the Minister responsible for Trade and Industry;
 - (d) a representative of the Association of Ghana Industries nominated by the Association;
 - (e) one person nominated by the Chamber of Bulk Oil Distributors representing bulk oil supply, storage and petrochemical companies and other allied services;
 - (f) one person with expertise in the downstream petroleum industry nominated by the Minister;
 - (g) one person with knowledge and experience in matters relevant to the upstream petroleum industry nominated by the Ghana Upstream Petroleum Chamber; and
 - (h) two other persons nominated by the President, at least one of whom is a woman, with specialised knowledge and experience in matters relevant to the functions of the Corporation.
- (2) The President shall, in accordance with article 70 of the Constitution, appoint the members of the Board.

Section 6—Functions of the Board

The Board shall

- (a) formulate operational and administrative policies for the achievement of the object of the Corporation;
- (b) oversee the sound and proper management of the Hub;
- (c) ensure that the Corporation conducts the affairs of the Corporation on sound business principles and in accordance with prudent commercial and industry best practices; and
- (d) ensure the efficient and effective performance of the functions of the Corporation.

Section 7—Duties and liabilities of a member of the Board

- (1) A member of the Board has the same fiduciary relationship with the Corporation and the same duty to act with loyalty and in good faith as a director of a company incorporated under the Companies Act, 2019 (Act 992).
- (2) Without limiting subsection (1), a member of the Board has a duty to
- (a) act honestly and in the best interest of the Corporation in the performance of the functions of the member;

(b) exercise the degree of care and diligence in the performance of the functions of the member that a person in that position would reasonably be expected to exercise in the circumstance;

(c) avoid making use of information acquired by virtue of the position of the member so as to benefit that member or to the detriment of the Corporation; and

(d) not to abuse the position of the office.

(3) A member of the Board who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units and not more than five hundred penalty units.

(4) Where a court determines that the Corporation has suffered loss or damage as a consequence of the act or omission of a member, the court may, in addition to imposing a fine, order the person convicted to pay appropriate compensation to the Corporation.

Section 8—Tenure of office of members of the Board

(1) A member of the Board shall hold office for a term of four years and is eligible for re-appointment, for another term only.

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

(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 meetings of the Board without sufficient cause, ceases to be a member of the Board.

(5) The President may, by letter addressed to a member, revoke the appointment of that member.

(6) Where a member of the Board is, for a sufficient reason, unable to act as a member, the Minister shall determine whether the inability of the member to act would result in the declaration of a vacancy.

(7) Where there is a vacancy

(a) under subsection (3), (4) or (5) or subsection (2) of section 10;

(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, in accordance with this Act, appoint another person for the unexpired term.

Section 9—Meetings of members of the Board

(1) The Board shall meet at least once every three months for the conduct of business at a time and in a place 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 extra-ordinary meeting of the Board, at a time and in a place determined by the chairperson.

(3) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, a member of the Board other than the Chief Executive Officer, elected by the members present from among their number shall preside.

(4) The quorum for a meeting of the Board is five members.

(5) Matters before the Board shall be decided by a simple 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 Act, the Board shall determine the procedure for meetings of the Board.

Section 10—Disclosure of interest

(1) A member of the Board who has an interest in a matter for consideration by the Board

(a) shall disclose in writing the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and

(b) is disqualified from being present at or participating in the deliberation on or determination 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 a matter before the Board and

(a) fails to disclose that interest; or

(b) is present at or participates in the deliberation on the matter.

(3) Without limiting any further cause of action that may be instituted against a member, the Board shall recover the benefit derived by a member who contravenes subsection (1) in addition to the revocation of the appointment of that member.

Section 11—Establishment of committees

(1) The Board may establish committees consisting of members of the Board or non-members or both to perform a function of the Board.

(2) A committee of the Board consisting of non-members of the Board shall be advisory.

(3) A committee of the Board shall be chaired by a member of the Board except where the committee consists entirely of non-members.

(4) Section 10 applies to a member of a committee of the Board.

Section 12—Allowances

Members of the Board and members of a committee of the Board shall be paid allowances determined by the Minister in consultation with the Minister responsible for Finance.

Section 13—Policy directives

- (1) The Minister may give directives on matters of policy to the Board and the Board shall comply.
- (2) The directives shall be consistent with the object of this Act.

Administrative Provisions

Section 14—Appointment of Chief Executive Officer

- (1) The President shall, in accordance with article 195 of the Constitution, appoint a Chief Executive Officer for the Corporation.
- (2) The President shall, in appointing the Chief Executive Officer have regard to the competence, knowledge and expertise of the person being appointed.
- (3) The Chief Executive Officer shall hold office on the terms and conditions specified in the letter of appointment.

Section 15—Functions of the Chief Executive Officer

- (1) The Chief Executive Officer is
 - (a) responsible for the day-to-day administration of the Corporation; and
 - (b) answerable to the Board in the performance of the functions of the office.
- (2) The Chief Executive Officer shall ensure the implementation of the decisions of the Board and perform any other function determined by the Board.
- (3) The Chief Executive Officer may delegate a function to an officer of the Corporation but shall not be relieved of the ultimate responsibility for the performance of the delegated function.

Section 16—Appointment of other staff

- (1) The President shall, in accordance with article 195 of the Constitution, appoint other staff of the Corporation that are necessary for the effective and efficient performance of the functions of the Corporation.
- (2) Other public officers may be transferred or seconded to the Corporation or may otherwise give assistance to the Corporation.
- (3) The Corporation may, on the recommendation of the Board, engage the services of consultants and advisers.

Section 17—Internal Audit Unit

- (1) The Corporation shall have an Internal Audit Unit in accordance with section 83 of the Public Financial Management Act, 2016 (Act 921).

(2) The Internal Audit Unit shall be headed by an Internal Auditor who shall be appointed in accordance with the Internal Audit Agency Act, 2003 (Act 658).

Financial Provisions

Section 18—Funds of the Corporation

The funds of the Corporation include

- (a) moneys approved by Parliament;
- (b) internally generated funds; and
- (c) grants and loans.

Section 19—Bank account for the Corporation

The moneys for the Corporation shall be paid into a bank account opened for the purpose by the Board with the approval of the Controller and Accountant-General.

Section 20—Administrative expenses of the Corporation

The administrative expenses of the Corporation shall be paid from moneys provided for the Corporation under section 18.

Section 21—Borrowing powers

Subject to article 181 of the Constitution and section 76 of the Public Financial Management Act, 2016 (Act 921), the Corporation may, on the terms and conditions that may be agreed between the Corporation and the lender, borrow money to meet an expenditure of a capital nature including provision for working capital for the performance of the functions of the Corporation.

Section 22—Accounts and audit

- (1) The Board shall keep books of account, records, returns and other documents relevant to the accounts in the form approved by the Auditor-General.
- (2) The Board shall submit the accounts of the Corporation to the Auditor-General for audit at the end of the financial year.
- (3) The Auditor-General shall, within six months after the end of the immediately preceding financial year, audit the accounts, submit the report to Parliament and forward a copy each of the audit report to the Minister and the Board.
- (4) The financial year of the Corporation is the same as the financial year of Government.

Section 23—Annual report and other reports

- (1) The Board shall, within thirty days after the receipt of the audit report, submit an annual report to the Minister covering the activities and operations of the Corporation for the year to which the annual report relates.
- (2) The annual report shall include the report of the Auditor-General.

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

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

(5) The Board shall publish the reports of the Corporation in a medium of communication that the Board considers appropriate.

Miscellaneous Provisions

Section 24—Waiver or variation of tax

Subject to article 174 of the Constitution, the Minister responsible for Finance may, with the prior approval of Parliament, grant a waiver or variation of tax to the Corporation.

Section 25—Intellectual property

(1) The intellectual property rights in any work made by

(a) an employee of the Corporation or any other person employed by the Republic who has been placed at the disposal of the Corporation,

(b) a person assisting the Corporation with an investigation or research, or

(c) any other intellectual enterprise funded or otherwise undertaken with resources of the Corporation shall vest in the Corporation, unless otherwise agreed by the parties concerned.

(2) A person who intends to use data produced by the Corporation shall obtain the prior written approval of the Corporation.

(3) The Board may make the work referred to in subsection (1) and the rights which are vested in the Corporation, available for use in the public interest subject to the conditions and the payment of fees determined by the Board.

Section 26—Collaboration with relevant public institutions

The Corporation shall collaborate with all relevant public institutions to develop the Hub.

Section 27—Regulations

The Minister shall, within twelve months of the coming into force of this Act, by legislative instrument, make Regulations to—

(a) prescribe the fees and charges to be charged under this Act in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2018 (Act 983);

(b) provide for the operations in the Hub;

(c) provide procedures for the application and consideration of projects in the Hub;

(d) provide the criteria for the selection of projects in the Hub; and

(e) provide generally for the effective and efficient implementation of this Act.

Section 28—Interpretation

In this Act, unless the context otherwise requires,

"Board" means the governing body of the Corporation established under section 5;

"chemical product" means a final product created from the chemical reactions during the processing of crude oil or raw natural gas in a refinery or a petrochemical plant;

"Chief Executive Officer" means the person appointed under section 14;

"company" means a limited liability company within the meaning under the Companies Act, 2019 (Act 992);

"Corporation" means the Petroleum Hub Development Corporation established under section 1;

"downstream petrochemical product" means a product, obtained from the chemical processing of raw natural gas in a petrochemical plant;

"Minister" means the Minister responsible for Petroleum;

"natural gas" includes hydrocarbons which are gaseous under normal atmospheric conditions, wet gas and dry gas;

"Petroleum and Petrochemicals Hub" also referred to as the "Hub" means an area with a network of infrastructure for the processing of crude oil and raw natural gas into petroleum and petrochemical products for the purpose of trading, storage, transportation and distribution of the products to third parties and for export; and

"project" means a business enterprise undertaken in the Hub.

Date of Gazette Notification: 29th December, 2020.