

NORTHERN DEVELOPMENT AUTHORITY ACT, 2017 (ACT 963)0.

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REPUBLIC OF GHANA

**THE NINE HUNDRED AND SIXTY-THIRD
ACT
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED
NORTHERN DEVELOPMENT AUTHORITY ACT, 2017**

AN ACT to establish the Northern Development Authority to provide a framework for the accelerated economic and social development of the Northern Development Zone and for related matters.

DATE OF ASSENT: 2nd January, 2018.

PASSED by Parliament and assented to by the President:

Establishment of the Northern Development Authority

Section 1—Establishment of the Authority

(1) There is established by this Act a body corporate with perpetual succession to be known as the Northern Development Authority.

(2) The Authority may, for the performance of the functions of the Authority, acquire and hold movable and immovable property, dispose of property and enter into any contract or any other transaction relating to the object of the Authority.

(3) Where there is a hindrance to the acquisition of property, the property may be acquired for the Authority under the State Lands Act, 1962 (Act 125) and the cost shall be borne by the Authority.

Section 2—Objects of the Authority

The objects of the Authority are to

(a) accelerate economic and social development in the Northern Development Zone through strategic direction in the planning and prioritisation of development projects;

- (b) mobilise public resources including financial resources and private and public investments for the accelerated economic and social development of the Northern Development Zone;
- (c) co-ordinate development activities in the Northern Development Zone with the aim of ensuring that
 - (i) public resources are effectively utilised; and
 - (ii) private sector investments achieve maximum development impacts to reduce poverty and deprivation in every part of the zone; and
- (d) formulate and implement initiatives towards achieving gender equality and empowerment of vulnerable groups in the Northern Development Zone.

Section 3—Functions of the Authority

For the realisation of the objects of the Authority, the Authority shall

- (a) design a comprehensive development strategy;
- (b) oversee the application of the annual allocation by the Central Government to each constituency in the Northern Development Zone;
- (c) establish structures for the effective implementation of the comprehensive development strategy;
- (d) facilitate processes for consensus building among relevant stakeholders;
- (e) establish a co-ordinated system of resource mobilisation for the Northern Development Zone;
- (f) establish a venture capital or other risk finance instruments or institutions to mobilise finance for investments;
- (g) implement programmes to maximise the economic development potential of the Northern Development Zone;
- (h) cause the execution of relevant projects in a community in the Northern Development Zone that will stimulate the modernisation of agricultural development and competitiveness of small scale farmers through irrigation and other improved technology and promote efficiency for the domestic and export market;
- (i) facilitate private sector development initiatives;
- (j) stimulate investments and business developments to create jobs and increase income;
- (k) invest in economic and social infrastructure including roads, energy, water resources and communication to create the pre-conditions for accelerated economic and social development;
- (l) facilitate programmes on improved access to food, sustainable livelihoods and safety-net investments for low income areas;
- (m) co-operate with key statutory bodies and institutions including the National Development Planning Commission, Ministries, Departments, Agencies, Regional Co-ordinating Councils,

District Assemblies and other entities to ensure conformity with the national development plan to avoid duplication of functions;

(n) implement programmes to support mainstreaming of gender and other issues of vulnerability through co-operation with the Ministry responsible for Gender, Children and Social Protection, other relevant Ministries and civil society organisations;

(o) serve as an agent of the Government in public private partnership initiatives in the Northern Development Zone and facilitate public private partnership initiative directly in the Northern Development Zone;

(p) establish a system of monitoring and evaluation to ensure that strategic targets are met and results are achieved in a timely and appropriate manner;

(q) co-ordinate the planning and implementation of integrated development activities for the realisation of the short-term to long-term plans for the Northern Development Zone;

(r) adopt and implement measures necessary for funding the accelerated economic and social development of the Northern Development Zone; and

(s) perform any other functions under this Act or that are ancillary to the objects of the Authority.

Governance of the Authority

Section 4—Governing body of the Authority

(1) The governing body of the Authority is a Board consisting of

(a) a chairperson nominated by the President;

(b) one person from the National Development Planning Commission not below the rank of a Director;

(c) one representative each of traditional authorities, nominated by the respective Regional Houses of Chiefs in the Northern Development Zone;

(d) one person from the Ministry of Finance not below the rank of a Director;

(e) one person from the Office of the Minister responsible for Special Development Initiatives not below the rank of a Director;

(f) one person from the civil society organisations in the Northern Development Zone;

(g) one person from private sector organisations;

(h) the Chief Executive Officer of the Authority; and

(i) three persons with relevant expertise nominated by the President at least one of whom is a woman.

(2) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

(3) The President shall, in appointing a member of the Board, have regard to fair representation among the Northern Development Zone.

Section 5—Functions of the Board

- (1) The Board shall, subject to the provisions of this Act,
 - (a) give general directives on the management and operations of the Authority;
 - (b) in consultation with the Minister, formulate policies necessary for the achievement of the objects of the Authority;
 - (c) oversee the sound and proper management of the resources of the Authority; and
 - (d) ensure the proper and effective performance of the functions of the Authority.
- (2) Without limiting subsection (1), the Board shall
 - (a) approve the annual operative plans and budget of the Authority;
 - (b) review the quarterly performance of the Authority including the statement of accounts of moneys disbursed from the funds of the Authority;
 - (c) approve the audit plan for the Authority and monitor its implementation;
 - (d) implement the recommendations of the Auditor-General and take necessary action;
 - (e) in conformity with Government pay policy, determine the remuneration of staff engaged by the Authority; and
 - (f) conduct reviews of its policies and strategies.
- (3) The Board shall in the performance of its functions be responsible to the Minister.

Section 6—Duties and liabilities of a member of the Board

- (1) A member of the Board has the same fiduciary relationship with the Authority and the same duties to act with loyalty and in good faith as a director of a company incorporated under the Companies Act, 1963 (Act 179).
- (2) Without limiting subsection (1), a member of the Board has a duty
 - (a) to act honestly in the performance of the functions of that member;
 - (b) to exercise the degree of care and diligence in the performance of the functions of that member that a reasonable person in that position would reasonably be expected to exercise in the circumstances;
 - (c) to avoid making improper use of information acquired by virtue of the position of that member so as to benefit that member or be detrimental to the Authority; 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 one hundred penalty units and not more than two hundred and fifty penalty units.
- (4) Where a court determines that the Authority 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 Authority.

Section 7—Tenure of office of members of the Board

(1) A member of the Board shall hold office for a period of 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 and a person who is a member of the Board by reason of the office of that person.

(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 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 a 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 would result in the declaration of a vacancy.

(7) Where there is a vacancy

(a) under subsection (3) or (4) or subsection (2) of section 9;

(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, subject to subsection (2) of section 4, appoint a person to fill the vacancy.

Section 8—Meetings of members of the Board

(1) The Board shall meet at least once every quarter for the despatch of business at the times and 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.

(3) The quorum at a meeting of the Board is seven members of the Board.

(4) 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.

(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 validity of any proceedings of the Board shall not be affected by any vacancy among its members or by any defect in the appointment of any of the members.

(8) The Board shall, subject to this Act, regulate the procedure for its meetings.

Section 9—Disclosure of interest

- (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 the consideration of the matter; and
 - (b) not participate in the deliberations of the Board in respect of that 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) participates in the deliberations of the Board In respect of that matter.
- (3) Despite subsection (2), the Board shall refer the non-disclosure of interest by the member to the appropriate person or institution, if the Authority consequentially suffers irreparable loss or damage.

Section 10—Establishment of committees

- (1) The Board may establish committees consisting of members of the Board and non-members to perform a function of the Board.
- (2) A committee of the Board shall be chaired by a member of the Board.
- (3) Section 9 applies to a member of a committee of the Board.

Section 11—Allowances

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

Section 12—Ministerial directives

The Minister may give directives on matters of policy to the Board and the Board shall comply.

Administration of the Authority

Section 13—Appointment of Chief Executive Officer

- (1) The President shall in accordance with article 195 of the Constitution appoint a Chief Executive Officer for the Authority.
- (2) The Chief Executive Officer shall possess relevant professional competence and experience.
- (3) The Chief Executive Officer shall hold office on the terms and conditions specified in the letter of appointment.

Section 14—Functions of the Chief Executive Officer

- (1) The Chief Executive Officer is responsible for the day to day administration of the affairs of the Authority and is answerable to the Board for the performance of functions under this Act.

(2) The Chief Executive Officer may delegate a function to an officer of the Authority who is not below the rank of a Director but shall not be relieved of ultimate responsibility for the performance of the delegated function.

Section 15—Appointment of Deputy Chief Executive Officer

The President, may in accordance with article 195 of the Constitution appointment[sic] such number of Deputy Chief Executive Officers for the Authority as the President considers appropriate.

Section 16—Functions of Deputy Chief Executive Officer

A Deputy Chief Executive Officer shall perform the functions' assigned by the Board.

Section 17—Secretary to the Board

(1) The Authority shall have an officer to be designated as the Secretary to the Board.

(2) The Secretary shall, subject to the directions of the Board,

(a) arrange the business for the meetings of the Board and cause minutes of proceedings of the Board to be recorded and kept; and

(b) perform such other functions that the Board may in writing direct.

Section 18—Appointment of other staff

(1) The President shall, in accordance with article 195 of the Constitution, appoint for the Authority other employees that are necessary for the proper and efficient conduct of its functions.

(2) The Authority may engage the services of consultants and advisers on the recommendation of the Board.

Section 19—Departments of the Authority

(1) The Board may, on the recommendation of the Chief Executive Officer, establish departments of the Authority that are necessary for the effective performance of the functions of the Authority.

(2) The establishment of departments by the Board shall be subject to the approval in writing of the Minister.

Section 20—Internal Audit Unit

(1) The Authority 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).

(3) The Internal Auditor is responsible for the internal audit of the Authority.

(4) The Internal Auditor shall, subject to subsections (3) and (4) of section 16 of the Internal Audit Agency Act, 2003 (Act 658), at intervals of three months

(a) prepare and submit to the Board, a report on the internal audit carried out during the period of three months immediately preceding the preparation of the report; and

(b) make recommendations in each report with respect to matters which appear to the Internal Auditor as necessary for the conduct of the affairs of the Authority.

(5) The Internal Auditor shall in accordance with subsection (4) of section 16 of the Internal Audit Agency Act, 2003 (Act 658), submit a copy of each report prepared under this section to

(a) the Minister;

(b) the Auditor-General; and

(c) the chairperson of the Board.

Finances of the Authority

Section 21—Funds of the Authority

The funds of the Authority shall include

(a) moneys approved by Parliament;

(b) moneys allocated for the Infrastructure for Poverty Eradication Programme;

(c) loans and grants;

(d) interests from investments made by the Authority;

(e) rents and royalties accruing to the Authority from property of the Authority, including intellectual property and land banks;

(j) fees and charges due to the Authority from services rendered by or through the Authority;

(g) donations and gifts;

(h) seed money specifically allocated for the start-up of the Authority; and

(o) any other internally generated funds of the Authority.

Section 22—Bank account

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

Section 23—Expenses of the Authority

The administrative and other expenses of the Authority including the remuneration of employees, and allowances of the members of the Board shall be charged on the funds of the Authority.

Section 24—Borrowing powers

(1) Subject to article 181 of the Constitution and section 76 of the Public Financial Management Act, 2016 (Act 921), the Authority may obtain loans and credit facilities which the Authority requires for the implementation of its programmes and policies.

(2) The Minister responsible for Finance may, subject to section 66 of the Public Financial Management Act, 2016 (Act 921), provide a sovereign guarantee to the Authority to enable the Authority contract a loan or enter into a local or international economic or business transaction.

Section 25—Exemption from taxes, duties, fees and other charges

(1) The Authority is exempt from the payment of taxes, duties, fees and other charges as the Minister responsible for Finance may determine with the prior approval of Parliament.

(2) Subject to article 174 of the Constitution, the Minister responsible for Finance may with the approval of Parliament grant a waiver or variation of tax to the Authority.

Section 26—Accounts and audit

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

(2) The Board shall, submit the accounts of the Authority 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.

Section 27—Financial year

The financial year of the Authority is the same as the financial year of the Government.

Section 28—Annual reports and other reports

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

(2) The annual report shall include

(a) the report of the Auditor-General;

(b) a performance report;

(c) a report on the finances of the Authority specifying

(i) the total inflows,

(ii) disbursements,

(iii) investment returns and reserves, and

(iv) the cost of projects executed by the Authority; and

(d) any other information that may be required by the Minister in conformity with the Public Financial Management Act, 2016 (Act 921) or that may be relevant to enhance transparency and accountability.

(3) The Minister shall, within one month of the receipt of the annual report from the Authority, 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 request in writing.

(5) Subject to matters that the Board may designate as confidential, the Authority shall publish the reports on the website of the Authority and in a medium of communication that the Board considers necessary.

Miscellaneous Provisions

Section 29—Incentives

(1) The Authority may

(a) extend support to the private sector, public sector, philanthropic investments and non-profit making organisations in the Northern Development Zone either alone or in co-operation with other public agencies so as to promote accelerated social and economic development; and

(b) institute measures for the protection of the private sector in the Northern Development Zone.

(2) Without limiting subsection (1), the Authority may apply to the relevant public agency for the grant or extension of the following incentives:

(a) waiver or variation of duties and other taxes on imports of inputs, machinery and equipment by a private sector company meant exclusively for use in an investment project within the Northern Development Zone;

(b) reduction or remission of corporate taxes for firms and companies investing in the Northern Development Zone under the policies and programmes of the Authority; and

(c) facilitation of the acquisition of loans by an indigenous entity which locates its operations in a rural community within the Northern Development Zone.

Section 30—Public consultation and notice

(1) The Authority shall hold public consultations in all relevant communities within the Northern Development Zone relating to a major project that the Authority plans to implement and shall take into account comments received from the consultations in making the final implementation decision.

(2) The Authority shall, in not less than seven days before the public consultation, publish in the Gazette and at least one daily newspaper of national circulation a notice containing the details of the project and the assessment by the Authority of the social and economic impact of the project.

Section 31—Offences and penalties

A person who unlawfully

(a) prevents or attempts to prevent by force, intimidation, threat or in any other manner, an employee or authorised agent of the Authority from performing the functions of the Authority under this Act;

(b) makes a false statement to, or misleads or attempts to mislead the Authority or an employee or authorised agent of the Authority;

(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 Authority; or

(d) discloses confidential information obtained by or submitted to the Authority in the course of the performance of functions

commits an offence and is liable on summary conviction to a fine of not less than five hundred penalty units and not more than one thousand penalty units or to a term of imprisonment of not less than two years and not more than four years or to both.

Section 32—Guidelines

The Board shall, in consultation with the Minister, publish guidelines in respect of operational procedure that the Board considers necessary.

Section 33—Regulations

(1) The Minister shall, on the advice of the Board, and within one year after the coming into force of this Act, by legislative instrument, make Regulations to prescribe generally for the effective implementation of this Act.

(2) Without limiting subsection (1), the Regulations shall provide for

(a) the objects, design, duration, content, development and implementation of the Master Plan for the Northern Development Authority;

(b) the procedure for the revision of the development strategy and plans of the Authority;

(c) the criteria for the allocation of development priorities in the Northern Development Zone;

(d) the implementation arrangements including institutional relations; and

(e) the procedure for the disbursement of funds.

Section 34—Interpretation

In this Act, unless the context otherwise requires,

"Authority" means the Northern Development Authority established under section 1;

"annual allocation" means the amount of money allocated to each constituency in the Northern Development Zone as approved by Parliament;

"Board" means the governing body of the Authority established under section 4;

"Chief Executive Officer" means the person appointed under section 13;

"District Assembly" includes a Municipal Assembly and a Metropolitan Assembly;

"donors" include governmental and non-governmental organisations and any other development partner;

"indigenous entity" means an entity wholly owned by Ghanaians;

"Infrastructure for Poverty Eradication Programme" means the programme which makes provision for the annual allocation for each constituency;

"international organisation" includes a non-profit or charitable organisation which is incorporated outside this country and operates in many countries but which is registered in this country as an international organisation or a company limited by guarantee;

"land bank" means a large tract of land acquired by the Authority for development;

"Long Term Plan" means a plan with at least five years duration;

"Minister" means the Minister responsible for Special Development Initiatives;

"non-governmental organisation" means a civil society group or non-profit making body formed to pursue purposes that are lawful and that are non-profit but oriented towards public interest;

"Northern Development Zone" means the Upper East Region, the Upper West Region, and the Northern Region;

"risk finance instrument" includes instruments in the nature of shares, bonds and derivatives;

"venture capital" means capital or loan provided in collaboration with private investors; and

"vulnerable group" includes persons with disability, women, children and persons who are otherwise disadvantaged.

Section 35—Repeal and savings

(1) The Savannah Accelerated Development Authority Act, 2010 (Act 805) is repealed.

(2) Despite the repeal of Act 805, the Regulations, bye-laws, notices, Orders, directions, appointments or any other act lawfully made or done under the repealed enactment and in force immediately before the commencement of this Act shall be considered to have been made or done under this Act and shall continue to have effect until revoked, cancelled or terminated.

Section 36—Transitional provisions

(1) The assets, rights, obligations and liabilities of the Savannah Accelerated Development Authority established under the Savannah Accelerated Development Authority Act, 2010 (Act 805) are hereby transferred to the Central Government.

(2) A contract subsisting between the Savannah Accelerated Development Authority established under the Savannah Accelerated Development Authority Act, 2010 (Act 805) and another person and in effect immediately before the commencement of this Act shall be deemed as between the Central Government and that person.

(3) A reference in any enactment in force immediately before the commencement of this Act to the Savannah Accelerated Development Authority shall be construed as a reference to the Northern Development Authority.

Date of Gazette Notification: 3rd January, 2018.