

ACT 106**TRUSTEES (INCORPORATION) ACT, 1962**

ARRANGEMENT OF SECTIONS

SECTION

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SCHEDULE

ACT 106**TRUSTEES (INCORPORATION) ACT, 1962¹**

AN ACT to re-enact and apply to the whole of Ghana the law enabling trustees of voluntary associations and bodies established for religious, educational, literary, scientific, sports, social, or charitable purpose to be incorporated, to hold land and to have perpetual succession and to provide for related matters.

1. Grant of certificate of registration as a body corporate

(1) The trustees of an unincorporated voluntary association of persons or body established for a religious, educational, literary, scientific, sports, social, or charitable purpose shall apply, in the prescribed manner, to the Minister for a certificate of registration as a corporate body.²

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1. The Act was assented to on 21st February, 1962.
 2. The Trustees (Incorporation) (Amendment) Law, 1993 (P.N.D.C.L. 311) applied this Act "to the trustees of an unincorporated voluntary association of persons or body established for religious purposes". But the Act already applies to this type of association or body.

(2) The Minister, considering the extent, nature, objects and any other circumstances of the body or association may grant a certificate accordingly, subject to the conditions or directions generally inserted in the certificate.

(3) The conditions or directions may include, in particular, provisions relating to

- (a) the qualifications and number of the trustees, their tenure and vacation of office,
- (b) the mode of appointing new trustees, the custody and use of the official seal,
- (c) the amount of the land which the trustees may hold, and
- (d) the purposes for which the land may be applied.

(4) On the grant of the certificate, the trustees

- (a) shall become a body corporate by the name described in the certificate, and
- (b) shall have perpetual succession and an official seal, and
- (c) shall have power to sue and be sued in the corporate name, and subject to the conditions and directions contained in the certificate, to hold and acquire land.

(5) By instruments under the official seal the trustees may convey, assign and demise land belonging to, or held for the benefit of, that body or association, and subject to the restrictions and provisions that the trustees might, without the incorporation, hold or acquire, convey or assign, or demise the land for the purposes of that body or association.

2. Vesting of estate in body corporate

The certificate of incorporation shall vest in the body corporate the land, of any nature and tenure belonging to or held by a person in trust for that body or association.

3. Particulars respecting application

(1) An application to the Minister for a certificate under this Act shall be in writing, signed by the person making it, and shall contain the particulars specified in the Schedule, or any of them that are applicable to the case.

(2) The Minister may require a declaration or any other evidence in verification of the statements and particulars in the application, and any other particulars, information, and evidence.

4. Nomination of trustees and filling up vacancies

(1) Before a certificate of incorporation is granted, the Minister shall be satisfied that the trustees have been effectually appointed.

(2) Where a certificate of incorporation is granted, vacancies in the number of the trustees shall be filled up so far as shall be required

- (a) by the constitution or settlement of the body or association, or by the relevant conditions or directions,
- (b) by the legal means as would have been available for the appointment of new trustees of that body or association if a certificate of incorporation had not been granted, or
- (c) otherwise as shall be required by the relevant conditions or directions.

(3) The appointment of a new trustee shall be certified by, or by the direction of, the trustees to the Minister on the completion of the appointment.

(4) Within one month after the expiration of each period of five years after the grant of a certificate of incorporation, or whenever required by the Minister, a return shall be

made to the Minister by the then trustees of the names of the trustees at the expiration of that period, with their residences and additions.

5. Certificate as evidence of compliance

A certificate of incorporation so granted is conclusive evidence that the preliminary requisitions in respect of incorporation have been complied with, and the date of incorporation shall be the date specified in the certificate.

6. Record of applications and documents

The Minister shall direct a record to be kept of the applications for and certificates of incorporation, and shall direct the relevant documents sent under this Act to be preserved, and that a person may require a copy or extract of any of these documents to be certified personally by a person appointed for that purpose by the Minister.

7. Enforcement of conditions of certificate

(1) The conditions and directions inserted in a certificate of incorporation is binding on and shall be performed or observed by the trustees as part of the trusts of the body or association.

(2) The Minister may, where any of the conditions contained in a certificate of incorporation are not being complied with or that the activities of the association or body, or of its trustees, are contrary to public order or morality, make an application to the High Court for the certificate to be cancelled.

(3) A certificate signed personally by the Minister that the activities of an association or body, or of its trustees, are contrary to public order or morality is sufficient evidence of the matter so certified.

(4) The High Court in cancelling a certificate may make the appropriate order for the disposal of the movable and immovable property held by the trustees.

8. Application for incorporation or appointment of trustees

(1) The Minister may, by executive instrument, require the trustees of an association or a body to which section 1 applies to apply for incorporation under that section.

(2) In the event of there being no trustees, or of a vacancy in the number of the trustees, of an association or body, the Minister may by executive instrument direct the association or body to appoint trustees, or to fill up the vacancies.

9. Gifts to vest in body corporate

After the incorporation of the trustees of an association or a body pursuant to this Act, every donation, gift, and disposition of land, lawfully made, but not having actually taken effect, or thereafter lawfully made, by deed, will, or otherwise to or in favour of that body or association, or the trustees or otherwise for the purposes of the association or body, shall take effect as if the same had been made to, or in favour of, the corporate body or otherwise for the like purposes.

10. Official seal

(1) The official seal of the body corporate shall have a device approved by the Minister, and until an official seal is provided the seal of some person may be authorised by the Minister for use as the official seal of the body corporate.

(2) The instruments to which the official seal of the body corporate is affixed, in apparent compliance with the Regulations for the use of the official seal referred to in section 1, is binding on the body corporate, despite a defect or circumstance affecting the execution of the instrument.

11. Regulations

The Minister may, by legislative instrument, make Regulations for the enforcement of this Act.

12. Interpretation

In this Act, unless the context otherwise requires,

“**body**” includes an office instituted for a purpose mentioned in section 1, and “**trustee**” includes the occupant of the office;

“**body corporate**”, in the case of the incorporation of a sole trustee, includes a corporation sole;

“**Minister**” means the Minister to whom functions under this Act are assigned by the President;

“**trustees**” includes a sole trustee.

13. Repeal

(1) The Land (Perpetual Succession) Southern Ghana and Ashanti Ordinance (Cap. 137) is repealed.

(2) Every instrument made under the repealed enactment and in force immediately before the commencement of this Act shall continue in force as if made under this Act.

SCHEDULE

[Section 3]

The objects of the body or association, and the rules and regulations of the same, together with the date of, and parties to, every deed, will, or other instrument (if any) creating, constituting or regulating the same.

A statement and short description of the land which at the date of application is possessed by, or belonging to, or held on behalf of the body or association.

The names, residences, and additions of the trustees of the body or association.

The proposed title of the body corporate, of which title the words “trustee(s)” and “registered” shall form part, unless the Minister otherwise directs.

The proposed device of the official seal.

The regulations for the custody and use of the official seal.
