

P.N.D.C.L. 170

STATE ENTERPRISES COMMISSION ACT, 1987

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SCHEDULE

P.N.D.C.L. 170**STATE ENTERPRISES COMMISSION ACT, 1987¹**

AN ACT to establish a State Enterprises Commission to provide within the framework of Government policy the efficient operation of certain prescribed bodies.

*Establishment***1. Establishment of the Commission**

(1) There is hereby established a body to be known as the State Enterprises Commission.

(2) The Commission is 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 performance of its functions, acquire and hold movable or immovable property or enter into a contract or transaction.

2. Objectives and functions of the Commission

(1) The objectives and functions of the Commission in relation to each of the bodies specified in the Schedule are

- (a) to promote within the framework of government policy, the efficient and profitable operation of a specified body;
- (b) to review the objectives, programmes and plans of a specified body and to monitor as well as evaluate its performance in relation to agreed targets;
- (c) to undertake operational and management audit where necessary with a view to improving the performance of a specified body;
- (d) to transmit the Government policies with appropriate guidelines for implementation by a specified body;
- (e) to review the organisational structure and personnel policies and practices of a specified body and advise the Government on the remuneration and other conditions of service of the staff of a specified body, including incentives and bonuses;
- (f) to advise the Government on the criteria for the establishment of new state enterprises and where necessary advise the sector ministries on state enterprises rationalisation and rehabilitation programmes;
- (g) to advise the Government on the appointment and removal of chief executives or members of the Board or other governing body of a specified body;
- (h) to examine the financial structures and major investment proposals of a specified body and make appropriate recommendations to the Government;
- (i) to ensure that appropriate dividends are paid to the Government by a specified body;
- (j) to ensure that a specified body establishes internal audit units, corporate planning and management information systems and also to ensure the institution and implementation of managerial and professional training programmes for its staff;

1. The Act was issued as the State Enterprises Commission Law, 1987 (P.N.D.C.L. 170) made on the 10th day of March, 1987 and notified in the *Gazette* on 16th April, 1987.

- (k) to make recommendations on application to the Ministry of Finance and Economic Planning for additional credit, government guarantees, financing of capital expenditure and investment plans, for a specified body;
- (l) to provide consultancy services to a specified body for an agreed fee which shall be paid into the Consolidated Fund; and
- (m) to perform any other functions which are incidental to the objectives of the Commission.

(2) The Commission may for the performance of its functions engage the services of a consultant.

(3) Where consultancy services are required for or by a specified body, the Commission may in consultation with the specified body engage the services of a consultant and the cost of those services shall be borne by the specified body.

The Board

3. Establishment of the Board

- (1) The governing body of the Commission is a board of directors consisting of
- (a) an executive chairman, who is a person with a sound educational background and not less than ten years working experience, five of which should have been in a top executive position in a reputable industrial, commercial, financial, agricultural, public administration or consultancy organisation,
 - (b) four executive directors, each of whom is a person with a sound educational background and not less than eight years working experience in the fields of business management, accounting and finance engineering, human resources management or a corporate planning,
 - (c) one representative each of the Ministry of Finance and Economic Planning and the Ministry of Industries, Science and Technology,
 - (d) two persons from the private sector of the economy, and
 - (e) two other persons with relevant experience in industry, commerce or administration.

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

4. Functions of the Board

(1) The Board shall review and decide on the policy matters of the Commission.

(2) The Board may, for the performance of its functions, appoint sub-committees which it considers necessary and may assign to them the functions that it may determine.

5. Tenure of office and remuneration of Board members

(1) A member of the Board, except the executive chairman and the executive directors, shall hold office for a period of five years and is eligible for re-appointment.

(2) The President may terminate the appointment of a member on grounds of proven misconduct or inefficiency.

(3) A member may in writing addressed to the President resign from office.

(4) The remuneration of the executive chairman and the executive directors and the allowances of the other members shall be determined by the President.

6. Meetings of the Board

(1) The Board shall meet at least once every month.

(2) The executive chairman may summon an emergency meeting of the Board, or at the written request of any three members of the Board shall summon an emergency meeting.

(3) The executive chairman shall preside at meetings of the Board and in the absence of the executive chairman a member of the Board elected by the members present shall preside.

(4) Subject to this Act, the Board shall regulate its own procedure.

(5) The quorum at a meeting of the Board is seven of which at least three are non-executive directors.

(6) The decisions of the Board shall as far as possible be taken by consensus.

(7) Where a consensus could not be reached decisions of the Board shall be taken by a vote of the majority of the members present, and in the event of equality of votes the executive chairman shall have a casting vote.

(8) The Board may co-opt a person to act as adviser at a meeting of the Board but that person shall not vote on a matter for decision by the Board.

(9) The proceedings of the Board shall not be invalidated because of a vacancy in its membership or a defect in the appointment or qualification of a member.

7. Executive committee

(1) There shall be an executive committee of the Commission consisting of the executive chairman who shall be the chairman and the four executive directors referred to in section 3.

(2) The executive committee is responsible to the Board for the technical operations of the Commission.

(3) The executive committee shall meet at least once a week.

(4) The quorum for a meeting of the executive committee is three.

8. Additional functions of the executive chairman

Subject to the general directives given by the Board on matters of policy, the executive chairman shall have the overall responsibility for the day-to-day administration of the affairs of the Commission.

Administration

9. Staff of the Commission

(1) There shall be a secretary to the Board to be designated as the solicitor/secretary who shall be appointed by the Board.

(2) The solicitor/secretary shall also act as the legal adviser to the Commission.

(3) The Board may engage any other professional staff necessary for the efficient performance of its functions.

(4) The executive chairman is responsible for the appointment of the other categories of staff, but that responsibility may be delegated to a senior officer who the executive chairman considers fit.

(5) The terms and conditions of a member of staff appointed under this section is subject to approval by the Board.

Finance

10. Funds of the Commission

The expenses of the Commission including salaries, allowances and pensions payable to or in respect of persons serving on the Commission shall unless otherwise directed by the President be a charge on the Consolidated Fund.

11. Financial year of the Commission

The financial year of the Commission shall be the same as that of the Government.

12. Accounts and audit

(1) The Board shall ensure that proper books of account are kept on the financial affairs and transactions of the Commission.

(2) The books of account of the Commission shall be audited annually by the Auditor-General or an auditor appointed by the Auditor-General.

13. Government to give directions

(1) The Government may in writing give directions on matters of policy to a specified body through the Board.

(2) Where a sector Minister is authorised by an enactment to give any directions on matters of policy those directions may be given in writing through the Board to the specified body concerned.

14. Submission of budgets to the Commission

A specified body shall, within the prescribed period submit its annual budget, audited accounts, annual reports and any other report to the Commission.

*Miscellaneous***15. Submission of annual reports to the Commission**

An enterprise other than those specified in the Schedule being an enterprise in which the Government has financial interests shall submit to the Commission a copy of its annual reports, and any other information that the Commission may request.

16. Commission to request information

The Commission or a person authorised in writing by the Commission may by writing request from a specified body or an officer an information within the knowledge of the officer which the Commission considers necessary for performing its functions under this Act and the specified body or officer shall provide the information.

17. New investments

(1) A specified body shall not undertake a new commercial or industrial enterprise or a major expansion or modification without prior submission to the Commission of a detailed feasibility report and subsequent approval of the Commission.

(2) *Spent.*²

18. Payments of dividends

A specified body shall not declare and pay any dividends without the approval in writing of the Commission.

19. Reports to the President

(1) The Commission shall submit to the President within three months after the end of every financial year a report on its activities and operations during the preceding financial year.

(2) Without prejudice to the generality of subsection (1) the annual report of the Commission shall include

- (a) a copy of the audited accounts of the Commission together with the Auditor-General's report on the audited accounts, and
- (b) any other information that the President may request.

(3) The Commission shall submit to the President within six months after the end of each year reports on the operations and performances of each specified body.

2. The subsection provided that,

"A copy of the draft public agreement lodged with the Public Agreements Board in accordance with section 42 of the Provisional National Defence Council (Establishment) Proclamation (Supplementary and Consequential Provisions) Law, 1982 (P.N.D.C.L. 42) by a specified body shall also be lodged with the Commission."

20. Disciplinary action

The Commission or a person authorised in writing by the Commission may make recommendations to the appropriate authority for the institution of disciplinary proceedings including dismissal, suspension or forfeiture of salary against an officer of a prescribed body who contravenes a provision of this Act.

21. Responsibility to the President

The Commission is answerable to the President through the Minister.

22. Regulations

The Board may, with the approval of the President make Regulations for the proper implementation of this Act.

23. Dissolution of existing Commission

*Spent.*³

24. Interpretation

In this Act, unless the context otherwise requires,

“**Board**” means the governing body of the Commission appointed by virtue of section 3;

“**Commission**” means the State Enterprises Commission established under section 1;

“**member**” means a member of the Board;

“**prescribed**” means prescribed by the Board or by the Regulations;

“**Regulations**” means Regulations made by the Board under section 23;

“**sector ministry**” means the Ministry responsible for the particular specified body;

“**Sector Minister**” means the Minister responsible for a specified body;

“**specified body**” means a body specified in the Schedule.

25. Modification of existing enactments

The provision of an enactment by which a specified body is established shall be deemed to have been amended or modified by this Act to the extent that that provision is inconsistent with this Act.

3. The section provided as follows:

“24. (1) The State Enterprises existing at the commencement of this Law under the State Enterprises Commission Act, 1981 (Act 433) is hereby dissolved and accordingly that Act is hereby repealed.

(2) Subject to the provisions of this Law any rights, assets, property obligations, liabilities and staff of the dissolved Commission are hereby transferred to the Commission.”

SCHEDULE

1. Architectural and Engineering Services Corporation (A.E.S.C.).
2. Bast Fibre Development Board.
3. City Express Services.
4. Food Distribution Corporation.
5. Food Production Corporation.
6. Ghana Airways Corporation.
7. Ghana Broadcasting Corporation.
8. Ghana Film Industry Corporation.
9. Ghana Highways Authority.
10. Ghana Oil Palm Development Corporation.
11. Ghana Publishing Corporation.
12. Ghana Industrial Holding Corporation.
13. Ghana Railways Corporation.
14. Ghana Supply Commission.
15. Ghana National Procurement Agency.
16. Ghana National Trading Corporation.
17. Ghana Water and Sewerage Corporation.
18. Irrigation Development Authority.
19. Graphic Corporation.
20. Meat Marketing Board.
21. New Times Corporation.
22. Posts and Telecommunications Corporation.
23. State Construction Corporation.
24. State Fishing Corporation.
25. State Farms Corporation.
26. State Hotels Corporation.
27. Omnibus Services Authority.
28. Shipping Corporation.
29. State Housing Corporation.
30. Tema Development Corporation.
31. Tema Food Complex Corporation.
32. Tema Shipyard and Drydock Corporation.
33. State Transport Corporation.
34. Achimota Brewery Company Limited.
35. Automotive Technical Services Limited:
 - (i) Kowus Motors Limited;
 - (ii) Kassbohrer (Ghana) Limited;
 - (iii) Ghana Vehicles Assembly Plant (Tema);
 - (iv) R. T. Briscoe (Ghana) Limited.
36. Bansa Tyre Company Limited.
37. G.E.A. and Associates Limited:
 - (i) G.E.A. Packaging Limited;

SCHEDULE—*continued*

- (ii) G.E.A. General Chemicals Limited;
 - (iii) Gava Farms Limited;
 - (iv) Victory Industries Limited.
38. Ghamot Company Limited.
39. Ghamot Enterprises Limited.
40. Ghamot Vehicle Assembly (Ghana) Limited.
41. Ghamot Textiles Limited.
42. Ghana Estate (Ghana) Limited.
43. Leather Products (Ghana) Limited.
44. Ghamot Motor Engineering Company Limited.
45. Ghana Rice Mill Company Limited.
46. Ghana Rubber Estates Limited.
47. Ghana Seed Company Limited.
48. Ghana Sugar Estates Limited.
49. Labadi Pleasure Beach Complex Limited.
50. Loyalty Industries Limited.
51. National Industrial Company Limited:
- (i) NIC Vehicle Assembly Plant and Workshop;
 - (ii) NIC Electrical Fitting and Accessories Factory;
 - (iii) NIC Electrical Lamps Factory;
 - (iv) NIC Metal Fabrication Factory;
 - (v) NIC Chemicals and Paints Factory;
 - (vi) NIC Soap and Detergents Factory;
 - (vii) NIC Kool Bottling Factory;
 - (viii) Nictex Factory;
 - (ix) NIC Weaving Factory;
 - (x) NIC Knitting Factory;
 - (xi) Establishment Tanios Saba (Ghana);
 - (xii) Nictrad;
 - (xiii) Byblos Company Limited Takoradi;
 - (xiv) City Commercial Limited Accra;
 - (xv) Ghanaian General Establishment (Kumasi) Limited;
 - (xvi) Ghanaian Wood Industries Limited;
 - (xvii) NIC Estates;
 - (xviii) NIC Farms.
52. Volta Lake Transport Limited.
53. Regional Development Corporation:
- (i) Ashanti Regional Development Corporation;
 - (ii) Brong Ahafo Regional Development Corporation;
 - (iii) Central Regional Development Corporation;
 - (iv) Eastern Regional Development Corporation;
 - (v) Greater Accra Regional Development Corporation;

SCHEDULE—*continued*

- (vi) Northern Regional Development Corporation;
 - (vii) Upper Regional Development Corporation;
 - (viii) Volta Regional development Corporation;
 - (ix) Western Regional Development Corporation.
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