

Millennium Development Authority (Amendment) Bill, 2014

ARRANGEMENT OF SECTIONS

Section

1. Long title of Act 702 amended
2. Section 2 of Act 702 amended
3. Section 3 of Act 702 amended
4. Section 7 of Act 702 amended
5. Section 8 of Act 702 amended
6. Section 9 of Act 702 amended
7. Section 16 of Act 702 amended
8. Section 19 of Act 702 amended
9. Section 19A of Act 702 repealed
10. Section 20 of Act 702 amended
11. Section 20A of Act 702 repealed
12. Section 21 of Act 702 amended
13. Section 25 of Act 702 amended
14. Section 26 of Act 702 amended

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ENTITLED

**MILLENNIUM DEVELOPMENT AUTHORITY (AMENDMENT)
ACT, 2014**

An Act to amend the Millennium Development Authority Act, 2006 (Act 702) to make provision for national development programmes funded by the Government of Ghana, Development Partners or by both and to provide for related matters.

PASSED by Parliament and assented to by the President:

Long title of Act 702 amended

1. The Millennium Development Authority Act, 2006 (Act 702) referred to in this Act as the “principal enactment” is amended by the substitution for the long title of

“AN ACT to establish the Millennium Development Authority to oversee, manage and implement the Programmes under the Millennium Challenge Account for poverty reduction through economic growth as set out in each agreement between the Government of Ghana and the Millennium Challenge Corporation acting for and on behalf of the Government of the United States of America and for any

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other national development programme of a similar nature funded by the Government of Ghana, a Development Partner or both and to provide for related matters.”

Section 2 of Act 702 amended

2. Section 2 of the principal enactment is amended

(a) by the substitution for paragraph (a) of

“(a) to oversee and manage the implementation of the programmes under the Millennium Challenge Account;” and

(b) by the repeal of paragraph (b).

Section 3 of Act 702 amended

3. Section 3 of the principal enactment is amended

(a) by the substitution for paragraph (b) of

“(b) take the necessary steps to ensure the reduction of poverty through economic growth;” and

(b) by the substitution for paragraph (d) of

“(d) provide the facilities determined by the Board within the terms of the applicable implementation documents;” .

Section 7 of Act 702 amended

4. The principal enactment is amended by the substitution for section 7 of

“Governing body of the Authority

7. (1) The Board is composed of

(a) not less than seven and not more than eleven voting members comprising

(i) a chairperson;

(ii) a Minister or a representative of the Minister each from Ministries, Departments and Agencies whose functions are of direct relevance to the objectives and functions of the Authority;

(iii) the Chief Executive;

(iv) one representative of the private sector selected by the Private Enterprises Foundation through a transparent process; and

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- (v) one representative of civil society selected by the relevant civil society organisation through a transparent process; and
- (b) the following members without voting rights:
 - (i) the representative of the Millennium Challenge Corporation during the term of each Compact or of the relevant Development Partner; and
 - (ii) any other person appointed to the Board during the term of each Compact with the agreement of the Government and the Millennium Challenge Corporation, or by the Government of Ghana, a Development Partner or both.

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

(4) A member of the Board without voting rights may attend and participate in meetings of the Board.

(5) The Board may furnish a member of the Board referred to under subsection (4) with copies of correspondence and documents provided to the Board."

Section 8 of Act 702 amended

5. Section 8 of the principal enactment is amended in subsection (2)

(a) by the substitution for paragraph (b) of

"(b) review the quarterly performance of the Authority including statement of account of moneys disbursed from the funds of the Authority;" ; and

(b) by the substitution for paragraph (c) of

"(c) ensure adequate accountability to the stakeholders in compliance with the terms of each Compact;" .

Section 9 of Act 702 amended

6. Section 9 of the principal enactment is amended by the substitution for subsection (1) of

"(1) The chairperson and the other voting members of the Board shall hold office for a term of five years except that the representative from the private sector shall hold office for a period of two and a half years and is eligible for re-appointment for one term only."

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Section 16 of Act 702 amended

7. Section 16 of the principal enactment is amended

(a) by the substitution for paragraph (d) of

“(d) ensure that the procurement practices and processes are in compliance with each Compact or any other relevant agreement with a Development Partner;”;

(b) by the substitution for paragraph (e) of

“(e) collaborate with the Ministry of Finance to account for all funding in accordance with the fiscal plan under each Compact or any other relevant agreement with a Development Partner;”.

Section 19 of Act 702 amended

8. The principal enactment is amended by the substitution for section 19 of

“Funds of the Authority

19. (1) The funds of the Authority include

(a) moneys granted to the Government of Ghana under each Compact;

(b) grants, donations, gifts and any other voluntary contributions to the Authority;

(c) moneys that may become lawfully payable to the Authority; and

(d) any other moneys that are approved by the Minister responsible for Finance.

(2) Subject to the funding rules under an agreement with a Development Partner, the Board shall, with the approval of the Minister responsible for Finance, open a bank account into which moneys received by the Authority shall be paid.

(3) Parliament shall approve such moneys as may be required of the Government under each Compact.”.

Section 19A of Act 702 repealed

9. Section 19A of the principal enactment is repealed.

Section 20 of Act 702 amended

10. The principal enactment is amended by the substitution for section 20 of

“Expenses of the Authority

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20. The expenses for the administration and management of the Authority shall be paid from the funds of the Authority during each Compact Term and after that from moneys approved by Parliament.”.

Section 20A of Act 702 repealed

11. Section 20A of the principal enactment is repealed.

Section 21 of Act 702 amended

12. Section 21 of the principal enactment is amended by the substitution for subsection (1) of

“(1) The Board shall establish an accounting and internal audit mechanism that achieves a transparent accountability of the funds of the Authority.”.

Section 25 of Act 702 amended

13. Section 25 of the principal enactment is amended in subsection (2)

(a) by the substitution for paragraph (f) of

“(f) matters on the management of infrastructure facilities constructed under each Compact Term or any other agreement with a Development Partner;”; and

(b) by the substitution for paragraph (g) of

“(g)for the provision of credits and grants from the funds of the Authority;”.

Section 26 of Act 702 amended

14. Section 26 of the principal enactment is amended

(a) by the substitution for the definition of “Compact Term” of

““Compact Term” means each five year period commencing from the date of entry of a Compact;”;

(b) by the substitution for the definition of “Compact” of

““Compact” means each Millennium Challenge Compact made between the United States of America, acting through the Millennium Challenge Corporation, a United States Corporation and the Government of the Republic of Ghana;”; and

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- (c) by the deletion of the definitions of
- (i) "Fund";
 - (ii) "intervention zone";
 - (iii) "MCC"; and
 - (iv) "MCC Fund".

Date of *Gazette* notification: 17th October, 2014.

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MEMORANDUM

The Millennium Development Authority Act, 2006 (Act 702) established the Millennium Development Authority as an independent authority to implement the Millennium Challenge Account – Ghana Programme. The objective of the Programme was to sustain reduction of poverty through economic growth. The terms and conditions of the Programme were contained in an agreement termed Compact I, between the Governments of the Republic of Ghana and the United States of America. Under the terms of Compact I, the Programme commenced on 16th February, 2007 and concluded on 10th February, 2012.

By virtue of paragraph (g) of section 3 of Act 702, the Authority is mandated to perform functions that may be required by subsequent investments made by the Millennium Challenge Corporation, the Government and the Development Partners.

The Government of Ghana has been selected to carry out a further development programme under the terms of a further agreement termed “Compact II” which will also be implemented by the Authority. The purpose of Compact II is to focus on developments in the energy sector.

Although the Authority is mandated under Act 702 to carry out functions as required by subsequent investment programmes, some provisions of Act 702 and the Millennium Development Authority (Amendment) Act, 2006 (Act 709) are tailored to enable the Authority perform its functions in relation to Compact I only; and therefore does not provide entirely for the Authority to deliver the terms expected under Compact II or any other such programme.

For the foregoing reason, it has become necessary to amend Act 702 to expand the objectives and functions of the Authority and related provisions of Act 702. This will then empower the Authority with the legal authority and backing to properly and fully implement the terms of Compact II.

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Accordingly, the long title of Act 702 is amended in *clause* 1 of the Bill to provide for the implementation of national development programmes by the Government, Development Partners or both the Government and Development Partners and for any other development programme of a similar nature.

Clause 2 amends section 2 of Act 702 by broadening the objective of the Millennium Development Authority to cover programmes under the Millennium Challenge Account and not programmes solely for sustainable reduction of poverty through growth as contained in Compact I under the five year agreement.

Clause 3 amends section 3(b) and (d) of Act 702 to remove the restriction on the Authority to ensure poverty reduction through modernisation of agriculture. By this amendment, the functions of the Authority are expanded.

Clause 4 amends section 7 of Act 702. It reconstitutes the governing body of the Authority. A new Board comprising a minimum of seven members and not more than eleven members with voting rights as well as two members without voting rights is established. The *clause* amends section 7 to make room for flexibility in the appointment of Board members whose experience and skills will be relevant to and will suit any compact programme being implemented by the Authority.

Clause 5 substitutes paragraphs (b) and (c) of section 8(2) of Act 702. Subsection (2)(b) has been substituted to ensure that the statement of account of moneys disbursed in reviewing the quarterly performance of the Authority is disbursed from the funds of the Authority rather than from the Fund as the Fund is not operational. Subsection (2)(c) has also been substituted to ensure that there is accountability to stakeholders of each Compact, rather than Compact I.

Clause 6 provides a new subsection (1) of section 9 to extend the period of office of the private sector representative on the Board to two and a half years instead of two to ensure that there is some institutional memory to benefit from.

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Clause 7 amends section 16 of Act 702 by the substitution for paragraphs (d) and (e) respectively of new paragraphs (d) and (e) to generalise the procurement practices and processes and also to ensure collaboration with the Ministry of Finance to account for all funding in respect of each Compact or any other relevant agreement with a development partner.

Clause 8 amends section 19 by providing for a new section 19 which deals with funds of the Authority. The clause replaces the section on establishment of the Fund under Act 702.

Clause 9 repeals section 19A of Act 702 to take account of the expiry of Compact I and the fact that the Fund is not operational. Accordingly, the provision has been incorporated under clause 8 which deals with the funds of the Authority.

The provision on expenses and administration of the Authority under section 20 of Act 702 is amended in *clause 10* to provide for payment from the funds of the Authority during the term of each Compact and thereafter from funds approved by Parliament.

Clause 11 repeals section 20A of Act 702 as it is no longer applicable in view of the expiry of Compact I.

Clause 12 amends section 21 of Act 702. It provides for a new subsection (1) to ensure that the Board establishes an accounting and internal audit mechanism that achieves a transparent accountability of the funds of the Authority instead of moneys of the Fund.

Clause 13 amends paragraph (f) of section 25 of Act 702 so that the Board may by internal by-laws prescribe matters on the management of infrastructure facilities constructed under each Compact Term and any other agreement with a Development Partner to enable the Authority pursue its mandate for subsequent Compacts. The clause further amends paragraph (g) to enable the Board prescribe for the provision of credits and grants from the funds of the Authority rather than from the Fund.

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The amendment proposed by *clause 14* is to provide further clarification for the definition of 'Compact Term' and "Compact" in Act 702 and to delete the definitions of Fund, Intervention Zone, MCC and MCC Fund provided for in section 26 of Act 702.

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Attorney-General and Minister for Justice

Date: