

- ACT 702

THE SEVEN HUNDRED AND SECOND

ACT

OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA
ENTITLED

THE MILLENNIUM DEVELOPMENT AUTHORITY ACT, 2006

AN ACT to establish the Millennium Development Authority to oversee and manage the implementation of the Ghana Programme under the Millennium Challenge Account for the sustainable reduction of poverty through growth as contained in the 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 to provide for related matters.

DATE OF ASSENT: *23rd March, 2006.*

ENACTED by the President and Parliament

The Millennium Development Authority

Establishment of Millennium Development Authority

1. (1) There is established by this Act the Millennium Development Authority.
(2) The Authority is a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.
(3) The Authority may for the discharge of its functions under this Act acquire and hold movable or immovable property and may enter into a contract or other transaction.
(4) Where there is any hindrance to the acquisition of property under subsection (3) the property may be acquired for the Authority under the State Lands Act, 1962 (Act 125) or the State Property and Contract Act 1960 (C.A. 6).

Objectives of the Authority

2. The objectives of the Authority are:
 - (a) to oversee and manage the implementation of the Ghana Programme under the Millennium Challenge Account of the United States Government for sustainable reduction of poverty through growth as contained in the Compact;
 - (b) to secure the proper and effective utilisation of the Millennium Development Fund granted to Ghana under the Compact; and
 - (c) to oversee and manage other national development programmes of similar nature funded by the Government of Ghana, Development Partners or by both.

Functions of the Authority

3. For the purpose of achieving its objectives the Authority shall

- (a) undertake activities to build human resource capacity for successful implementation of development projects by Ministries, Departments and Agencies of the Government of Ghana;
- (b) take necessary steps to ensure the reduction of poverty through modernisation of agriculture;
- (c) implement measures that ensure active participation by the private sector in national development including access to financial resources,
- (d) provide as determined by the Board and within the terms of the Compact, infrastructure facilities including, schools, healthcare, water, sanitation and electricity;
- (e) establish an accounting, reporting and auditing arrangement that is transparent and conforms to the best international practices;
- (f) put in place a mechanism by which there is exchange of information to and from the public on the activities of the Authority;
- (g) perform functions that may be required by subsequent investments made by the Millennium Challenge Corporation, the Government and other Development Partner; and
- (h) perform functions ancillary to the objectives stated in section 2 and the functions stated in this section.

Management of similar programmes

4. The Authority may on the expiry of the Millennium Development Challenge Corporation Programme undertake programmes of similar nature determined by the President.

Responsibility for Authority

5. The Authority shall operate under the Office of the President and the President may assign oversight ministerial responsibility to a Minister determined by the President.

Collaboration with other institutions

6. The Authority shall in the performance of its functions collaborate with institutions the Board may direct.

Governing body of the Authority.

7. (1) The governing body of the Authority is a Board composed of the following members:

- (a) the chairperson,
- (b) one representative each of not less than four Ministries, Department and Agencies whose functions are of direct relevance to the objectives and functions of the Authority,
- (c) two persons representing the Private Sector, and
- (d) one representative of non-governmental organisations.

(2) The members of the Board shall be appointed by the President in consultation with the Council of State.

(3) The following are members of the Board without voting rights and have the status of observers only:

- (a) one representative of the Millennium Challenge Corporation,

- (b) one representative each nominated by the District Assemblies within the zones that are covered by the investment.

Functions of the Board

8. (1) The Board has the responsibility to ensure the implementation of the functions of the Authority and the achievement of the objectives of the Authority.

(2) Without prejudice to subsection (1), the Board shall

- (a) approve annual operating plans and budget of the Authority,
- (b) review the quarterly performance of the Authority including statement of account of monies disbursed from the Fund.
- (c) ensure adequate accountability to the stakeholders in compliance with the terms of the Compact,
- (d) approve an audit plan and monitor its implementation; and seek the full implementation of the external auditor's report within the specified time frame for action, and
- (e) approve the remuneration of the staff of the Authority.

Tenure of office of members

9. (1) The chairperson and the other voting members of the Board shall hold office for a period of five years except that the representatives from the Private Sector and of non-governmental organisations shall hold office for a period of two and one half years and shall upon the expiry of that period be replaced by new members for the same period.

(2) A voting member of the Board may be removed from office by the President by reason of mental or physical incapacity or for stated misconduct.

(3) A member of the Board may at any time resign from office in writing addressed to the President through the chairperson.

(4) Where a member of the Board resigns, dies, is removed from office or is for a sufficient reason unable to act as a member, the chairperson shall within one month of the occurrence of the vacancy notify the President of the vacancy and the President shall, acting on the advice of the nominating authority and in consultation with the Council of State, appoint another person to hold office for the unexpired period of the member's term of office.

(5) A member of the Board who is absent from three consecutive meetings of the Board without reasonable cause ceases to be a member of the Board.

Meeting of the Board

10. (1) The Board shall ordinarily meet for the dispatch of business at a time and place the chairperson may determine but shall meet at least once every two months.

(2) The chairperson shall at the request in writing of not less than one-third of the members of the Board convene a special meeting of the Board.

(3) At every meeting of the Board, the chairperson shall preside and in the absence of the chairperson, a member elected by members present from among their number shall preside.

(4) The quorum at a meeting of the Board consists of five members.

(5) The Board may co-opt a person to attend a board meeting except that a co-opted person does not have voting rights.

(6) Decisions at meetings of the Board shall be determined by a majority of the votes of the members present and voting and where the votes are equal the chairperson or the member presiding shall have a second vote.

(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 section, the Board may determine the procedure for its meetings.

Disclosure of interest

11. (1) A member of the Board who has an interest directly or indirectly in a contract or in other transaction proposed to be entered into with the Authority, shall disclose that interest to the Board and is disqualified from participating in any deliberations of the Board in respect of the contract or transaction.

(2) A member who fails to disclose an interest under subsection (1) shall be removed from the Board.

Appointment of committees

12. (1) The Board may appoint committees consisting of members of the Board or non-members or both

(a) to perform a function of the Board assigned to the committee, or

(b) to advise the Board on a matter referred to the committee.

(2) A committee of the Board may be chaired by a member of the Board.

Non-liability for acts or omissions

13. Members of the Board and committees of the Board are not personally liable for any act or omission in the performance of a function under this Act.

Administration and staff of Authority

Division of the Authority

14. (1) The Board may establish divisions or units it considers necessary within the Authority for the effective performance of the functions of the Authority.

(2) There shall be appointed for each Unit a director who is the head of the Unit.

(3) Each director shall be responsible for the management of the Unit under the director and shall answer to the chief executive in the performance of the functions of the director under this Act.

(4) The qualifications for appointment as a director shall be determined by the Board.

(5) The staff strength, duties and functions of each Unit shall be determined by the Board.

(6) For the purpose of determining the duties and functions of each Unit, the chief executive officer shall draw up for the consideration of the Board a service charter which shall set out the duties and responsibilities of the Units.

(7) The service charter is subject to revision by the Board.

Appointment of chief executive officer

15. (1) There shall be a chief executive officer of the Authority who shall be appointed for a term not exceeding five years.

(2) The chief executive shall be appointed by the President in accordance with article 195(1) of the Constitution.

(3) The chief executive shall possess the requisite qualifications, experience and skills determined by the Board.

(4) The terms and conditions of appointment of the chief executive shall be as stated in the chief executive's letter of appointment.

Functions of the chief executive officer

16. The chief executive officer is responsible for the day to day management of the Authority and shall for this purpose,

- (a) direct and coordinate the work of the Authority,
- (b) with the assistance of the directors of the Units draw up the implementation plans, budget and programme of activities of the Authority for the approval of the Board,
- (c) direct and coordinate the Units of the Authority to achieve set targets,
- (d) ensure that procurement practices and processes are in compliance with the procurement agreement between the Authority and the Millennium Challenge Corporation,
- (e) collaborate with the Ministry of Finance to fully account for all funding in accordance with the Fiscal Accountability Plan under the Compact,
- (f) assist the Board to appraise the performance contracts of other management staff of the Authority, and
- (g) perform other duties determined by the Board for the achievement of the objectives of the Authority.

Performance contracts

17. The Board shall enter into performance contracts with staff of the managerial level in the Authority.

Appointment of other staff and delegation of power of appointment

18. (1) There shall be appointed for the Authority other staff or employees necessary for the effective performance of the functions of the Authority in accordance with article 195(1) of the Constitution.

(2). The President may in writing delegate in accordance with article 195(2) the power of appointment of public officers under this Act.

Finances

The Fund and its management

19. (1) The monies granted to the Government of Ghana under the Compact or any other programme under this Act assigned to the Authority for the performance of its functions and achievement of its objectives.

(2) The monies of the Fund shall be deposited with the Bank of Ghana; and the Minister for Finance shall have general oversight over the Fund.

(3) For the purpose of management and accessing money from the Fund there shall be entered into between the Bank of Ghana and the Authority, an agreement which shall specify

- (a) conditions for the management of the Fund,

- (b) qualification for grant from the Fund,
- (c) projects for which disbursement can be made from the Fund,
- (d) signatories to cheques drawn on the Fund, and
- (e) other provisions necessary for the effective management and utilisation of the Fund.

(4) Disbursement of monies from the Fund to qualified recipients shall be made by the Authority through Rural banks, Commercial banks and other financial institutions approved by the Bank of Ghana.

Expenses of the Authority

20. The expenses for the administration and management of the Authority shall be paid from the Fund for a period of five years and after that from monies provided by Parliament.

Accounts and audit

21. (1) The Board shall establish an accounting and internal audit mechanism that achieves a transparent accountability of the monies of the Fund.

(2) Without limiting the scope of subsection (1) the Board shall keep books of account and proper records in relation to them in the form approved by the Auditor-General.

(3) The Board shall submit the accounts of the Authority to the Auditor-General for audit within three months after the end of each financial year.

(4) The Auditor-General shall, not later than three months after the receipt of the accounts, audit the accounts and submit a copy of the audit report to Parliament

(5) The Board may with the approval of the Auditor-General appoint an external auditor for the purpose of this section.

Financial year

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

Annual report and other reports

23. (1) The Board shall within one month after the receipt of the audit report of the Auditor-General submit to the Minister an annual report that covers the activities and the operations of the Authority for the year to which the report relates.

(2) The annual report shall include the report of the Auditor-General.

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

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

Offences

24. A person who

- (a) when required to submit a report to the Authority knowingly submits a false report, or
- (b) knowingly misrepresents a matter to the Authority in pursuance of an activity under this Act,

commits an offence and is liable on summary conviction to a fine not exceeding five hundred penalty units.

Regulations and bye-laws

25. (1) The Minister may on the advice of the Board by legislative Instrument make Regulations generally for the effective implementation of the provisions of this Act.

- (2) The Board may subject to existing laws by internal bye-laws prescribe,
- (a) qualifications for employment of staff,
 - (b) matters on accounting and reporting on activities of the Authority to the Board,
 - (c) matters that relate to internal auditing,
 - (d) method for achieving transparency in procurement and fiscal accounting,
 - (e) mechanism for flow of information between the public and the Authority on the activities of the Authority;
 - (f) matters on the management of infrastructure facilities built under the Compact from the Fund,
 - (g) for the provision of credits and grants from the Fund; and
 - (h) for administrative matters necessary for the performance of the functions of the Authority.

Interpretation

26. In this Act unless the context otherwise requires,

“Authority” means the Millennium Development Authority established under section 1;

“Board” means the governing body of the Authority provided for under section 8;

“chief executive” means the chief executive officer of the Authority appointed under section 16;

“Compact” means the five year Agreement between the Government of Ghana and the Millennium Challenge Corporation which governs the relationship between Ghana and the United State of America with regard to the implementation of Ghana’s Programme under the Millennium Challenge Account;

“Fund” means the Millennium Development Fund;

“Millennium Development Fund” means the amount of money granted by the USA Government to the Government of Ghana under the Millennium Challenge Account;

“Minister” means the Minister for the time being assigned responsibility for this Act by the President,

“observer status” means the right to attend meetings of the Board but without the right to vote on a decision before the Board.

Date of Gazette notification: 31st March, 2006.

ACT 709

ARRANGEMENT OF SECTIONS

Section

1. Section 2 of Act 702 amended
2. Section 4 of Act 702 amended
3. Section 6 of Act 702 substituted
4. Section 7 of Act 702 amended
5. Section 9 of Act 702 amended
6. Section 10 of Act 702 amended
7. Section 14 of Act 702 amended
8. Section 15 of Act 702 amended
9. Section 19 of Act 702 amended
10. Section 19A inserted
11. Section 20A inserted
12. Section 26 of Act 702 amended
13. Section 27 inserted

THE SEVEN HUNDRED AND NINTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA
ENTITLED

THE MILLENNIUM DEVELOPMENT AUTHORITY (AMENDMENT) ACT, 2006

AN ACT to amend the Millennium Development Authority Act, 2006 (Act 702) to make further provisions for the implementation of the terms of the Compact.

DATE OF ASSENT: *20th July, 2006.*

ENACTED by the President and Parliament:

Section 2 of Act 702 amended

1. The Millennium Development Authority Act 2006 (Act 702) referred to in this Act as the “principal enactment” is amended in section 2 as follows:

(a) in paragraph (a), by the substitution for the words “reduction of poverty through growth as contained in the Compact” of the words “poverty reduction through economic growth”,

(b) by the substitution for paragraph (b) of the following:

“(b) to secure the proper and effective utilisation of the Fund established under section 19(1)”.

Section 4 of Act 702 amended

2. Section 4 of the “principal enactment” is amended by the substitution for the words “Millennium Development Challenge Corporation Programme” of the words “Compact Term”.

Section 6 of Act 702 substituted

3. Section 6 of the “principal enactment” is amended by the substitution for the section of the following:

“Collaboration with institutions of relevance

6. The Authority shall in the performance of its functions collaborate with such institutions of relevance to the Authority’s functions as the Board may direct”

Section 7 of Act 702 amended

4. The “principal enactment” is amended by the substitution for section 7 of the following:

“Governing body of the Authority

7. (1) The governing Board shall be composed of not less than nine nor more than eleven voting members during the Compact Term, including:

- (a) the chairperson,
- (b) the Ministers or the representatives of the Ministers not below the rank of a director of the following Ministries:
 - (i) Food and Agriculture,
 - (ii) Trade, Industry, Private Sector and PSI,
 - (iii) Local Government, Rural Development and Environment, and
 - (iv) Finance and Economic Planning,
- (c) the chief executive appointed under section 15,
- (d) two representatives of the Private Sector selected by the Private Enterprises Foundation through a transparent process, and
- (e) one representative of civil society organisations selected by the Ghana Association of Private Voluntary Organisations in Development through a transparent process”

(2) The members of the Board specified in subsection (1) shall be appointed by the President in consultation with the Council of State.

(3) The following are members of the Board without voting right:

- (a) one representative of the MCC,
- (b) three persons representing the District Assemblies within each Intervention Zone selected by the District Assemblies in the zones through a transparent selection process.

Section 9 of Act 702 amended

5. Section 9 of the principal enactment is amended, in subsection (5), by the substitution for the word “conservative” of the word “consecutive”.

Section 10 of Act 702 amended

6. Section 10 of the “principal enactment” is amended by the substitution for subsection (4) of the following:

“(4) The quorum for a meeting of the Board consists of not less than half of the voting members present.”

Section 14 of Act 702 amended

7. Section 14 of the “principal enactment” is amended in subsection (7) by the substitution for the word “revision” of the word “approval”.

Section 15 of Act 702 amended

8. Section 15 of the “principal enactment” is amended by the substitution for subsection (2) of the following:

“(2) The chief executive officer shall be appointed by the President in accordance with article 195 (1) of the Constitution”.

Section 19 of Act 702 amended

9. Section 19 of the “principal enactment” is amended by the substitution for subsection (1) of the following and the renumbering of the subsections accordingly:

“Establishment of the Fund, its management and budgetary provision.

19 (1) There is established by this Act the Millennium Challenge Corporation Fund.

(2) The Fund shall consist of monies granted to the Government of Ghana under the Compact.

(3) The Fund is exempt from the taxes and duties specified under the Compact.

Section 19A inserted

10. The “principal enactment” is amended by the insertion after section 19 of the following:

“Moneys approved by Parliament.

19A. Parliament shall approve such monies as may be required of the Government under the Compact.”

Section 20A inserted

11. The “principal enactment” is amended by the insertion after section 20 of the following:

“Authority exempted from tax

20A. The Authority is exempted from payment of the taxes and duties specified under the Compact.”

Section 26 of Act 702 amended

12. Section 26 of the “principal enactment” is amended by the substitution for the section of the follows:

“Interpretation

26. In this Act unless the context otherwise requires,

”Authority” means the Millennium Development Authority established under section 1;

”Board” means the governing body of the Authority provided for under section 7;

“chief executive officer” means the chief executive officer of the Authority appointed under section 15;

“Compact” means the 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;

“Compact Term” means five years commencing from the date of Entry into Force of the Compact unless earlier terminated under the Compact;

“Fund” means the MCC Fund set under section 19(1);

“Intervention Zone” means zones set out under the Compact as Intervention Zones,

“MCC” means the Millennium Challenge Corporation;

“MCC Fund” means the fund granted by the MCC to the Government of Ghana subject to terms and conditions of the Compact; and

“PSI” means the President’s Special Initiative;

“Minister” means the Minister for the time being assigned responsibility for this Act by the President.”

Section 27 inserted

13. The “principal enactment” is amended by the insertion after section 26 of the following

“Transitional provision”

27. The Minister may, at least twelve months before the expiry of the initial Compact Term, introduce, by legislative instrument, such measures as the Minister considers necessary to regulate the post Compact period.

Date of Gazette notification: 21st July, 2006.