

S.M.C.D. 85

IRRIGATION DEVELOPMENT AUTHORITY ACT, 1977

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8.M.C.D. 85

IRRIGATION DEVELOPMENT AUTHORITY ACT 19771

AN ACT to provide for the development of irrigation and for related matters.

1. This Act was issued as the Irrigation Development Authority Decree, 1977 (S.M.C.D. 85) made on the 14th day of April, 1977 and notified in the *Gazette* on 22nd April, 1977.

*Establishment***1. Establishment of the Irrigation Development Authority**

(1) There is hereby established a body to be known as the Irrigation Development Authority.

(2) The Authority is a body corporate with perpetual succession and shall have a common seal and may sue and be sued in its corporate name.

(3) Subject to a limitation imposed on it by this Act relating to its functions, the Authority may purchase, acquire, manage or dispose of movable or immovable property and may enter into the contracts and transactions that are expedient.

(4) Where there is a hindrance to the acquisition of property under subsection (3), the property may be acquired for the Authority under the State Property and Contracts Act, 1960 (C.A. 6) or the State Lands Act, 1962 (Act 125) and those Acts shall apply with respect to the acquisition with the modifications that are necessary to provide for the vesting of the property acquired in the Authority and for the cost of the acquisition to be defrayed by the Authority.

2. Functions of the Authority

The functions of the Authority are,

- (a) to formulate plans for the development of irrigation;
- (b) to develop the water resources of the country for irrigated farming, live . stock improvement and fish culture;
- (c) to execute comprehensive programmes for the effective use of irrigated lands in co-operation with any other agencies involved in providing extension services to farmers;
- (d) to carry out land-use planning in areas earmarked for development in order to conserve the soil and water resources in those areas;
- (e) to layout the environs of each project area for housing purposes and for the provision of any other social amenities;
- (f) to co-operate with any other agencies for safeguarding the health and safety of the population living within and around irrigation project areas;
- (g) to undertake any other activities that are incidental or conducive to the performance of its functions under this Act.

3. The Board

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

- (a) the chairman,
- (b) the chief executive appointed under section 6,
- (c) the chief executive of the Volta River Authority or the representative of that chief executive,

- (d) one representative each of the Office of the President and of the Ministries of Agriculture, Finance and Economic Planning, not below the rank of Director/
- (e) one representative of the Water Resources Research Unit of the Council for Scientific and Industrial Research,
- (f) one representative of the Soil Research Institute of the Council for Scientific and Industrial Research,
- (g) one representative of the Faculty of Agriculture, University of Ghana, Legon,
- (h) one representative of the Ghana Water and Sewerage Corporation, and
- (I) two prominent irrigation farmers.

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

4. Tenure of office of members of the Board

(1) The chairman and the other members of the Board, other than the chief executive, shall hold office for a period of two years.

(2) A member of the Board may resign the appointment by notice in writing to the President.

(3) Where the office of a member becomes vacant otherwise than as a result of the expiry of the term of office or if a member is incapacitated by absence from the Republic, illness or any other sufficient cause from performing the functions of office, the President may appoint another person to hold that office.

(4) A person appointed to act in the place of a member under subsection (3) shall cease to hold office on the date when the person in whose place the office is held would have ceased to hold office in accordance with this Act, or when the President is satisfied that the incapacity of the person in whose place the office is held has terminated whichever is earlier.

(5) A person, on ceasing to be a member of the Board, is eligible for re-appointment.

5. Qualifications for appointment as members

A person is not qualified to be appointed, or to continue to be, a member of the Board if that person,

- (a) having been declared insolvent or bankrupt under a law in force in the Republic or in any other country, that person is an undischarged insolvent or bankrupt;
- (b) is of unsound mind or incapable of carrying out the duties of office;
- (c) is guilty of serious misconduct in relation to the duties of office;

2. Amended by section 1 of the Irrigation Development Authority (Amendment) Decree, 1977 (S.M.C.D. 89).
The rank is now that of a Director.

- (d) is convicted of a felony or any other offence involving fraud, dishonesty or moral turpitude and in each case has not been granted a free pardon;
- (e) in the case of a person in possession of a professional qualification, is disqualified or suspended otherwise than at the request of that person from practicing the profession in the Republic or in any other country by order of a competent authority made personally in respect of that person.

6. Chief executive and deputy chief executives

(1) The chief executive shall, subject to subsection (2), be appointed by the President in accordance with article 195 of the Constitution for a period of five years and on the terms and conditions determined by the President.

(2) A person shall not be appointed the chief executive unless that person has a degree in any of the related fields, of irrigation for agricultural purposes with not less than fifteen years of proven professional experience of which at least five years must have been in an administrative capacity.³

(3) Subject to this Act and to the general control of the Board on policy matters, the chief executive is charged with the direction of the business of the Authority, its administration and organisation and control of employees of the Authority.

(4) The chief executive shall be assisted by two deputy chief executives, one of whom is an engineer and the other an agronomist.

(5) Where the chief executive is incapacitated from the performance of functions under this Act, the Board may authorise any of the two deputy chief executives to perform those functions for the duration of the incapacity.

7. Meetings of the Board

(1) The Board shall meet at least once in every three months at the places and times determined by the chairman.

(2) The chairman shall preside at meetings of the Board, and in the absence of the chairman a person elected by the members present from amongst themselves shall preside.

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

(4) Unless otherwise provided, the decisions at meetings of the Board shall be adopted by a simple majority of the votes of members present and in the case of an equality of votes, the person presiding shall have a casting vote.

(5) The members of the Board shall be paid in respect of attendance at meetings of the Board, the transport, subsistence and any other allowances determined by the Board, with the prior approval of the President.

3. Amended by section 1 of the Irrigation Development Authority (Amendment) Decree, 1977 (S.M.C.D. 127) which also repealed the amendment effected by (S.M.C.D. 89). S.M.C.D. 127 was deemed to have come into force at the same time as S.M.C.D. 85.

(6) The Board may co-opt a person to attend a meeting of the Board as an adviser but a person co-opted shall not vote on a matter coming before the Board for decision.

(7) The validity of the proceedings of the Board shall not be affected by a vacancy amongst the members or by a defect in the appointment of a member.

(8) A member of the Board who has an interest in a company or an undertaking with which the Authority proposes to make a contract or has an interest in a contract which the Authority proposes to make, shall disclose in writing to the Board the nature of the interest and is disqualified, unless the Board otherwise directs, from participating in the deliberations of the Board on the contract and is in any case, disqualified from voting on a decision of the Board concerning the contract.

(9) A member who contravenes a provision of subsection (8) ceases to be a member of the Board.

Administration

8. Funds of the Authority

(1) The Government may provide to the Authority as working capital and also as money required for performing its functions, the sums of money determined by the President.

(2) The funds of the Authority include revenue accruing to it from its operations and the grants or loans from whatever source made to it.

9. Borrowing powers

(1) In order to enable the Authority to meet expenditure of a capital nature for the performance of its functions under this Act, the Authority may, subject to article 181 of the Constitution, obtain loans and any other credit facilities on the guarantee of the Government from the banks and any other financial institutions approved by the Minister responsible for Finance.

(2) The Authority may borrow temporarily, by way of overdraft or otherwise, the sums of money that it may require for meeting its current obligations or for its functions.

(3) The Minister responsible for Finance may on behalf of the Government guarantee the performance of an obligation or undertaking by the Authority under this section.

10. Reserve fund

The Authority shall establish and maintain by annual payments from its earnings a depreciation fund for the replacement of fixed assets which have become worn out or become obsolete, and shall establish the capital sinking funds which may be required for expansion and development financing.

11. Staff of the Authority

(1) The Authority may engage employees as are necessary for the efficient and proper performance of its functions under this Act.

(2) The Authority may engage the services of consultants and advisers as the Authority may determine, on the recommendations of the chief executive.

(3) Spellt⁴

(4) Spellt.⁵

(5) Spellt⁶

(6) Public officers may be transferred or seconded to the Authority and may otherwise give assistance to the Authority.

(7) The employees, consultants and advisers of the Authority shall be engaged on the terms and conditions determined by the Board on the recommendations of the chief executive.

12. Secretary of the Authority

(1) The Authority shall designate an officer to be secretary of the Authority.

(2) The secretary shall act as secretary to the Board and shall, subject to the directions of the Board, arrange the business for and cause to be recorded and kept minutes of the meetings of the Board.

(3) The secretary shall perform any other functions that the Board may by writing direct or as the chief executive may by writing assign.

13. Internal Auditor

(1) The Authority shall have an internal auditor.

(2) Subject to this Act, the internal auditor is responsible to the chief executive for the performance of the functions of office.

(3) As part of the functions under this Act, the internal auditor shall, at intervals of three months, prepare a report on the internal audit work carried out during the period of three months immediately preceding the preparation of the report, and submit the report to the chief executive.

(4) Without prejudice to the general effect of subsection (3), the internal auditor shall make in each report the observations that appear necessary as to the conduct of the financial affairs of the Authority during the period to which the report relates.

(5) The internal auditor shall send a copy of the report to the President and a copy each to

- (a) the Minister responsible for Finance,
- (b) the Auditor-General, and
- (c) the chairman and each of the other members of the Board.

4. In view of article 195 of the Constitution. Subsections (3), (4) and (5) read,

"(3) The Board shall, in consultation with the Public Services Commission, be responsible for the appointment and promotion of the employees of the Authority.

(4) The Board, acting on the recommendation of the Chief Executive, shall be responsible for the discipline and removal of the employees of the Authority.

(5) The Board may, with regard to such category of employees as it may determine, delegate to the Chief Executive the power to appoint, promote, discipline and remove such employees." 5. See footnote 4. 6. See footnote 4.

(6) This section shall be read and construed as one with the Internal Audit Agency Act, 2003 (Act 658) and where there is a conflict that Act shall prevail.

14. Budget

(1) The chief executive shall, not less than three months before the commencement of each financial year, prepare and submit to the Board for its approval, proposals for an annual budget of expected revenue and expenditure for that financial year.

(2) The Board shall consider the proposals for the annual budget submitted to it by the chief executive and shall, subject to the modifications determined by the Board, approve the annual budget of the Authority for that financial year.

(3) *Spent*⁷

15. Authority to keep proper accounts

The Authority shall keep proper books of account and other records in relation to the accounts in the form approved by the Auditor-General.

16. Financial year of the Authority

(1) The financial year of the Authority shall end on the 30th day of June each year.

(2) *Spent*.⁸

17. Audit

(1) The books of account of the Authority shall be audited each year by the Auditor General.

(2) The Authority shall pay in respect of the audit the fee that the Auditor-General and the Board may agree or in case of failure to agree as the President may prescribe.

(3) The Board shall as soon as possible on receiving the report of the Auditor General forward a copy to the President.

Miscellaneous

18. Annual report

The Authority shall, not later than six months after the end of each financial year, submit to the President an annual report of its operations during the preceding financial year and the report shall include the statement of accounts and the Auditor-General's report.

7. The subsection reads,

"(3) In the case of the first financial year of the Authority the time within which the chief executive shall submit the proposals for an annual budget under subsection (1), shall be within two months after the date of commencement of business by the Authority."

8. The subsection reads,

"(2) For the purposes of subsection(1) the period extending from the commencement of this Act to the 30th day of June, 1977 shall be deemed to be a financial year:"

19. Transfer of assets and liabilities

*Spent*⁹

20. Regulations and By-laws

(1) The Board may, with the approval of the President, by legislative instrument, make Regulations

- (a) prohibiting, restricting or regulating the use of a reservoir created for an irrigation project taking the national interest into consideration;
- (b) fixing water rate and land improvement charges; and
- (c) for carrying into full effect the objects and functions of the Authority.

(2) Subject to the Social Security Act, 1991, the Board may make By-laws for providing the conditions of service of the employees of the Authority.

21. Exemptions

Subject to article 174 of the Constitution, the Authority is exempted from the payment of the taxes, rates and duties approved in writing by the Minister responsible for Finance.

22. Directions to the Authority

Subject to this Act, the President may give directions to the Authority on matters of policy and the Authority shall comply with the directions.

23. Interpretation

In this Act, unless the context otherwise requires,

"**Auditor-General**" includes an auditor appointed by the Auditor-General;

"**Authority**" means the Authority established by section 1;

"**Board**" means the governing body of the Authority.

9. The section provided that

"(1) There shall be transferred and vested in the Authority such assets and liabilities as the Council may by executive instrument determine.

(2) The Authority shall be responsible for the liabilities and contracts that may have been incurred or entered into by any other person or body before the commencement of this Decree in respect of any of the functions of the Authority and specified in an executive instrument made under subsection (1) of this section, and any matter relating to such liabilities and contracts shall be carried out on and after that date by the Authority as if the Authority were such other person."

