

ACTS OF GHANA



[HOME](#)

PROVISIONAL NATIONAL DEFENCE COUNCIL DECREE

GHANA COCOA BOARD LAW, 1984 (PNDCL 81)

As amended

ARRANGEMENT OF SECTIONS

Section

PART I—ESTABLISHMENT OF GHANA COCOA BOARD

1. Establishment of Ghana Cocoa Board.

PART II—OBJECTS AND FUNCTIONS OF THE BOARD, ETC.

2. Objects of the Board.

3. Functions of the Board.

4. Only Authorised Persons or Organisations are to Purchase Cocoa.

5. Board may Delegate Functions.

6. Board to Operate on Sound Commercial Lines.

PART III—THE BOARD OF DIRECTORS

7. Composition of Board of Directors.

8. Persons not Qualified to be Members of the Board of Directors.

9. Tenure of Office and Emolument of Members of Board of Directors.

10. Meetings of Board of Directors.

PART IV—MANAGEMENT AND STAFF OF BOARD

11. Management of Affairs of Board.
12. Chief Executive and Deputy Chief Executives.
13. Management of Board's Business and Administration
14. Administrative Responsibilities of Deputy Chief Executives.
15. Functions of Chairman of Board of Directors.
16. Staff of Board.
17. Execution of Contracts etc.
18. Solicitor Secretary.
19. Internal Auditor.
20. Members of Board of Directors not to Sponsor Appointments.

PART V—FINANCIAL PROVISIONS

21. Capital and Funds of the Board.
22. Estimates of Income and Expenditures.
23. Financial Year.
24. Bank Accounts and Borrowing Powers of Board.
25. Exemption from Income Tax.
26. Contributory Insurance for Farmers.
27. Farmers' Welfare Fund.
28. Depreciation Fund.
29. Board to pay sums into Consolidated Fund.
30. Board to Keep Proper Books of Account.
31. Audit.

PART VI—GENERAL PROVISIONS

32. Directions by PNDC Co-ordinating Secretary.
33. Annual Report.
34. Regulations.
35. Offences by Bodies of Persons.
36. Bye-laws and Administrative Instructions.
37. Dissolution of Ghana Cocoa Marketing Board.
38. Repeal.
39. Interpretation.
40. Modification of Existing Enactments.

IN pursuance of the Provisional National Defence Council (Establishment) Proclamation, 1981, this Law is hereby made:

PART I—ESTABLISHMENT OF GHANA COCOA BOARD

Section 1—Establishment of Ghana Cocoa Board.

- (1) There is hereby established to replace the Ghana Cocoa Marketing Board existing immediately before the commencement of this Law a body to be known as the Ghana Cocoa Board referred to in this Law as "the Board".
- (2) The Board shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.
- (3) The Board shall have power for the discharge of any of its functions under this Law to acquire and hold any movable or immovable property and to dispose of such property and to enter into any contract or other transaction.
- (4) Where there is any hindrance to the acquisition of any property under subsection (3) of this section, the property may be acquired for the Board under the State Property and Contracts Act, 1960 (CA 6) or the State Lands Act, 1962 (Act 125).

PART II—OBJECTS AND FUNCTIONS OF THE BOARD, ETC.

Section 2—Objects of the Board.

The objects of the Board are:

- (a) to encourage the production of cocoa, coffee and sheanuts;
- (b) to undertake the cultivation of cocoa, coffee and sheanuts;
- (c) to initiate programmes aimed at controlling pests and diseases of cocoa, coffee and sheanuts;
- (d) to purchase, import, undertake and encourage the manufacture in Ghana of, and distribute and market inputs used in the production of cocoa, coffee and sheanuts;
- (e) to undertake, promote and encourage scientific research aimed at improving the quality and yield of cocoa, coffee, sheanuts and other tropical crops;
- (f) to regulate the marketing and export of cocoa, coffee and sheanuts;
- (g) to secure the most favourable arrangements for the purchase, inspection, grading, sealing and certification, export and sale of cocoa, coffee, and sheanuts;
- (h) to purchase, market and export cocoa produced in Ghana which is graded under the Cocoa Industry (Regulation) (Consolidation) Decree, 1968 (NLCD 278) or any other enactment as suitable for export;
- (i) to establish or encourage the establishment of industrial processing factories for the processing of cocoa and cocoa waste into marketable cocoa products;
- (j) to purchase, market and export cocoa, cocoa products, coffee, shea nuts and shea-butter produced in Ghana;
- (k) to assist in the development of the cocoa, coffee and sheanuts industries of Ghana; and
- (l) to promote the general welfare of cocoa, coffee and sheanuts farmers in Ghana.

Section 3—Functions of the Board.

The Board may, for the attainment of its objects and without prejudice to the general effect of section 2 of this Law;

- (a) determine with the prior approval in writing of the PNDC Co-ordinating Secretary, the prices to be paid from time to time to producers for their cocoa, coffee and sheanuts and shall arrange in such manner as the Board may think fit to

notify such prices to the producers;

(b) take steps to pay promptly for any cocoa beans, coffee and sheanuts purchased from producers and all such payments shall be made by cheque in accordance with the Akuafo Cheque System;

(c) establish purchasing and marketing organisations and regulate the mode of operation of the organisations;

(d) acquire and hold any interest in the business of any person carrying on functions (whether in Ghana or outside Ghana) similar or related to the objects of the Board and may dispose of such interest;

(e) provide seedlings, credit and other facilities to cocoa, coffee and sheanuts farmers to plant new farms or rehabilitate old ones or redeem pledged farms, as the case may be;

(f) with the prior approval of the PNDC Co-ordinating Secretary, carry on such other activities as may appear to the Board to be conducive or incidental to the attainment of the objects and functions of the Board under this Law.

Section 4—Only Authorised Persons or Organisations are to Purchase Cocoa.

(1) No person shall purchase cocoa except:

(a) the Board through its wholly-owned subsidiary buying company; or

(b) a person or organisation authorised in writing by the Board to purchase cocoa for sale to the Board.

(2) The duties of the Board's wholly-owned subsidiary buying company or a person or organisation authorised by the Board to purchase cocoa shall include—

(a) evacuation of cocoa from the buying centre to the Board's approved warehouse at the port;

(b) provision and maintenance of storage facilities; provided that in the case of the Board's wholly-owned subsidiary buying company, the Board shall provide the storage facilities.

(3) No person shall, without lawful excuse, apply or authorise or knowingly permit any other person to apply any money for a purpose other than the purchase of cocoa, being money intended by the Board or its subsidiary buying company or both for the purchase of cocoa.

(4) Any person or purchasing organisation authorised to purchase cocoa by the Board that

has received any money from the Board to purchase cocoa for the Board and has not purchased the cocoa or has purchased part only of the cocoa, shall repay such money or the balance thereof as the case may be to the Board within three months after the commencement of this Law.

(5) No person shall without lawful authority, extract cocoa from any sealed bag of cocoa being cocoa which—

(a) belongs to the Board;

(b) is stored in any premises in respect of which a certificate of registration has been issued under any regulation made by the Board; or

(c) is in the custody of the Board or the Board's wholly owned subsidiary company or a person authorised by the Board to purchase cocoa for sale to the Board.

(6) No person shall market or export any cocoa unless—

(a) it is cocoa which is the property of the Board; or

(b) it is cocoa which has been graded and sealed, the export of which has been authorised in writing by the certifying authority of the Board.

(7) Except where the sale is made to a person or authority authorised to purchase cocoa under subsection (1) of this section, no person shall sell cocoa other than to the Board or the Board's wholly-owned subsidiary buying company or any other person authorised in writing by the Board so to do.

(8) Except as the Board may otherwise direct, no person shall export any coffee, sheanuts or shea-butter other than the Board or the Board's wholly-owned subsidiary company, or a purchasing organisation or a person authorised in writing by the Board so to do.

(9) Any person who contravenes any of the provisions of this section is guilty of an offence and shall, on summary conviction, be liable to imprisonment for a term of not less than five years and not exceeding ten years, without the option of a fine.

Section 5—Board May Delegate Functions.

Without prejudice to the generality of section 14 of this Law, the Board may, with the prior approval of the PNDC Co-ordinating Secretary and subject to such conditions as it may think fit, by writing under its common seal delegate any of its functions under this Part to any person and may at any time in like manner revoke such delegation.

Section 6—Board to Operate on Sound Commercial Lines.

(1) It shall be the duty of the Board to conduct its affairs on sound commercial lines and in

such a manner as to ensure a reasonable return on its capital.

(2) In determining what constitutes a reasonable return, all pertinent economic and financial considerations shall be taken into account, including but not limited to the need—

(a) to provide a reasonable proportion of the funds needed for expanding the Board's activities and improving its work;

(b) to provide reserves for expansion or other purposes if and to the extent to which the Board deems it necessary to establish such reserves; and

(c) to make such reasonable payments to the Consolidated Fund from time to time as may be determined under section 29 of this Law.

PART III—THE BOARD OF DIRECTORS

Section 7—Composition of Board of Directors.

(1) The Board shall have a governing body to be known as the Board of Directors.

(2) The Board of Directors shall consist of the following members all of whom shall be appointed by the Provisional National Defence Council—

(a) three Government nominees one of whom shall be the Chairman;

(b) the Chief Executive of Cocoa Board;

(c) two farmers' representatives being persons with interest in cocoa farming;

(d) one member of the working staff;

(e) the Governor of Bank of Ghana;

(f) a representative of PNDC Secretary responsible for Finance and Economic Planning, not below the rank of Director;

(g) a representative of PNDC Secretary responsible for Trade and Tourism not below the rank of Director.

(3) The Council shall in appointing members of the Board of Directors have regard to their knowledge of and competence in economics, agricultural economics, financial management, policy analysis, international marketing, external trade or cocoa farming experience.[As substituted by the Ghana Cocoa Board (Amendment) Law, 1991 (PNDCL 265), s.1(a)].

Section 8—Persons not Qualified to be Members of the Board of Directors.

(1) A person shall not be qualified to be a member of the Board of Directors unless—

(a) he is a citizen of Ghana and has attained the age of twenty-one years; and

(b) he is able to speak and, unless incapacitated by blindness or other physical causes, to read the English language with a degree of proficiency sufficient to enable him to take an active part in the deliberations of the meetings of the Board of Directors.

(2) No person shall be qualified to be a member of the Board of Directors who—

(a) owes allegiance to a country other than Ghana; or

(b) has been adjudged or otherwise declared—

(i) a bankrupt under any law in force in Ghana and has not been discharged;

(ii) to be of unsound mind or is detained as a criminal lunatic under any law in force in Ghana; or

(c) has been convicted—

(i) for treason or for an offence involving the security of the State, fraud, dishonesty or moral turpitude; or

(ii) for any other offence on indictment; or

(d) has been found by the report of a Commission or a Committee of Inquiry to be incompetent to hold public office or in respect of whom a Commission or Committee of Inquiry has found that while being a public officer he acquired assets unlawfully or defrauded the State or misused or abused his office, or wilfully acted in a manner prejudicial to the interests of the State, and such findings have not been set aside on appeal or judicial review; or

(e) has had his property confiscated as the result of the findings of a commission or committee of inquiry; and such findings have not been set aside on appeal or judicial review; or

(f) is under sentence of death or other sentence of imprisonment imposed on him by any court.

(3) For the purposes of paragraph (c) or (d) or (e) of subsection (2) of this section, if ten years or more have elapsed since the end of the sentence or the date of the publication of the report of the commission or committee of inquiry or he has been pardoned, that

person shall not be disqualified to be a member of the Board of Directors by reason only of the provisions of that paragraph.

Section 9—Tenure of Office and Emolument of Members of Board of Directors.

(1) All members of the Board of Directors other than the Chief Executive shall hold office for a period of two years.

(2) A member of the Board of Directors other than the Chief Executive may resign his office by notice in writing addressed to the Council and, without prejudice to the provisions of section 8 of this Law, any such member may, for good cause shown, and in the public interest, be removed by the Council.

(3) All members of the Board of Directors ceasing to hold office shall, subject to section 8 of this Law, be eligible for re-appointment.

(4) Where any member of the Board of Directors is absent from Ghana or incapacitated by illness, or any other cause from performing the functions of his office, the Council may appoint another person to act in his place until that member is able to resume the performance of his functions.

(5) The Chairman or in his absence the Chief Executive shall notify the PNDC Co-ordinating Secretary in writing of all vacancies occurring in the membership of the Board of Directors and of any circumstances giving rise to an appointment under subsection (4) of this section.

(6) There shall be paid to members of the Board of Directors other than the Chief Executive and the three workers' representatives in respect of their membership such subsistence, travelling and other allowances as the Secretary responsible for Finance may approve in relation to them.

Section 10—Meetings of Board of Directors.

(1) The Board of Directors shall ordinarily meet for the dispatch of business at such times and at such places as the Board of Directors may determine but shall meet at least once in every month.

(2) A special meeting of the Board of Directors shall be called upon a written request signed by the Chairman or by one-third of the members of the Board of Directors addressed to the Secretary of the Board of Directors.

(3) At every meeting of the Board of Directors at which he is present, the Chairman shall preside and in his absence a member of the Board of Directors other than the Chief Executive, elected by the members present from among themselves, shall preside.

(4) Questions proposed at a meeting of the Board of Directors shall be determined by a

simple majority of members present and voting and in the event of an equality of votes the person presiding shall have a second or casting vote.

(5) The quorum at any meeting of the Board of Directors shall be eight.

(6) The three Deputy Chief Executives referred to in section 12 of this Law shall attend the meetings of the Board of Directors and may take part in its deliberations but shall have no right to vote.

(7) The Board of Directors may at any time co-opt any person or persons to act as an adviser or advisers at any of its meetings so however, that no person so co-opted shall be entitled to vote at any such meeting on any matter for decision by the Board of Directors.

(8) The validity of any proceedings of the Board of Directors shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.

(9) Any member of the Board of Directors who has any interest in any company or undertaking with which the Board proposes to enter into any contract or who has any interest in any contract which the Board proposes to enter into shall disclose in writing to the Board of Directors the nature of his interest and shall be disqualified from participating in any deliberations of the Board of Directors on the contract and shall in any case be disqualified from voting in any decision of the Board of Directors on such contract and any member who infringes the provisions of this subsection shall be liable to be removed from the Board of Directors.

PART IV—MANAGEMENT AND STAFF OF BOARD

Section 11—Management of Affairs of Board.

Subject to the provisions of this Law, the Board of Directors shall be charged with the management of the property, business, and finances of the Board and the other affairs and concerns thereof on matters of policy.

Section 12—Chief Executive and Deputy Chief Executives.

(1) The Board shall have an officer to be known as the Chief Executive and shall also have three other officers to be known as Deputy Chief Executives who shall be responsible to the Chief Executive.

(2) The Chief Executive and the Deputy Chief Executives shall be appointed by the Council and shall hold office for four years upon such terms and conditions as may be specified in their instrument of appointment.

(3) The Chief Executive and Deputy Chief Executives shall at the end of their term of office be eligible for re-appointment.

Section 13—Management of Board's Business and Administration

The Chief Executive shall, subject to the general control of the Board of Directors on matters of policy and subject in particular to such regulations or bye-laws or administrative instructions as the Board of Directors may make or give in that behalf under section 34 or section 36 of this Law, be charged with the direction of the day-to-day business of the Board and of its administration and the control of all employees of the Board.

Section 14—Administrative Responsibilities of Deputy Chief Executives.

The Deputy Chief Executives shall respectively have administrative responsibility for the following sectors of the Board—

- (a) Operations;
- (b) Agronomy and Quality Control;
- (c) Finance and Administration.

Section 15—Functions of Chairman of Board of Directors.

(1) The Chairman shall, in his capacity as Chairman have no other functions in relation to the Board except as otherwise expressly conferred on him by this Law or by any other enactment.

(2) During intervals between meetings of the Board of Directors the Chairman shall be charged with the responsibility of overseeing on behalf of the Board of Directors the implementation by the Management of policy decisions taken by the Board of Directors.

Section 16—Staff of Board.

(1) The Board may from time to time engage such employees as may be necessary for the proper and efficient conduct of the business and functions of the Board.

(2) The Board may also engage the services of such consultants and advisers as the Board may, upon the recommendation of the Management, determine.

(3) The Board of Directors in consultation with the Public Services Commission shall be responsible for the appointment of a person to any office in the Board of General Manager or divisional head or a similar office.

(4) Notwithstanding the provisions of any other enactment to the contrary but subject to the provisions of this Law, the Board of Directors shall have power to appoint persons as heads of the wholly-owned subsidiaries of the Board.

(4A) The Board of Directors shall have power to appoint Management Committees

consisting of not more than 11 persons for such Divisions as they deem fit.[As inserted by the Ghana Cocoa Board (Amendment) Law, 1991 (PNDCL 265), s.1(b)].

(4B) The Board of Directors shall in appointing persons to serve on Management Committees have regard to their competence in the field of operations of the respective Divisions.[As inserted by the Ghana Cocoa Board (Amendment) Law, 1991 (PNDCL 265), s.1(b)].

(5) The Board of Directors shall, on the recommendations of the Management, be responsible for the discipline, dismissal or removal of any person referred to in subsections (3) and (4) of this section.

(6) The divisions and subsidiaries to which subsections (3) and (4) relate are the Produce Buying Company Limited, the Cocoa Research Institute of Ghana, the Cocoa Marketing Company (Ghana) Limited, COCOBOD Plantation Limited, Cocoa Processing Company Limited, Abuakwa Formulation Plant Limited, the Produce Inspection Division, Cocoa Services Division and any other division or subsidiary that may be created under subsection (7) of this section.

(7) The Board may, on the advice of the Management, create or abolish any department, division or subsidiary referred to in subsection (6) of this section.

(8) The Board of Directors shall, on the recommendation of the Management, be responsible for the appointment, promotion, discipline, dismissal or removal of a person in respect of any other office in the Board.

(9) The Board of Directors may delegate any of its functions under subsection (8) of this section to the management or any member thereof or to any employees of the Board who may act with or without such recommendation as is referred to in subsection (8) of this section as the Board of Directors may direct.

(10) Subject to the provisions of this Law, the employees and advisers of the Board shall be engaged on such terms and conditions as the Board of Directors may, on the recommendation of the Management, determine.

(11) Public officers may be transferred or seconded to the Board or may otherwise give assistance thereto.

Section 17—Execution of Contracts etc.

(1) The use of the seal of the Board shall be authenticated by two signatures, namely—

(a) the signature of the Chief Executive or a Deputy Chief Executive or some other member of the Board authorised by the Board of Directors to authenticate the application of the seal; and

(b) the signature of the Solicitor Secretary or some other officer of the Board authorised by the Board of Directors to act in the Solicitor Secretary's place for that purpose.

(2) The Board may by instrument in writing under its common seal empower any person either generally or in respect of any specified matters as its attorney, to execute deeds on its behalf in any place not situated in Ghana; and every deed signed by such attorney on behalf of the Board and under his seal, shall be binding on the Board and have the same effect as if it were under the common seal of the Board.

(3) Any instrument or contract which, if executed or entered into by a person other than a body corporate, would not require to be under seal, may be executed or entered into on behalf of the Board by a member of the Management or any member of the Board if such person has previously been authorised by a resolution of the Board of Directors to execute or enter into that particular instrument or contract.

(4) The Board, if it thinks fit, may by writing under its common seal appoint any person outside Ghana as agent to execute an instrument or enter into a contract and the instrument or contract if executed or entered into on behalf of the Board shall have effect as if it has been duly executed or entered into as prescribed for the purpose of this subsection.

(5) Every document purporting to be an instrument executed or issued by or on behalf of the Board and purporting to be—

(a) sealed with the common seal of the Board authenticated in the manner provided by subsection (1) of this section; or

(b) signed by and under the seal of a person appointed as attorney under subsection (2) of this section; or

(c) signed by a member of the Management or by a member of the Board or other person authorised in accordance with subsection (3) of this section to act for that purpose,

shall be deemed to be so executed or issued until the contrary is shown.

Section 18—Solicitor Secretary.

(1) The Board shall have an officer to be designated as the "Solicitor Secretary".

(2) The Solicitor Secretary shall act as Secretary to the Board of Directors at its meetings and shall, subject to the directions of the Board of Directors, arrange the business for and cause to be recorded and kept minutes of all meetings of the Board of Directors.

(3) The Solicitor Secretary shall also perform such functions as the Board of Directors

may by writing direct or as the Chief Executive may by writing delegate to him and shall be assisted in his functions by such of the employees of the Board as the Chief Executive may direct.

Section 19—Internal Auditor.

(1) The Board shall have an Internal Auditor.

(2) Subject to the provisions of this Law, the Internal Auditor shall be responsible to the Chief Executive for the performance of his functions.

(3) As part of his functions under this Law, the Internal Auditor shall, at intervals of three months, prepare a report on the internal audit work carried out by him during the period of three months immediately preceding the preparation of the report, and submit the report to the Chief Executive who shall convene a meeting of the Management as soon as possible to discuss the Internal Auditor's report.

(4) The Internal Auditor's report shall cover the financial and operational transactions of all departments, divisions and subsidiaries under the Board.

(5) Without prejudice to the general effect of subsection (3) of this section, the Internal Auditor shall make in each report such observations as appear to him necessary as to the conduct of the financial affairs of the Board during the period to which the report relates.

(6) The Internal Auditor shall send a copy of each report prepared by him under this section to the PNDC Co-ordinating Secretary and also to each of the following—

- (a) the Secretary responsible for Finance;
- (b) the Auditor-General; and
- (c) the Chairman of the Board of Directors.

Section 20—Members of Board of Directors not to Sponsor Appointments.

No member of the Board of Directors shall personally sponsor or recommend any application for employment of any person under this Law and any member of the Board of Directors who infringes the provisions of this section shall be liable to be removed from the Board of Directors.

PART V—FINANCIAL PROVISIONS

Section 21—Capital and Funds of the Board.

The Government may provide to the Board as working capital and also as moneys required for carrying out the functions of the Board such sums as the PNDC Co-ordinating

Secretary may after consultation with the Council agree, being sums requested by the Board from the Government.

Section 22—Estimates of Income and Expenditures.

(1) The Board shall submit to the PNDC Co-ordinating Secretary at such times and in such form as the PNDC Co-ordinating Secretary may in consultation with the Secretary responsible for Finance direct, detailed estimates of the Board's income and expenditure for the next following financial year.

(2) Subject to the provisions of any enactment the expenditure of the Board shall be in accordance with the said estimates as approved by the PNDC Co-ordinating Secretary acting in consultation with the Secretary responsible for Finance.

Section 23—Financial Year.

The financial year of the Board shall end on the 30th day of September in each year.

Section 24—Bank Accounts and Borrowing Powers of Board.

(1) The Board may have bank accounts in such banks as the Board of Directors may determine.

(2) Subject to the provisions of any existing enactment, the Board may open and operate foreign exchange accounts including accounts outside Ghana into which shall be paid not less than five per centum of the earnings of the Republic through the export of Ghana cocoa and other agricultural products and derived from the operations of the Board under this Law.

(3) The Board may obtain loans and other credit facilities on the guarantee of the Government from such banks as the Secretary responsible for Finance may approve.

(4) Apart from the powers of the Board under subsection (3) of this section the Board may, with the approval of the Secretary responsible for Finance, borrow from any other source.

(5) The Board may borrow temporarily by way of overdraft or otherwise such sums as it may require for meeting its current obligations or discharging its functions.

(6) The Secretary responsible for Finance may, on behalf of the Government, guarantee the performance of any obligation or undertaking of the Board under this Law.

(7) The Secretary responsible for Finance may, from time to time in consultation with the PNDC Co-ordinating Secretary, prescribe the maximum sums which the Board may borrow under subsection (3) or (4) of this section.

(8) All loans derived whether from outside or within Ghana as well as all agreements

providing for joint ventures involving the Board shall be subject to review of the Public Agreements Board in accordance with section 42 of the Provisional National Defence Council (Establishment) Proclamation (Supplementary and Consequential Provisions) 1982 (PNDCL 42).

Section 25—Exemption from Income Tax.

The Board shall be exempted from income tax imposed under the provisions of the Income Tax Decree, 1975 (SMCD 5).

Section 26—Contributory Insurance for Farmers.

(1) The Board shall within one year after the coming into force of this Law establish a contributory insurance scheme for cocoa, coffee and sheanuts farmers within the framework of the Social Security Scheme.

(2) The Board's contribution to the insurance scheme referred to in subsection (1) of this section shall be charged to the operational funds of the Board.

(3) The Board of Directors shall, by legislative instrument, make regulations to give full effect to the provisions of this section.

Section 27—Farmers' Welfare Fund.

(1) The Board shall establish a fund to be known as "the Farmers' Welfare Fund".

(2) At the end of each financial year, the Board—

(a) shall transfer to the farmers' welfare fund a sum of money not exceeding ten per centum of the net profit of the Board for that year; and

(b) shall use the Farmers' Welfare Fund for—

(i) development projects in any cocoa, coffee or sheanuts producing area; and

(ii) the provision of other farmers' benefits such as low interest-bearing farmers' welfare loans, farmers' refresher courses, scholarship scheme for farmers' wards, and for other purposes aimed at enhancing the welfare of cocoa, coffee and sheanuts farmers.

(3) Without prejudice to any benefit conferred by this Law on a producer of cocoa, coffee and sheanuts, the Board shall at the end of each financial year pay to each such producer a reasonable bonus the value of which shall be determined by the Board of Directors.

Section 28—Depreciation Fund.

(1) The Board shall have a depreciation fund and for the purpose the Board shall open a Depreciation Reserve Account with such commercial banks as the Board may determine.

(2) At the end of each financial year, the Board shall transfer to the credit of the Depreciation Reserve Account all amounts charged to profit and loss account in respect of depreciation for buildings, plant and equipment, fixtures and other assets.

(3) Amounts so transferred to the Depreciation Reserve Account shall be utilised only to replace fixed assets and equipment which are worn out or have become obsolete.

(4) Expenditure in respect of current repairs and in respect of purchases of spare parts shall not be met out of the Depreciation Reserve Account but shall be charged to the income and expenditure account of the Board for the financial year during which the expenditure is incurred.

Section 29—Board to Pay Sums into Consolidated Fund.

At the end of each financial year, after the Board has made provision for bad and doubtful debts, depreciation of assets, contributions to staff and superannuation funds and for other contingencies, if any, and after appropriation has been made to the farmers' welfare fund under section 27 of this Law such part of the profits of the Board remaining as the PNDC Co-ordinating Secretary may by writing direct after consultation with the Board of Directors and with the Secretary responsible for Finance, shall be paid into the Consolidated Fund.

Section 30—Board to Keep Proper Books of Account.

The Board shall keep proper books of account and proper records in relation thereto and the account books and records of the Board shall be in such form as the Auditor-General may approve.

Section 31—Audit.

(1) The books and accounts of the Board shall within three months after the end of each financial year of the Board be audited by the Auditor-General.

(2) The Board shall pay in respect of such audit such fee (if any) as the Auditor-General and the Board of Directors may agree or in the case of failure to agree, such fee as the PNDC Co-ordinating Secretary may prescribe.

(3) It shall be the duty of the Board of Directors as soon as possible upon receiving the report of the Auditor-General under this section, to forward a copy of such report to the PNDC Co-ordinating Secretary.

(4) The PNDC Co-ordinating Secretary shall as soon as practicable upon receipt thereof, cause to be laid before the Council a copy of the Auditor-General's report forwarded to him under this section.

PART VI—GENERAL PROVISIONS

Section 32—Directions by PNDC Co-ordinating Secretary.

The PNDC Co-ordinating Secretary may, after consultation with the Board of Directors or the Management, give to the Board in writing directions of a general character not being inconsistent with the provisions of this Law or with the contractual or other legal obligations of the Board relating to the exercise by the Board of its functions under this Law and the Board shall give effect to such directions.

Section 33—Annual Report.

(1) The Board of Directors shall, as soon as possible after the expiration of each financial year of the Board but within six months after the termination of that year, cause to be submitted to the PNDC Co-ordinating Secretary an annual report of the Board dealing generally with the activities and operations of the Board within that year which shall, without prejudice to the generality of the foregoing, include—

- (a) a copy of the audited accounts of the Board together with the Auditor-General's report thereon;
- (b) a statement of all directions given to the Board under section 32 of this Law;
- (c) each report submitted by the Internal Auditor under section 19 of this Law in relation to that financial year; and
- (d) such other information as the PNDC Co-ordinating Secretary may request.

(2) A copy of the annual report shall be forwarded by the Board of Directors to—

- (a) the Secretary responsible for Finance;
- (b) the Bank of Ghana;
- (c) the Central Bureau of Statistics.

(3) The PNDC Co-ordinating Secretary shall not later than three months after receiving the annual report cause it to be laid before Council.

(4) The Board of Directors shall also submit to the PNDC Co-ordinating Secretary such other reports on the Board's financial affairs as the PNDC Co-ordinating Secretary may by

writing reasonably request from time to time.

Section 34—Regulations.

(1) The Board of Directors may, by legislative instrument, make such regulations as it may think fit for the purpose of giving effect to the provisions of this Law.

(2) Without prejudice to the generality of subsection (1) of this section, regulations made thereunder may—

(a) prescribe the form of all licences or permits to be issued under this Law;

(b) regulate the control of the issue of such licences or permits and determine the conditions under which they may be used, produced, revoked or returned.

(3) Regulations made under this section may prescribe in relation to any contravention of the regulations—

(a) penalties not exceeding a fine of ₪50,000.00 or five years' imprisonment or both;

(b) additional penalties not exceeding ₪200.00 for each day in respect of continuing offences;

(c) forfeiture to the State of any articles with which the offences are committed.

Section 35—Offences by Bodies of Persons.

(1) Where an offence under this Law or under any regulations made thereunder is committed by a body of persons, then—

(a) in the case of a body corporate other than a partnership every director or Secretary or similar officer of such body; and

(b) in the case of a partnership every partner of the partnership,

shall be deemed to have committed the offence.

(2) No person shall be deemed to have committed an offence by virtue of this subsection if he proves to the satisfaction of the court that he did not consent to or connive at the commission of the offence and that he did all in his power to prevent the commission of the offence having regard to all the circumstances.

Section 36—Bye-laws and Administrative Instructions.

The Board of Directors may from time to time issue bye-laws or administrative instructions

in writing for regulating the internal operations of the Board including but without prejudice to the general effect of the foregoing the regulation of the conditions of service of the employees of the Board and the operation of a contributory provident fund and a contributory insurance scheme.

Section 37—Dissolution of Ghana Cocoa Marketing Board.

(1) The Ghana Cocoa Marketing Board existing at the commencement of this Law as established under the Ghana Cocoa Marketing Board Act, 1981 (Act 447), is hereby dissolved.

(2) All assets, rights, obligations and liabilities of the dissolved Ghana Cocoa Marketing Board are hereby transferred to the Ghana Cocoa Board established under this Law without any further assurance.

Section 38—Repeal.

(1) The Ghana Cocoa Marketing Board Act, 1981 (Act 447), is hereby repealed.

(2) Notwithstanding the repeal of the said Act and without prejudice to the general effect of sections 8 and 9 of the Interpretation Act, 1960 (CA 4):

(a) any bye-law or administrative instructions issued thereunder and in force immediately before the commencement of this Law shall continue in existence as if made under section 36 of this Law;

(b) the repeal of the said Act shall not affect any obligation or penalty incurred by any person before the repeal.

Section 39—Interpretation.

In this Law, unless the context otherwise requires—

"Board" means the Ghana Cocoa Board;

"Council" means the Provisional National Defence Council;

"Management" includes the Chief Executive, the Deputy Chief Executives and such other officers as may be prescribed under regulations made by the Board of Directors.

Section 40—Modification of Existing Enactments.

Any reference to the dissolved Ghana Cocoa Marketing Board in any enactment in existence at the commencement of this Law shall be construed as a reference to the Ghana Cocoa Board established under this Law.

Made this 3rd day of March, 1984.

FLT.-LT. JERRY JOHN RAWLINGS

Chairman of the Provisional National Defence Council

Date of Gazette Notification: 8th June, 1984.

amended by

GHANA COCOA BOARD (AMENDMENT) LAW, 1991 (PNDCL 265).1