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Act 821



THE EIGHT HUNDRED AND TWENTY-FIRST

# ACT

OF THE PARLIAMENT OF THE REPUBLIC  
OF GHANA  
ENTITLED

## PETROLEUM COMMISSION ACT, 2011

AN ACT to establish the Petroleum Commission, for the regulation and the management of the utilisation of petroleum resources and to provide for related purposes.

DATE OF ASSENT: *14th July, 2011.*

PASSED by Parliament and assented to by the President:

### *Petroleum Commission*

#### **Establishment of the Petroleum Commission**

1. (1) There is established by this Act a body corporate with perpetual succession to be known as the Petroleum Commission.

(2) Where there is a hindrance to the acquisition of property, the property may be acquired for the Commission under the State Property and Contracts Act, 1960 (C. A. 6) or the State Lands Act, 1962 (Act 125) and the costs shall be borne by the Commission.

#### **Object of the Commission**

2. The object of the Commission is to regulate and manage the utilisation of petroleum resources and to co-ordinate the policies in relation to them.

**Functions of the Commission**

**3. The Commission shall**

- (a) promote planned, well executed, sustainable and cost efficient petroleum activities to achieve optimal levels of resource exploitation for the overall benefit and welfare of citizens;
- (b) recommend to the Minister national policies related to petroleum activities;
- (c) monitor and ensure compliance with national policies, laws; regulations and agreements related to petroleum activities;
- (d) ensure
  - (i) compliance with health, safety and environmental standards in petroleum activities in accordance with applicable laws, regulations and agreements;
  - (ii) optimum exploitation of petroleum resources;
  - (iii) optimal utilisation of existing and planned petroleum infrastructure;
  - (iv) that contractors, subcontractors and other persons involved in petroleum activities comply with applicable laws and regulations; and
  - (v) compliance with fiscal metering requirements in petroleum production activities in accordance with applicable laws and regulations;
- (e) monitor petroleum activities and carry out the necessary inspection and audit related to the activities;
- (f) promote local content and local participation in petroleum activities as prescribed in the Petroleum Exploration and Production Act 1984 (P.N.D.C.L 84) and other applicable laws and regulations to strengthen national development;
- (g) receive and store petroleum data, manage a national petroleum repository and at the request of the Minister, undertake reconnaissance exploration including data acquisition;
- (h) receive applications and issue permits for specific petroleum activities as required under petroleum laws and regulations;
- (i) assess and approve appraisal programmes;
- (j) advise the Minister on matters related to petroleum activities including
  - (i) field development plans;

- (ii) plans for the development of petroleum transportation, processing and treatment facilities; and
- (iii) decommissioning plans for petroleum fields and petroleum infrastructure;
- (k) issue annually a public report on petroleum resources and activities in Ghana in accordance with the Schedule to this Act and publish the report in the *Gazette*;
- (l) receive information from contractors as provided for under applicable laws and regulations;
- (m) analyse petroleum economic information and submit economic forecasts on petroleum to the Minister; and
- (n) perform any other function related to the object of the Commission or assigned to it under any enactment.

#### **Governing body of the Commission**

4. (1) The governing body of the Commission is a body consisting of
- (a) a chairperson;
  - (b) the Chief Executive Officer of the Commission;
  - (c) one representative of the Environmental Protection Agency not below the rank of Director;
  - (d) one representative of the Institution of Geo-scientists nominated by the Institute; and
  - (e) three other persons at least one of whom is a woman.
- (2) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.
- (3) The President shall in appointing a member of the Board have regard to the person's integrity, knowledge, expertise and experience in matters relevant to the functions of the Board.
- (4) The Board shall ensure the proper and effective performance of the functions of the Commission.

#### **Tenure of office of members**

5. (1) A member of the Board shall hold office for a period not exceeding three years and is eligible for re-appointment but a member shall not be appointed for more than two terms.
- (2) Subsection (1) does not apply to the Chief Executive Officer of the Commission.

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

(4) A member of the Board other than the Chief Executive Officer, who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.

(5) The President may by letter addressed to a member revoke the appointment of that member.

(6) Where a member of the Board is, for a sufficient reason, unable to act as a member, the Commission shall determine whether the inability would result in the declaration of a vacancy.

(7) Where there is a vacancy

(a) under subsection (3), (4) or section 7 (2),

(b) as a result of a declaration under subsection (6), or

(c) by reason of the death of a member,

the Commission shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy.

#### **Meetings of the Board**

6. (1) The Board shall meet at least once every three months for the despatch of business at the times and in the places determined by the chairperson.

(2) The chairperson shall at the request in writing of not less than one-third of the membership of the Board convene an extraordinary meeting of the Board within seven days of receipt of the request at the place and time determined by the chairperson.

(3) The quorum at a meeting of the Board is five members of the Board or a greater number determined by the Board in respect of an important matter.

(4) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, a member of the Board elected by the members present from among their number shall preside.

(5) Matters before the Board shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Board may co-opt a person to attend a Board meeting but that person shall not vote on a matter for decision at the meeting.

**Disclosure of interest**

7. (1) A member of the Board who has an interest in a matter for consideration by the Board shall

(a) disclose the nature of that interest and the disclosure shall form part of the record of the consideration of the matter, and

(b) not participate in the deliberations of the Board in respect of that matter.

(2) A member ceases to be a member of the Board, if that member has an interest in a matter before the Board and

(a) fails to disclose that interest, or

(b) participates in the deliberations of the Board in respect of the matter.

(3) A member of the Board shall declare all the properties and assets owned or liabilities owed by that member in accordance with article 286 of the Constitution.

**Establishment of committees**

8. (1) The Board may establish committees consisting of members of the Board or of members and non-members of the Board to perform a function.

(2) Without limiting subsection (1), the Commission shall establish a Local Content Committee to deal with the local content and local participation programme.

(3) A committee of the Board shall be chaired by a member of the Board.

(4) Section 7 applies to members of a committee of the Board.

**Allowances**

9. Members of the Board and members of a committee of the Board shall be paid the allowances approved by the Minister in consultation with the Minister responsible for Finance.

**Ministerial directives for the Commission**

10. (1) The Minister may give directives in writing to the Board on matters of policy and the Board shall comply.

(2) Directions given by the Minister shall not adversely affect or interfere with the performance of the functions and exercise of the powers of the Commission under this Act.

*Administration*

**Appointment of Chief Executive Officer**

11. (1) The President shall in accordance with article 195 of the Constitution, appoint a Chief Executive Officer for the Commission.

(2) The Chief Executive Officer shall hold office on terms and conditions as specified in the letter of appointment.

(3) The Chief Executive Officer shall be a person of high moral character and integrity with the relevant qualifications and experience related to the functions of the Commission.

**Functions of the Chief Executive Officer**

12. (1) The Chief Executive Officer is responsible for

(a) the day to day administration of the affairs of the Commission and is answerable to the Board in the performance of functions under this Act, and

(b) the implementation of the decisions of the Board.

(2) The Chief Executive Officer shall co-operate with other heads of agencies and organisations involved in petroleum activities.

(3) The Chief Executive Officer shall perform any other functions determined by the Board.

(4) The Chief Executive Officer may delegate a function to an officer of the Commission but shall not be relieved of the ultimate responsibility for the performance of the delegated function.

**Appointment of other staff**

13. (1) The President shall in accordance with article 195 of the Constitution appoint for the Commission other staff that are necessary for the proper and effective performance of its functions.

(2) Other public officers may be transferred or seconded to the Commission or may otherwise give assistance to it.

(3) The Chief Executive Officer may engage the services of advisers and consultants subject to the approval of the Board.

*Finances of the Commission*

**Funds of the Commission**

14. (1) The funds of the Commission include

(a) moneys provided by Parliament;

(b) moneys that accrue to the Commission in the performance of its functions;

- (c) donations and grants to the Commission for its activities under this Act; and
- (d) any other moneys that are approved by the Minister responsible for Finance.

(2) The moneys for the Commission shall be paid into a bank account for the purpose opened by the Commission with the approval of the Controller and Accountant-General.

**Tax exemption**

15. (1) The Commission is exempt from the payment of taxes.

(2) Subject to article 174 (2) of the Constitution, the Commission is entitled to a waiver of a fiscal imposition or charge.

**Expenses of the Commission**

16. The expenses of the Commission shall be paid from moneys provided for the Commission under section 14.

**Accounts and audit**

17. (1) The Board shall keep books of account and proper records in relation to them in the form approved by the Auditor-General.

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

(3) The Auditor-General shall, not later than three months after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.

**Annual report and other reports**

18. (1) The Board shall within one month after the receipt of the audit report, submit an annual report and financial statement to the Minister covering the activities and the operations of the Commission 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 report which the Minister may require in writing.

*Miscellaneous provisions***Compliance with decisions of the Commission**

19. Subject to section 20 of this Act, a contractor, subcontractor or any other person involved in petroleum activities shall comply with decisions,

orders or instructions of the Commission made in writing pursuant to its object and functions under this Act and any applicable laws and regulations.

**Review of decision**

20. (1) A person aggrieved by a decision of the Commission under this Act may lodge a complaint with the Minister within thirty days after receipt of the decision.

(2) The Minister shall within thirty days after receipt of the complaint take a decision on it.

(3) In the event that

(a) the thirty days expire without a decision of the Minister, the person aggrieved may pursue the matter in Court; or

(b) a person is dissatisfied with the decision of the Minister, that person may apply to the Court for a review of the decision of the Minister.

**Relationship with other authorities**

21. (1) Government departments and public agencies shall co-operate fully with the Commission in the performance of its functions under this Act.

(2) The Commission shall have an operational office in the Western Region and any other region where petroleum is discovered in commercial quantities.

**Regulations**

22. The Minister may, on the advice of the Board, by legislative instrument, make Regulations

(a) for the exploration, development and appraisal of petroleum and related operations;

(b) for the production of petroleum and related operations; and

(c) to provide for any other matter necessary for the effective implementation of the provisions of this Act.

**Interpretation**

23. In this Act, unless the context otherwise requires,

“appraisal programme” means a programme carried out, following a discovery of petroleum for the purpose of delineating the accumulation of petroleum to which the discovery relates in terms of thickness and lateral extent and estimating the quantity of recoverable petroleum therein;

- “Auditor General” includes an auditor appointed by the Auditor-General;
- “Board” means the governing body of the Commission established under section 4;
- “Chief Executive Officer” means the person appointed under section 11;
- “Commission” means the Petroleum Commission established under section 1;
- “contractor” has the same meaning given to it in the Petroleum (Exploration and Production) Act, 1984, (P.N.D.C.L. 84);
- “Corporation” means the Ghana National Petroleum Corporation established by the Ghana National Petroleum Corporation Act, 1983, (P.N.D.C.L. 64);
- “Court” means the High Court;
- “data acquisition” includes the process of acquiring geological, geophysical, engineering and economic data for petroleum exploration;
- “fiscal metering” means the planning, design, installation, calibration, commissioning, monitoring and inspection of any devices or equipment for the measurement of quantity of petroleum produced;
- “local content” means the use of Ghanaian human and material resources, services and businesses for the systematic development of national capacity and capabilities for the enhancement of the Ghanaian economy;
- “Minister” means the Minister responsible for Energy;
- “petroleum” means crude oil or natural gas or a combination of both;
- “petroleum activities” means any activity, engaged in within and outside Ghana related to the exploration for, development and production of petroleum, the acquisition of data and drilling of wells and the treatment, storage, pipeline transportation and decommissioning and the planning, design, construction, installation, operation and use of any facility for the purpose of the activities;
- “petroleum fields” means the geographic area under which one or more petroleum deposits or reservoirs lie and which is or has been operated pursuant to applicable laws, regulations and agreements;

“petroleum infrastructure” means any facility, installation, equipment or device, built or acquired for the conduct of petroleum activities including any well, plant, storage tank, intra-field and export pipeline and cable but excluding a supply and support vessel that transports petroleum in bulk;

“petroleum resources” include

- (a) existing petroleum;
- (b) discovered petroleum reserves;
- (c) undiscovered petroleum reserves;
- (d) petroleum produced; and
- (e) petroleum under production;

“petroleum reserves” means the petroleum that can be economically extracted from petroleum resources and which is anticipated to be commercially recoverable by the application of a development project to known discoveries from a future date;

“reconnaissance exploration” means the conduct of a survey to generally examine a region to determine its main features usually preliminary to a detail survey for petroleum exploration;

“relevant agencies” means a government entity of the Republic under whose area of competence petroleum activities are conducted; and

“subcontractor” means a third party to whom the Corporation or a contractor has entered into a petroleum contract for the provision of services for petroleum operations.

**Transitional provisions**

24. (1) The appointments, composition of the Board and other requirements necessary for the effective functioning of the Commission shall be made within six months after the commencement of this Act.

(2) Six months after the commencement of this Act, the Ghana National Petroleum Corporation shall cease to exercise any advisory function in relation to the regulation and management of the utilisation of petroleum resources and the co-ordination of policy in relation to that function.

(3) Subject to the other provisions of this Act, a Government agency or authority shall not exercise any function in relation to the regulation and management of the utilisation of petroleum resources and the co-ordination of policies in relation to that function.

## SCHEDULE

*(Section 3 (k))***Annual Public Report on Petroleum Resources and Activities**

The report shall contain information including the following:

- (a) open areas for petroleum exploration and production;
- (b) reconnaissance licences issued and petroleum agreements ratified;
- (c) petroleum activities conducted, including but not limited to data acquisition and the drilling of wells, exploration, appraisal, development and production (volume of oil and gas produced) phases of the petroleum value chain;
- (d) production permit issued by the Commission, relinquished production permit and active production permits;
- (e) sales or transfer of interest;
- (f) development and production in individual fields;
- (g) transportation system including new pipe lines constructed and the fields to which they are related;
- (h) research and development projects;
- (i) taxes including royalty and acreage fees paid by contractors;
- (j) health, safety and environment;
- (k) decommissioning activities;
- (l) resource status in relation to the
  - (i) total volume of petroleum sold and delivered,
  - (ii) shutdown fields,
  - (iii) producing fields,
  - (iv) reserves in producing fields,
  - (v) discovered resources for which the plan of development is yet to be approved,
  - (vi) resources in discovered fields which are currently considered not commercial,
- (m) volume of original hydrocarbon in place, recoverable reserves and remaining recoverable reserves (net of production) of existing fields."

Date of *Gazette* notification: 15th July, 2011.

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