

ACT 630
GHANA MARITIME AUTHORITY ACT, 2002
ARRANGEMENT OF SECTIONS

Establishment and Functions of the Ghana Maritime Authority

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ACT 630**GHANA MARITIME AUTHORITY ACT, 2002¹**

AN ACT to establish the Ghana Maritime Authority with responsibility to monitor regulate and coordinate activities in the maritime industry, responsibility to implement the provisions of enactments on shipping, to provide for the governing body of the Authority and to provide for related matters.

Establishment and Functions of the Ghana Maritime Authority

1. Establishment of the Ghana Maritime Authority

(1) There is established by this Act the Ghana Maritime 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 performance of its functions, acquire and hold moveable or immovable property and may enter into a contract or any other transaction.

(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 Lands Act, 1962 (Act 125).

2. Objects and functions of the Authority

(1) The object of the Authority is to regulate, monitor and co-ordinate activities in the maritime industry.

(2) For the purposes of achieving its object under subsection (1), the Authority shall

(a) implement the provisions of the Ghana Shipping Act, 2003 (Act 645); (b)

ensure the safety of navigation;

(c) fulfill flag state and port state responsibilities in an effective and efficient manner, having due regard to international maritime conventions, instruments and codes;

(d) deal with matters pertaining to maritime search and rescue, and co-ordinate the activities of the Ghana Armed Forces, the Ports and Harbours Authority and any other body during search and rescue operations;

(e) regulate activities on shipping in the inland waterways including the safety of navigation in inland waterways;

(f) cause to be investigated maritime casualties and take appropriate action;

(g) oversee matters pertaining to the training, recruitment and welfare of Ghanaian seafarers;

(h) plan, monitor and evaluate training programmes of seafarers to ensure conformity with standards laid down by international maritime conventions;

(i) ensure in collaboration with any other public agencies and institutions determined by the Board of the Authority the prevention of marine source pollution, protection of the marine environment and response to marine environment incidents;

1. The Act was assented to on 25th July 2002.

- (J) pursue the ratification or accession and implementation of international maritime conventions in conjunction with the appropriate Ministry;
- (k) assess the manpower needs of the maritime sector for national planning purposes;
 - (l) liaise effectively with the Government agencies and institutions that deal with maritime transport and related transport matters for the purpose of achieving harmony in the maritime industry;
- (m) initiate research into national maritime transport development for effective planning and co-ordination;
- (n) ensure an efficient, cost effective and orderly provision of services in the shipping industry in line with Government policies;
- (o) initiate action for the promotion, establishment and development of private shipping lines;
- (P) advise on policies for the development and maintenance of maritime infra structure such as ports and harbours in the country;
- (q) advise the Government on maritime matters generally;
- (r) regulate the activities of shipping agents, freight forwarders and similar shipping service providers; and
- (s) to perform functions incidental to the functions provided under this section.

3. Ministerial responsibility

(1) The Minister responsible for Transport shall have ministerial responsibility for the Authority.

(2) The Minister may give general directives in writing to the Authority on matters of policy and the Authority shall comply with the directives.

4. Governing body of the Authority

(1) The governing body of the Authority is a board to be known as the Ghana Maritime Authority Board consisting of

- (a) the chairperson,
- (b) the Director-General of the Authority,
- (c) one representative of
 - (i) the Ministry of Roads and Transport,
 - (ii) the Fisheries Commission,
 - (iii) the Ghana Navy,
 - (iv) the Volta River Authority,
 - (v) the Environmental Protection Agency,
 - (vi) the Ghana Ports and Harbours Authority,
- (d) one person each, nominated by the respective members of
 - (i) the Ghanaian registered ship owners,
 - (ii) the Ghana Institute of Freight Forwarders,

(iii) the Ghana Shippers Council, and

(e) two women with specialised knowledge in the maritime industry nominated by the Minister.

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

(3) Members of the Board nominated and appointed under subsection (1) shall not be of the rank below that of a director or its equivalent rank.

5. Functions of the Board

The Board is responsible for

- (a) securing the performance of the functions conferred on the Authority under this Act,
- (b) the initiation of policies for the proper management of the Authority, and
- (c) the sound and proper financial management of the Authority.

6. Tenure of office of members of the Board

(1) The chairperson and any other members of the Board, other than the Director General, shall hold office for a term of four years but are eligible for re-appointment.

(2) The chairperson or any other member of the Board may resign from office by writing addressed through the Minister to the President.

(3) The President may, in consultation with the Council of State, remove the chairperson or any other member from the Board for inability to perform the functions of office, for stated misbehaviour or for any other just cause.

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

(5) Members of the Board shall be paid the allowances determined by the Board with the approval of the Minister after consultation with the Minister responsible for Finance.

7. Committees of the Board

The Board may, for the performance of its functions, appoint committees comprising members of the Board or non-members or both and may assign to the committees a function of the Authority as determined by the Board, but a committee composed entirely of non-members may only advise the Board.

8. Meetings of the Board

(1) The Board shall meet at least once every two months for the dispatch of business at a time and place determined by the Board.

(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) The chairperson shall preside at the meetings of the Board 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 is seven members including the Director General or the person acting in that capacity.

(5) The Board may co-opt a person to attend any of its meetings but a co-opted person shall not vote at the meeting.

(6) Decisions at the 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 casting vote.

(7) An act or proceeding of the Board shall not be invalidated because of a vacancy among its members or a defect in the appointment or qualification of a member.

(8) Subject to this section, the Board shall regulate the procedure for its meetings.

9. Disclosure of interest

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

(2) A member who fails to disclose an interest under subsection (1) ceases to be a member of the Board.

Administration and Staff

10. Divisions of the Authority

(1) The Board may establish the divisions of the Authority that it considers necessary for the effective performance of the functions of the Authority.

(2) Without limiting the scope of subsection (1) there are hereby established as divisions of the Authority,

(a) the Technical Division,

(b) the Maritime Services Division,

(c) the Planning, Monitoring and Evaluation Division, and the

(d) Administration and Finance Division.

(3) A Division shall have as its head an officer designated as a Director.

(4) The functions and the staff strength of a Division shall be determined by the Board.

(5) A Director is responsible for the day-to-day management of the Division under the Director and shall answer to the Director-General in the performance of the functions of the Director under this Act.

11. Director-General of the Authority

(1) The Authority shall have as its chief executive a Director-General who shall be appointed by the President in accordance with article 195 of the Constitution.

(2) The Director-General shall hold office on the terms and conditions specified in the letter of appointment.

(3) Subject to the general directives that the Board may give and to this Act, the Director-General is responsible for the efficient organisation and management of the affairs of the Authority.

12. Directors of the Divisions

The Directors in charge of the Divisions of the Authority shall be appointed by the President in accordance with article 195 of the Constitution.

13. Appointment of registrar of ships

(1) The President shall appoint a registrar of ships in accordance with article 195 of the Constitution.

(2) The registrar is responsible for the registration of ships, fishing vessels and any other navigation vessels that are prescribed by law and shall perform the functions conferred on the registrar under the Ghana Shipping Act, 2003 (Act 645) and any other enactment.

(3) The registrar is answerable to the Director-General in the performance of the functions of the registrar.

(4) The terms and conditions of employment of the registrar shall be specified in the letter of appointment.

14. Appointment of secretary and other staff of the Authority

(1) The President in accordance with article 195 of the Constitution shall appoint a Legal officer who shall be designated as secretary.

(2) The secretary shall act as secretary to the Board and shall perform any other functions that the Board may, on the advice of the Director-General, assign to the secretary.

(3) The President in accordance with article 195 of the Constitution shall appoint any other officers and employees as are necessary for the proper and effective performance of the functions of the Authority.

(4) Without limiting the scope of subsection (3), there shall be appointed as public officers of the Authority,

(a) Registrar of Seamen,

(b) Surveyor of Ships, and (c)

Receiver of Wrecks.

(5) The officers appointed under subsection (4) shall perform the functions assigned to them under the Ghana Shipping Act, 2003 (Act 645) and under any other enactment.

(6) The Authority may engage the services of the experts and consultants the Board considers necessary on the recommendations of the Director-General.

(7) Other public officers may be seconded or transferred to the Authority or may otherwise be requested to give assistance to the Authority.

15. Delegation of power of appointment

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

Financial and Miscellaneous Provisions

16. Funds of the Authority

The moneys of the Authority include

- (a) moneys accruing to the Authority
 - (i) in the performance of its functions under the Ghana Shipping Act, 2003 (Act 645) and any other enactment relating to maritime, and
 - (ii) from investments,
- (b) fifty percent of the total annual service charges received by the Ghana Shippers Council under section 3 of the Ghana Shippers Council Act, 1974/ and
- (c) the loans granted to the Authority, and grants.

17. Expenditure of the Authority

(1) The Authority shall, in the performance of its functions under this Act and any other enactment, generate sufficient funds to meet its expenditure including

- (a) payment of salaries, emoluments and allowances of employees and the Board members,
- (b) management and administrative expenses, and
- (c) loan repayments and relevant interests.

(2) The expenses of the Authority including remuneration for employees, allowances to members of the Board and any other administrative expenses of the Authority shall be paid by the Authority from the funds provided for under section 16.

(3) Where in respect of a financial year, the Authority has, after having made provision for

- (a) the payment of salaries, allowances and any other administrative and management expenditure,
- (b) the depreciation of assets,
- (c) payment of a loan, an interest, and
- (d) contingency,

2. N.R.C.D. 254.

an amount of money remains to the credit of the Authority, the Authority shall transfer to the Consolidated Fund a proportion of the amount that the Minister responsible for Finance may in writing direct after consultation with the Minister and the Board.

18. Loans, bank accounts and investments

(1) Subject to article 181 of the Constitution and the Loans Act, 1970 (Act 335), there may be obtained for the Authority the loans and credit facilities that the Authority requires for the performance of its functions.

(2) The Authority may borrow temporarily by way of overdraft or otherwise the sums of money it requires to meet its current obligations or perform its functions under this Act or any other enactment.

(3) The Minister responsible for Finance in consultation with the Minister may prescribe the maximum sums that the Authority may borrow.

(4) The Board shall, with the approval of the Minister and the Accountant-General open bank accounts necessary for the operations of the Authority but a bank account opened outside the country is subject to article 183 (2) (b) of the Constitution.

(5) The Authority may make the investments that the Board considers necessary.

19. Tax exemption

The Authority is hereby exempt from the payment of tax.

20. Execution of contracts

(1) The use of the seal of the Authority shall be authenticated by the signatures of

(a) the Director-General or another member of the Board authorised by the Board to authenticate the use of the seal, and

(b) the secretary or another officer of the Authority authorised by the Board to act in place of the secretary for that purpose.

(2) The Authority may, under its common seal, empower a person to act as its attorney to execute deeds on its behalf in a place outside the Republic and every deed signed by the attorney on behalf of the Authority and under the seal of the attorney is binding on the Authority and has the same effect as if it were under the common seal of the Authority.

(3) An instrument or a 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 Authority by the Director-General or a member of the Board if that person has previously been authorised by a resolution of the Board to execute or enter into that particular agreement or contract.

(4) This section is subject to section 12 of the Contracts Act, 1960 (Act 25).

21. Accounts and audit

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

(2) The books and accounts of the Authority shall, within six months after the end of each financial year, be audited by the Auditor-General.

(3) The Auditor-General shall not later than six months after the end of each financial year, forward to Parliament a copy of the audited accounts of the Authority for the financial year immediately proceeding.

22. Internal auditor

(1) The Authority shall have an internal auditor.

(2) Subject to this Act the internal auditor is, in the performance of functions of office, answerable to the Director-General.

(3) The internal auditor shall, at intervals of three months, prepare a report on the internal audit work carried out by the internal auditor during the period of three months immediately preceding the preparation of the report, and submit the report to the Director-General.

(4) The internal auditor shall make in each report the observations that appear to the internal auditor as necessary in respect of the conduct of the financial affairs of the Authority during the period to which the report relates.

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

23. Financial year

The financial year of the Authority shall be the same as the financial year of the Government.

24. Annual report and any other reports

(1) The Board shall submit to the Minister as soon as practicable, but not more than eight months after the end of each financial year a report dealing generally with the activities and operations of the Authority during the year to which the report relates and shall include

- (a) the audited accounts of the Authority and the Auditor-General's report on the accounts,
- (b) a statement of the Authority's budget and operational plans for the next financial year, and
- (c) any other information that the Board considers necessary.

(2) The Minister shall within two months after receipt of the annual report submit the report to Parliament with a statement that the Minister considers necessary.

25. Regulations

The Minister may, by legislative instrument, make Regulations

- (a) for the supervision of flag State and port State responsibilities;
- (b) for the prevention of marine source pollution;

- (c) for the protection of the marine environment and response to marine environment incidents; and
- (d) for generally carrying this Act into effect.

26. Modification of existing laws

The Ghana Ports and Harbours Authority Act, 19863 and any other enactment in existence on the coming into force of this Act shall apply with the modifications that are necessary to give effect to this Act.

27. Interpretation

In this Act, unless the context otherwise requires,

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

"**Authority**" means the Ghana Maritime Authority established under section 1;

"**Board**" means the governing body of the Authority provided for under section 4;

"**flag State**" means the State whose flag a ship is entitled to fly;

"**MARPOL**" means the International Convention for the Prevention of Pollution from Sea of 1973/178 as amended;

"**Minister**" means the Minister responsible for Transport;

"**port State**" means the State, which is a party to SOLAS 74, Load Lines '66, MARPOL 73/178, STCW '78, or Tonnage '69 and whose ports are visited by foreign ships;

"**registrar**" includes the registrar of ships appointed under section 13, and a deputy registrar of ships;

"**SOLAS**" means the International Convention for the Safety of Life at Sea of 1974/178 as amended;

"**STCW**" means the International Convention for Standards of Training Certification and Watch keeping for Seafarers of 1978/95 as amended.

3. P.N.D.C.L 160.