

Forestry Commission Act, 1999

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THE FIVE HUNDRED AND SEVENTY-ONE

ACT

OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA

ENTITLED

THE FORESTRY COMMISSION ACT, 1999

AN ACT to re-establish the Forestry Commission in order to bring under the Commission the main public bodies and agencies implementing the functions of protection, development, management and regulation of forests and wildlife resources and to provide for related matters.

DATE OF ASSENT: *31st August, 1999*

BE IT ENACTED by Parliament as follows—

PART I—ESTABLISHMENT OF FORESTRY COMMISSION

Forestry Commission established

1. (1) There is established by this Act a Forestry Commission referred to in this Act as “the Commission”.

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

(3) The Commission may for the discharge of its functions under this Act, acquire and hold any movable or immovable property, dispose of the property and 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 Commission under the State Lands Act, 1962 (Act 125).

Object and functions of the Commission

2. (1) The Commission shall be responsible for the regulation of the utilisation of forest and wildlife resources, the conservation and management of those resources and the co-ordination of policies related to them.

(2) Without limiting the scope of subsection (1) of this section the Commission shall—

- (a) regulate the utilization of forest and timber resources by
 - (i) vetting and the registration of contracts to market timber and such other forest and wildlife products as the Commission may determine;
 - (ii) the establishment of procedures to track the movement of timber, wood and wildlife products;
 - (iii) monitoring the harvesting, marketing of forest and wildlife products and related contracts;
 - (iv) promoting the development and dissemination of appropriate industrial standards and trade guidelines for timber, wood and wildlife products;
 - (v) the conduct of pre-shipment inspection and examination of timber, wood and wildlife products;
 - (vi) advising on approvals to establish new timber industries and the registration of approved timber processors and traders in forest and wildlife products;
- (b) manage the nation's forest reserves and protected areas by
 - (i) proper planning for the protection, harvesting and development of forest and wildlife resources in a sustainable manner;
 - (ii) monitoring the condition and extent of the nation's forest and wildlife resources;
 - (iii) controlling the harvesting of forest and wildlife products;
 - (iv) making recommendations to the Minister on the grant of timber rights and wildlife licences;
 - (v) advising the Minister on forest and wildlife policy with particular regard to management practices that sustain resources and improve productivity;
- (c) assist the private sector and the other bodies with the implementation of forest and wildlife policies by
 - (i) advising and the provision of technical services with regard to matters of resource protection, management and development and of market intelligence pertaining to the timber and wildlife industries;

- (ii) co-operating and liaising with national and international bodies and organisations on forestry and wildlife conservation and utilisation;
 - (iii) supporting the development of forest plantations for the restoration of degraded forest reserves, the increased production of industrial timber and the expansion of the country's protected forest cover;
 - (iv) the provision of training management and technical skills for related industries;
 - (v) advising the appointing authority on matters concerning employment, discipline and training of staff;
- (d) undertake the development of forest plantations for the restoration of degraded forests areas, the expansion of the country's forest cover and the increase in the production of industrial timber; and
- (e) undertake such other functions as are incidental to the foregoing, or as the Minister may direct.

Ministerial responsibility and directions by the Minister

3. (1) The Minister responsible for forestry shall have ministerial responsibility for the Commission.

(2) The Minister may give general directions in writing to the Commission on matters of policy.

Membership of the Commission

4. (1) The Commission shall be composed of the following members—

- (a) a chairman;
- (b) the Chief Executive of the Commission;
- (c) a representative of the National House of Chiefs;
- (d) a representative of the timber trade and industry;
- (e) a representative of the wildlife trade and industry;
- (f) a representative of the Ghana Institute of Professional Foresters;
- (g) a representative of non-governmental organisations involved in forest and wildlife management;
- (h) a representative of the Lands Commission; and
- (i) three other persons with financial, commercial or managerial experience nominated by the Minister at least one of whom shall be a woman.

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

Tenure of office of members

5. (1) A member of the Commission other than the Chief Executive and the representative of the Lands Commission shall hold office for a period not exceeding four years and is on the expiration of that period eligible for re-appointment.

(2) A member of the Commission other than an *ex-officio* member may at any time by letter addressed to the President through the Minister, resign his office.

(3) A member other than an *ex-officio* member who is absent from four consecutive meetings of the Commission without reasonable excuse shall cease to be a member.

(4) The chairman or any other member of the Commission may be removed from office by the President for inability to perform the functions of his office or for stated misbehaviour or for any other just cause.

(5) The chairman of the Commission shall through the Minister notify the President of vacancies that occur in the membership of the Commission within one month of such occurrence.

Meetings of the Commission

6. (1) The Commission shall meet for the despatch of business at such times and in such places as the Commission may determine but shall meet at least once every two months.

(2) The chairman may convene a special meeting and shall upon the request of not less than one-third of the membership of the Commission convene a special meeting of the Commission within fourteen days upon the receipt of that request.

(3) The quorum at a meeting of the Commission shall be six members and shall include the Chief Executive or the person acting in that capacity.

(4) Every meeting of the Commission shall be presided over by the chairman and in his absence, by a member of the Commission elected by the members present from among their number.

(5) Decisions of the Commission shall be determined by a majority of the members present.

(6) The chairman or the person presiding at a meeting of the Commission shall in the event of equality of votes have a second or casting vote.

(7) The Commission may co-opt any person to act as an adviser at its meetings but no co-opted person is entitled to vote at the meeting.

(8) The validity of the proceedings of the Commission shall not be affected by a vacancy among its members or by a defect in the appointment or qualification of a member.

(9) Except as otherwise provided in this section, the Commission shall regulate the procedure for its meetings.

Disclosure of interest

7. (1) A member of the Commission who has a personal interest, directly or indirectly in any matter being considered or dealt with by the Commission shall disclose the nature of his interest at a meeting of the Commission and shall not take part in any deliberation or decision of the Commission with respect to the matter.

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

Committees of the Commission

8. The Commission may for the discharge of its functions appoint committees of the Commission comprising members of the Commission or non-members or both and assign to any such committee such functions of the Commission as the Commission may determine except that a committee composed exclusively of non-members of the Commission may only advise the Commission.

Allowances for members

9. The chairman and the other members of the Commission shall be paid such allowances as shall be determined by the Minister.

PART II—ADMINISTRATION

Divisions of the Commission

10. (1) The Commission may establish such divisions in the Commission as it considers necessary for the effective achievement of the object and functions of the Commission.

(2) Without limiting the scope of subsection (1) and subject to the power of the Commission to re-organise the divisions as it considers appropriate the following are hereby established as Divisions of the Commission—

- (a) Forest Services Division;
- (b) Forest Products Inspection Division;
- (c) Timber Export Development Division; and
- (d) Wildlife Division.

(3) Each Division of the Commission shall have as its head an officer designated as Executive Director.

(4) Each Executive Director shall be responsible for the day-to-day management of his Division and answerable to the Commission through the Chief Executive in the performance of his functions and duties.

(5) The functions and numerical staff strength of each Division of the Commission shall be determined by the Commission.

(6) The Divisions of the Commission shall be located in such places as the Commission may determine.

(7) The Commission may delegate its functions under this section to the Chief Executive.

Other units in the Commission

11. There shall be established by the Commission the following as units of the Commission which shall constitute a part of the secretariat of the Chief Executive

- (a) Planning, Monitoring and Evaluation Unit;
- (b) Legal Unit;
- (c) Internal Audit Unit;
- (d) Finance and Administration Unit;
- (e) Research and Information Management Unit; and
- (f) such other units as the Commission may determine.

Chief Executive

12. (1) There shall be appointed for the Commission a Chief Executive who shall be the executive and administrative head of the Commission.

(2) The Chief Executive shall be appointed by the President in accordance with the advice of the Commission given in consultation with the Public Services Commission and shall hold office for such period and upon such other terms and conditions as shall be specified in his letter of appointment.

Functions of the Chief Executive

13. The Chief Executive shall subject to policy directives of the Commission, be responsible for—

- (a) ensuring the efficient and effective implementation of the functions of the Commission and the directives of the Commission;
- (b) the day-to-day management and administration of the—
 - (i) Planning, Monitoring and Evaluation Unit;
 - (ii) Legal Unit;
 - (iii) Internal Audit Unit;
 - (iv) Finance and Administration Unit;
 - (v) Research and Information Management Unit; and
 - (vi) such other units as the Commission may determine.

The duties of the Divisions of the Commission

14. (1) For the purpose of determining the duties and functions of the Divisions of the Commission, the Chief Executive shall draw up for consideration and approval by the Commission a service charter which shall set out the duties and responsibilities of each Division under the Commission.

(2) The service charter may be revised by the Commission.

Delegation by Chief Executive

15. The Chief Executive may delegate any of his functions to an officer of the Commission subject to any conditions that he may impose but he shall not be relieved from ultimate responsibility for the discharge of the delegated function.

Secretary to the Commission

16. (1) The Head of the Legal Unit shall be the Secretary to the Commission..

(2) The Secretary shall arrange the business of the Commission and shall keep minutes of meetings of the Commission.

(3) The Secretary shall perform such other duties as the Commission or the Chief Executive may direct.

(4) The Secretary shall in the performance of his duties be answerable to the Chief Executive.

Executive Directors and Other staff of the Commission

17. (1) The Executive Directors and other staff and employees of the Commission shall be appointed by the President in accordance with the advice of the Commission given in consultation with the Public Services Commission.

(2) Other public officers may be seconded or transferred to the Commission.

Delegation of power to appoint public officers

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

PART III—FINANCIAL AND MISCELLANEOUS PROVISIONS

Funds of the Commission

19. (1) The funds of the Commission shall be—

- (a) such monies as Parliament may provide to the Commission for the performance of its functions;
- (b) monies due to the Commission under this Act and any other enactment;
- (c) loans granted to the Commission; and
- (d) grants.

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(2) The books of account of the Commission shall be audited within 3 months after the end of each financial year by the Auditor-General or by an auditor appointed by him.

Internal auditor

26. (1) The Head of the Internal Audit Unit shall be the internal auditor of the Commission.

(2) Subject to this Act the internal auditor shall in the performance of his functions be answerable to the Chief Executive.

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

(4) 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 Commission during the period to which the report relates.

(5) The internal auditor shall send a copy of each report prepared under this section to the Minister and the Commission.

Financial year

27. The financial year of the Commission shall be the same as the financial year of the Government.

Annual report and other reports

28. (1) The Commission shall submit to the Minister as soon as practicable and in any event not more than 6 months after the end of each financial year a report dealing generally with the activities and operations of the Commission during the year to which the report relates and shall include—

- (a) the audited accounts of the Commission and the Auditor-General's report on the accounts;
- (b) a statement of the Commission's budget and operational plans for the next financial year; and
- (c) such other information as the Commission may consider necessary.

(2) The Minister shall within three months after receipt of the annual report submit the report to Parliament with such statements as he considers necessary.

Access to information

29. For the purposes of the attainment of the object of the Commission and the performance of its functions under this Act or any other law, the Commission shall have access to information and records of any department of state which are reasonably necessary for the purpose.

Regulations

30. The Minister may on the recommendations of the Commission make Regulations by legislative instrument to give effect to the provisions of this Act.

Dissolution of specified bodies

31. The following bodies, agencies and offices in existence immediately before the coming into force of this Act are hereby dissolved—

- (a) the Forestry Department of the Ministry of Lands and Forestry;
- (b) the Forest Products Inspection Bureau;
- (c) the Department of Game and Wildlife of the Ministry of Lands and Forestry;
- (d) the Forestry Commission established under the Forestry Commission Act, 1993 (Act 453); and
- (e) the Timber Export Development Board.

Repeal

32. (1) The following enactments are hereby repealed—

- (a) the Forest Products Inspection Bureau Law, 1985 (P.N.D.C.L. 117);
- (b) the Forestry Commission Act, 1993 (Act 453);
- (c) the Timber Export Development Board Law, 1985 (P.N.D.C.L. 123); and
- (d) the Wild Animals Preservation (Amendment) Law, 1983 (P.N.D.C.L. 55).

(2) Notwithstanding the repeal under subsection (1) any instrument, contract, licence or registration made or issued under any of the repealed enactment and valid on the date of the coming into force of this Act shall remain valid until otherwise dealt with.

(3) Notwithstanding the repeal of the enactments specified under subsection (1), where

- (a) any of the repealed enactments confers a power on a public body, agency or Institution which now constitutes a Division under the Commission to collect any levy or fees in respect of a function performed under that enactment, and
- (b) the power is transferred to the Commission under this Act,

that power shall continue to be exercised by the relevant or corresponding Division under this Act for the collection of the levy or fees.

SCHEDULE

Section 35(2)

Consequential Amendments

Enactment	How affected
1. The Timber Resources Management Act, 1997 (Act 547)	(1) Section 5 is amended as follows— (i) by the repeal of paragraphs (a) and (b) of subsection (1) and the substitution of the following— “(a) the Chief Executive of the Commission or his representative who shall not be below the rank of a Director; (b) the Executive Director, Forest Services Division”; (ii) by the repeal of paragraph (c) of subsection (1); (iii) by the substitution for paragraph (e) of subsection (1) of the following “the Executive Secretary, Lands Commission”; (iv) by the repeal of “Chief Conservator of Forests” in subsection (2) and the substitution of “Chief Executive”; (2) Act 547 is amended by the repeal of “Chief Conservator of Forests” and “Forestry Department” wherever they appear in the Act and the substitution of “Chief Executive” and the “Commission” respectively.
2. Wild Animals Preservation Act, 1961 (Act 43)	(a) by the repeal of section 1 and the substitution of the following— <i>Appointment of officers</i> 1. The President may in accordance with the advice of the Forestry

Enactment	How affected
	Commission given in consultation with the Public Services Commission appoint officers to carry out all or any of the purpose of this Act”; (b) by the repeal of “the President may” in section 3 and the substitution of the “Minister may upon the recommendations of the Forestry Commission”; (c) by the repeal of “one hundred pounds” in section 4(5) and the substitution of “£2 million”; (d) by the repeal in section 6(2) of “one hundred pounds” and the substitution of “£2 million”; (e) by the repeal of “one hundred pounds” in section 7(2) and the substitution “£2 million”; (f) in section 11— (a) by the repeal of “the President may” and the substitution of “the Minister on the advice of the Forestry Commission may”; (b) by the repeal of “£10,000” in paragraph (r) and the substitution of “£2 million”; (g) in section 12 by the substitution for the meaning of “officer” and “Minister” of the following— “officer” means an officer of the Forestry Commission so designated; “Minister” means the Minister responsible for forestry and wildlife”;

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Enactment	How affected
3. Trees and Timber Decree, 1974 (N.R.C.D. 273) as amended by Act 493.	(a) by the substitution for "Chief Conservator of Forests" wherever it appears in the Decree of "Forestry Commission"; (b) by the substitution for "Commissioner" wherever it appears in the Decree of "Minister"; (c) in section 15 by the repeal of all the words before paragraph (a) and the substitution of the following— "15. The Minister may on the advice of the Forestry Commission"; (d) in section 15B by the deletion of "Forest Products Inspection Bureau" wherever it appears and the insertion of "Forestry Commission"; (e) in section 17(1) by the insertion after "may" of the following "on the advice of the Forestry Commission".

Date of Gazette notification: 10th September, 1999