

WATER RESOURCES COMMISSION ACT - 1996 (ACT 522)

Section 1 Establishment of Water Resources Commission.

- (1) There is established by this Act a Water Resources 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 and in connection with the discharge of its functions purchase, hold, manage or dispose of any movable or immovable property and may enter into such contracts and transactions as may be reasonably related to its functions.

Section 2 Functions of The Commission.

- (1) The Commission shall be responsible for the regulation and management of the utilisation of water resources, and for the co-ordination of any policy in relation to them.
- (2) Without prejudice to subsection (1) of this section, the Commission shall-
 - (a) propose comprehensive plans for the utilisation, conservation, development and improvement of water resources;
 - (b) initiate, control and co-ordinate activities connected with the development and utilisation of water resources;
 - (c) grant water rights;
 - (d) collect, collate, store and disseminate data or information on water resources in Ghana;
 - (e) require water user agencies to undertake scientific investigations, experiments or research into water resources in Ghana;
 - (f) monitor and evaluate programmes for the operation and maintenance of water resources;
 - (g) advise the Government on any matter likely to have adverse effect on the water resources of Ghana;
 - (h) advise pollution control agencies in Ghana on matters concerning the management and control of pollution of water resources; and
 - (i) perform such other functions as are incidental to the foregoing.

Section 3 Composition of the Commission.

(1) The Commission shall consist of-

- (a) a Chairman who shall not be a Minister or a Deputy Minister;
- (b) one person representing each of the following-
 - (i) the Ghana Water and Sewerage Corporation;
 - (ii) Organisations producing potable water;
 - (iii) the Hydrology Department of the Ministry of Works and Housing;
 - (iv) the Volta River Authority;
 - (v) the Irrigation Development Authority
 - (vi) the Water Resources Research Institute;
 - (vii) the Meteorological Service;
 - (viii) the Environmental Protection Agency;
 - (ix) the Forestry Commission; and
 - (x) the Minerals Commission;
- (c) the Executive Secretary appointed under section 9 of this Act;
- (d) a chief; and
- (e) two other persons at least one of whom shall be a woman

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

Section 4 Tenure of Office of Members.

(1) A member of the Commission other than an ex-officio member shall hold office for a period of three years and shall be eligible on the expiration of his term of office for re-appointment.

(2) A member of the Commission other than an ex-officio member may at any time by notice in writing to the President resign his office.

(3) A member who is absent from three consecutive meetings of the Commission without sufficient cause shall cease to be a member.

(4) The President may in writing remove a member for stated reasons.

Section 5 Filling of Vacancies.

(1) When a member of the Commission other than an ex-officio member is incapacitated by illness or any other cause from performing the functions of his office for more than twelve months, the President may acting in consultation with the appropriate institution appoint another person to perform the functions of the member until the member is able to resume the performance of his duties.

(2) Where a person is appointed to fill a vacancy he shall hold office for the remainder of the term of the previous member and shall, subject to the provisions of this Act, be eligible for re-appointment.

Section 6 Meetings of Commission.

(1) The Commission shall ordinarily meet for the dispatch of business at such times and at such places as the Chairman may determine, but shall meet at least once every three months.

(2) The Chairman may, at the request in writing of not less than one-third of the members of the Commission, convene a special meeting of the Commission.

(3) At every meeting of the Commission the Chairman shall preside and in his absence a member elected by the members present from among their number shall preside.

(4) The quorum at a meeting of the Commission shall be seven members.

(5) The Commission may co-opt any person to attend any of its meetings except that no co-opted person shall vote at the meeting.

(6) Questions proposed at meetings of the Commission shall be determined by a majority of the votes of the members present and voting and where the votes are equal the Chairman or the member presiding shall have a casting vote.

(7) No act or proceeding of the Commission shall be invalidated by a vacancy among its members or a defect in the appointment or qualification of a member.

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

Section 7 Commission to Appoint Committees.

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

Section 8 Allowances For Members Of The Commission And Committees.

Members of the Commission and members of committees appointed by the Commission shall be paid such allowances as may be determined by the Minister responsible for Finance.

Section 9 Executive Secretary to The Commission.

(1) The President acting in accordance with the advice of the Commission given in consultation with the Public Services Commission shall appoint an officer to be designated the Executive Secretary to the Commission.

(2) The Executive Secretary shall under the general supervision and direction of the Commission, be responsible for the day to day management and administration of the Commission.

(3) The Executive Secretary shall be the secretary to the Commission and shall in consultation with the Chairman arrange the business and cause to be recorded and kept minutes of the Commission.

(4) The Executive Secretary shall perform such other functions as the Commission may assign to him.

Section 10 Other Staff of the Commission.

(1) There shall be appointed by the President acting in accordance with the advice of the Commission given in consultation with the Public Services Commission, such officers as the Commission may require for the effective discharge of its functions under this Act.

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

Section 11 Delegation of Power of Appointment.

The President may subject to such conditions as he may think fit, delegate his power of appointment under sections 9 (1) and 10 (1) by directions in writing to the Commission or to a member of the Commission or to any public officer.

Section 12 Public Water Vested In President.

The property in and control of all water resources is vested in the President on behalf of, and in trust for the people of Ghana.

Section 13 Prohibition of Use of Water Without Authority.

(1) No person shall-

(a) divert, dam, store, abstract or use water resources; or

(b) construct or maintain any works for the use of water resources except in accordance with the provisions of this Act.

(2) Nothing in subsection (1) of this section shall prevent the use of water resources for the purpose of fighting fires.

Section 14 Use of Water Resources for Domestic Purposes.

(1) A person who has lawful access to water resources may abstract and use such water for domestic purposes.

(2) Nothing in subsection (1) shall authorise the construction or any works for the purpose of abstracting water resources.

Section 15 Enforcement Notice.

(1) Where it appears to the Commission that the use of water resources for any purpose at any place poses a serious threat to the environment or to public health, the Commission may serve on the user of the water resources, an enforcement notice requiring him to take such steps as the Commission thinks necessary to prevent or stop the activities.

(2) An enforcement notice shall specify-

(a) the offending activity;

(b) the steps required to be taken; and

(c) the time within which the steps shall be taken.

(3) The Commission may in an enforcement notice direct the immediate cessation of the offending activity where it considers that the circumstances so demand.

(4) Any person who acts contrary to an enforcement notice issued under this section commits an offence and is liable, on summary conviction, to a fine of not less than c200,000.00 or exceeding 2 million cedis and in default to imprisonment for a term not exceeding one year or to both; and in the case of a continuing offence to a further fine not exceeding c100,000.00 for each day that the offence continues after conviction.

Section 16 Grant of Water Right.

- (1) Any person may apply to the Commission in writing for the grant of water right.
- (2) The Commission shall on receipt of an application make such investigations as it considers necessary including consultations with the inhabitants of the area of the water resources concerned.
- (3) The Commission shall publish in the Gazette notice of an application and the area in respect of which the application is made.
- (4) A person who claims that his interest will be affected by the grant of water right may notify the Commission within three months of the notice in the Gazette of his objection to the grant of the water right and shall specify the grounds of the objection.
- (5) The Commission shall consider the objections made in respect of it and shall after consultation with such persons and authorities as it may consider necessary, determine whether the water right shall be granted.
- (6) Where the Commission is satisfied that the water right shall be granted, it shall so grant the right.
- (7) The Commission may grant water right subject to such conditions as shall be specified in the document for the grant.
- (8) A grant of water right shall be subject to ratification by Parliament.
- (9) Parliament may by resolution supported by the votes of not less than two-thirds of all the members of Parliament exempt from the provisions of subsection (8) of this section such class of water right as it shall so resolve.

Section 17 Prohibition of Transfer Of Water Right.

No water right granted under this Act shall be transferred without the written approval of the Commission.

Section 18 Creation of Statutory Wayleaves and Easement.

Where the grant of any water right is to a statutory corporation or any other public body whose use of the water right ensures to the benefit of the public, the provisions of the Lands (Statutory Wayleaves) Act, 1963 (Act 186) shall apply for the creation of any right of way or other similar right for the purpose of enabling the works related to the water rights to be implemented.

Section 19 Suspension or Variation of Water Right.

(1) Where water right has been granted and the Commission is of the opinion that the water resource in any area is insufficient or is likely to become insufficient as a result of the grant, it may by notice in writing to the holder of the water right in that area, suspend or vary any right to abstract or use the water resource in that area, for such period as the Commission considers necessary.

(2) Where a notice has been issued under subsection (1) the water right shall cease for the period of the suspension or shall be exercisable only as so varied.

Section 20 Termination or Limitation Of Right Where Water Is Required For Public Purpose.

(1) Subject to section 21 where the Commission is satisfied that water resources are required for a public purpose it may by notice in writing addressed to the holder of a water right, terminate or limit that right on the grounds that the water is required for public purpose, and the right shall cease or shall be exercisable only as so limited.

(2) A declaration in writing by the Commission that water resources are required for a public purpose shall be conclusive evidence of that fact.

Section 21 Compensation on Suspension or Cancellation Of Water Right.

The holder of a water right shall be entitled to receive such compensation as may be reasonable in the circumstances in respect of the loss resulting from the termination or limitation of the right he holds and in the absence of the agreement the court shall determine the amount of such compensation.

Section 22 Water Right to Be Terminated For Breach of Condition.

(1) Where the holder of the water right-

(a) fails to comply with any condition of the grant express or implied or;

(b) has abstracted or used water resources for a purpose not authorised by the grant,

the Commission may by notice in writing addressed to the holder require him to remedy the default within such period as shall be specified in the notice.

(2) If the holder fails or neglects to remedy the default within the period specified the Commission may terminate the water right and inform the holder accordingly in writing.

Section 23 Termination or Limitation For Non-Use.

Where at any time the Commission has reason to believe that the holder of water right has not, during the preceding two years, made full beneficial use of that right, it may after giving the holder of the right opportunity of making representations to the Commission, by notice in writing addressed to the holder and having regard to the investment in capital works and the long term national interest involved in the undertaking concerned-

- (a) terminate the right; or
- (b) limit or modify in such respects as it may specify the right.

Section 24 Pollution of Water.

(1) A person who, except in accordance with the provisions of this Act or with the approval of the Environmental Protection Agency-

- (a) interferes with or alters the flow of; or
- (b) pollutes or fouls any water resource beyond such level as the Environmental Protection Agency may prescribe, commits an offence and is liable on conviction to a fine not exceeding c5 million or to a term of imprisonment not exceeding two years or to both.

Section 25 Funds of Commission.

The funds of the Commission shall include-

- (a) Government subvention;
- (b) any loans granted to the Commission;
- (c) any monies accruing to the Commission in the course of the performance of its functions under this Act or any other enactment;
- (d) gifts; and
- (e) monies from any other source.

Section 26 Accounts And Audit.

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

(2) The books and accounts of the Commission shall be audited annually by the Auditor-General or an auditor appointed by him within three months of the end of the immediately preceding financial year.

(3) The financial year of the Commission shall be the same as the financial year of the Government.

Section 27 Annual Report.

(1) The Commission shall, as soon as possible after the expiration of each financial year but within six months after the termination of the year, submit to the Minister an annual report dealing generally with the activities and the operations of the Commission within that year which shall include-

(a) a copy of the audited accounts of the Commission together with the Auditor-General's report on it; and

(b) such other information as the Minister may require.

(2) The Minister shall within two months after receiving the annual report of the Commission submit the report to Parliament with such statement as he may consider necessary.

Section 28 Power to Obtain Information.

The Commission may for the proper and efficient performance of its functions request information from a person who shall, subject to any other law, comply with the request.

Section 29 Power To Inspect Works, Etc.

(1) The Commission may in consultation with the relevant District Assembly at any reasonable time enter upon any land to inspect works constructed or under construction there and may ascertain or cause to be ascertained the amount of water abstracted or capable of being abstracted by means of the works.

(2) No person shall obstruct the Commission in the performance of its functions under subsection (1) of this section.

(3) If in the opinion of the Commission any works have been constructed, maintained or used or is being so constructed as to constitute a danger to life, health, property or damage to the natural resources of the area, it may require a person for the time being enjoying the benefit of those works to demolish or to change the use of the works in such manner as the Commission considers necessary.

(4) For the purpose of this section the Commission may by note in writing suspend any water right until it is satisfied that such requirements have been fulfilled.

Section 30 Power to Require Demolition Of Unlawful Works.

(1) The Commission may on the advice of a District Assembly by notice in writing require a person-

(a) who has constructed or extended, or caused to be constructed or extended any works contrary to any conditions under which the person was required or authorised to effect the construction or extension; or

(b) whose water right in respect of which any works in existence have been terminated under the provisions of this Act or has otherwise come to an end, to modify, demolish or destroy the works within such period not being less than thirty days, as may be specified in the notice.

(2) Where a person fails to comply with a notice served on him under subsection (1), the Commission may cause the works to be modified, demolished or destroyed and recover the cost of the modification, demolition or destruction from the person in default by civil suit.

Section 31 Minister to Declare Controlled Area.

Where the Minister is satisfied that special measures are necessary for the protection of water resources in or derived from any area, he may executive instrument declare that area or any part of that area, to be a protected catchment area.

Section 32 Schemes For Development Of Water Resources In Protected Areas.

(1) Where an area has been declared a protected catchment area the Commission may in consultation with the National Development Planning Commission and the District Assembly of the protected catchment area, establish a comprehensive scheme for the development of the water resources of that area.

(2) For the purpose of establishing a comprehensive scheme, the Commission may, after giving the holder an opportunity for making representations in respect of any subsisting right within the area-

(a) declare the right terminated;

(b) declare the right limited or modified in such respect as may be specified by the Commission;
or

(c) grant the holder a new water right upon such terms and conditions as it considers fit; except that the holder shall be entitled to receive compensation in respect of any loss resulting from the termination or limitation of the right.

(3) The Commission may cause to be constructed and maintained such works as may be expedient for the better protection of land and water resources within a protected catchment area.

(4) The Minister on the recommendations of the Commission and with the approval of Cabinet may levy such charges as may be prescribed upon the beneficiaries of any comprehensive scheme within a protected catchment area in order to defray expenses of the construction or maintenance of such works or both.

Section 33 Declaration of Water Emergency.

(1) Where the Minister, after consultation with the District Assembly of any area, is satisfied that because of drought or because of an accident or any unforeseen circumstances, a serious deficiency of water for essential domestic purposes exists or is threatened in any area, he may by notice in the Gazette declare that a water emergency exists in the area concerned.

(2) The Minister may after a declaration of water emergency, permit any person who has supply of water in excess of his domestic purposes to supply water to the area affected or to any other person, for such period as he shall specify from the excess quantity of water.

Section 34 Penalty For Offences.

A person who-

- (a) diverts, dams, stores, abstracts or uses water resources contrary to section 13 (1) (a);
- (b) constructs or maintains any works for the use of water resources contrary to section 13 (1) (b);
- (c) does not comply with a request made under section 29;
- (d) obstructs the Commission in the performance of its functions under section 30 (1); or
- (e) does not comply with the directives given by the Minister under section 33 (2) commits an offence and is liable, on conviction, to a fine not exceeding c2 million or 3 years imprisonment or to both.

Section 35 Regulations.

(1) The Commission may by legislative instrument make regulations-

- (a) for preserving existing uses of public water;
- (b) for controlling any change in the course, current or cross-current of any contained surface water in order to obtain the most beneficial use of the water;
- (c) relating to the declaration of water emergencies;
- (d) for regulating the use of contained water and ground water;
- (e) for the carrying out of investigations in respect of any function of the Commission;
- (f) for the protection of watersheds;
- (g) for the granting of permits to discharge waste into water bodies;

- (h) for prescribing the acceptable levels of pollution;
 - (i) to regulate or prohibit the doing of any act by any person in a protected catchment area;
 - (j) for the levying of charges under this Act; and
 - (k) generally for the purpose of giving effect to the provisions of this Act.
- (2) An instrument under subsection (1) of this section shall be issued under the hand of the Chairman of the Commission.

Section 36 Transitional Provisions.

- (1) Where a person claims an existing right of access to any water resource that person shall, within twelve months from the coming into force of this Act notify the Commission of that right.
- (2) The Commission shall on receipt of the notification conduct such investigations as it considers necessary, and where it is satisfied that right exists in relation to the person it may take such action as it considers appropriate.

Section 37 Interpretation.

In this Act unless the context otherwise requires-

"beneficial use" means the use of water including the method of diversion, storage, transportation and application of the water which is reasonable and consistent with the public interest, including domestic, energy, agricultural, commercial, industrial, municipal, navigational and recreational use;

"contained water" means underground streams, water upon the surface of the earth in bounds created naturally or artificially and the sub-flow of the water;

"Court" means the High Court;

"existing right" means any right to water resources-

(a) which on the coming into force of this Act has been lawfully acquired, is possessed by and is being beneficially used by any person; or

(b) lawfully acquired by any person before the coming into force of this Act for the purpose of supplying water to the public;

"holder" means a person who has been granted water right under this Act;

"Minister" means the Minister responsible for Works and Housing;

"protected catchment area" means any area declared by the Minister to be preserved for the protection of water resources in or derived from the area;

works" includes any construction or activity for or related to use of water resources;

"water resources" means all water flowing over the surface of the ground or contained in or flowing from any river, spring, stream or natural lake or part of a swamp or in or beneath a watercourse and all underground water but excluding any stagnant pan or swamp wholly contained within the boundaries of any private land.

Section 38 Repeal.

Parts III of the Rivers Ordinance (Cap 226) is hereby repealed.