

GHANA SHIPPERS' AUTHORITY ACT, 1974 (NRCD 254)

As amended by

GHANA SHIPPERS' COUNCIL (AMENDMENT) LAW, 1987 (PNDCL 181).1

ARRANGEMENT OF SECTIONS

Section

1. Establishment of the Council.
2. Compulsory Acquisition of Property for Council where there is Hindrance.
3. Functions of the Council.
4. Composition of the Council.
5. Qualifications, Tenure and Termination of Office of Member of the Council.
6. Meetings of the Council.
7. Committees of the Council.
8. Staff of the Council.
9. Disclosure by Members of Council of Interest in Proposed Contracts.
10. Council to Submit Information to Commissioner.
11. Execution of Contracts, Etc.
12. Accounts and Audit.
13. Funds of the Council.
14. Power to Request Information, Etc., and Inspect Premises.
15. Offences by Bodies of Persons.
16. Regulations.
17. Interpretation.

IN pursuance of the National Redemption Council (Establishment) Proclamation, 1972, this Decree is hereby made:

Section 1—Establishment of the Council.

- (1) There is hereby established a body corporate to be known as the Ghana Shippers' Council in this Decree referred to as "the Council".
- (2) The Council shall have perpetual succession and a common seal, may sue and be sued in its own name, and may for the purpose of its functions under this Decree acquire, hold and dispose of any movable or immovable property and enter into any contract or other transactions.

Section 2—Compulsory Acquisition of Property for Council where there is Hindrance.

Where there is any hindrance to the acquisition of any property by the Council, the property may be acquired for the Council under the State Property and Contracts Act, 1960 (CA 6) or as the case may be, under the State Lands Act, 1962 (Act 125), and each such Act shall, as the case may be, apply in relation to any such acquisition with such modifications as may be necessary to provide for the vesting of the property acquired thereunder in the Council and for the cost of such acquisition to be defrayed by the Council.

Section 3—Functions of the Council.

(1) It shall be the duty of the Council to provide facilities for mutual consultations between shippers, shipowners and the Railway and Ports Authority on matters of interest to shippers.

(2) Without prejudice to subsection (1) of this section the Council shall have power—

(a) to represent the views of shippers in regard to the structure of freight rates, availability and adequacy of shipping space, frequency of sailings, port charges, port facilities and other related matters;

(b) to negotiate and enter into agreements with shipowners on matters affecting shippers;

(c) to undertake studies and enquiries on problems affecting shippers in Ghana;

(d) to subscribe to the membership of, or otherwise co-operate with, any other body whose objects are in whole or in part similar to those of the Council;

(e) to do such other lawful acts as are conducive and incidental to the performance of the foregoing functions.

(3) The Council may by resolution delegate to any member or officer of the Council any of its functions and such member or officer shall discharge the functions so delegated to him.

(4) The Council shall be responsible for the implementation in Ghana of the cargo sharing provisions of the United Nations Convention on the Code of Conduct for Liner Conferences, 1974, and for the purposes of this subsection the Council—

(i) shall administer the cargo sharing formula of 40-40-20 prescribed under the Convention;

(ii) may waive the allocation of cargo on the basis of the 40-40-20 formula.

(5) The Council may with the approval of the Secretary responsible for Transport and Communications levy such charges and commissions as may be prescribed for any services it renders to shippers, shipping agents and shipowners.

(6) The Council may grant exemptions in respect of any such charges and commissions; [As inserted by the Ghana Shippers' Council (Amendment) Law, 1987 (PNDCL 181), s. (a)].

Section 4—Composition of the Council.

(1) The Council shall consist of—

- (a) a Chairman appointed by the Commissioner with the approval of the National Redemption Council;
- (b) a representative of the Ghana Chamber of Commerce;
- (c) a representative of the Ghana National Trading Corporation;
- (d) two representatives of the Ghana Manufacturers' Association;
- (e) a representative of the Ghana Timber Association;
- (f) a representative of the Ghana Chamber of Mines;
- (g) a representative of the Ghana Supply Commission;
- (h) a representative of the Cocoa Marketing Company (Ghana) Limited;
- (i) a representative of the Ghana Industrial Holding Corporation;
- (j) a representative of the Ministry of Trade and Tourism;
- (k) a representative of the Ministry of Transport and Communications;
- (l) a representative of the Railway and Ports Authority;
- (m) a representative of the Ghana Timbers Limited;
- (n) the Chief Executive of the Council; [As amended by the Ghana Shippers' Council (Amendment) Law, 1987 (PNDCL 181), s. (b)].

(2) The Chairman of the Council shall be appointed only on part-time basis.

(3) Without prejudice to subsection (1) of this section the Council may by resolution admit as member of the Council any body of persons, whether corporate or unincorporated pursuing any line of trade or industry or both which has as one of its primary objects the protection of the interest of shippers.

Section 5—Qualifications, Tenure and Termination of Office of Member of the Council.

(1) No person shall be qualified to be a member of the Council if he has been sentenced to death or to a term of imprisonment exceeding twelve months without option of a fine or has been convicted of an offence involving dishonesty or moral turpitude and has in each case not been granted a free pardon.

(2) No person shall be qualified to be a member of the Council if having been declared as an insolvent or bankrupt under any law for the time being in force in Ghana or in any other country he is an undischarged insolvent or bankrupt.

(3) Each member of the Council shall hold office on such terms and conditions as the Commissioner may determine.

(4) The members of the Council shall be paid out of the funds of the Council such remuneration or other allowances as the Commissioner may determine in consultation with the Commissioner responsible for Finance.

(5) Any member of the Council may resign his office at any time by notice in writing addressed to the Council.

(6) The office of any member of the Council other than the Chairman may be terminated at any time by the Commissioner if he is of the opinion that it is in the interest of the Council so to do.

(7) The appointment of the Chairman may be terminated by the Commissioner with the approval of the National Redemption Council.

Section 6—Meetings of the Council.

(1) The Council shall meet for the despatch of its business at such times and at such places as the Chairman may appoint, so however, that the Council shall meet at least once every three months.

(2) At every meeting of the Council at which he is present the Chairman shall preside and in his absence a member of the Council appointed by members present and voting shall preside.

(3) Questions proposed at meetings of the Council shall be determined by a simple majority of votes of members present and voting; except that each organisation represented on the Council shall be entitled to only one vote and in the event of equality of votes the Chairman or the person presiding shall have a second or casting vote.

(4) The quorum at any meeting of the Council shall be six.

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

(6) The Council may co-opt any number of persons as it thinks fit to attend any of its meetings; except that the persons co-opted shall not be entitled to vote at any such meeting on any matter for decision by the Council.

(7) Subject to the provisions of this Decree and subject to any regulations made thereunder, the Council may regulate its own procedure.

Section 7—Committees of the Council.

(1) The Council may by resolution appoint such committees consisting of such number of persons, whether members of the Council or not, as it thinks fit to exercise such functions as the Council may assign to them or advise the Council on the exercise of any of its functions under this Decree.

(2) A member of the Council shall be appointed chairman of such committee.

Section 8—Staff of the Council.

(1) There shall be a Chief Executive of the Council who shall be appointed by the Council in consultation with the Commissioner subject to such terms and conditions, as may be specified in his letter of appointment.[As amended by the Ghana Shippers' Council (Amendment) Law, 1987 (PNDCL 181), s. (d)].

(2) The Chief Executive shall be the Chief Executive of the Council and shall subject to such directions as may be given by the Council on matters of general policy be charged with the

direction of the business of the Council and of its administration and organisation and also with the control of its officers and employees.[As amended by the Ghana Shippers' Council (Amendment) Law, 1987 (PNDCL 181), s. (d)].

(3) The Council 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 Council.

(4) Subject to the provisions of this section the Council shall be responsible for the appointment, discipline and removal of any person in respect of any post to which subsection (1) of this section applies.

(5) The Council may delegate to the Chief Executive or any other officer of the Council the power to appoint, discipline and remove any person in respect of any post in the Council the initial salary attached to which is less than ₵2,000 per annum:[As amended by the Ghana Shippers' Council (Amendment) Law, 1987 (PNDCL 181), s. (d)].

Provided that the Council shall not delegate to any officer of the Council other than the Chief Executive the power to appoint, discipline or remove any person in respect of any post the initial salary attached to which exceeds ₵1,200 per annum.[As amended by the Ghana Shippers' Council (Amendment) Law, 1987 (PNDCL 181), s. (d)].

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

(7) Public officers so transferred or seconded may be appointed at the point in the salary scale which approximates as closely as possible to the point in the salary scale applicable to officers or other employees of the Council of a similar class or category.

(8) The remuneration, and other allowances payable to officers and other employees of the Council shall be paid by the Council out of its funds, unless other arrangements are made for such payments.

Section 9—Disclosure by Members of Council of Interest in Proposed Contracts.

(1) Any member of the Council who has—

(a) any interest in any company or concern with which the Council proposes to enter into any contract; or

(b) any interest in any contract which the Council proposes to enter into,

shall disclose in writing to the Council the nature of his interest and shall be disqualified from taking part in any deliberation or decision of the Council relating to that contract and the fact of the disclosure of his interest shall be recorded in the minutes of the Council.

(2) Any member who infringes subsection (1) of this section shall be liable to be removed from the Council, and any information relating to the infringement shall be reported to the Commissioner.

Section 10—Council to Submit Information to Commissioner.

The Council shall submit to the Commissioner such information regarding the performance of its functions as he may from time to time require.

Section 11—Execution of Contracts, Etc.

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

(a) the signature of the Chairman or some other member of the Council authorised by the Council to authenticate the application of the seal; and

(b) the signature of the Chief Executive or some other officer of the Council authorised by the Council to act in place of the Chief Executive for that purpose.[As amended by the Ghana Shippers' Council (Amendment) Law, 1987 (PNDCL 181), s. (d)].

(2) The Council 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 any attorney on behalf of the Council and under his seal shall be binding on the Council and shall have the same effect as if it were made under the common seal of the Council.

(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 Council by the Chief Executive or any member of the Council if such member has previously been authorised by a resolution of the Council to execute or enter into that particular instrument or contract:[As amended by the Ghana Shippers' Council (Amendment) Law, 1987 (PNDCL 181), s. (d)].

Provided that if the Council thinks fit it may by writing under its common seal appoint any person outside Ghana as agent to execute or enter into the instrument or contract and the instrument or contract if executed or entered into on behalf of the Council shall have effect as if it had been duly executed or entered into as prescribed for the purposes of this subsection.

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

(a) sealed with the common seal of the Council 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 the Chief Executive or by a member of the Council or other person authorised in accordance with subsection (3) of this section to act for that purpose,[As amended by the Ghana Shippers' Council (Amendment) Law, 1987 (PNDCL 181), s. (d)].

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

(5) The provisions of this section shall have effect subject to section 12 of the Contracts Act, 1960 (Act 25).

Section 12—Accounts and Audit.

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

(2) The accounts of the Council shall be audited annually by the Auditor-General or an auditor appointed by him.

(3) The Council shall, within thirty days after its accounts have been audited forward a copy of the audited accounts together with a copy of the Auditor-General's report thereon to the Commissioner.

Section 13—Funds of the Council.

The funds and property of the Council shall consist of—

(a) any money granted by the Government for the purposes of the Council;

(b) all other moneys or property lawfully received or acquired by the Council under this Decree;

(c) all accumulations of income derived from any such moneys or property.

Section 14—Power to Request Information, Etc., and Inspect Premises.

(1) It shall be lawful for any officer or employee of the Council authorised in that behalf by the Commissioner to—

(a) inspect the premises of any person for the purpose of discharging any duty imposed on him by the Commissioner under this subsection;

(b) request in writing any person to furnish returns and other documents for the said purposes.

(2) Any person who—

(a) prevents any such officer or employee from inspecting any premises in exercise of his powers under subsection (1) (a) of this section; or

(b) furnishes a false or incorrect return or document,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €200 or to imprisonment for a term not exceeding twelve months or to both.

Section 15—Offences by Bodies of Persons.

(1) Where any offence under this Decree is committed by a body of persons the following provisions shall apply:—

(a) in the case of a body corporate other than a partnership, every director, secretary or similar officer of the body corporate and also the manager or similar officer of that body in charge of that part of the business of that body in connection with which the offence was committed shall be deemed to be guilty of that offence; and

(b) in the case of a partnership every partner shall be deemed to be guilty of that offence.

(2) No person shall be deemed to be guilty of an offence by virtue of subsection (1) of this section if he proves that the act in respect of which he is charged was committed by some other

person without his consent or connivance and that he exercised all due diligence to prevent the commission of that act as he ought to have exercised having regard to all the circumstances.

Section 16—Regulations.

The Commissioner may by legislative instrument make regulations in respect of any matter required to be prescribed under this Decree and generally for giving effect to the provisions of this Decree.

Section 17—Interpretation.

In this Decree unless the context otherwise requires:

(c) "Secretary" means the Provisional National Defence Council Secretary responsible for Transport and Communications; [As substituted by the Ghana Shippers' Council (Amendment) Law, 1987 (PNDCL 181), s. (c)].

"Railway and Ports Authority" has the same meaning assigned to it under the Railway and Ports Act, 1971 (Act 358);

"Shipowners" means owners, lessees, charterers of ships or vessels who are engaged in the business of transportation of goods by water;

"Shippers" means an individual or a body of persons (corporate or unincorporated) other than forwarding agents, insurance companies or banks, who has direct interest in cargo as original consignor or final consignee or the actual owner or future owner of the cargo.

Made this 29th day of March, 1974.

COLONEL I. K. ACHEAMPONG

Chairman of the National Redemption Council