

RESTRICTION ON TRANSFER OF ASSETS ACT, 1970 (ACT 323)

ARRANGEMENT OF SECTIONS

Section

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THE THREE HUNDRED AND TWENTY-THIRD

ACT OF THE PARLIAMENT OF THE REPUBLIC OF GHANA

ENTITLED

THE RESTRICTION ON TRANSFER OF ASSETS ACT, 1970

AN ACT to provide for the imposition of restrictions on the transfer or other disposal of the assets of certain persons in prescribed circumstances and for other purposes connected therewith.

DATE OF ASSENT: 7th April, 1970

BE IT ENACTED by the Presidential Commission and the National Assembly in this present Parliament assembled as follows:—

Section 1—Minister of Finance may Restrict Transfer or other Disposal of Assets of certain Persons in Prescribed Circumstances.

The Minister responsible for Finance hereafter in this Act referred to as "the Minister" may, by Gazette notice, impose restrictions on the transfer or other disposal of the assets generally or any particular assets specified in the Gazette notice, of any person in all or any of the following circumstances:—

- (a) where a Commission or Committee of Inquiry is conducting an investigation into the activities or assets of that person,
- (b) where that person or his personal representative has been required under the Financial Administration Decree, 1967 (N.L.C.D. 165), to pay any money to the Government or to account to the Government for any money or apply any public money for a particular purpose and has not so applied it,
- (c) where that person is being prosecuted or is being investigated for an offence involving misappropriation or dissipation of public funds,
- (d) where that person is being sued by the Government for the recovery of public funds, and
- (e) where the Cabinet is satisfied in respect of that person that it is in the public interest so to do:

Provided that any restriction under paragraph (e) of this section shall not be imposed for a period of more than three months in the first instance subject to renewal for further periods of three months in each instance.

Section 2—Bank Accounts, Etc.

In the case of any account kept with any banker or any security or thing deposited with or any document relating thereto kept with a banker by any person to whom all or any of the provisions of paragraphs (a), (b), (c), (d) and (e) of section 1 of this Act apply the Minister may, without prejudice to the general effect of the said section, impose restrictions on—

- (a) the withdrawal of any money from the said account by any person or the obtaining of any such security, thing or document by any person from the banker,
- (b) the payment out of the bank account by the banker of any money or the delivery to any person of any such security, thing or document.

Section 3—Penalty for Contravention.

Any person who contravenes any of the provisions of this Act or the terms imposed in any Gazette notice published pursuant to the provisions of this Act shall be guilty of an offence and shall on conviction be liable to a fine not exceeding N¢10,000 or a term of imprisonment not exceeding three years or both, and shall also be liable to a fine not exceeding N¢100 in respect of each day on which the offence continues.

Section 4—Bankers and Others to give Information.

(1) It shall be the duty of any banker requested in writing by the Minister so to do to give any information in his knowledge or possession concerning any bank account to which section 2 of this Act relates or any security, thing or document referred to in that section.

(2) It shall be the duty of any person (including a banker) to give any information in his knowledge or possession concerning any activities, assets, moneys or public funds referred to in paragraph (a), (b), (c) or (d) of section 1 of this Act which may reasonably be requested from him in writing by the Minister for any of the purposes referred to in the said paragraphs.

(3) Any person who—

(a) without reasonable excuse proof of which shall be on him, fails to comply with a request made by the Minister under this section, or

(b) gives in response to any such request any information which he knows to be false or which he has no reason to believe to be true,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding N¢200 or to a term of imprisonment not exceeding one year or to both; and to a further fine not exceeding N¢10 for each day on which the offence continues.

Section 5—Offences by Bodies of Persons.

(1) Where an offence under section 4 of this Act is committed by a body of persons then—

(a) in the case of a body corporate other than a partnership, every director and officer of that body shall be deemed also to be guilty of the offence,

(b) in the case of a partnership, every partner shall also be deemed to be guilty of the 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 offence was committed without his consent or connivance by a person other than himself and that he exercised all due diligence to prevent the commission of the offence having regard to all the circumstances.

Section 6—A Restriction may be Imposed under Section 1 in respect of Persons falling under Prescribed Categories before Commencement of this Act.

A restriction may be imposed in respect of any person to whom any of the circumstances set out in section 1 of this Act applies whether it first applied to him before or after the commencement of this Act.