

ACT 571
FORESTRY COMMISSION ACT, 1999

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ACT 571

FORESTRY COMMISSION ACT, 1999¹

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.

Establishment of Forestry Commission

1. Forestry Commission established

- (1) There is established by this Act a Forestry Commission.
- (2) The Commission is 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 performance of its functions under this Act, acquire and hold movable or immovable property, dispose of the property and enter into a contract or any other transaction.
- (4) Where there is a hindrance to the acquisition of property under subsection (3) of this section the property may be acquired for the Commission under the State Lands Act, 1962 (Act 125).

2. Object and functions of the Commission

- (1) The Commission is 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), the Commission shall
 - (a) regulate the utilisation of forest and timber resources by
 - (i) the vetting and the registration of contracts to market timber and any other forest and wildlife products determined by the Commission,
 - (ii) the establishment of procedures to track the movement of timber, wood and wildlife products,

1. The Act was assented to on 21st August, 1999 and notified in the *Gazette* on 10th September, 1999.

- (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, and
 - (vi) advising on approval 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, and
 - (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 any 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 forest 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.

3. Ministerial responsibility and directions by the Minister

(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.

4. Membership of the Board

(1) The governing body of the Commission is a Board consisting of

- (a) the chairman,
- (b) the Chief Executive of the Commission,
- (c) one representative of the National House of Chiefs,
- (d) one representative of the timber trade and industry,
- (e) one representative of the wildlife trade and industry,
- (f) one representative of the Ghana Institute of Professional Foresters,
- (g) one representative of non-governmental organisations involved in forest and wildlife management,
- (h) one 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 is woman.

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

5. Tenure of office of members

(1) A member of the Board, other than the chief executive and the representative of the Lands Commission, shall hold office for a period not exceeding four years and is eligible for re-appointment.

(2) A member of the Board may at any time by letter addressed to the President through the Minister, resign from office.

(3) A member of the Board, who is absent from four consecutive meetings of the Board without reasonable excuse ceases to be a member.

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

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

6. Meetings of the Board

(1) The Board shall meet at least once in every two months for the dispatch of business at the times and in the places determined by the Board.

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

(3) The quorum at a meeting of the Board is six members including the chief executive or the person acting in that capacity.

(4) The chairman shall preside at meetings of the Board and in the absence of the chairman a member of the Board elected by the members present from among their number, shall preside.

(5) Decisions of the Board shall be determined by a majority of the members present and voting.

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

(7) The Board may co-opt a person to act as an adviser at its meetings but a co-opted person is not entitled to vote at the meeting.

(8) The validity of the proceedings of the Board 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 Board shall regulate the procedure for its meetings.

7. Disclosure of interest

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

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

8. Committees of the Board

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

9. Allowances for members

The chairman and the other members of the Board shall be paid the allowances determined by the Minister.

Administration

10. Divisions of the Commission

(1) The Board may establish the divisions in the Commission that the Board considers necessary for the effective achievement of the object and performance of the functions of the Commission.

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

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

(3) A division of the Commission shall have as its head an officer designated as executive director.

(4) An executive director is responsible for the day-to-day management of the relevant Division and answerable to the Board through the chief executive in the performance of functions.

(5) The functions and numerical staff strength of a division of the Commission shall be determined by the Board.

(6) The divisions of the Commission shall be located in the places determined by the Board.

(7) The Board may delegate its functions under this section to the chief executive.

11. Other units in the Commission

There is established by this Act as units of the Commission and as a part of the secretariat of the chief executive

- (a) the Planning, Monitoring and Evaluation Unit,
- (b) the Legal Unit,
- (c) the Internal Audit Unit,
- (d) the Finance and Administration Unit,
- (e) the Research and Information Management Unit, and
- (f) any other units determined by the Board.

12. Chief executive

(1) There shall be a chief executive of the Commission who shall be the executive and administrative head of the Commission.

(2) The chief executive shall be appointed by the President in accordance with article 195 of the Constitution and shall hold office for the period and on the other terms and conditions specified in the letter of appointment.

13. Functions of the chief executive

The chief executive is responsible, subject to policy directives of the Board, for

- (a) ensuring the efficient and effective performance of the functions of the Commission and the directives of the Board,

- (b) the day-to-day management and administration of
 - (i) the Planning, Monitoring and Evaluation Unit,
 - (ii) the Legal Unit,
 - (iii) the Internal Audit Unit,
 - (iv) the Finance and Administration Unit,
 - (v) the Research and Information Management Unit, and
 - (vi) any other units determined by the Commission.

14. The functions of the divisions of the Commission

(1) For the purpose of determining the functions of the divisions of the Commission, the chief executive shall draw up for consideration and approval by the Board 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 Board.

15. Delegation by chief executive

The chief executive may delegate a function to an officer of the Commission subject to the conditions imposed by the chief executive who is not relieved from ultimate responsibility for the performance of the delegated function.

16. Secretary to the Commission

(1) The head of the Legal Unit is the secretary to the Commission.

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

(3) The secretary is, in the performance of functions answerable to the chief executive.

17. Executive directors and other staff of the Commission

(1) The executive director and the other staff and employees of the Commission shall be appointed by the President in accordance with article 195 of the Constitution.

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

18. Delegation of power to appoint public officers

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***19. Funds of the Commission**

(1) The funds of the Commission include

- (a) the moneys that Parliament may provide to the Commission for the performance of its functions,

- (b) moneys due to the Commission under this Act and any other enactment,
- (c) loans granted to the Commission, and
- (d) grants.

(2) For the purposes of increasing its funds, the Board may determine the fees to be charged

- (a) for the provision of advice and technical services,
- (b) in respect of the development of plantation and game ranches, and
- (c) for the provision of technical and advisory services and market intelligence to operators in the timber industry.

(3) The Commission may in respect of

- (a) its functions to conduct pre-shipment inspection and examination of timber and forest products,
- (b) its functions to vet contracts for the exportation of timber, wood and wild-life products, and
- (c) the entrance by a person to a protected area,

charge the levy or fee prescribed by the Minister on the recommendation of the Board.

(4) The funds of the Commission shall not include the export levy payable to the Commission under the Trees and Timber Act, 1974² as amended.

20. Bank account of the Commission and payment into Consolidated Fund

(1) The moneys accruing to the Commission under section 19 shall be paid into the bank accounts determined by the Commission with the approval of the Minister and the Minister responsible for Finance with the exception of the moneys mentioned in section 19 (1) (a) and (c).

(2) At the end of each financial year, after the Board has made provision for bad and doubtful debts, depreciation of assets and payment of all liabilities, the excess remaining after that shall be paid into the Consolidated Fund.

21. Borrowing powers

Subject to the provisions on loans contained in article 181 of the Constitution and any other enactment, the Commission may obtain loans and any other credit facilities on the guarantee of the Government from banks and institutions approved by the Minister.

22. Execution of contracts

- (1) The use of the seal of the Commission shall be authenticated by the signatures of
- (a) the chief executive or in the absence of the chief executive by another officer of the Commission authorised by the Board to authenticate the use of the seal, and
 - (b) a member of the Board determined by the Board.

2. N.R.C.D. 273.

(2) The Commission 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 Commission under seal is binding on the Commission and has the same effect as if it were issued under the common seal of the Commission.

(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 Commission by the chief executive or a member of the Board if that member has previously been authorised by a decision 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).

23. Annual budget and corporate plans of the Commission

(1) The Board shall, not later than three months before the end of each financial year, prepare and submit to the Minister for the approval of Parliament, an annual budget in respect of the following financial year comprising estimates of expected recurrent, maintenance, development and capital expenditure of the Commission in that financial year.

(2) The budget shall be in the form directed by the Minister responsible for Finance.

(3) The chief executive shall prepare budget estimates for each financial year and shall present them to the Board for its approval not later than five months before the end of the preceding financial year.

(4) The chief executive shall also prepare corporate plans for the periods directed by the Board.

24. Performance contract

(1) The chief executive shall enter into a performance contract with the Ministry for the period and on the conditions specified in the contract.

(2) An executive director shall also enter into a performance contract with the Commission for the period and on the condition specified in the contract.

25. Accounts and audit

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

(2) The books of account of the Commission shall be audited within three months after the end of each financial year by the Auditor-General.

26. Internal auditor

(1) The head of the internal audit shall be the internal auditor of the Commission.

(2) Subject to this Act the internal auditor is, in the performance of functions answerable to the chief executive.

(3) The internal auditor shall, at intervals of three months prepare a report on the internal audit work carried out during the period of three 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 the observations that are 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 to the Board.

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

27. Financial year

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

28. Annual report and other reports

(1) The Board shall submit to the Minister not more than six 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.

(2) The report 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) any other information that the Board considers necessary.

(3) The Minister shall, within three months after receipt of the annual report, submit the report to Parliament with the statements that the Minister considers necessary.

29. Access to information

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 Board shall have access to information and records of a department of state which are reasonably necessary for the purpose.

30. Regulations

The Minister may on the recommendations of the Board make Regulations, by legislative instrument, to give effect to this Act.

*Forestry Commission Act, 1999***31. Dissolution of specified bodies***Spent.*³**32. Repeal***Spent.*⁴**33. Transfer of personnel***Spent.*⁵

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3. The section provides that,
 “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 Development Board.”
4. The section provides that,
 “(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.”
5. The section provides that,
 “(1) The President shall in accordance with the advice of the Commission given in consultation with the Public Services Commission and within such period as the President shall determine on the coming into force of this Act, transfer to the Commission such number, as the President may determine, of personnel employed immediately before the coming into force of this Act by any of the bodies, agencies and offices dissolved under section 31.
- (2) Where a person to whom subsection (1) applies is not transferred under the subsection the appointing authority shall deal with the appointment as he considers fit including payment of the applicable retirement benefits and severance awards.
 - (3) The President may delegate his power under subsections (1) and (2) to the Commission, a member of the Commission or to any public officer.
 - (4) A transfer to the Commission shall for the purposes of pension or other retirement benefits constitute a continuous service in the public service.
 - (5) The terms and conditions of service of a person transferred to the Commission under subclause (1) shall not be less favourable than those applicable to him immediately before the coming into force of this Act.”

34. Transfer of assets and liabilities

*Spent.*⁶

35. Modification and consequential amendments

(1) Unless the context otherwise requires a reference in an enactment in existence immediately before the coming into force of this Act to “Chief Conservator of Forests”, the “Forestry Commission”, the “Forestry Department”, the “Game and Wildlife Department”, the “Forests Products Inspection Bureau” or the “Timber Export Development Board” shall be read and construed as a reference to the Forestry Commission established under section 1 of this Act.

(2) Without prejudice to subsection (1), the enactments specified in column 1 of the Schedule to this Act are amended to the extent indicated in relation to them in column 2 of the Schedule.

36. Interpretation

In this Act unless the context otherwise requires,

“**Auditor-General**” includes an auditor appointed by the Auditor-General;

“**Board**” means the governing body of the Commission;

“**Commission**” means the Forestry Commission established under section 1;

“**Minister**” means the Minister responsible for Forestry;

“**prescribed**” means prescribed by legislative instrument;

“**protected area**” means a forest or wildlife reserve;

“**timber grader**” means a person who examines and inspects timber to determine its quality.

6. The section provides that,

“Subject to section 33 (1), the assets, rights, obligations and liabilities of—

- (a) the Forestry Department of the Ministry;
- (b) the Game and Wildlife Department of the Ministry;
- (c) the Forestry Commission in existence immediately before the coming into force of this Act;
- (d) the Forest Products Inspection Bureau; and
- (e) the Timber Export Development Board,

are hereby transferred to the Commission established under section 1 of this Act.”

Forestry Commission Act, 1999

SCHEDULE

[Section 35 (2)]

Consequential Amendments

<i>Enactment</i>	<i>How affected</i>
1. The Timber Resources Management Act, 1997 (Act 547)	<p>(1) Section 5 is amended as follows—</p> <p>(i) by the repeal of paragraphs (a) and (b) of subsection (1) and the substitution of the following—</p> <p>“(a) the Chief Executive of the Commission or his representative who shall not be below the rank of a Director;</p> <p>(b) the Executive Director, Forest Services Division”;</p> <p>(ii) by the repeal of paragraph (c) to subsection (1);</p> <p>(iii) by the substitution for paragraph (e) of subsection (1) to the following “the Executive Secretary, Lands Commission”;</p> <p>(iv) by the repeal of “Chief Conservator of Forests” in subsection (2) and the substitution to “Chief Executive”.</p> <p>(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 to “Chief Executive” and the “Commission” respectively.</p>
2. Wild Animals Preservation Act, 1961 (Act 43)	<p>(a) By the repeal of section 1 and the substitution of the following—</p> <p>“1. Appointment of officers</p> <p>The President may in accordance with the advice of the Forestry Commission given in consultation with the Public Services Commission appoint officers to carry out all or any of the purposes of this Act.”;</p> <p>(b) by the repeal of “the President may” in section 3 and the substitution to the “Minister may upon the recommendations of the Forestry Commission”;</p> <p>(c) by the repeal of “one hundred pounds” in section 4 (5) and the substitution to “€2 million”;</p>

SCHEDULE—continued

<i>Enactment</i>	<i>How affected</i>
3. Trees and Timber Decree, 1974 (N.R.C.D. 273) as amended by Act 493	(d) by the repeal in section 6 (2) of “one hundred pounds” and the substitution to “€2 million”;
	(e) by the repeal of “one hundred pounds” in section 7 (2) and the substitution to “€2 million”;
	(f) in section 11—
	(a) by the repeal of “the President may” and the substitution to “the Minister on the advice of the Forestry Commission may”;
	(b) by the repeal of “€10,000” in paragraph (f) and the substitution to
	(g) in section 12 by the substitution for the meaning of “officer” and “Minister” to the following—
	“officer” means an officer of the Forestry Commission so designated;
	“Minister” means the Minister responsible for forestry and wildlife”.
	(a) by the substitution for “Chief Conservator of Forests” wherever it appears in the Decree to “Forestry Commission”;
	(b) by the substitution for “Commissioner” wherever it appears in the Decree to “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 to “Forest Products Inspection Bureau” wherever it appears and the insertion of “Forestry Commission”;	
(e) in section 17 (1) by the insertion after “may” to the following “on the advice of the Forestry Commission”;	