

ACT 564

COMMUNITY WATER AND SANITATION AGENCY ACT, 1998

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ACT 564

COMMUNITY WATER AND SANITATION AGENCY ACT, 19981

AN ACT to establish a Community Water and Sanitation Agency to facilitate the provision of safe water and related sanitation services to rural communities and to provide for related matters.

Establishment of the Community Water and Sanitation Agency

1. Establishment of the Community Water and Sanitation Agency

- (1) There is established by this Act a body to be known as the Community Water and Sanitation Agency.
- (2) The Agency is a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.
- (3) The Agency may in the performance of its functions acquire and hold movable or immovable property and enter into a contract or any other transaction.

2. Object and functions of the Agency

- (1) The object of the Agency is to facilitate the provision of safe water and related sanitation services to rural communities and small towns.
- (2) For the purposes of subsection (1), the Agency shall
 - (a) provide support to the District Assemblies to
 - (i) promote the sustainability of safe water supply and related sanitation services in rural communities and small towns, and
 - (ii) enable the District Assemblies encourage the active involvement of the communities, especially women in the design, planning, construction and community management of projects related to safe water supply and related sanitation services;
 - (b) formulate strategies for the effective mobilisation of resources for the execution of safe water development and related sanitation programmes in rural communities and small towns;

(c) encourage private sector participation in the provision of safe water supply and related sanitation services in rural communities and small towns;

(d) provide the District Assemblies with technical assistance in the planning and execution of water development and sanitation projects in the districts;

(e) assist and co-ordinate with non-governmental organisations engaged in

(i) the development of rural community and small town water supply, and

(ii) the provision of sanitation facilities and hygiene education in the country;

(f) initiate and pursue in collaboration with the Ministries of Local Government, Environment, Health and Education, formal and non-formal education programmes for the creation of public awareness in rural communities and small towns of water related health hazards;

(g) prescribe standards and guidelines for safe water supply and provision of related sanitation services in rural communities and small towns and support the District Assemblies to ensure compliance by the suppliers of the services;

(h) charge reasonable fees for the services provided;

(i) collaborate with the international agencies that the Board considers necessary for the purposes of this Act; and

(j) perform any other functions assigned to it under this Act.

(3) The Agency shall in the performance of its functions under this Act, act in conjunction with, collaborate with and co-operate with the Water Resources Commission, the Environmental Protection Agency, the Ghana Water and Sewerage Company and any other public and private bodies whose activities relate to the provision of safe water and related sanitation services in rural communities and small towns.

(4) Without prejudice to subsection (3), the Agency shall in the performance of its functions under this Act co-operate with all government departments, public and private institutions and any other agencies.

3. Ministerial directives

The Minister may in the public interest give to the Agency directives of a general nature on the policy to be followed by the Agency in the performance of its functions.

4. Governing body of the Agency

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

(a) the chairman,

(b) the chief executive of the Agency appointed under section 12,

(c) one representative of the Ghana Water and Sewerage Company, not below the rank of a Deputy Managing Director,

(d) one representative of the Ministry of Local Government and Rural Development not below the rank of a Director,

(e) one representative of the Ministry of Works and Housing not below the rank of a Director,

(f) one representative of the non-governmental organisations engaged in the rural water supply and sanitation sector,

(g) one representative of the National House of Chiefs, and

(h) two other persons who are women.

(2) The President shall, in accordance with article 70 of the Constitution, appoint the members of the Board.

(3) The President shall in making the appointments under this section, consider the expertise and experience of the persons in matters related to the functions of the Agency, particularly in the field of public health, local government administration and finance.

5. Functions of the Board

The Board is responsible for

(a) ensuring the implementation of the functions of the Agency,

(b) investing the moneys of the Agency as it considers fit, and

(c) the formulation of general policies for the proper management of the Agency.

6. Tenure of office of members

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

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

(3) Where a member of the Board is incapacitated by reason of absence from the Republic or illness or any other sufficient cause from the performance of the functions of office for a period of more than twelve months, the President may appoint another person to hold office until the incapacity of that person has terminated or until the expiration of the term of office of that member, whichever occurs first.

(4) 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 from the occurrence of the vacancy.

(5) A member of the Board, other than the chief executive may, at any time by letter addressed to the President through the Minister, resign from office.

7. Allowances for members

The members of the Board shall be paid the allowances that the Board determines in consultation with the Minister and the Minister responsible for Finance.

8. Meetings of the Board

(1) The Board shall meet at least once every two months for the despatch of business at the times and in the places that the chairman may determine.

(2) The chairman shall, on the written request of the chief executive or not less than one-third of the membership of the Board, convene a special meeting of the Board.

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

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

(5) Questions before the Board shall be decided by a majority of members present and voting and in the event of equality of votes the person presiding shall have a casting vote.

(6) 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.

(7) 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.

(8) Except as otherwise expressly provided under this section, the Board shall determine and regulate the procedure for its meetings.

9. Disclosure of interest

(1) A member of the Board who is directly or indirectly interested in a matter being dealt with by the Board shall disclose the nature of that interest at a meeting of the Board and shall not take part in the 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.

10. Committees of the Board

The Board may for the performance of its functions and the functions of the Agency appoint committees of the Board comprising members of the Board or non-members or both and assign to a committee a function of the Agency or of the Board that the Board may determine; but a committee composed entirely of non-members may only advise the Board.

11. Regional offices of the Agency

- (1) There shall be established in each regional capital a regional office of the Agency.
- (2) A regional office of the Agency shall be provided with the public officers that the Board in consultation with the Public Services Commission shall determine.
- (3) A regional office of the Agency shall perform the functions of the Agency in the region as directed by the Board.

Administrative, Financial and General Provisions

12. The chief executive

- (1) The Agency shall have a chief executive who shall be appointed by the President in accordance with article 195 of the Constitution.
- (2) The chief executive shall hold office on the terms and conditions specified in the letter of appointment.
- (3) Subject to the general directives that the Board may give, the chief executive is responsible for the direction of the work of the Agency and for the day to day administration of the affairs of the Agency and shall ensure the implementation of the decisions of the Board.
- (4) The chief executive may delegate a function determined by the chief executive to an officer of the Agency, but the delegation shall not relieve the chief executive from ultimate responsibility for the performance of a delegated function.

13. Appointment of other staff

- (1) The Agency shall have the other officers and employees that are necessary for the proper and effective performance of its functions under this Act.
- (2) The Board may, on the recommendation of the chief executive, engage the services of experts and consultants as determined by the Board.
- (3) Other public officers may be transferred or seconded to the Agency.
- (4) Appointment of officers of the Agency shall be made by the President in accordance with article 195 of the Constitution and on the terms and conditions determined by the President.

14. Delegation of power of appointment

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

15. Expenses and funds of the Agency

The funds of the Agency include

- (a) the annual appropriation made in respect of the Agency by Parliament,
- (b) moneys payable to the Agency under an enactment,
- (c) fees or charges accruing to the Agency in the performance of its functions under this Act,
- (d) interest from investments, and
- (e) grants and endowments.

16. Accounts and audit

- (1) The Board shall keep books of account and proper records in relation to them in the form approved by the Auditor-General.
- (2) The Board shall, within three months after the end of the financial year, submit the books of account and the records of account to the Auditor-General for audit.
- (3) The Auditor-General shall audit the accounts within three months after the submission of the accounts.
- (4) The Auditor-General shall, not later than six months after the end of each financial year, forward to the Minister a copy of the audited accounts of the Agency for the financial year immediately preceding.
- (5) The financial year of the Agency shall be the same as the financial year of the Government.
- (6) The chief executive shall prepare the budget estimates for each financial year and present the estimates to the Board for its approval not later than three months before the end of the financial year.

17. Annual report and other reports

- (1) The Board shall as soon as practicable after the end of each financial year but within eight months after the end of the year, submit to the Minister an annual report covering the activities and the operations of the Agency for the year to which the report relates.
- (2) The annual report submitted under subsection (1) shall include the report of the Auditor-General.
- (3) The Minister shall within thirty days of the receipt of the annual report submit a report to Parliament with the statement that the Minister considers necessary.
- (4) The Board shall also submit to the Minister any other reports that the Minister may in writing require.

18. Regulations and guidelines

- (1) The Minister may, on the advice of the Board, by legislative instrument, make Regulations
 - (a) on detailed technical standards and acceptable codes of practice to be adhered to by an operator in the rural water and sanitation sector,

(b) for inspection of the equipment or appliances to be used for the supply of safe water and the provision of related sanitation services in the rural communities and small towns, and

(c) generally for carrying this Act into effect.

(2) The Board may issue guidelines on

(a) the operation and maintenance of the system or appliance for rural water supply and the day to day management of the system or appliance,

(b) methods for financing the capital and recurrent cost of safe water and related sanitation facilities in rural communities and small towns, and

(c) the content of sanitation education programmes for rural communities and small towns.

19. Powers of entry

(1) For the purposes of performing any of its functions, the Agency may by its officers or any other employees, after giving notice to the owner or occupier of land or premises enter on the land or premises and do an act reasonably necessary for performing any of its functions.

(2) The Agency shall pay compensation for the damage caused as a result of an action taken under subsection (1), and the liability for the amount of the compensation shall in case of dispute, be settled by negotiation, failing which remedy may be sought in the High Court.

(3) The Agency may delegate its power under this section to the District Assemblies.

20. Transfer and vesting of assets and liabilities

There shall be transferred to the Agency by

(a) the Ghana Water and Sewerage Corporation, and

(b) any other public bodies and institutions that the Minister shall determine,

the assets and liabilities of the Corporation and the bodies and institutions that the Minister may determine and the assets and liabilities so transferred shall vest in the Agency.

21. Liability and responsibility

(1) In respect of the transfer and vesting of assets and liabilities under section 20 the Agency is responsible for a liability incurred and contract entered into by a person or an authority before the date of the commencement of this Act.

(2) A matter relating to the liability and contract shall be carried out on and after that date by the Agency as if the Agency were the other person or authority.

22. Interpretation

In this Act, unless the context otherwise requires,

“Agency” means the Community Water and Sanitation Agency established under section 1;

“Board” means the governing body provided for under section 4;

“community” means a group of households who refer to their settlement by the same name;

“community management” means the management by one or more communities or sections of these communities of their safe water supply and related sanitation facilities including the ownership, planning, operation and maintenance and collection of revenues to pay recurrent costs;

“District Assembly” includes Municipal and Metropolitan Assembly;

“functions” includes powers and duties;

“Minister” means the Minister charged with responsibility for the Agency;

“operator” means a person other than the Agency who provides safe water and related sanitation services in a rural community or small town;

“recurrent cost” includes operation, maintenance and replacement cost of ordinary parts of equipment in use, but not the replacement of major components of that equipment;

“rural community” means a community with a population of less than five thousand people or any other figure which the Minister may declare by publication in the Gazette and the mass media;

“sanitation” means hygiene education and disposal of faecal matter as they affect water usage;

“small town” means a community that is not rural but is a small urban community that has decided to manage its own water and sanitation systems.