

Ghana

## Community Water and Sanitation Agency Act, 1998

Act 564 of 1998

Legislation as at 5 February 1999

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## Ghana

# Community Water and Sanitation Agency Act, 1998

## Act 564 of 1998

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**Assented to on 30 December 1998**

**Commenced on 5 February 1999**

*[This is the version of this document from 5 February 1999.]*

**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 connected purposes.**

BE IT ENACTED by Parliament as follows—

### **Part I – 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 referred to in this Act as “the Agency”.
- (2) The Agency shall be 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 discharge of its functions acquire and hold any movable or immovable property and enter into any contract or 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 perform the following functions—
  - (a) provide support to 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 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 mobilization 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 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 (NGOs) engaged in—
    - (i) the development of rural community and small town water supply;

- (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 such international agencies as the Agency 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 Corporation and 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 discharge 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 give to the Agency such directives of a general nature on the policy to be followed by the Agency in the performance of its functions as appear to him to be in the public interest.

### 4. Governing body of Agency

- (1) The governing body of the Agency shall be a Board.
- (2) The Board shall consist of the following members appointed by the President in consultation with the Council of State—
  - (a) a chairman;
  - (b) the Chief Executive of the Agency appointed under section 12;
  - (c) a representative of the Ghana Water and Sewerage Corporation, not below the rank of a Deputy Managing Director;
  - (d) a representative of the Ministry of Local Government and Rural Development not below the rank of a Director;
  - (e) a representative of the Ministry of Works and Housing not below the rank of a Director;
  - (f) one representative of NGOs engaged in the rural water supply and sanitation sector;
  - (g) a representative of the National House of Chiefs; and
  - (h) two other persons.
- (3) Two at least of the members of the Board shall be women.
- (4) The President shall in making the appointments under this section, have regard to the expertise and experience of the persons in matters related to the functions of the Agency, particularly in the fields of public health, local government administration and finance.

## 5. Functions of the Board

The Board shall be responsible for—

- (a) ensuring the implementation of the functions of the Agency;
- (b) investing such monies 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 shall on the expiration of that period be 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 his absence from Ghana or illness or any other sufficient cause from the performance of the duties of his office for a period of more than twelve months, the President may appoint another person to hold office in his place 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 his office.

## 7. Allowances for members

The members of the Board shall be paid such allowances as the Board shall determine in consultation with the Minister and the Minister for Finance.

## 8. Meetings of the Board

- (1) The Board shall meet for the despatch of business at such times and in such places as the chairman may determine but shall meet at least once every two months.
- (2) The chairman shall, upon 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 shall be five and shall include the Chief Executive or the person acting in that capacity.
- (4) Every meeting of the Board shall be presided over by the chairman or in his absence by a member of the Board elected by the members present from among their number.
- (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 second or casting vote.
- (6) The Board may co-opt any person to act as an adviser at its meetings, but no co-opted person is entitled to vote at the meeting.
- (7) The validity of any 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 any matter being dealt with by the Board shall disclose the nature of his interest at a meeting of the Board and shall not take part in any deliberation or decision of the Board with respect to the matter.
- (2) A member who fails to disclose his interest under subsection (1) of this section shall be removed from the Board.

## 10. Committees of the Board

The Board may for the discharge 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 such functions of the Agency or the Board as the Board may determine; except that 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 such public officers as the Board in consultation with the Public Services Commission shall determine.
- (3) A regional office of the Agency shall perform such functions of the Agency in the region as the Board may direct.

## Part II – Administrative, financial and general provisions

### 12. Chief Executive and his functions

- (1) The Agency shall have a Chief Executive who shall be appointed by the President in accordance with the advice of the Board given in consultation with the Public Services Commission.
- (2) The Chief Executive shall hold office on such terms and conditions as shall be specified in his letter of appointment.
- (3) Subject to such general directives as the Board may give, the Chief Executive shall be responsible for the direction of the work of the Agency and for the day to day administration of the Agency and shall ensure the implementation of the decisions of the Board.
- (4) The Chief Executive may delegate such of his duties as he may determine to any officer of the Agency, but this delegation shall not relieve the Chief Executive from ultimate responsibility for the discharge of any delegated function.

### 13. Appointment of other staff

- (1) The Agency shall have such other officers and employees as may be 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 such experts and consultants as the Board may determine.
- (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 the advice of the Board given in consultation with the Public Services Commission and upon such terms and conditions as the appointing authority shall determine.

#### **14. Delegation of power of appointment**

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

#### **15. Expenses and funds of the Agency**

The sources of money for the discharge of the functions of the Agency shall include—

- (a) annual appropriation made in respect of the Agency by Parliament;
- (b) monies payable to the Agency under any 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 and the accounts and records of the Agency shall be in a form approved by the Auditor-General.
- (2) The accounts of the Agency shall be audited by the Auditor-General within six months after the end of each financial year.
- (3) The Auditor-General shall, not later than six months after the termination of each financial year, forward to the Minister a copy of the audited accounts of the Agency for the financial year immediately preceding.
- (4) The financial year of the Agency shall be the same as the financial year of the government.
- (5) The Chief Executive shall prepare 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 expiration 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 30 days of the receipt of the annual report submit a report to Parliament with such statement as he considers necessary.
- (4) The Board shall also submit to the Minister such other reports as 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 code of practice to be adhered to by any operator in the rural water and sanitation sector;
  - (b) for inspection of any 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 into effect the provisions of this Act.

- (2) The Board may issue guidelines on—
- (a) the operation and maintenance of any 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. Power of entry

- (1) For the purpose of carrying out any of its functions, the Agency may by its officers or other employees, after giving notice to the owner or occupier of any land or premises enter upon the land or premises and do any act reasonably necessary for carrying out its functions.
- (2) The Agency shall pay compensation for any damage caused as a result of any action taken under subsection (1), and the liability for and the amount of the compensation shall in case of dispute, be settled by negotiation, failing which remedy may be sought in the courts.
- (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) such other public bodies and institutions as the Minister shall determine,

such assets and liabilities of the Corporation and the bodies and institutions as the Minister may determine and any 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 shall be responsible for any liability incurred and contract entered into by any person or authority before the date of the commencement of this Act.
- (2) Any 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—

"**Board**" means the governing body provided for under section 4 of this Act;

"**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;

"**Minister**" means the Minister for the time being charged with responsibility for the Agency;

"**operator**" means any person other than the Agency who provides safe water and related sanitation services in a rural community or small towns;

"**recurrent cost**" includes operation, maintenance and replacement cost of ordinary parts of equipment in use, but not the replacement of major components of such equipment;

“**rural community**” means a community with a population of less than 5,000 people or any other figure which the Minister may from time to time 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.