

ACT 768
NORTHERN DEVELOPMENT FUND ACT, 2008

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ACT 768
NORTHERN DEVELOPMENT FUND ACT, 2008(1)

AN ACT to establish a Northern Development Fund to provide financial means for the implementation of the comprehensive, long-term Northern Ghana Development Strategy to transform the social and economic development of Northern Ghana, reduce poverty and accelerate the country's attainment of middle-income status, to provide for the management of the Fund and for related matters.

Establishment of the Northern Development Fund

1. Establishment of Northern Development Fund

There is established by this Act a Northern Development Fund.

2. Object of the Fund

(1) The object of the Fund is to provide financial resources in line with the northern development strategy to enable the North accelerate social and economic growth, transform the structure of the northern economy and for social protection interventions for poor, vulnerable and excluded persons in these areas.

(2) For the purpose of achieving the object of the Fund, moneys from the Fund shall be applied to the relevant activities that the Board of Trustees of the Fund may determine, including those specifically outlined in the long-term northern development strategy as follows:

- (a) programmes to maximise development potentials in the North and in districts contiguous to the three northern regions to promote economic development in the North;
- (b) community-driven development actions that will stimulate the modernisation of agriculture development and competitiveness of small holders in the North, notably women, through improved technology to promote efficiency for the domestic and export market;
- (c) private sector development to stimulate investment and business development in northern Ghana to create jobs and increase incomes;
- (d) the investment in strategically-targeted economic and social infrastructure, such as roads, energy, water resources and communication, to relieve critical development constraints and create the pre-conditions for accelerated economic, cultural and public interest development in northern Ghana;
- (e) food, livelihood, security and peace initiatives focused on improved access to food, sustainable livelihoods and safety-net investments for vulnerable areas in the North determined by the Board;
- (f) flood mitigation and environmental renewal to improve water resources management and

disaster preparedness, in order to reduce the severity of the perennial floods and droughts in the North; and

- (g) institutional capacity building to enhance strategic planning, funding and development management to reduce regional inequalities in development and align regional priorities within the overall national development strategy of the National Development Planning Commission.

(3) For the purpose of this section “**social protection interventions**” means the implementation of formal and informal mechanisms directed towards the provision of social assistance and capacity enhancement to poor, vulnerable and excluded persons in society.

3. Sources of money for the Fund

The sources of money for the Fund are

- (a) moneys that the Minister with the approval of Parliament may determine;
- (b) grants, donations, gifts and other voluntary contribution to the Fund from any person, donor and international organisation;
- (c) moneys specifically earmarked for the Fund;
- (d) moneys generated by the Fund in pursuance of the function of the Fund under this Act;
- (e) internally generated funds; and
- (f) other moneys or property that may in any manner become lawfully payable to and vested in the Board for the benefit the Fund.

4. Bank account for the Fund

(1) Moneys of the Fund shall vest in the Board.

(2) The Board shall open and operate a bank account for the Fund with the approval of the Controller and Accountant-General.

(3) Any person in possession of money intended for the Fund shall on the next working day after receipt of the money, pay the month into a bank account opened under subsection (2).

Management of the Fund

5. Establishment of the Board of Trustees

(1) There is established by this Act a Board of Trustees for the Fund.

(2) The Board is a body corporate with perpetual succession and common seal and may sue and be sued in its corporate name.

(3) The Board may for the performance of its functions acquire and hold movable and immovable property and may enter into a contract or any other transaction.

(4) Where there is a hindrance to the acquisition of property the property may be acquired for the Board under the State Property and Contracts Act, 1960 (C.A. 6) or State Lands Act, 1962 (Act 125) and the Board shall bear the costs.

6. Membership of the Board

(1) The Board comprises

- (a) a chairperson,
- (b) one representative who is not below the rank of a director from the Ministry of Finance,
- (c) one representative from each region in the North nominated by the respective Regional Co-ordinating Council,
- (d) three other persons at least two of whom are women, all three of whom shall be persons with professional experience in
 - (i) finance,
 - (ii) development planning and management,
 - (iii) community and stakeholder relations,
 - (iv) private sector development,
 - (v) law,
 - (vi) engineering,
 - (vii) agriculture, or
 - (viii) allied fields, consistent with the objects of the northern development strategy nominated by the President, and
- (e) the Executive Director of the Fund.

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

(3) The President shall in appointing a member of the Board under subsection (1) have regard to the person's integrity, knowledge, expertise and experience in matters relevant to the functions of the Board.

7. Functions of the Board

(1) The Board is responsible for the management of the Fund.

(2) The Board shall conduct reviews of the northern development strategy as determined by the Minister.

(3) For the purpose of subsection (1), the Board shall

- (a) pursue policies to achieve the object of the Fund,
- (b) collect or arrange to be collected moneys lawfully due to the Fund through procedures determined by the Minister,
- (c) ensure accountability of the Fund by defining appropriate procedures of the Fund,
- (d) with the approval of the Minister, prepare and publish criteria for the disbursement of moneys from the Fund,
- (e) disburse moneys from the Fund,
- (f) invest some of the moneys of the Fund in safe securities that the Board considers financially

beneficial to the Fund,

- (g) receive and examine reports from designated persons or institutions in respect of financial assistance granted those persons, and
- (h) perform any other function assigned to it under this Act or incidental to the achievement of the object of the Fund.

8. Tenure of office of members

(1) A member of the Board, shall hold office for a period of not more than four years and is eligible for re-appointment but a member shall not be appointed for more than two terms.

(2) Subsection (1) does not apply to the Executive Director of the Fund.

(3) A member of the Board may at any time resign from office in writing addressed to the President through the Minister.

(4) A member of the Board other than the Executive Director who is absent from three consecutive meetings of the Board without reasonable cause ceases to be a member of the Board.

(5) The President may by letter addressed to a member revoke the appointment of that member.

(6) Where a member of the Board is, for reasonable cause, unable to act as a member, the Minister shall determine whether the inability would result in the declaration of a vacancy.

(7) Where there is a vacancy

- (a) under subsection (3), (4) or 10 (2),
- (b) as a result of a declaration under subsection (6), or
- (c) by reason of the death of a member,

the Minister shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy.

9. Meetings of the Board

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

(2) The chairperson shall at the request in writing of not less than one-third of the membership of the Board convene an extraordinary meeting of the Board at the place and time determined by the chairperson.

(3) The quorum at a meeting of the Board is five members.

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

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

(6) The Board may co-opt a person to attend a Board meeting but that person shall not vote on a matter for decision at the meeting.

(7) The proceedings of the Board shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

(8) Subject to this section, the Board may determine the procedure for its meetings.

10. Disclosure of interest

(1) A member of the Board who has an interest in a matter for consideration by the Board shall disclose in writing the nature of that interest and is disqualified from participating in the deliberations of the Board in respect of that matter.

(2) A member who contravenes subsection (1) ceases to be a member.

11. Establishment of committees

(1) The Board may establish committees consisting of members of the Board or non-members or both to perform a function for the Board.

(2) Without limiting subsection (1), the Board shall have a Stakeholder Co-ordinating Committee.

(3) Subject to section 12 (2) (a) a committee of the Board shall be chaired by a member of the Board.

(4) Section 10 applies to members of a committee of the Board.

12. Stakeholder Co-ordinating Committee

(1) The Stakeholder Co-ordinating Committee shall provide the mechanism for

- (a) strong stakeholder ownership, and
- (b) effective co-operation between statutory bodies, Ministries, Departments and Agencies concerned with development issues and key stakeholders in northern development.

(2) The Stakeholder Co-ordinating Committee comprises

- (a) three Regional Ministers representing the Regional Coordinating Councils of the Upper West, Upper East, and Northern Regions with each Minister acting as chairperson on rotation;
- (b) one chief from each region in the north nominated by the Regional House of Chiefs;
- (c) one representative from each region in the north from a non-governmental development organisation;
- (d) one representative from each region in the north from the private sector;
- (e) two persons from each region of the North representing District Assemblies in those regions, one of whom is a Presiding Member and the other a District Chief Executive nominated by the regional grouping of District Assemblies;
- (f) three persons representing northern Ghanaian opinion leaders resident in other parts of the country;
- (g) representatives from the relevant Ministries, Departments and Agencies co-opted as *ex officio* members;
- (h) one representative from each region in the north representing women's groups; and
- (i) three persons from the North representing Members of Parliament nominated by each regional Parliamentary Caucus.

(3) The number of members on the Stakeholder Co-ordinating Committee shall not exceed thirty.

(4) The Committee may co-opt officers from the Ministries, Departments and Agencies and any other person to attend its meetings but a co-opted person has no voting right.

13. Allowances

Members of the Board and members of a committee of the Board shall be paid the allowances approved by the Minister responsible for Finance.

14. Ministerial directives

(1) The Minister may give directives in writing to the Board on matters of policy and the Board shall comply.

(2) The directives shall be consistent with the northern development strategy.

Administrative and Financial Matters

15. Appointment of Executive Director

(1) The President shall in accordance with article 195 of the Constitution, appoint an Executive Director for the Fund.

(2) The Executive Director shall hold office on the terms and conditions specified in the letter of appointment.

16. Functions of the Executive Director

(1) The Executive Director is responsible for the day-to-day administration of the affairs of the Board in the performance of functions under this Act.

(2) The Executive Director shall perform other functions determined by the Board.

(3) The Executive Director may delegate a function to an officer of the Board but shall not be relieved from the ultimate responsibility for the performance of the delegated function.

17. Appointment of other staff

(1) The President shall in accordance with article 195 of the Constitution appoint other staff of the Board that are necessary for the proper and effective performance of the functions of the Board.

(2) Other public officers may be transferred or seconded to the Board or may otherwise give assistance to it.

(3) The Authority may engage the service of advisers and consultants on the recommendations of the Board.

18. Secretariat of the Board

(1) The Government shall provide a secretariat located in the North for the Board.

(2) Administrative offices may be established as needed in other parts of the North.

19. Expenses of the Board

(1) Subject to subsection (2) administrative expenses incurred by the Board under this Act are charged on the Consolidated Fund.

(2) Charges including bank charges on transfers and charges on interests are charged on the Fund.

(3) Where after having defrayed its expenses, the Board has an excess amount, the Board shall pay the amount into the Consolidated Fund unless the Minister responsible for Finance approves the retention by the Board of a part or the whole of that excess amount.

20. Internally generated funds

(1) Subject to the Ministries, Departments and Agencies (Retention of Funds) Act, 2007 (Act 735), the Fund is authorised to retain moneys realised in the performance of its functions.

(2) The preparation and submission of estimates and the reporting and accounting of estimates are subject to the Financial Administration Act, 2003 (Act 654).

(3) The provisions of article 187 of the Constitution which relate to the Auditor-General shall apply to the moneys retained under this Act.

(4) Despite any other provision in any enactment to the contrary

- (a) internally generated funds can only be utilised when the activities on which the expenditure will be incurred have been programmed and approved in the Fund's expenditure budget by Parliament;
- (b) the Fund can only incur expenditure for a particular month if the records of collection for the previous month, bank lodgements and expenditure returns for the previous month have been submitted to the Ministry of Finance; and
- (c) internally generated funds shall not be used for the payment of salaries, staff benefits and other allowances except where the allowances are directly related to the provision of services that will lead to increased revenue.

21. Tax exemption

The Fund is exempt from payment of tax.

22. Borrowing powers

Subject to article 181 of the Constitution, the Board may obtain loans and other credit facilities on the guarantee of the government from banks and other financial institutions determined by the Minister.

23. Accounts and audit

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

(2) The Board shall submit the accounts of the Fund to the Auditor-General for audit within three months after the end of the financial year.

(3) The Auditor-General shall, not later than three months after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.

(4) The Internal Audit Agency Act, 2003 (Act 658) applies to this Act.

(5) The financial year of the Fund is the same as the financial year of Government.

24. Annual reports

(1) The Board shall, within one month after the receipt of the audit report submit an annual report to the Minister covering the operations of the Fund for the year to which the report relates.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall within one month after the receipt of the annual report submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Board shall also submit to the Minister any other reports which the Minister may require in writing.

25. Transfer of money

The total sum of money located in any bank before the commencement of this Act which constitutes money intended for the Fund is hereby transferred into the Fund established under section 1.

Miscellaneous

26. Regulations

The Minister may on the advice of the Board, by legislative instrument make Regulations to provide for

- (a) the revision of the northern development strategy;
- (b) the criteria for the disbursement of funds;
- (c) the disbursement of funds; and
- (d) any other matter necessary for the effective implementation of the provisions of this Act.

27. Interpretation

In this Act, unless the context otherwise requires

“**Board**” means the Fund Management Board established under section 5 (1);

“**chief**” is a person who, hailing from the appropriate family and lineage, has been validly nominated, elected or selected and enstooled, enskinned or installed as a chief in accordance with the relevant customary law and usage;

“**donor**” includes governmental and non-governmental organisations with development as their core function;

“**excluded person**” means someone who is marginalised from society;

“**Fund**” means the Northern Development Fund established under section 1 of this Act;

“**Government**” means any authority by which the execution of the authority of Ghana is duly exercised;

“**international organisation**” includes a non-profit and charitable organisation which is incorporated outside this country, operated in many countries but is registered in this country as an

international organisation or a company limited by guarantee;

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

“**National Development Planning Commission**” means the institution established under the National Development Planning Commission Act, 1994 (Act 479);

“**non-governmental organisation**” means a civil society group or non-profit body of persons formed to pursue purposes that are lawful and that are non-profit but oriented towards public interest;

“**North**” means the Upper West, Upper East and Northern Region;

“**northern development strategy**” means the long-term policy to develop the north;

“**poor person**” means a person who is unable to cater for basic human needs or the necessities of health services, shelter, clothing and education;

“**public interest**” includes a right or advantage which ensures or is intended to ensure for the general benefit of the people of this country;

“**safety net investment**” means a mechanism to ensure the health, education wellbeing and social welfare of an individual; and

“**vulnerable and excluded person**” means a person who has severe livelihood insecurity and is unable to cope with multiple life cycle risks and shocks.

Endnotes

1 (Popup - Footnote)

1. This Act was assented to on 4th December, 2008 and notified in the *Gazette* on 12th December, 2008.