

S.M.C.D. 140
PUBLIC PROPERTY PROTECTION ACT, 1977

ARRANGEMENT OF SECTIONS

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S.M.C.D. 140
PUBLIC PROPERTY PROTECTION ACT, 1977(1)

AN ACT to provide for the protection of public property and for related matters.

1. Deliberate dissipation, loss or damage

(1) A person who intentionally dissipates public funds commits an offence and is liable on conviction to a term of imprisonment not exceeding ten years without the option of a fine.

(2) A person who intentionally misapplies or causes loss of or damage to public property commits an offence and is liable on conviction to a term of imprisonment not exceeding five years or to a fine not exceeding one thousand penalty units or to both the fine and the imprisonment.

2. Loss caused by carelessness, gross negligence or dishonesty

(1) A person who by carelessness, gross negligence or dishonesty misapplies or causes the dissipation of or loss or damage to public property, commits an offence and is liable on conviction to a term of imprisonment not exceeding five years or to a fine not exceeding one thousand penalty units or to both the fine and the imprisonment.

3. Failure to account for public property

(1) A person who without reasonable excuse fails to account for a public property which was under the control of, or entrusted to care of, that person, commits an offence and is liable on conviction to a term of imprisonment not exceeding five years or to a fine not exceeding one thousand penalty units or to both fine and term of imprisonment.

(2) This section shall have effect without prejudice to the provisions of the Audit Service Act, 2000

(Act 584) or of any other enactment relating to public property.

4. Using public property for private gain

(1) Subject to subsection (2), a person who without lawful authority uses public property for private gain personally or to any other person, or in a manner as to obtain a private benefit personally or for any other person, commits an offence and is liable on conviction to a fine not exceeding one thousand penalty units.

(2) It shall be a defence for a person charged with an offence under subsection (1) to prove lawful authority to use the public property in the manner in which that person used it.

5. Obtaining public property by false statements

A person who causes a public property to be given or paid to that person or any other person by means of a statement or representation which that person knows to be false or which that person does not have a reason to believe to be true commits an offence and is liable on conviction to a term of imprisonment not exceeding five years or to a fine not exceeding one thousand penalty units or to both the fine and the imprisonment.

6. Recovery of public property

(1) Where the Court convicts a person of an offence under this Act the Court shall make the necessary orders for recovering the public property concerned, or for making good the loss of or damage to the public property concerned, and for this purpose the Court may, on the terms that it thinks fit,

- (a) order the seizure and forfeiture to the Republic of any asset of the convicted person;
- (b) where the Court is satisfied that any other person holds, an asset on behalf of the convicted person, order the seizure and forfeiture to the Republic of that asset;
- (c) order a person to execute an instrument or do an act that may be necessary for enabling an asset situated outside Ghana to be vested in the Republic;
- (d) order the delivery to the Court of a document of title relating to an asset forfeited to the Republic;
- (e) make any other orders that are necessary in the circumstances of the case.

(2) An order made under this section shall, unless the Court in special circumstances otherwise directs, have effect from the date of the conviction.

(3) A person who

- (a) fails without reasonable excuse the proof of which lies on that person, to comply with an order of the Court under this section, or
- (b) otherwise obstructs the carrying into effect of an order made under this section,

commits an offence and is liable on conviction to a term of imprisonment not exceeding ten years without the option of a fine.

7. Offences by bodies of persons

(1) Where an offence under this Act is committed by a body of persons,

- (a) where the body of persons is a body corporate, every director or officer of that body

corporate shall be deemed to have committed that offence, and

- (b) where the body of persons is a partnership, every partner shall be deemed to have committed that offence.

(2) A person shall not be convicted of an offence under this section if it is proved that the act constituting the offence was committed by some other person without the consent or connivance and that due diligence was exercised to prevent the commission of that act as ought to have been exercised having regard to the circumstances.

8. Interpretation

In this Act, unless the context otherwise requires,

“District Assembly” includes a Metropolitan and a Municipal Assembly;

“local authority” means a District Assembly or any other local government unit or a management committee, but does not include a traditional council;

“public property” includes money and any other property owned by or held in trust for the Republic, the property of any State enterprise, statutory corporation or local authority, and any other property specified by the Attorney-General by an executive instrument to be public property for the purposes of this Act;

“State enterprise” includes an enterprise completely owned and operated by the State or jointly owned and operated by the State and any person, and an enterprise managed under the direction of an organ of the Government.

9. Repeals

Spent.2(2)

Endnotes

1 (Popup - Footnote)

1. This Act was issued as the Public Property Protection Decree, 1977 ([S.M.C.D. 140](#)) made on the 12th day of December, 1977 and notified on the *Gazette* on 16th December, 1977.

2 (Popup - Footnote)

2. The section provided that,

“The following enactments are hereby repealed:

Public Property (Protection) and Corrupt Practices (Prevention) Act, 1962 (Act 121);

Public Property (Protection) and Corrupt Practices (Prevention) Act, 1962 (Amendment) (No. 2) Decree, 1967 (N.L.C.D. 200).”