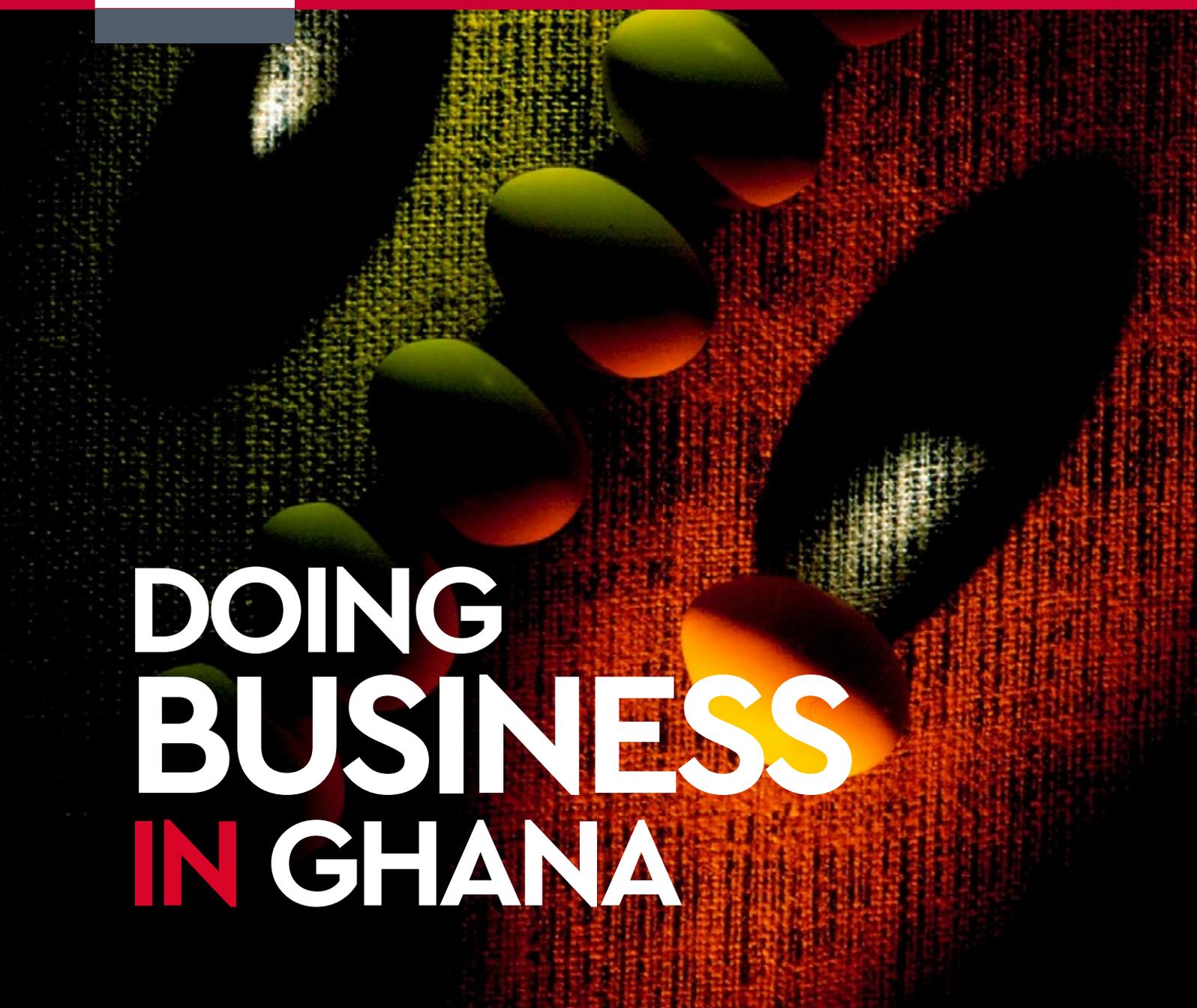


2026



**DOING  
BUSINESS  
IN GHANA**





# DOING BUSINESS IN GHANA

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2026



Ghana has long been regarded as one of Africa's rapidly rising economies.

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# Foreword



I am delighted to introduce WTS-Nobisfields' guide to doing business in Ghana. As a long-standing member of the UK-Ghana Chamber of Commerce (UKGCC), WTS-Nobisfields has contributed immensely to UKGCC's advocacy efforts towards creating an enabling business environment in Ghana. Their deep understanding of the unique opportunities and challenges that businesses face when operating in the Ghanaian market, coupled with their expertise in tax and law, makes them uniquely qualified to provide valuable insights for successfully doing business in Ghana.

This guide offers insights into the Ghanaian business landscape, covering topics such as market entry strategies, regulatory frameworks, cultural nuances, and best practices for success. Whether you are a seasoned international businessperson or just starting your journey into Ghana, this resource will provide you with the essential information and guidance you need to navigate the market effectively.

I commend WTS-Nobisfields for their commitment to supporting businesses in Ghana and for sharing their expertise through this valuable guide.

I am confident that it will be a valuable asset for companies looking to expand their operations or invest in or do business in Ghana.

Happy reading.

***Adjoba Kyiamah***

Executive Director, UK – Ghana Chamber of Commerce

# Foreword



The Ghanaian-German Economic Association (GGEA) is a well-known organization that has existed for 25 years. It has been a dynamic and results-oriented business organization that promotes partnership and investment in Ghana and Germany. This has led to the attraction of many businesses and companies as members. Since its establishment in 1999, the GGEA has forested many business relations, promoted many partnerships between Ghanaian and German businesses, and has been a major pillar in contributing to the bilateral trade between Ghana and Germany. The GGEA draws strength from its diverse membership base and owes its feat of being a resourceful organization to members like the WTS Nobisfields Ghana.

We find this publication of "Doing Business in Ghana- A Guide" by WTS Ghana as an important step and a valuable contribution to existing literature, that will help to promote investment in Ghana and enhance the business relations between Ghanaian Businesses and their partners across the world.

This Guide does not only give you in-depth information about Ghana's legal and taxation system, it covers a wide array of topics, and gives you key aspects of doing business and investing in Ghana that would be useful not only for foreign businesses and investors but to the Ghanaian as well.

As J. Paul Getty, succinctly puts it, "To succeed in business, to reach the top, an individual must know all it is possible to know about the business." Indeed, to succeed in doing business in Ghana and to reach the top, one can learn all it is possible to know through this "Doing Business in Ghana guide.

We hope the "Doing Business in Ghana- A Guide" will be useful to you!

**GGEA**

# Introduction



We are pleased to present to you the Doing Business in Ghana Guide 2026. Doing Business in Ghana is your personal guide to the Ghana legal and taxation system and beyond.

Based on our experience with establishing businesses in Ghana, the Doing Business in Ghana Guide edition gives you an informative view of the key aspects of doing business and investing in Ghana. It covers a wide array of topics, such as the main aspects of corporate law, real estate law, tax law, labour law, immigration law as well as many other legal aspects and regulations of relevance. Not to mention, the geographical position of Ghana as the gateway to investments in Africa combined with its good infrastructure, historic culture, excellent hospitality, stability democracy and the respect for the rule of law makes it the ideal gateway to Africa as the emerging market.

With a DNA of excellence, innovation, reliability and passion, WTS Nobisfields is a leading full-services law and tax firm that provides legal and tax consulting services to multinational companies doing business in Ghana. WTS Nobisfields is a member of WTS Global, headquartered in Netherlands and with offices in 100 countries. We are an independent firm, unaffiliated with any financial institution or audit practice. We are not restricted in our ability to provide a full range of services to businesses. We are the leading legal and tax advisers to many of the world's leading corporations on complex issues of today's integrated global market.

If you require more information about any of the topics covered in this guide, our lawyers and tax advisers will be very happy to assist you.

We hope that you find this guide useful and would like to wish you every success in Ghana. Best regards, on behalf of the Partners of WTS Nobisfields.

Kind regards



**Theophilus Tawiah**, Esq MCI

MSc (Oxford) LLM (Cardiff) PgDip (De Montfort) LLB (Leicester) BCom (Cape Coast)

MANAGING PARTNER

WTS Nobisfields (WTS Ghana)



# 1.0

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# GHANA



## 1.1 General Information

<b>LOCATION</b>	WEST AFRICA, bordering the Gulf of Guinea, between Cote d'Ivoire and Togo
<b>NATIONAL LANGUAGE</b>	ENGLISH
<b>CAPITAL CITY</b>	ACCRA
<b>SEAT OF GOVERNMENT</b>	FLAGSTAFF HOUSE
<b>CURRENCY</b>	GHANA CEDI (GHS)
<b>INTERNATIONAL DIALING CODE</b>	+233
<b>INTERNET DOMAIN</b>	.gh

Ghana has long been regarded as one of Africa's rapidly rising economies. Ghana also offers a highly peaceful business environment because it is one of the most stable countries in Sub-Saharan Africa. This, combined with the availability of accessible infrastructure and statutory institutions, has spurred the expansion of numerous private and public enterprises, making Ghana one of the most attractive business environments in Africa, as well as a favorable investment destination for many foreign companies.

This chapter provides you with an overview of the country's exceptional business environment.

## 1.2 Country & Cities

LAND INFORMATION	
<b>POPULATION</b>	30.8 million (CENSUS 2021)
<b>TOTAL AREA</b>	238,535 km <sup>2</sup> (92,099 sq mi)
<b>NATION</b>	GHANA
<b>LAND BELOW SEA LEVEL</b>	SEA LEVEL
<b>ADMINISTRATIVE REGIONS</b>	16
<b>LARGEST CITIES</b>	ACCRA KUMASI TAMALE

Ghana is an anglophone speaking country, located in Western Africa on the Gulf of Guinea and is bordered in-between Her neighbouring countries; Togo, Cote d'Ivoire and Burkina Faso to the east, west and north respectively. Ghana was the first West African country to gain independence from the United Kingdom in 1957 and at the time boasted of a steady and wealthy economy.

Ghana is known for its richness in natural resources which include timber, gold, diamonds, bauxite, manganese, and crude oil. Ghana is also home to Lake Volta, the world's largest artificial lake. Ghana currently holds the title as the world's top second producer of cocoa alongside many other agricultural produce, with well-developed infrastructure to facilitate trade and an outstanding modern educational system. With a population of over 30 million, Ghana is also known for Her impressive ethnic diversity, consisting of a group of people who are bound together by a strong sense of patriotism.

The country is divided into 16 administrative regions namely; Ashanti, Brong-Ahafo, Oti, Central, Eastern, Greater Accra, Northern, Upper East, Upper West, Volta, Bono East, North East, Western North, Savannah, Ahafo and Western.

### 1.3 Infrastructure, Traffic & Transport

TRAFFIC & TRANSPORT (2024)	
MAIN AIRPORT	KOTOKA INTERNATIONAL AIRPORT
No. AIR PASSENGERS	2,349,024
PASSENGER DESTINATION	32 DIRECT AIR DESTINATIONS
AIR FREIGHT CAPACITY	42,767 (TONNES)
MAIN SEA PORT	TEMA PORT
ANNUAL THROUGHPUT	20.2million TONNES (Jan. – Sept. 2024) Ghana Maritime Trade Review (Sept. 2024)
MAIN INTERNET HUB	The Ghanaian Internet Exchange (GIX)

When compared to other African developing countries, Ghana has a relatively advanced infrastructure platform. By improving its national infrastructure backbones, Ghana has been able to increase household access to telephone, power, and water services. The government continues to play a vital role in the country's intended socioeconomic development as a developing country. In the country, partnerships with the private sector are the standard for mobilizing appropriate technical and financial resources to drive the execution and achievement of national development goals. The Akosombo Dam, built in the 1960s, was the first noteworthy project in the country's history involving Public Private Partnerships.

Ghana's Infrastructure Plan (GIP) serves as a guide to achieving the national development strategy and the Sustainable Development Goals. The GIP continuously aims to build world-class, resilient infrastructure assets to support Ghana's continued growth and to improve the quality of life in the country. In Ghana, Road transport accounts for 96 percent of freight and 97 percent of passenger transportation. Rail transportation also accounts for only 3% of passenger traffic and 4% of freight traffic.

Ghana aspires to become a West African aviation hub, with a share of the West African aviation market of 10% and subsequently ranked 2<sup>nd</sup>. Kotoka International Airport (KIA) is the country's busiest airport, processing over 2 million passengers close to 50,000 tons of freight per year. With 32 direct air destinations, KIA offers regular international and regional flights. There are only five domestic flight options, namely: Takoradi, Kumasi, Tamale, Sunyani, Ho and Wa. From KIA, more than 30 airlines operate regular flights and 11 cargo airlines. The Tamale and Kumasi airports have both recently been renovated and upgraded to international airport status, though not to KIA's capacity.

Ghana also possesses two seaports located in Takoradi and Tema, which are governed by the Ghana Ports and Harbours Authority. Both ports have been extensively renovated, resulting in increased efficiency. Ship turnaround times in Ghana's ports are currently among the fastest in West Africa, and the amount of cargo handled has increased significantly.

## 1.4 Government

<b>HEAD OF STATE</b>	John Dramani Mahama
<b>HEAD OF GOVERNMENT</b>	John Dramani Mahama
<b>FORM OF GOVERNMENT</b>	Constitutional Democracy
<b>SEAT OF GOVERNMENT</b>	Flagstaff House

Ghana is a republic with a democratic constitution. The executive president is His Excellency John Dramani Mahama, the current head of state and government, who is directly elected by universal adult suffrage for a maximum of two four-year terms with a minimum of 50% + 1 of the votes. Decentralisation and local government are both established in the constitution, with the Local Government Act 2016 serving as the key piece of law (Act 936). Ghana boasts of one of the most peaceful hand overs of government, thus ranking the country as one of the best, in times of political stability and climate.

The country is organized into sixteen (16) administrative entities or regions, each of which is led by a president-appointed regional minister. At the highest levels of local governance, there are three types of assemblies: metropolitan, municipal, and district. There are also sub-structures that do not have legislative or rating powers but are tasked by the assembly with certain tasks: Sub-metropolitan, district, urban, town, zonal, and area councils and also unit committees.

## 1.5 Economy

MACROECONOMIC FIGURES	VALUE
<b>GDP current (million Gh¢)</b>	GHS 1,168,875 (Provisional for December 2024)
<b>GDP GROWTH RATE</b>	5.7% (2024)
<b>INFLATION RATE</b>	22.4% (March 2025)
<b>TOTAL WORKFORCE</b>	14 million (2024)
<b>UNEMPLOYMENT RATE</b>	13.1% (Quarter 4- 2024)

Ghana's economy is highly internationalized, with the country serving as one of Africa's most attractive and vibrant trading and industrial hubs.

TRADE (IMPORT & EXPORT)	
EXPORTS	USD 8,564.73 million (July- 2022 – December 2022) USD 8,237.72 million (January-June 2023)
EXPORT COUNTRY COMPARISM TO THE WORLD	RANKED 84th/135 (2021 last update)
EXPORT COMMODITIES	Gold, Cocoa and Crude Oil
IMPORTS	USD 7,243.09 million (July 2022 – December 2022) USD 6,440.22 million (January-July 2023)
IMPORT COUNTRY COMPARISM TO THE WORLD	RANKED 83th/127 (2021 last update)

IMPORT COMMODITIES	Industrial Supplies, Capital & Consumer Goods Foodstuffs, and Refined Petroleum Products.
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Gold, cocoa beans, crude oil and timber products are Ghana's principal exports. Tuna, aluminum, manganese ore, diamonds, and horticulture are among the others. The Netherlands, Burkina Faso, South Africa, and the United Kingdom are its key export partners. Ghana also imports primarily industrial supplies, capital and consumer products, as well as food. China, the United States, Belgium, the United Kingdom, and France are its key import partners.

## 1.6 Ghanaian People & Culture

<b>THE PEOPLE</b>	GHANAIAN
<b>TOTAL POPULATION</b>	30.8 million (CENSUS 2021)
<b>LANGUAGE</b>	ENGLISH
<b>LIFE EXPECTANCY</b>	64.42 years
<b>ETHNICITY</b>	100+

Ghana is a large, ethnically diverse country with more than 100 ethnic groups. The Akan (Ashanti and Fanti), the Ewe, the Ga-Adangbe, the Mole-Dagbani, the Guan, and the Gurma constitute the six main ethnic groups in Ghana. Ghanaian culture varies from ethnic group to ethnic group. In Ghana, family is a very strong tie that serves as a source of identity, loyalty, and obligation. Ghanaians are deeply religious, with the following percentages: Christian 68.8 percent, Muslim 15.9 percent, traditional 8.5 percent, other 0.7 percent, and none 6.1 percent. Although Ghana has the highest percentage of Christians in West Africa, traditional religions are still widely practiced.

At least 75 of these ethnic groups can be distinguished based on the language they speak. Ghana's official language, like many other ex-colonies in Africa, is English. Akan, Dagaare/ Wale, Dagbane, Dangme, Ewe, Ga, Gonja, Kasem, and Nzema are the nine government-sponsored languages. In Ghana, however, two Akan dialects, Twi and Fante, are commonly spoken.

REVENUE  
OPERATIONS

SERVICE  
OPERATION



2.0

ACCOUNTING  
AND FINANCIAL  
REQUIREMENTS

## 2.1 Keeping of accounting records and preparation of financial statements

A company is required to keep proper accounting records underlining the financial position and changes in the accounting records, and with respect to the control of and accounting for assets acquired whether for resale or for use in the business of the company, and, in particular with respect to

- a. the sums of money received and expended by, or on behalf of, the company and the matters in respect of which the receipt and expenditure takes place;
- b. the sales and purchases by the company of property, goods and services; and
- c. the assets and liabilities of the company and the interests of the members in the company.

According to the Companies Act 2019, (Act 992), proper accounting records are the records that give a true and fair view of the state of affairs of the company.

The Act, allows for keeping accounting records either electronic or other means and the records can be kept either at the registered office or other location that is deemed fit by the directors of the company. The records shall be open to inspection by the directors, Company Secretary and auditors of the company.

The Companies Act requires that a financial statement comprises of the following;

- i. statement of financial position,
- ii. statement of comprehensive income,
- iii. statement of cash flows,
- iv. statement of changes in equity, and
- v. summary of significant accounting policies and other explanatory notes to the financial statements and;

Ghana has fully adopted International Financial Reporting Standards (IFRS), hence all financial statements are required to be IFRS compliant.

## 2.2 Circulation of financial statements and reports

After incorporation of the company, the directors of the company have up to eighteen months to prepare and circulate the first financial statements to the members of the company. In subsequent years, the financial statements shall be circulated with fifteen months from beginning of the financial year.

The report being circulated should contain the following:

- a. Signed financial statements
- b. a report by the directors in accordance with section
- c. a report by the auditors in accordance with section

The reports are also required to be laid before members at the annual general meeting of the members of the company.



With respect to the period in which the reports must be circulated, an extension of time can be sought from the Registrar of the Office of the Registrar of Companies.

### **2.3 Statement of financial position**

The financial statement of a Ghanaian company must give a true and fair view of the state of affairs of the company. The financial statement must be prepared in accordance with the IFRS or any standard adopted by the Institute of Chartered Accountants, Ghana.

### **2.4 Consolidated financial statements**

Consolidated financial statement is prepared by the company with one or more subsidiaries. The consolidated financial statements shall comprise;

- a. statement of financial position,
- b. statement of comprehensive income,
- c. statement of changes in equity,
- d. statement of cash flows, and
- e. notes to the consolidated financial statements.

The financial statements must give a true and fair view of the profit or loss and other comprehensive income and of the state of affairs of the company and the subsidiaries dealt with by the consolidated financial statements as a whole, in so far as it concerns the interest of the company.

As other any other financial statement, it must be prepared in accordance with International Financial Reporting Standards as adopted by the Institute of Chartered Accountants, Ghana.

Where a financial statement of the subsidiaries is consolidated, the financial year end of each of the subsidiaries must coincide with that of the consolidating/parent company. This can only be varied upon a written application by the directors of the company giving a good reason why all the companies within the group cannot have the same financial year end.

Where it appears to the Registrar that it is desirable for a holding company or subsidiary company to extend its financial year so that the financial year of the subsidiary may end with that of the holding company, and for that purpose to postpone the dispatch of the financial statement and reports referred to in section 128, from one calendar year to another, the Registrar may direct that the dispatch of the financial statements by one or other of these companies shall not be required in the earlier years of the calendar.

Where the financial year of a subsidiary does not coincide with that of the holding company, the consolidated financial statements shall, unless the Registrar otherwise directs, deal with the profit or loss and other comprehensive income of the subsidiary, and the state of affairs as at the end of the financial year of the subsidiary ending last before that of the holding company".

## 2.5 Particulars of emoluments and pensions of directors

The directors are required to disclose information about remuneration of directors. The information should contain the following:

- a. emoluments of the directors.
- b. pensions of the directors or past directors; and
- c. emoluments of the directors or past directors in respect of loss of office during the financial year being reported.

The amount being shown in respect of directors' emolument includes fees, salaries and percentages, expenses, allowances, contributions paid under a pension scheme, and the estimated value of benefits in kind, except benefits of the character and value that are customarily afforded to employees other than directors, paid to, or receivable by, a director in respect of the services of the director as an officer of the company or of an associated company.

The amount to be shown regarding pension of directors includes the pension paid or receivable in respect of services as a director or past director of the company, or in respect of services, while a director of the company, in connection with the management, or as an officer of the company or an associated company, whether that pension is paid to, or receivable by, the director or past director or any other person.

The amount to be reported on emoluments of directors are the sums of monies paid to or receivable by a director or past director by way of compensation for the loss of office as director of the company or for the loss, while a director of the company, or in connection with that person ceasing to be a director of the company.

The amount reported should also include the sum of money and the value of any other valuable consideration paid or receivable in connection with retirement from office, or as damages for breach of contract of service.

## 2.6 Particulars of amounts due from officers

The Companies Act specifically require the company to show in a note to the financial statements;

- The individual and aggregate amounts of money due to the company or an associated company at the end of the financial year of the company from an officer of the company or an associated company; and;
- The maximum amount of money due to the company and an associated company at any time during the financial year of the company from any officer of the company or an associated company.

Where the company or an associated company gives a guarantee or security to a person in respect of an indebtedness of an officer of the company or an associated company, the amount guaranteed or in respect of which the security was given, should also be disclosed in the notes to the financial statements.

The information being disclosed exclude loans given in the ordinary course of business of the company. It also excludes amounts lesser than GHS5000 or two percent of the stated capital or amounts certified by the directors as having been given in accordance with the practice adopted or about to be adopted by the company.

## 2.7 Signing and publication of financial statements

A company is not allowed to issue, publish or circulate a copy of the financial statements unless the following are done:

- a. The company attaches to the financial statements, reports of the directors and auditors respectively.
- b. The financial statements have been approved by the board of directors and, after that approval, signed by two directors on behalf of the board.

However, the publication of a fair and accurate summary of the financial statements and report of the auditors on the financial statements after the financial statements have been approved, and signed on behalf of the board of directors is allowed.

In the event of a breach of the above, the company and every officer of the company that is in default is liable to pay to the Registrar an administrative penalty of one hundred and fifty penalty units.

## 2.8 Report of Directors

The report of the directors should include the following:

- Details on the state of affairs of the company and, if the company is a holding company, the state of affairs of the company and the subsidiaries of the company as a group.
- The amount of money which the directors recommend, to be paid by way of dividend,
- Particulars of entries in the interests register during the financial year,
- Corporate social responsibility of the company and a subsidiary and the amounts spent during the financial year;
- Amount payable by way of audit fees.
- Details of steps taken to build the capacity of directors to discharge their duties.

The report must deal, so far as is material for the appreciation of the state of affairs of the company, with any change during the financial year in the nature of the business of the company or of the associated companies, or in the classes of business in which the company has an interest, whether as a member of another company or otherwise.

The report must also contain a list of bodies corporate in relation to which is fulfilled at the end of the financial year of the company, on the condition that

- a. The body corporate is a subsidiary of the company, or
- b. Although the body corporate is not a subsidiary of the company, the company is beneficially entitled to equity shares of the body corporate conferring the right to exercise more than twenty-five per cent of the votes exercisable at a general meeting of the body corporate.

The list referred to in (a) above must distinguish between bodies corporate falling within (a) and (b) above and shall state as regards each company, the name of the company, country of incorporation, and nature of the business carried on by the company.

If the company is, at the end of the financial year, a subsidiary of another company, the report shall also state the name and country of incorporation of the holding company.

If, on an application made by the directors, the Registrar is satisfied that, mention of any of the disclosures referred above would be harmful to the business of the company or any of the associated companies, the Registrar may give an exemption to the company from mentioning any of them in the report.

The directors report must be approved by the board of directors and signed on behalf of the board by two directors.

A director who fails to take the reasonable steps necessary to comply with this section is liable to pay to the Registrar, an administrative penalty of one hundred and fifty penalty units.

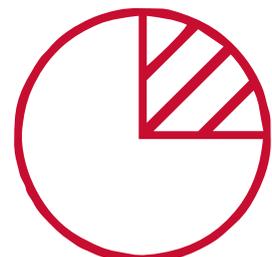
## 2.9 Report of Auditors

The report of Auditors shall be made by a qualified auditor who has been appointed as auditor of the company in accordance with section 138 and 139 of the Companies Act, 2019, Act 992. It must be addressed to the members of the company.

The reports of the auditors are issued on both the accounting records and the financial statements of the company.

In Ghana, the auditor's report contains the following statements:

- Whether the auditors have obtained the information and explanations which to the best of the knowledge of the auditors and belief were necessary for the purposes of the audit.
- Whether, in the opinion of the auditors, proper books of account have been kept by the company, so far as appears from the examination of those books, and proper returns adequate for the purposes of the audit have been received from branches not visited by the auditors.
- Whether the statement of financial position of the company and, unless it is designated as a consolidated profit and loss account or statement of comprehensive income, profit and loss account or statement of comprehensive income dealt with by the report, agree with the accounting records and returns.
- Whether, in the opinion of the auditors and to the best of their information and according to the explanations given to the auditors, the accounts give the information required by this Act in the manner so required and give a true and fair view,
  - » in the case of the statement of financial position, of the state of affairs of the company at the end of the financial year, and;
  - » in the case of the profit and loss account or statement of comprehensive income, of the profit or loss for the financial year, of the statement of financial position or the profit and loss account or statement of comprehensive income



- In the case of a holding company submitting group accounts, whether, in the opinion of the auditors, the group accounts have been properly prepared in accordance with this Act so as to give a true and fair view of the state of affairs and profit or loss of the company and its subsidiaries dealt with so far as it concerns the interests of the company;
- or so as to give a true and fair view of those affairs or of the profit or loss
- Whether the auditors were independent of the company as provided by the Companies Act.

## 2.10 Foreign Exchange Controls

All foreign exchange transactions, such as foreign exchange transfers and overseas payment transactions, are regulated and provided for in Ghana, by the Foreign Exchange Act 2003. The Bank of Ghana (BoG) is given sole authority and responsibility for the proper administration of the provisions of the Act

A license must be provided to either a bank or other corporate bodies or persons that the BoG considers competent, in order to conduct the business of dealing in foreign exchange in Ghana.

Payments in foreign currency between residents and non-residents, as well as payments between non-residents, must be made through a locally licensed bank in Ghana. Payments for merchandise exports from Ghana, for example, must be paid through the nonresident's bank to the exporter's bank in Ghana. The term "bank" refers to any establishment that is licensed by the BoG to conduct foreign exchange transfers or any authorized permitted dealer.

All foreign exchange transactions must be reported to the Bank of Ghana by banks or dealers.

Offenses committed in relation to foreign exchange business transactions and transfers carry a fine of not more than five thousand penalty units or a term of imprisonment of not more than ten years or both, as provided by the act.





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3.0

COMMERCIAL  
CONTRACTS

### 3.1 General Ghana Contract Law

The general Ghana contract law allows for the freedom of contract where all the underlying general common law elements of contract are met. These are offer, acceptance, consideration, capacity and legality. Nonetheless, there are a few statutory restrictions that guide the making of a contract by the Contract Act of Ghana 1960, Act 25, as well as the Sale of Goods Act 1962, Act 137. This guidance under the Contracts Act is in relation to Frustration of Contracts, third-party Rights, and consideration and formalities which every contract cannot deviate from. For every contract to be legally enforceable in Ghana, it must satisfy all the legal elements of the contract, with due recognition of the statutory modifications in the Contract Act. Once these have been adhered to, courts will not seek to write the contract for the parties involved.

The principle of unconscionability is a very indispensable consideration in all contracts in Ghana. Even though courts allow parties the unfettered latitude for freedom of contracts, the court will not give any judicial blessings to a contract that is unconscionable even though all the elements and the statutory modifications have been adhered to.

Commercial agreements on the other hand are governed by the Sale of Goods Act 1962, Act 137. Contracts involved in commercial agreements must have due regard to this statutory law in order to be enforceable. This suggests that parties cannot contract outside this law. This statutory requirements deals with domestic commercial contract that take place in Ghana.

With respect to International Commercial agreements, the general principles of international trade law are applicable.

Even though Ghana is not a member of the United Nations Convention on the international sale of Goods, Ghana is part of the United Nations Commission on International Trade Law.

From this, where the commercial agreement is domestic, the applicable law shall be the Sale of Goods Act, whereas if it is an international commercial contract, the applicable law will be the general principles under international trade

There are other distinctive features of the Ghana contract law. These are

- **RESCISSION:** Rescission is an equitable remedy. It is also a means by which a contract may be discharged. This allows a contractual party to cancel the contract. The purpose of this is to restore the party to the original position before the contract was formed.
- **RESTITUTION:** Where a bargain is made and the price paid, but the defendant fails to deliver the goods, then the plaintiff is entitled to recover the price paid plus interest thereon. The idea is that the injured party must be restored back to the original position he/she was.
- **SPECIFIC PERFORMANCE:** An order for specific performance will compel the party seeking to breach the contract to perform its obligations in accordance with the terms of the contract. These terms must be positive in nature, whereas negative stipulations are normally enforced by an injunction. However, before the courts will compel a party to fulfil the terms of the contract under specific performance, the courts usually give attention to some considerations. These are;
- **INADEQUACY OF DAMAGES:** If the plaintiff can show that damages are inadequate, then the court may grant his claim for specific performance. Damages will be inadequate in the following circumstances:

- i. Where the plaintiff cannot get a satisfactory substitute:
- ii. Where the award of damages would be unfair to the plaintiff:
- iii. Where the quantum of damages is difficult to assess.
- **JUDICIAL DISCRETION:** "Equity will only grant specific performance if, under all the circumstances, it is just and equitable to do so". However, the exercise of this discretion is circumscribed by a number of well-known rules:
  - i. There must be mutuality before specific performance is available. The court does not grant specific performance unless it can give full relief to both parties
  - ii. Specific performance will not be ordered if it is impossible for the defendant to comply with the order, eg, in a contract for the sale of land not owned by the vendor.
  - iii. Specific performance will be refused if the plaintiff has acted unfairly or dishonestly. The equitable principle is that the plaintiff must come to equity with clean hands.
  - iv. Specific performance will be refused if the plaintiff fails to perform a promise which induced the defendant to contract.
  - v. Specific performance will be refused if it would cause severe hardship to the defendant.
- **VOID CONTRACTS:** A contract is deemed void when it cannot be enforced by law. From the moment the contract is made, it is considered illegitimate or unenforceable in the face of the law.
- **VOIDABLE CONTRACTS:** A voidable contract is a valid contract which may either be affirmed or rejected at the option of one of the parties. At most one party is bound by the contract. The unbound party may repudiate the contract at which time the contract becomes void.

### 3.2 General Terms Of The Commercial Agreement

Under general commercial agreement in Ghana, the terms of the agreement can be in writing or orally or partly in writing and partly by word of mouth. Parties are free to contract in respect of the terms of the agreement. Parties engaging in domestic commercial agreements must be guided by the Sale of Goods Act in drafting its terms. It must be acknowledged that the capacity required to legitimize the contract is similar to the general contract law principle of capacity. The terms of the commercial agreement can be either a condition or a warranty.

- **CONDITIONS:** A condition is a major term which is vital or fundamental to the main purpose of the contract. A breach of a condition will entitle the injured party to repudiate the contract and claim damages. The injured party may also choose to go on with the contract, despite the breach, and recover damages instead.

(Note: The word 'condition' also has another meaning. It may mean a stipulation that a contract should not be enforceable except on the happening of a given event or, should be brought to an end on the happening of a given event. The condition is then properly called a 'condition precedent', or a 'condition subsequent' respectively.

- **WARRANTIES:** A warranty is a less important term: it does not go to the root of the contract. A breach of warranty will only give the injured party the right to claim damages; he cannot repudiate the contract.

- **INNOMINATE TERMS:** It may be impossible to classify a term neatly in advance as either a condition or a warranty. Some undertakings may occupy an intermediate position, in that the term can be assessed only in the light of the consequences of a breach. If a breach of the term results in severe loss and damage, the injured party will be entitled to repudiate the contract; where the breach involves minor loss, the injured party's remedies will be restricted to damages. These intermediate terms have also become known as innominate terms.
- **IMPLIED TERMS:** Where the contract is silent on a matter on which a term is normally implied by law, parole evidence may be given to support, or to rebut, the usual implication.
  - » **TERMS IMPLIED BY CUSTOM:** The terms of a contract may have been negotiated against the background of the customs of a particular locality or trade. The parties automatically assume that their contract will be subject to such customs and so do not deal specifically with the matter in their contract.
  - » **TERMS IMPLIED BY THE COURT:**
    - **Intention of the Parties/Terms Implied as Fact:** The courts will be prepared to imply a term into a contract in order to give effect to the obvious intentions of the parties. Sometimes the point at issue has been overlooked or the parties have failed to express their intention clearly. In these circumstances, the court will supply a term in the interests of 'business efficacy' so that the contract makes commercial sense
    - **Relationship Between the Parties/Terms Implied by Law:** In certain relationships and contracts the law seeks to impose a model or standardized set of terms as a form of regulation. Such terms arising from the relationship between the parties will be implied as of law.
  - » **TERMS IMPLIED BY STATUTE:** The Sale of Goods Act implies some terms when it comes to contract for the sale of goods. These statutory implications are reproduced verbatim as follows;
    - **Sale by description:** In a contract for the sale of goods by description, whether or not the sale is by sample as well as by description, there is an implied condition that the goods shall correspond exactly with the description.
    - **Sale by sample:** In a contract for the sale of goods by sample, whether or not the sale is by description as well as by sample there is an implied condition that the goods shall correspond exactly with the sample.
    - **Quality and fitness of the goods:** (1) Subject to this Act and to any other enactment, there is no implied warranty or condition as to the quality or fitness for a particular purpose of goods supplied under a contract of sale except (a) that there is an implied condition that the goods are free from defects which are not declared or known to the buyer before or at the time when the contract is made, but that condition is not an implied condition
      - i. where the buyer has examined the goods in respect of defects, which should have been revealed by the examination;

- ii. in the case of a sale by sample, in respect of defects which could have been discovered by a reasonable examination of the sample;
  - iii. where the goods are not sold by the seller in the ordinary course of the seller's business, in respect of defects of which the seller was not, and could not reasonably have been aware; (b) that where the goods are of a description which are supplied by the seller in the course of the seller's business and the buyer expressly or by implication makes known the purpose for which the goods are required, there is an implied condition that the goods are reasonably fit for that purpose.
- **REPRESENTATIONS:** A representation is a statement of fact made by one party which induces the other to enter into the contract. If it turns out to be incorrect the innocent party may sue for misrepresentation. Breach of a term of the contract entitles the injured party to claim damages and, if he has been deprived substantially what he bargained for, he will also be able to repudiate the contract. If a statement is not a term of the principal contract, it is possible that it may be enforced as a collateral contract (which has developed rapidly in the twentieth century as a significant means by which the difficulties of fixing a statement with contractual force may be circumvented). Certain remedies avail to the buyer when the terms of the agreement have been violated or there is other legitimate reason to invoke the statutory remedy outlined in the Act For a buyer in commercial agreements, where there is a fundamental breach of the obligations of the Seller, the buyer is entitled to reject the goods, refuse to pay or recover the price paid. Same is applicable where the buyer has entered the contract as a result of fraudulent or innocent misrepresentation of the seller.

The buyer is also allowed under the Act to repudiate the whole contract where the seller has refused to pay for two or more installments of the contract if the contract payment terms was to be made by installment, and the repudiation will affect the whole contract.

Where goods are delivered to the buyer and the buyer rejects the goods having the right to do so, the buyer is not bound to return them to the seller, but it is sufficient if the buyer intimates to the seller that the buyer rejected the goods.

After the buyer has intimated to the seller that the buyer has rejected the goods, the seller is entitled to have the goods placed at the buyer's disposal Where the buyer has paid the price or a part of the price, the buyer may retain the possession of the goods until the seller repays or tenders the amounts the seller has received from the buyer but the caveat is that, buyer may not reject goods which the buyer has accepted. The acceptance of a part of the goods does not deprive the buyer of the right to reject any other part unless the contract is not severable. The buyer also has the remedy of specific performance under the agreement.

In an action for breach of contract to deliver specific or ascertained goods, the Court may by its judgment direct that the contract should be specifically performed without giving the seller the option of retaining the goods on payment of damages. Generally, the commercial agreement protects the party that relies on the general terms and conditions of the contract. Where the contract relates to international business the court will decide the terms in cognizance of the general principles of international trade law and the regulations enacted thereof.

### **3.3 Consumer Protection/Consumer Sales.**

The issue of consumer protection has not been given much attention by the government. There is no general consumer protection law in Ghana, however there is an investigation and consumer reporting office within the Bank of Ghana that has the responsibility of protecting financial consumers and educating them on their rights and responsibility. It must be acknowledged that in the absence of a general law, there exist scattered legislative and regulatory regimes that establishes an inadequate framework for the protection of the consumer. Some of those legislations are the Food and Drugs Board law 1992, General libelling Rules of 1992, Public utility Regulatory Commission Act 1997, National Communications Act 1996 and the Standards Decree of 1973

In Ghana there is the Consumer protection Agency which is an advocacy group and there is not much attention given to its work by the government.

### **3.4 Agency Agreements**

An agent is a person who finds himself in such a situation or position that he is able to alter the legal position of his principal with that of a third party in a contractual relationship. This presupposes that the agent who enters into a commercial agreement does so on behalf of the principal and the principal is bound by such agreement. The doctrine of agency is a common law doctrine which allows third parties to be liable or to benefit from a contract in which they are not parties to and so the doctrine of privity of contract does not apply to the concept of agency. The common law doctrine of agency regulates agency agreements in Ghana

The liability of the principal to the third party depends upon whether the principal is a disclosed or an undisclosed principal. A disclosed principal is one whose position and status was known to the third party at the time that the third party was contracting with the agent. In the law of agency, a disclosed principal is liable on the contract even though it is the creation of the agent without his knowledge. An undisclosed principal is one whose existence was not made known to the third party when he was contracting with the alleged agent. Again, in the law of agency, an undisclosed principal is not liable on the contract made between the agent and the third party.

### **3.5 Distribution Agreements**

In Ghana there is no legislation on distribution agreements. In distribution agreements, the distributor purchases products or services from the supplier and resells them to third parties in its own name and for its own account. This is clearly a commercial transaction that is guided by the Sale of Goods Act and the default rules of contract law.

### **3.6 Franchise Agreements**

In Ghana there is no legislation on franchise agreements. In the absence of clear rules governing franchise agreements in Ghana, the default rules of contract will apply. Although there is no definition by any statute in Ghana what a franchise agreement is, franchise agreement generally is an agreement to license, control, and to protect the franchiser's trade mark, copyright, patent or business know-how, or combined with a proven plan of business operation, in return for royalties, fees, or commissions. In Ghana it is acknowledged that, the absence of a legislation puts many small and local businesses into grave disadvantage, particularly in the negotiations of terms and references.



4.0

DISPUTE  
RESOLUTION

## 4.1 Jurisdiction

In Ghana, the Judiciary is made up of the Superior Courts of Judicature and the lower courts.<sup>1</sup> The Superior Courts of Judicature consist of the Supreme Court, the Court of Appeal, and the High Court. The lower courts consist of the Circuit Courts, the District Courts, Family Tribunals and Juvenile Courts. All the courts have civil and criminal divisions/all the courts deal with civil and criminal matters.

## 4.2 The Supreme Court

The Supreme Court is the highest court in Ghana and is the final appellate body of the whole court system in Ghana.

The Supreme Court has exclusive original jurisdiction in all matters relating to the enforcement or interpretation of the Constitution and all matters arising as to whether an enactment was made in excess of the powers conferred on Parliament or any other authority or person by law or under the Constitution.<sup>2</sup>

The Supreme Court also has appellate jurisdiction and hears appeals from the Court of Appeal.<sup>3</sup>

The Supreme Court has supervisory jurisdiction over all Courts and any adjudicating authority in the Country.<sup>4</sup>

Civil court proceedings in the Supreme Court are regulated by the following Constitutional Instruments:

- The Supreme Court Rules, 1996 (C.I. 16) as amended by;
- The Supreme Court (Amendment) Rules, 1999 (C.I. 24);
- The Supreme Court (Amendment) Rules, 2012 (C.I. 74);
- The Supreme Court (Amendment) Rules, 2016 (C.I. 98) and
- The Supreme Court (Amendment) (No.2) Rules, 2016 (C.I. 99)

## 4.3 The Court of Appeal

The Court of Appeal only has an appellate jurisdiction; it serves as the appellate court for appeals from the High Court and the Circuit Courts, unless otherwise provided by statute.<sup>5</sup> A party aggrieved by a ruling of the Court of Appeal may appeal to the Supreme Court.

Civil court proceedings in the Court of Appeal are regulated by the following Constitutional Instruments:

- The Court of Appeal Rules, 1997 (C.I. 19) as amended by;
- The Court of Appeal (Amendment) Rules, 1999 (C.I. 25) and
- The Court of Appeal (Amendment) Rules, 2016 (C.I. 100).

1 Constitution 1992, Art 126(1)

2 Constitution 1992, Art 130(1)

3 Constitution 1992, Art 131

4 Constitution 1992, Art 132

5 Constitution 1992, Art 137(1)



#### 4.4 High Court

The High Court has original jurisdiction in all matters<sup>6</sup>. It has appellate jurisdiction and hears appeals from criminal judgments from Circuit Courts and all appeals from the lower courts i.e. District Courts, the Juvenile Courts and the Family Tribunals. The Court also has supervisory jurisdiction over all lower courts and any lower adjudicating authority.<sup>7</sup>

A party aggrieved by an order or judgment of the High Court in either a civil or criminal matter may appeal to the Court of Appeal.

Civil court proceedings in the High Court are regulated by the High Court (Civil Procedure) Rules, 2004 (C.I. 47) as amended by the High Court (Civil Procedure) (Amendment) Rules, 2014 (C.I. 87).

#### 4.5 Circuit Courts

The Circuit courts have original jurisdiction in civil actions that include; actions arising under contract or tort or for the recovery of all liquated claims that do not exceed GHS 2,000,000.00, as well as, all landlord and tenant cases, ownership, possession, occupation and title to land cases, applications for Probate and Letters of Administration where the value of the estate does not exceed GHS 2,000,000.00, divorce and other matrimonial causes and, custody applications.<sup>8</sup>

The courts also have original jurisdiction in all criminal matters with the exception of treason and offences punishable by death.<sup>9</sup>

A party aggrieved by a judgment or ruling of a circuit court in a civil action may appeal to the Court of Appeal whereas a party aggrieved by a judgment of the court in a criminal matter may apply to the High Court.

Civil court proceedings in the Circuit courts are also regulated by the High Court (Civil Procedure) Rules, 2004 (C.I. 47) as amended by the High Court (Civil Procedure) (Amendment) Rules, 2014 (C.I. 87).

#### 4.6 District Courts

The District courts have original jurisdiction in civil actions that include; actions arising under contract or tort or for the recovery of all liquated claims that do not exceed GHS 500,000.00, as well as, all landlord and tenant cases, ownership, possession, occupation and title to land cases, applications for Probate and Letters of Administration where the value of the estate does not exceed GHS 500,000.00, divorce and other matrimonial causes and, custody applications.<sup>10</sup>

With regard to criminal matters, the courts have original jurisdiction to try summarily offences punishable by a fine not exceeding Five Hundred (500) penalty units<sup>11</sup> or imprisonment for a term not exceeding two (2) years or both or offences that the Attorney-General deems suitable to be tried summarily.<sup>12</sup>

6 Constitution 1992, Art 140

7 Constitution 1992, Art 141

8 Courts Act 1993, s.42(1)

9 Courts Act 1993, s.43

10 Courts Act 1993, S.47(1)

11 One penalty unit is GHS 12.00

12 Courts Act 1993, s.48(1)

A District court may also hear and determine an action arising under the Children's Act 1998 (Act 560), and act as the Family Tribunal and exercise its powers conferred on the tribunal.<sup>13</sup>

A party aggrieved by an order or judgment of a district court may appeal to the High Court.

Civil court proceedings in the District courts are regulated by the District Court (Civil Procedure) Rules, 2009 (C.I. 59).

## 4.7 Course Of Civil Proceedings In Court

Subject to the rules of the relevant court, a party may begin or carry on proceedings in person or by a lawyer,<sup>14</sup> provided the lawyer has not previously acted for the other side. However, a corporate body can only begin or carry on proceedings through a lawyer unless permitted to do otherwise by an express provision of a statute.<sup>15</sup> Minors and persons with disabilities are required to engage a lawyer to represent them.<sup>16</sup>

Conversely, there is a legal aid scheme available to parties who cannot afford legal representation. The Legal Aid Scheme was established to provide legal aid to any person who is a party to a proceeding concerned with the enforcement of any provision of the Ghana Constitution,<sup>17</sup> or a person who earns the national minimum wage or less and desires legal representation in criminal matters or civil matters that relate to landlord and tenant issues, insurance, inheritance, maintenance of children and any other civil matters as prescribed by the law.<sup>18</sup> In addition, a court may assign a lawyer by way of legal aid to a party to proceedings before that court where it is desirable and in the interests of justice that the party should have legal aid but is financially unable to obtain or afford the services of a lawyer.<sup>19</sup>

### Commencement of Proceedings

Commercial claims and most civil claims are usually commenced by the issuance of a Writ of Summons by the Plaintiff or its lawyer (i.e. the party commencing legal action) to be served on the Defendant(s).

The nature of the claim would determine the mode of commencing legal action and the subsequent procedure in a court of law.

The Writ of Summons is accompanied by a Statement of Claim which sets out in detail the particulars of the claim. There must be a cause of action that has accrued stated in the Statement of Claim. The Statement of Claim should contain the factual and legal issues of the claim.

Writs and other legal processes are filed at the registry of the court. Every court has a registry. The Registrar is the most senior court officer in charge of the administration of cases in the court.

Bailiffs are court officers who serve court processes filed at the registry of the court on the opposing party.

<sup>13</sup> Courts Act 1993, s.50

<sup>14</sup> High Court (Civil Procedure) Rules, 2004 (C.I. 47), Or 4 r 1(1)

<sup>15</sup> High Court (Civil Procedure) Rules, 2004 (C.I. 47), Or 4 r 1(2)

<sup>16</sup> High Court (Civil Procedure) Rules, 2004 (C.I. 47), Or 4 r 1(3)

<sup>17</sup> Legal Aid Scheme Act 1997, s.2(1)

<sup>18</sup> Legal Aid Scheme Act 1997, s.2(2)

<sup>19</sup> Courts Act 1993, s.114

When the Writ is filed at the registry of the relevant court, a bailiff serves the Writ of Summons on the Defendant and upon receipt of the Writ, the Defendant or his/her lawyer must enter appearance within eight (8) days or within the specified period stated on the Writ of Summons.

Where the Defendant is located out of the jurisdiction of the courts or out of the country, the Plaintiff is not permitted to serve the Writ of Summons on the Defendant but rather a notice of the Writ is to be served. However, the Plaintiff must apply to the court to seek leave to serve the notice of the Writ out of the jurisdiction.

A Defendant who enters appearance is letting the court know that it intends on defending the claim(s) against it. A Defendant may file a 'Conditional Appearance' if it has a problem with the mode of service of the Writ or the Writ itself.

In addition to filing the notice of Appearance, the Defendant must also file its Statement of Defence in response to the Writ of Summons and the Statement of Claim. The Defendant must file its Defence within fourteen (14) days after the last day allocated for entering Appearance. Where the Defendant believes it also has a claim against the Plaintiff, the Defendant may include a 'Counterclaim' in the Statement of Defence.

Upon the receipt of the Statement of Defence, the Plaintiff may, if it deems necessary to respond to averments in the Statement of Defence, file a Reply in response. The Plaintiff must respond to the Statement of Defence within seven (7) days after the service of the Statement of Defence, if it decides to respond. A Reply is mandatory where a Counterclaim is filed; the Plaintiff will incorporate its Defence in the Reply.

Seven (7) days after the service of a Reply or the service of a Statement of Defence (where no Reply has been filed), pleadings are closed.

### **Discovery and Inspection of Documents**

After the close of pleadings, there shall be a discovery of documents,<sup>20</sup> unless the parties agree to dispense with or limit the process of discovery to specific documents.<sup>21</sup> The parties are required to make and file for service on the other party a list of documents which are or have been in that party's possession, custody or power relating to any matter in question between them in the action within fourteen (14) days after pleadings are closed.<sup>22</sup> In addition, a party may make an application to the court for the court to order the other party to serve on it a list of documents in that party's possession, custody or power relating to any issue in the matter.<sup>23</sup>

### **Application for Directions**

By the close of pleadings, the parties would have determined the issues in dispute and would need the court to give directions on how the matter should be conducted further. Thus, an application for directions must be made to the court by the parties (usually the Plaintiff) to enable the court consider the preparations for trial.<sup>24</sup> This is the first appearance of the parties in the courtroom. At the hearing of the application for directions, the judge deals with all matters which have not already been dealt with and gives directions as to the future course of the action that appears best to secure the just, expeditious and inexpensive disposal of the case.<sup>25</sup>

20 Or 21 r 1(1), C.I. 47

21 Or 21 r 1(2), C.I. 47

22 Or 21 r 2(1), C.I. 47

23 Or 21 r 3, C.I. 47

24 Or 32 r 1, C.I. 47.

25 Ibid

After dealing with all pending matters, the court will give directions for the management of the case and set a time table for the taking and giving of directions and the trial or; fix a case management conference and give directions relating to the management of the case as the court thinks fit.<sup>26</sup> The parties must file their respective witness statements together with a pre-trial checklist within a specified period ordered by the court.

### Case Management Conference

At the case management conference, the judge, together with the parties, goes through the pre-trial checklist to determine which witnesses the parties intend to rely on and inspects the exhibits attached to the witness statements (written testimonies of the parties, also called Evidence in chief). When the judge is satisfied, a date(s) is set for trial.

### Trial

At the trial, the Plaintiff, the Defendant and their respective witnesses swear an oath and are cross-examined by opposing counsel and re-examined if deemed necessary by their respective lawyers.

Once the trial is over, the court orders the lawyers for the Plaintiff and the Defendant to file their respective written addresses by a specified date and another date is given for the judgement of the court to be delivered.

A party aggrieved by the judgment of the court is entitled to appeal the judgment within the time set out by rules of the relevant court.

## 4.8 Incidental applications

During the court proceedings, there may be the need to file incidental applications. The following are some examples of such applications.

- **Judgment in Default of Appearance:** A Plaintiff may apply for a judgment in default of appearance where the Defendant has been served with the Writ of Summons but has failed to enter appearance to the Writ within the specified period. If granted, the judge would proceed and allow the Plaintiff to prove its claim. If the court is satisfied, the court will grant judgment in favour of the Plaintiff.
- **Judgment in Default of Defence:** A Plaintiff may apply for judgment in default of defence where the Defendant has been served with the Writ of Summons and has entered appearance but has not filed its Statement of Defence within the specified period.
- **Summary Judgment:** A Plaintiff may apply for summary judgment where after the Defendant has been served with the Writ and filed its appearance, the Plaintiff believes that the Defendant has no defence to a claim or claims included in the Writ.
- **Orders for Interlocutory injunction/Interim Preservation of property:** Such orders are applied for by a party to maintain the status quo of a property and/or to preserve the property which is the subject matter of the claim pending the final determination of the matter in court.
- **Motion to set aside orders or judgments:** A party may apply to set aside orders or judgments that has been awarded against it.

<sup>26</sup> Or 32 r 7A, C.I.87

## 4.9 Commercial claims

Different procedural rules apply to commercial claims. A commercial claim is any claim arising out of trade and commerce and includes any claim that relates to but not limited to; the formation or governance of a business or commercial organisation; winding up or bankruptcy of a company, business documents or contracts; export or import of goods; carriage of goods by goods by sea, air, land or pipeline; restructuring or payment of commercial debts; insurance and re-insurance; banking and financial services; intellectual property rights; tax matters; and commercial fraud.<sup>27</sup>

The rules that apply to filing of writs of summons, entry of appearance, defence and reply are applicable to commercial claims. Applications for summary judgment or judgment on admissions can only be filed after the pre-trial settlement conference.

After the close of pleadings, the parties are required to attend a pre-trial settlement conference with an allocated judge in chambers. The purpose of the pre-trial settlement conference is for the parties to attempt settlement of their dispute. If the parties are able to settle their dispute, the parties shall file the terms of settlement at the registry of the court. The terms of settlement will be read over to the parties and be entered as the judgment of the court.<sup>28</sup>

However, where the parties are unable to settle their dispute at the pre-trial settlement conference, a date shall be fixed for the parties to appear in court for the issues in dispute to be set down for trial.<sup>29</sup>

## 4.10 Enforcement of Judgments

A judgment of the court takes effect from the date it is delivered.<sup>30</sup> The party in whose favour the judgment is awarded must file an entry of judgment at the registry of the court. An entry of judgment is a formal record containing the full details of the judgment pronounced by the court; without it, the judgment cannot be enforced by any process of execution. The judgment must be presented to the registrar who would enter the judgment into a book kept for that purpose, and subsequently, serve the entry of judgment on the adversary.<sup>31</sup> The entry of judgment must be served on the adversary before enforcement of the judgment by any process of execution.

## 4.11 Enforcement of judgments regarding the State

In civil matters where one of the parties is the State (represented by the Attorney-General) and the court makes an order or judgment in favour of the person against either the State, a department of the State or an employee of the State, the court would issue a certificate containing particulars of the judgment or order.<sup>32</sup> A certificate will be issued on an application made by the victorious party after twenty-one (21) days from the date of the order or judgment.<sup>33</sup> A copy of the certificate may be served on the Accountant-General, if the certificate contains an order for the payment of money and on the Attorney-General in any other case.<sup>34</sup> Where the

<sup>27</sup> Or 58 r 2, C.I. 47

<sup>28</sup> Or 58 r 7, C.I. 47

<sup>29</sup> Or 58 r 8, C.I. 47

<sup>30</sup> Or 41 r 5(1), C.I. 47

<sup>31</sup> Or 41 r 7(1), C.I. 47

<sup>32</sup> State Proceedings Act 1998, s.15(1)

<sup>33</sup> Ibid.

<sup>34</sup> State Proceedings Act 1998, s.15(2)

order provides for the payment of an amount of money, the certificate will specify the amount of money payable together with the interest.<sup>35</sup>

An order made in favour of the State against a person in civil proceedings to which the State is a party may be enforced in the same manner as an order made in an action between private persons.<sup>36</sup>

## 4.12 Foreign Proceedings in Ghana

### Service of a foreign process

Any court process required in connection with civil or commercial proceedings pending before a court or tribunal of a foreign country may be served on a relevant party in Ghana. The foreign court or judicial tribunal may, by a letter of request addressed to the Minister for Foreign Affairs in Ghana, request service of a court process in Ghana. The letter of request should be accompanied with two (2) copies of the process to be served and should be duly translated in English, if it is not an English document. Upon receipt, the Minister would forward the request to the Judicial Secretary with a direction for compliance.<sup>37</sup> Subject to any enactment or a civil procedure convention regulating the service of documents on corporate bodies, the process would be served by leaving a copy, and the translation if any, with the person to be served.<sup>38</sup>

After service of the process has been effected or attempts to effect service of it have failed, the process server must file with the Registrar, a copy of the process and a copy of an affidavit made by the process server, stating when, where, and how service was attempted or effected and the costs incurred.<sup>39</sup> The Registrar would subsequently forward to the Minister a certificate with the court seal,<sup>40</sup> identifying the letter of request for service, a copy of the process received with the letter of request and a copy of the process server's certificate.<sup>41</sup> The certificate would attest that the mode and proof of service were in compliance with the court's rules or the process could not be served for the reasons stated in the affidavit.<sup>42</sup>

On the other hand, where there exists a Civil Procedure Convention between the foreign country and Ghana, the consular or other authority of that country may send a letter of request together with the process to be served to the Judicial Secretary in Ghana.<sup>43</sup> The procedure the process server follows in serving the court process is the same as the procedure where there is no Civil Procedure Convention existing between the two (2) countries. However, the Registrar would send the certificate with the court seal, identifying the letter of request for service, a copy of the process received with the letter of request and a copy of the process server's certificate to the consular or other authority that requested the service of the process.<sup>44</sup>

### Obtaining evidence for foreign courts

The High Court may order the examination of a witness within its jurisdiction in Ghana on an application made to it by a court or tribunal of competent jurisdiction in civil or commercial

35 State Proceedings Act 1998, s.15(3)

36 State Proceedings Act 1998, s.16

37 Or 69 r 1(1), C.I. 47

38 Or 69 r 1(4), C.I. 47

39 Or 69 r 1(5), C.I. 47

40 Or 69 r 4, C.I. 47

41 Or 69 r 1(6)(a), C.I. 47

42 Or 69 r 1(6)(b), C.I. 47

43 Or 69 r 2(1), C.I. 47

44 Or 69 r 2(5), C.I. 47

matters before that court or tribunal.<sup>45</sup> In granting the application, the High Court may order the attendance of the person named in the order to be examined on oath, on interrogatories or to produce specific documents and give such directions as it thinks fit.<sup>46</sup> Such an order of the High Court made may be enforced in the same manner as an order made in a cause pending in the High Court.<sup>47</sup>

An order made for the examination of a witness may direct the examination to be taken before any fit and proper person nominated by the person applying for the order or before an examiner of the court or before any other qualified person as the court considers fit.<sup>48</sup> Subject to a direction contained in any order, the examination would be taken in accordance with the court rules regarding the examination of witnesses.<sup>49</sup>

### Enforcing foreign judgments in Ghana

A judgment of a foreign court may be enforced in a Ghanaian court where substantial reciprocity of treatment will be assured in respect of the enforcement of judgments of the Superior Courts of Ghana in that foreign country. Under the First Schedule of Foreign Judgments and Maintenance Orders (Reciprocal Enforcement) Instrument 1993 (L.I. 1575), the judgments of the following foreign courts can be enforced in Ghana:

- The Supreme Federal Court, Federal Court of Appeal and the State High Court of Brazil;
- The Cours De Cessation and the Cours D' Appel of France;
- The Supreme Court of Israel;
- The Corte D' Appello and the Corte D' Cessazione of Italy;
- The Supreme Court of Japan;
- The Court of Appeal and the High Court of Lebanon;
- The Cours Supreme and the Cours D' Appel of Senegal;
- The Tribunal supreme, the Audencia Territorial and the Juez de Primera Instancia of Spain;
- The Court of Cessation and the Court of Appeal of the United Arab Republic;
- The High Court of England, the High Court of Northern Ireland;
- The Court of Session in Scotland; and
- Any court to which an appeal lies from any of those superior courts.

In order for a foreign judgment to qualify for enforcement in Ghana, the judgment must be a judgment of a superior court of a foreign country, not given by the superior court on appeal from a lower court.<sup>50</sup> The judgment must be final and conclusive between the parties and there is a sum of money payable under it.<sup>51</sup> The sum payable should not be in respect of taxes or other charges of a similar nature or in respect of a fine or penalty.<sup>52</sup>

45 Courts Act 1993, s.75(1)

46 Courts Act 1993, s.75(2)

47 Courts Act 1993, s.75(3)

48 Or 70 r 4(1), C.I. 47

49 Or 70 r 4(2), C.I. 47

50 Courts Act 1993, s.81(2)

51 Ibid

52 Ibid

The foreign judgment must be registered before it can be enforced. A judgment creditor in a foreign judgment may apply to register the judgment within six (6) years after the date of the judgment or the last judgment given on appeal, if any.<sup>53</sup> A judgment creditor is a party to which a debt is owed under a judgment. The Ghanaian court must be satisfied that the judgment debt has not been wholly satisfied at the date of the application and that the judgment is enforceable by execution in the foreign court.<sup>54</sup>

If the court grants the application for registration, the order granting the application must be by the judgment creditor and served on the judgment debtor unless the court directs otherwise.<sup>55</sup> A register of registered judgments is maintained under the direction of the Judiciary Secretary. A notice of the registration of the judgment must be served on the judgment debtor personally.<sup>56</sup>

A foreign judgment that does not qualify to be registered and enforced under the Foreign Judgments and Maintenance Orders (Reciprocal Enforcement) Instrument 1993 (L.I. 1575) may be enforced by commencing a fresh action in the Ghanaian court.

### 4.13 Alternative Dispute Resolution

When a civil proceeding is pending, the courts usually promote reconciliation among the parties, and encourage and facilitate the amicable settlement of the matter.<sup>57</sup>

#### Arbitration

A party to a dispute where there is an arbitration agreement may, subject to the terms of the arbitration agreement, refer the dispute to any person or institution for arbitration; or the Alternative Dispute Resolution Centre to facilitate the arbitration.<sup>58</sup>

In civil matters where there is an arbitration agreement and a party to that agreement commences an action in court, the other party may, on entering appearance and on notice to the Plaintiff, apply to the court to refer the action or a part of the action to which the arbitration agreement relates, to arbitration. Where the application is granted, the court proceedings would be stayed.<sup>59</sup>

Where there is an action pending before a court and the court is of the view that the action or part of the action can be resolved through arbitration, the court may, with the consent of the parties in writing, refer the action or any part of the action for arbitration.<sup>60</sup> The court can do this even if there is no arbitration agreement in respect of the matter in dispute.<sup>61</sup>

Where the parties, with the aid of the arbitrator, reach an amicable settlement, the arbitration award becomes final and binding as between the parties.<sup>62</sup> The arbitration award made by an arbitrator pursuant to an arbitration agreement may be enforced by leave of the court as a judgment or order of the court.<sup>63</sup> If leave is granted, judgment may be entered in terms of the award.<sup>64</sup>

53 Courts Act 1993, s.82

54 Courts Act 1993, s.82(4)

55 Or 71 r 5, C.I. 47

56 Or 71 r 7, C.I. 47

57 Courts Act 1993, s.72

58 Alternative Dispute Resolution Act 2010, s.5

59 Alternative Dispute Resolution Act 2010, s.6

60 Alternative Dispute Resolution Act 2010, s.7

61 Ibid.

62 Alternative Dispute Resolution Act 2010, s.52

63 Alternative Dispute Resolution Act 2010, s.57(1)

64 Alternative Dispute Resolution Act 2010, s.57(2)

## **Mediation**

The court on its own volition or on application by the parties, may refer the matter or any part of the matter in dispute to mediation if it is of the view that mediation will facilitate the resolution of the matter or part of the matter.<sup>65</sup> Where the reference does not lead to settlement, the court will continue with the proceedings from the point where the reference was made.<sup>66</sup>

If the parties reach an agreement on the settlement of the dispute, the parties or the mediator may draw up the settlement agreement and the parties must sign it.<sup>67</sup> By signing the settlement agreement, the parties have agreed that the settlement is binding on them.<sup>68</sup>



# Aait Logistics



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5.0

REAL ESTATE

## 5.1 Types of Land Ownership in Ghana

### Vested Lands

Vested lands are lands that the Government of Ghana manages for a group usually because there is a conflict between different parties who are claiming ownership of the land.

### State Lands

State lands are lands that have been compulsorily acquired by the state using its powers of eminence under certain laws in the country. The Government pays the owner of the land adequate compensation before it acquires that land. The law allows the owner to value the land and give the government a price. The Government of Ghana also has its valuers at the Land Valuation Division of the Lands Commission.

### Customary Lands

A majority of lands in Ghana are owned customarily under the customary land-owning system. That is, they are vested in the stools or the skins in the traditional areas within with these land are situated. The occupant of the stool or skin at each material time holds the land as a trustee and for the benefits of the subjects of the stool.

### Family Lands

These are lands owned by families in some areas of Ghana.

## 5.2 Types of Interests in Land

The interests which can exist in land in Ghana are the following:

- Allodial title;
- Common law freehold;
- Customary law freehold
- Usufructuary interest;
- Leasehold interest; and
- Customary tenancy.



### The Allodial title

This is the highest title in land recognised by law. It is a title which in some traditional areas in Ghana, is acknowledged as being held or vested in its stool or skin only. In other traditional areas, it is acknowledged to be held by stools (skins), substools (subskins), clans, families as well as individuals and may have been acquired through compulsory acquisition, conquest, pioneer discovery and settlement, gift, purchase or agreement. The community or the person in whom allodial title is vested has complete and absolute freedom to dispose of it subject only to the laws of the land.

### The Customary Law freehold

The Customary Law Freehold is an interest which arises from a transaction under customary law and is usually acquired when a person or group of persons, where the law permits, purchase land outright from the stool or skin, or clan or family which holds the allodial title or acquired by gift or inheritance.

The Customary law Freehold once acquired is an absolute interest in land which is not subject to any proprietary obligations. This interest is however subject to the jurisdictional and cultural rights of the stool or skin, or clan or family which holds the allodial title

The person who holds such an interest has the right of beneficial occupation of the land concerned and may alienate the land or pass it on to his successors without the consent of or payment to the stool, skin, clan or family who holds the Allodial interest in the land.

A person who is not a citizen of Ghana is prohibited by law from acquiring Customary Law Freehold interest in any land in Ghana and where any such transaction is concluded in contravention of the law, the transaction will be considered void.

### **The Common Law Freehold**

A common law freehold arises from a transaction to which the rules of law, generally known as common law, are applicable. It is created only by an express grant by any person. Any person who possesses this type of interest has the right of beneficial occupation of the land.

The Common Law Freehold is of perpetual or uncertain duration, is free from obligations to any person and is heritable and alienable. The Common Law freehold is however subject to the interest of the state, the jurisdictional and cultural rights of the stool or skin, or clan or family which holds the allodial title

### **Usufructuary Interest**

Usufruct is an interest in land, which is acquired in the exercise of an inherent right by a subject or a member of a stool or skin, or family or clan which holds the allodial title through the development of an unappropriated portion of the land of the stool or skin, or family or clan or by virtue of an express grant; or acquired through settlement for a period of not less than fifty years, with the permission of the holder of an allodial title by a non-indigene or group of non-indigenes or the descendants of the non-indigenes or group of non-indigenes, except where the settlement is on agreed terms. It is also acquired through inheritance.

Further, where the alienation of the usufruct is to a person who is not a member of the stool, skin, or clan or family which holds the allodial title, or is not a non-indigene or from the group of non-indigenes who holds the usufructuary interest, the alienation is subject to the written consent of the stool or skin, or clan or family or group and the performance of establishment customary obligations.

### **The leasehold**

This is an interest that is granted by the owner of the land to a person to occupy the land for any fixed duration of time. The lease can be granted for a period as short as one (1) year or as long as ninety-nine (99) years in Ghana. Where a leasehold interest is granted, the payment for the right to occupy the land is made in form of annual rent. The leasehold interest is subject to covenants agreed by the lessor and lessee. A lessee may create a sublease or assign the remainder of its term only where there is no covenant prohibiting the lessee from doing this.

### **Customary Tenancy**

A customary tenancy is an interest in land which is created by contract or arises where a stool or skin, or clan or family which holds the allodial title or a person who holds a customary law freehold or usufructuary interest enters into an agreement with another person to grant that other person an interest in land upon agreed terms and conditions.

Customary tenancy may involve the payment of rent, the sharing of the produce of a farm or the physical partitioning or severance of the farm or land.

### 5.3 Acquiring Land in Ghana

Buying land, whether it is an undeveloped parcel of land or a land with a building on it, is a huge investment and a long-term commitment. Thus, it is very important for the purchaser to conduct due diligence before deciding to buy land. Due diligence is a complete survey of a land/property to ensure the seller has good title to the land/property.

It is very important for the purchaser, among other things, to investigate the zoning status of the land or property. This zoning status of a land refers to its authorised uses; a land or property may be authorized to be used for residential, commercial or industrial purposes. These checks can be done at the Metropolitan Assembly in the Region in which the land is situated and can be done by the purchaser or its lawyer.

When buying a particular parcel of land, the purchaser should demand a site plan of the said land from the vendor. A site plan is a drawing depicting the site of the land and/or proposed or existing properties. Some of the key elements of a site plan are property boundaries, land topography, vegetation, proposed and/or existing structures, easements, wells and roadways. It is also helpful to hire an independent licensed surveyor to crosscheck the land against the said site plan.

The Lands Commission is a government institution that is responsible for the governance, management and registration of lands in Ghana.<sup>69</sup> It is therefore crucial that the purchaser conducts its checks on ownership of land at the Lands Commission.

Two (2) copies of the site plan are required in order to conduct a search on an interested land or property at the Lands Commission. As the Lands Commission is the sole hub of land governance and management in Ghana, this process can take some time and as such, the purchaser is advised to start the checks early and continually follow up to get the search results on time to make an informed decision about the purchase.

In addition to obtaining the search report from the Lands Commission, the purchaser should further investigate the ownership of the land/property. It is important to inspect all the documents in the vendor's possession in order to trace any previous transfers of title of the land. The purchaser can also talk to persons on neighbouring lands to the land the purchaser is interested in acquiring. These persons may have more information about the ownership of the land and if there are any issues with the land such as pending court litigation, this may not be revealed in the search report from the Lands Commission.

Furthermore, it is important for the purchaser to conduct checks from the Metropolitan/Municipal/District Assembly under whose jurisdiction the parcel of land falls to check the zoning status of the said land.

If the purchaser is satisfied that the vendor has good title to the land, it would be prudent for the purchaser to request some form of identification of the vendor.

When the purchaser is satisfied the vendor is genuine and has good title to the land, the vendor and purchaser, together with their lawyers, will draft a Sale and Purchase Agreement and an indenture. A Sale and Purchase Agreement is a binding and legal contract between the

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<sup>69</sup> as established by Article 258 of the 1992 Constitution of Ghana and accentuated by the Lands Commission Act 2020 (Act 1036).

vendor and the purchaser that finalises the terms and conditions of the sale of the land. An indenture is a written instrument used to convey an interest in real property, it conveys legal title from the vendor to the purchaser.

Once the documents have been signed by all the relevant parties and their witnesses, a practising solicitor in good standing must sign the back of the indenture and its copies with his stamp duly fixed.

After this has been done and payment has been made, the purchaser can submit the documents to the Lands Commission for the registration and transfer of title to commence the process of obtaining the land title certificate. Land registration is the recording of rights and interest in land as evidenced by documentation so that the purchaser's right to ownership is established and protected. The benefit of registering the land reduces litigation issues and if such issues do crop up, the land title certificate together with other documents are admissible in court. In addition, registration eliminates the possibility of fraud on innocent purchasers as well as secures a party from adverse claims. Registration also allows a party to transfer its interest without any hassle.

It is also important for the purchaser to obtain a tax clearance certificate from the Ghana Revenue Authority.

## **5.4 Leases**

A lease is an interest in land which is created to last for a fixed period. This means that every lease has a specific date on which it commences and a date on which it must expire. In Ghana, a lease may be as short as one (1) year or as long as agreed between the parties. Article 266 of the 1992 Constitution of Ghana limits the maximum leasehold interest a non-Ghanaian citizen can have to fifty (50) years.

The person who creates the lease is known as the lessor and the person to whom the lease is granted is known as the lessee. A lease creates a landlord and tenant relationship between the lessor and the lessee. As the lease is for a definite term, the interest in the land reverts to the lessor when the lease comes to an end.

A lease must give the lessee exclusive possession of the land. A lease or tenancy agreement must include:

- The names of the parties of the agreement;
- The starting date and duration of the tenancy;
- A description of the specific property to be leased;
- Obligations of the lessor and lessee;
- Conditions for renewal or non-renewal and other covenants; and
- A specific consideration and the mode of payment.

## 5.5 Land Title Registration

Interests in land that can be registered are, but not limited to, allodial titles, freehold interests, usufructuary interest leases, vesting assents and mortgages.

Presently there are two (2) legislations in Ghana that govern the registration of instruments and land titles:

- The Land Act, 2020 (Act 1036)
- The Stamp Duty Act, 2005 (Act 689).

The document submitted for registration should be stamped within two (2) months of execution of the indenture/deed/instrument and after paying the stamp duty.<sup>70</sup>

The document is required to be stamped before registration can commence.

After the document has been stamped, the purchaser is required to submit the documents to the Land Registration Division of the Lands Commission where a yellow card is issued as a form of acknowledgment of receipt.

In addition to the yellow card, a letter is given to the purchaser to be sent to the Survey and Mapping Division for a cadastral/parcel plan.

When the cadastral/parcel plan is produced, it is sent to the title office and an amount of money is paid for a publication to be made in the national newspapers. The purpose of this publication is to announce to the nation that that particular parcel of land has been purchased and the title is being registered and thus, gives any person an opportunity to challenge it if that person has an issue with the land, before the land title is issued to the purchaser. A search is also conducted alongside the publication to determine whether there is any contradictory grant.

If after twenty-one (21) days after the publication, there has neither been an opposition to the publication nor any contradictory grant, the land title may be issued to the purchaser.

## 5.6 Development and Building Permits

Any party that intends on building in Ghana must obtain a building permit irrespective of whether the building is for residential or commercial purposes. A building permit is necessary to ensure the construction of the property in accordance with and conforms to government regulations.

Development and Building permitting are the main instruments for controlling or managing physical development. Such permits are applied for from the Metropolitan/Municipal/District Assemblies within the area that the land is situated.

A development permit in this context refers to a permit issued in relation to planning and building applications. Effective development management promotes orderliness, convenience of movement, public safety and enhanced economic development.

Development Permitting deals with the correct use the land, the appearance of the proposed building and the effect that the development will have on the general environment and neighbouring properties.

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<sup>70</sup> Stamp Duty Act 2005, s.15

A development permit is a written permission authorizing a person to carry out development in accordance with conditions specified in the permit. Such development permit shall give due considerations to matters relating to zoning, planning standards and structural conditions of the proposed development.

A Building Permit allows construction of buildings or structure to proceed on condition of compliance to building code. A Building Permit deals with the manner in which a building is constructed such as its structural stability, fire resistance and weather resistance.





6.0

IMMIGRATION  
SERVICES

## 6.1 Administrative Information

The Ghana Immigration Service (GIS) is an agency of the government of Ghana under the Ministry of the Interior. The GIS regulates examination and authorization of application for visas, entry and residence permits in Ghana, control of foreign nationals in Ghana, facilitation of Ghanaian passport application processing, border control and management, refugee registration, protection, and management. The service advises on and ensures the effective implementation of all laws and regulations pertaining to immigration and related issues.

## 6.2 Ghana Visa Service

In Ghana, persons other than citizens of Ghana entering Ghana must be in possession of a valid passport or other travel document and a valid visa to enter Ghana. A person who appears before an immigration officer and does not have a visa or an emergency entry visa, may be granted a visa subject to such conditions as may be prescribed by regulations, and to such other conditions that the immigration officer may impose.

However, some countries in West Africa (ECOWAS Member States) and some other countries in Africa are exempted from obtaining visa before entering Ghana. Nationals from African Union Member states who are not ECOWAS nationals may obtain a visa on arrival after the payment of the required fees. Similarly, holders of diplomatic or service passports of a selected country, persons in direct airside transit, as well as holders of official passport of some specialized agencies listed in the Visa Regime of Ghana are exempted from obtaining a visa.

Ghana's Visa is basically an authorization given to enable a person to travel and present himself for entry into Ghana. It must be noted that a Visa is not a guarantee of entry into Ghana since it is subject to regularization and the fulfilment of other conditions at the point of entry.

Moreover, there are two broad categories of Ghana Visas; those issued outside Ghana and those issued in Ghana. Visas issued in any of Ghana's 56 Diplomatic Missions abroad cover single or multiple journeys for periods between Six months to Five years.

Visas issued in Ghana, on the other hand, include Transit Visas, Emergency Entry Visas, Visas on Arrival and Re-Entry Visas.

Foreigners are not permitted to employ or to accept employment in Ghana unless they have been granted a work or immigrant quota in Ghana by the Ghana Immigration Service. The Ghana Work Permit has a validity period of 1 year with a renewal option. However, being granted work permit does not make applicant eligible to work in Ghana, applicants need to be granted residence permit by the Director of Immigration to be able to work and remain in Ghana.

Additionally, where a successful applicant has a foreign family, Visa can be granted to them for a period of 6 months. After which applicants who wish to stay, and work may make an application to the Minister of Interior to be issued Ghana work and residence permits to extend their stay. Such permits if granted, will allow them to work and live in Ghana.

## 6.3 Requirements When Applying for Ghana Entry Visa

- Applicants should be legally resident in the country where Ghana's Mission is sited
- Applicant's passport photographs should have been taken not more than three months prior to the date of submission.

- Applicant should attach a copy of a return ticket or print-out of travel itinerary
- An international certificate of vaccination for Yellow Fever
- Applicant's passport must have validity of at least six (6) months

**Additional information:**

- 1. BUSINESS VISAS:** In addition to the above, a letter from the applicant's organization in the country where the mission is situated, stating among other things the reasons for the visit and a supporting /invitation letter from the applicant's Business Associates in Ghana.
- 2. STUDY VISAS:** In addition to the above, a letter from the institution in the country where mission is situated, stating the purpose of the visit and financial means whilst in Ghana. A letter of acceptance from the institution in Ghana is also required.
- 3. EMPLOYMENT VISAS:** Applicants for employment visas are required to submit in addition to their form an Employment Contract and a proof of Grant of Employment Quota in Ghana.

**REFERENCES:** Applicant could use any of the following as a reference.

- a. Addresses of Business Associates
- b. Address of Hotel/Lodge
- c. Educational Institution in Ghana

## **6.4 Requirement When Applying for Work and Resident Permit**

- A valid Passport
- Non- Citizen ID Card
- Medical Report
- Police Report
- Application letter
- Employer Business Document (Certificates of Registration, of incorporation, to commence Business)
- Employer Tax Certificate
- Applicant Curriculum Vitae
- Applicant Marriage Certificate (If applicable)
- 2 Passport pictures

## 6.5 Fees

Services	ECOWAS MEMBERS	OTHER NATIONAL
Work & Resident Permit	\$500.00	\$1000.00
Dependent Resident Permit	300.00 Cedis	300.Cedis
Student Permit	150.00 Cedis	200.00 Cedis
Others (attachment, NGO)	\$300.00	\$300.00

## 6.6 Immigration Quota

Where a company is registered with the GIPC, it shall qualify for an automatic immigrant quota. The number of expatriate employees that will be guaranteed for the purpose of the immigration quota will depend on the equity capital invested by the company. The maximum number of employees that a company can bring into Ghana in respect of immigration quota is 4. The table below indicates the immigration quota that the company can obtain:

Paid up foreign capital (US\$)	Available quota
50,000 but less than 250,000	1
250,000 but less than 500,000	2
500,000 but not more than 700,000	3
Greater than 700,000	4

When a company commences work in Ghana, it shall have the obligation to, within seven days of commencement, notify the Immigration Quota Committee and the Director of the commencement of work by the expatriate. The company should also furnish the Director with a letter of guarantee in respect of the repatriation expenses of the expatriate. The expatriate shall also have a similar obligation to notify the Director of the commencement of work in Ghana.

Similarly, when the expatriate ceases to work for a company in Ghana, the company shall have the obligation to, within seven days of the cessation, notify the Immigration Quota Committee and the Director of the cessation stating that all requirements for the repatriation of the expatriate and his dependants are complied with. The expatriate will also have the obligation to inform the Director of the cessation.

Where a work permit is issued to an expatriate, the expatriate shall only remain in the employment of the said company. The expatriate cannot engage in any form of business or paid employment in Ghana with any other employer without a written consent of the Director of Immigration.

## 6.7 Penalties For Immigration Offences

SN	Offences	Penalty
1	Failure to register by a foreign national who remains in Ghana for a period exceeding three months	Summary conviction, may be fined up to GHS500, a term of imprisonment of up to 12 months, or both.
2	Overstaying after the expiration of any permit issued	Summary conviction, faces a fine of not less than GHS100 or a term of imprisonment of not less than 3 months or more than one year.
3	Failure to have a valid permit or violate conditions attached to a permit or visa	Face deportation order
4	Entering Ghana while classified as a prohibited immigrant	A fine of up to GHS1,000 or a term of imprisonment for 6 months to 2 years, or both.
	Assist someone in entering Ghana illegally. This includes sheltering someone they know is about to be deported, helping someone escape from a vessel, aircraft, or vehicle, or ignoring any obligations or directives under immigration law.	A fine of up to GHS1,000, imprisonment for up to 2 years, or both.

## 6.8 Penalty for Non-Compliance

Services	ECOWAS Members	Other National
<b>Work Permit</b>	\$50.00/Month	\$100
<b>Dependant Resident Permit</b>	50GHC/Month	80GHC/Month
<b>Student Resident Permit</b>	50GHC/Month	80GHC/Month
<b>Visa</b>	50GHC/Month	80GHC/Month

## 6.9 Immigration Annual returns

Companies are asked to file on behalf of all expatriate employee an Annual Return with the Immigration Quota committee and the Director of Immigration. The return shall state the names and addresses (including other particulars) of all expatriate employees employed by a company at the beginning of the year. The return must be filed not later than fourteen (14) days after the beginning of each calendar year.

Non-compliant companies will be exposed to a pecuniary penalty of GHS500. Further, a penalty of GHS1,000 will be imposed on the company or an imprisonment term of not less than six months where the initial penalty is not paid within seven days.



7.0

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INTELLECTUAL  
PROPERTY IN  
GHANA

## 7.1 Copyright

The Copyright Act of 2005 (Act 690) (Copyright Act) was adopted on May 17, 2005 and replaced the Copyright Law of 1985. The purpose of the new Copyright Act was to bring Ghanaian copyright law into compliance with the Ghanaian Constitution, to help enhance protection of copyrights and related rights in Ghana and to bring Ghana into compliance with its international obligations.

The Copyright Act provides for complete rights of authors in their literary works, artistic works, musical works, sound recordings, audio-visual works, choreographic works, derivative works, and computer software programs. It also provides protection for the related rights of performers and broadcasting organizations. The law provides several limitations and exceptions to those rights.

The Copyright Act provides that ownership of the copyright in all eligible works except folklore vests in the author. In order to be eligible for protection, the Copyright Act requires that the work be original, fixed, and (a) created by a citizen or resident of Ghana; (b) published within Ghana within 30 days of its publication outside Ghana; or (c) if published outside of Ghana is a work in respect of which Ghana has an obligation to grant protection to under an international treaty.

The duration of copyright protection for an eligible work is life of the author plus 70 years. Where a work is a joint work, the duration of protection is for the life of the last surviving author plus 70 years. In the case of a corporate entity, protection is 70 years from the date the work was first made or published, whichever is later. The duration of protection for the related rights for performers is 70 years from fixation or the end of the calendar year in which the performance occurred, and 40 years from the date of making the broadcast or the signal for broadcasting organizations. Special provisions regarding duration also apply for anonymous works, audio-visual works, sound recordings and folklore. Moral rights exist in perpetuity.

Works fall into the public domain either by expiration of the term of protection, renunciation of rights by the author, or by being a work from a foreign country that does not enjoy copyright protection in Ghana.

An author has the right to transfer copyright ownership in the economic right to the work by assignment, testamentary disposition, or operation of law. License of an exclusive economic right may be granted in writing, orally or inferred by conduct. A levy is imposed on every device capable of copying a work protected by copyright. Those levies are collected by the Internal Revenue Service of Ghana (IRS) at the time of importation or production of the device.

Registration of a work with the Copyright Administration (Copyright Office) is not a prerequisite for copyright protection; there is, however, a voluntary registration system in Ghana, the purpose of which is to maintain a record of works, publicize the rights of owners and provide evidence of ownership and authentication of copyright and related rights. Several measures to enforce copyright and related rights are available in Ghana, including criminal prosecution, civil action, customs actions, and mediation.

## 7.2 Trademarks

The Trademarks Act protects trademarks characterized as a sign or combination of signs capable of distinguishing the goods or services of one undertaking from the goods or services of any other undertakings including words such as personal names, letters, numerals, and figurative elements.

Recognizing the importance of trademarks, the government passed the Trademarks Act, 2004 (Act 664) to bring Ghana into compliance with the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and to strengthen trademark protection in Ghana.

The application for the registration of the trademark must be filed with the Registrar and is subject on the payment of a prescribed fee and further must contain a copy of the trademark and a list of goods or services for which the registration of the trademark is made.

Registration of a trademark by a rights-holder presents an exclusive use of the trademark on that rights-holder. The registration of a trademark is valid for a period of ten years from the filing date of the application for registration. The registration may be renewed for consecutive periods of ten years on payment of a renewal fee, and as long as the fees are paid the trademark can exist in perpetuity, provided that it is still in use in the Republic of Ghana.

Where the Registrar is satisfied that the application for the registration of the trademark has met all the necessary requirements, the Registrar shall publish it as to enable any persons with oppositions to the application to raise such oppositions on grounds where the application has not satisfied all or part of the necessary requirements.

A term is not registerable in Ghana if; (a) it is used only as a trade name; (b) it is incapable of distinguishing the goods or services of one enterprise from the goods or services of another enterprise; (c) it is contrary to public order or morality; (d) it is likely to mislead the public or trade circles with particular reference to the geographical origin of the goods or services, their nature or characteristics; (e) it is identical to or is an imitation of or contains as an element, an armorial bearing, flag, emblem, name, abbreviation or initials of the name, official sign or hallmark adopted by a state, an intergovernmental organization or organization created by an international convention unless authorized by the competent authority of that state or organization; (f) it is identical to or confusingly similar to or constitutes a translation of a trademark or trade name which is well known in Ghana for identical or similar goods or services of another enterprise; (g) it is identical to or confusingly similar to or constitutes a translation of a trademark or trade name which is well known and registered in Ghana for goods or services that are not identical or similar to those under application but the use of the trademark will indicate a connection between those goods or services and the owner of the well-known trademark and the interests of the owner of the well-known trademark are likely to be damaged by the use of the trademark; or (h) if the trademark is identical to a trademark of another owner already on the register or identical to a trademark the subject of an application with an earlier filing or priority date for the same goods or services or closely related goods or services or if it resembles that trademark so closely that it is likely to deceive or cause confusion.

Rights-holders applying for trademark registration should be aware that some of the non-registerable elements (e.g., symbols, flags) must be searched for before application. This may result not only in a delay in registration, but in registration of a trademark that may later be subject to cancellation proceedings or to non-registration of a trademark.

Trademark law protects the rights-holder from other persons using the trademark in relation to the goods and services for which the trademark was registered without his or her agreement.

Under the Trademarks Act, the following constitutes an offense: (a) Applying a false description to trade goods (b) Falsely applying to goods a trademark or mark so nearly resembling a trademark as to be likely to deceive; (c) Forging a trademark; (d) Using an article or instrument to forge a trademark; (e) Possessing an article to forge a trademark; (f) Causing the infringement of a mark; or (g) Selling, exposing or possessing for sale or for any purpose of trade or manufacture goods or things to which a forged trademark or a false trade name description is applied or to which a trademark or a mark so nearly resembling a trademark as to be likely to deceive is applied.

### **7.3 Patents**

Ghanaian law grants patent to inventions, which Ghanaian law defines as an idea of an inventor which permits in practice the solution to a specific problem in the field of technology. The invention may be, or may relate to, a product or process.

A patent has a term of 20 years from the date of filing of the application. In order to maintain the patent or patent application, an annual fee shall be paid in advance to the Registrar for each year, starting one year after the filing date of the application for grant of the patent. A period of grace of six months shall be allowed for the late payment of the annual fee on payment of the prescribed surcharge.

Where an annual fee is not paid in accordance with the law, the patent application shall be deemed to have been withdrawn or the patent shall lapse.

An invention is patentable if it is new, involves an inventive step and is industrially applicable. In Ghana, absolute novelty is required. An invention is not considered new if it is anticipated by a prior art, that is, everything disclosed to the public, anywhere in the world, by publication in any form, by use or any other way prior to filing. An exception exists, however, for the disclosure to the public if that occurred within twelve months preceding the filing date or where applicable the priority date of such application, provided that the disclosure was a consequence of acts committed by the applicant in title or an abuse committed by a third party with regard to the application.

For patents granted in respect to products and processes, Ghana's law confers the rights of exploitation of the patented invention. "Exploitation" involves any of the following acts: (a) making, importing, offering for sale, selling, and using the product; or (b) stocking the product for the purposes of offering for sale, selling, or using. (c) making, importing, offering for sale, selling and using the product in respect of a product obtained directly by means of the protected process; or (d) stocking the product obtained directly by means of the protected process for the purposes of offering for sale, selling or using the product.

However, rights under Ghana's patent law do not extend to: (a) acts done in respect of articles which have been put on the market in any country by the owner of the patent or with the patent-owner's consent; (b) the use of articles on aircraft, vehicles or vessels of other countries temporarily within Ghana; (d) acts done for experimental purposes; or (c) prior use or acts performed in good faith by someone other than the applicant who was using the invention or making effective and serious preparations for its use before the filing date of the patent application.

The owner of the patent shall, in addition to any other rights, remedies or actions available to the owner, have the right to institute court proceedings against any person who infringes the patent by performing, without the consent of the owner; any of the acts which may lead to infringement.

#### **7.4 IP Enforcement**

There are many enforcement mechanisms available to IP owners in Ghana. These are the security device for sound and audio-visual recordings, importation of copyright works and the imposition of a levy on devices capable of reproducing copyright works.

The first stage of the enforcement provides that a manufacturer on the approval of the minister must purchase a security device for which he is to attach to each copy of a sound or audio visual recording, without which he cannot sell any copy or will be liable to a penalty.

The second aspect of enforcement seeks to restrict the importation of copyright works without the owner's consent into the jurisdiction.

The last section states that Customs, Excise and Preventive Service office who is unsatisfied that a work is not pirated shall not permit the importation of such works unless it has with it a written declaration by the owner.

Criminal prosecution, civil action and customs actions, may also be available to IP owners in Ghana.

#### **7.5 IP Protection of Software and (IT) Hardware**

In Ghana, IP protection of software include, a fine of not more than one thousand penalty units and not less than five hundred penalty units or to a term of imprisonment of not more than three years or both; and in the case of a continuing offence to a further fine of not less than twenty-five penalty units and not more than one hundred penalty units for each day during which the offence continues on any person who infringes a right protected under this Act.



8.0

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**SOCIAL  
SECURITIES AND  
PENSIONS**

## How does Social Security work in Ghana?

The National Pensions Act, 2008 in Ghana establishes a contributory three-tier pension scheme consisting of the following:

- a. A mandatory basic national social security scheme ( Tier1)
- b. A mandatory fully funded and privately managed occupational pension scheme (Tier 2)
- c. A voluntary fully funded and privately managed provident fund and personal pension scheme (Tier3)

The basic national social scheme (Tier 1) operates under the Social Security and National Insurance Trust; the occupational pension scheme (Tier2), provident fund scheme, personal pension scheme and other privately managed pension ( Tier 3) schemes are managed by trustees approved by the board.

### 8.1 The Mandatory Schemes (Tier 1 and Tier 2)

The mandatory schemes require the employer to contribute thirteen percent (13%) of each employee's salary towards the Tiers 1 and 2 pension schemes or the member's contribution for an earlier contribution period from the salary in respect of a later period.

Notwithstanding the above, a company will be able to make those deductions in any of the following circumstances

- a. Where failure to make the deduction was as a result of false declaration made in writing by the employee at the time of the employment, or
- b. Where failure to deduct the contribution was due to a mistake or clerical error.

Contributions made by the company under the Tiers 1 and 2 pension schemes are exempt from tax. Thus, company will be able to expense the contribution and treat it as a deductible expense in computing the corporate income tax of the company.

All employees are required to make monthly contribution to the Tiers 1 and 2. Each employee is required to contribute five and a half percent (5.5%) of the monthly salary towards the scheme. The company shall have the obligation to deduct the contributions from the employees' salaries at the end of the month, and it must hold in trust until they are remitted to the approved scheme. The deductions shall be due irrespective of whether the employee's salary is paid or not.

The contribution for the national social scheme is exempt from tax when computing the employment income of the employees.

From the total of 18.5% contribution for Tiers 1 and 2, 13.5% is payable towards Tier 1 whilst 5% is payable towards Tier 2. The contribution must be remitted to the appropriate body within fourteen days after the end of each month to which they relate.

## 8.2 Voluntary Contribution – Tier 3

The Contributions to the scheme may be made by the employee and the employer, where company elects to contribute to the scheme on behalf of the employees, the contributions do not vest in the employees until the end of the vesting period. However, in the event of severance of company's employment relationship with the employee or in the event of liquidation of the company, contributions made by the company for its employees shall vest in the employees even if the vesting period has not elapsed.

An employee may forfeit part or the total amount of the company's contributions if he leaves the employment period to the end of the vesting period.

Where a contribution is made towards the Tier 3, a total of up to sixteen and a half percent (16.5%) of the contributor's monthly income shall be tax deductible. In a situation where both employer and the employee contribute to the scheme. The exemption will be apportioned in proportion to their respective contributions

## 8.3 Obligations of the employer (Company)

The employer will be asked to remit the total contribution of eighteen and a half percent (18.5%) to Tiers 1 and 2 also in respect of the Tier 1, the company shall be required to remit thirteen and a half (13.5%) percent out of the total contribution of eighteen and a half (18.5%) percent to SSNIT. The remaining five percent (5%) will be paid to Tier 2.

## 8.4 Foreign employees' exemption

As mentioned earlier, the Pensions Act applies to every employee in Ghana including expatriate employees. Thus, both the local and expatriate employees are required to register and contribute to pensions in Ghana.

Nevertheless, the practical difficulties faced by the SSNIT has forced them to reconsider the position of the law. Thus, although it is not back by law, in practice, upon an application in writing by an employer on behalf of its employee, SSNIT can exclude expatriate employees who are on a short-term assignment in Ghana from pension contribution where:

- the expatriate is in Ghana under suppliers' contract on short term basis to undertake installation of equipment or machinery acquired by a Ghanaian Company and for training of local workers or
- there is a technology transfer agreement under the Ghana Investment Promotion Centre (GIPC) Act and its regulations and upon proof that the expatriates are in Ghana on a short-term basis to undertake such technology agreement or
- an expatriate is on a short-term assignment in Ghana and there is proof provided by the employer that whilst in Ghana on a short-term duration, he is still a worker of his/her home country

In practice, short-term in connection with pension contribution means any period not exceeding 3 years.

In addition to the above, evidence needs to be provided to show that the expatriate makes similar contribution in his home country.

## 8.5 Pension Benefits

- Lump sum payment: Where an employee attains the retirement age but does not meet the minimum contribution period of one hundred and eighty months, the employee shall be entitled to a lump sum payment in respect of his or her contribution to the scheme. The amount received by the employee in respect of the benefit is exempt from tax.
- Penalties for non-compliance by the employer: Any company shall be exposed to a pecuniary penalty if it does not remit contributions to the SSNIT within fourteen days after the month to which the contribution relates. Penalty for failure to remit the contributions on the specified date attracts three percent penalty of the contribution payable on a compounding basis.





# 9.0

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## TAXATION

In Ghana, tax is collected through two major streams: Direct taxation and Indirect Taxation. Direct taxation is generally on, income, profits and gains from either business operations, employment or investment. Direct taxes imposition and payments differ among industries. For instance, companies in the mining and extraction industries have tax rates different from that of companies in the banking, service or manufacturing industries. Indirect taxes are on the consumption of goods and services (taxable supply). These taxes also come in various forms depending on the goods, industry and service. For instance, In Ghana, taxes (VAT) on wholesale/retail goods are different from that of manufacturers/producers. Likewise, the import duties on alcohol or spirit is different from non-alcoholic drink etc.

The Ghana Revenue Authority (GRA) is the Government body charged with the responsibility of assessing, collecting and accounting for Taxes in Ghana. The authority has three main divisions according to their areas of concentration. They are Customs Division (CD), Domestic Tax Revenue Division (DTRD) and Support Service Division (SSD). Each division is headed by Commissioner. DTRD is responsible for the collection of both domestic direct and indirect taxes. The Customs Division is responsible for the collection of taxes and levies at the ports, borders or any other entry points into Ghana. These taxes include Import Duty, Import VAT, Export Duty, Petroleum Taxes Import Excise, interest charge and state warehouse rent. These taxes and levies are collected on general goods as well as vehicles. The Support Services Division (SSD) provides administrative and managerial support to DTRD and Customs Division to enable them to perform their operational functions efficiently.

## **9.1 Income Liable to Tax in Ghana**

In Ghana, tax is charged on the income of both resident and non-resident persons. The rate of tax and mode differs depending on the residency status of the person and whether there exists any Double Taxation Avoidance Agreement (DTAA) between the person's resident country and the Government of Ghana. .

Resident persons are taxed on their worldwide income. Thus, the inclusion of both domestic and foreign income. On the other hand, non-resident persons are taxed based on income sourced in Ghana. Thus, income tax accruing in or derived from Ghana.

## **9.2 Chargeable income, Assessable income**

The chargeable income of a person for a year of assessment is the total of the assessable income of that person for the year from each employment, business or investment less the total amount of deduction allowed that person under the Income Tax Act of Ghana.

The assessable income of a person is the income of that person from any employment, business or investment.

The assessable income of a person for a year of assessment from any employment, business or investment is; in the case of a resident person, the income of that person from each employment, business or investment for the year, whether or not the source from which the income is derived has ceased; and in the case of a non-resident person, the income of that person from the employment, business or investment for the year, to the extent to which that income has a source in Ghana; and where the person has a Ghanaian permanent establishment, income for the year that is connected with the permanent establishment, irrespective of the source of the income.

The income of a person from employment, business, or investment has a source in Ghana if the income accrues in or is derived from Ghana.

### 9.3 Resident person

For the purposes of taxation in Ghana, a person is classified as a resident if any of the following conditions apply:

- a. citizen, other than a citizen who has a permanent home outside of the country and lives in that home for the whole of that year;
- b. present in the country during that year for an aggregate period of one hundred and eighty-three days (183) or more in any twelve-month period that commences or ends during that year;
- c. an employee or an official of the Government of Ghana posted abroad during that year; or
- d. a citizen who is temporarily absent from the country for a period of not more than three hundred and sixty-five continuous days, where that citizen has a permanent home in Ghana.

A partnership is resident if any of the partners is resident in the country at any time during the year.

A company is resident if the company is incorporated under the Companies Act 2019 (Act 992) or Companies Act 1963, (Act 179). Act 179 was only replaced with Act 992 in November 2019.

A Ghanaian Permanent Establishment (PE) is also treated as a resident company for the purposes of taxation in Ghana.

### 9.4 Income from employment

The income of an individual from an employment for a year of assessment is the gains and profits of that individual from the employment for the year or a part of the year. Thus, it includes the following;

- i. salary, wages, leave pay, fees, commissions, and gratuities;
- ii. overtime pay and bonuses;
- iii. personal allowances, including cost of living allowance, subsistence, rent, entertainment or travel allowance;
- iv. A discharge or reimbursement of an expense incurred by an individual or an associate of the individual;
- v. a payment made for the individual's agreement to conditions of the employment;
- vi. subject to the exemption on retirement contribution, an excess of the retirement contribution made to a retirement fund on behalf of an employee and a retirement payment received in respect of an employment;
- vii. other payments, including gifts, received in respect of the employment;
- viii. other amounts that can be well described as benefits received because of the employment



ix. any other allowance or benefit paid in cash or given in kind if they are derived by the individual during the year from the employment.

The following are excluded from the amount to be considered as income for the purposes of calculating income from employment and tax thereof:

- i. an amount specifically exempted from tax under the Income Tax Laws of Ghana.
- ii. an amount on which a final withholding tax has been applied;
- iii. reimbursement of an expense incurred by an individual on behalf of the employer of that individual that serves the proper business purposes of the employer;
- iv. reimbursement of the dental, medical or health insurance expenses of an individual where the benefit is available to each full-time employee on equal terms;
- v. a payment providing passage of the individual to or from the country in respect of the first employment of that individual by the employer or termination of the employment where the individual is either recruited or engaged outside the country; in the country solely for the purpose of serving the employer or is not a resident of the country;
- vi. a provision of accommodation by an employer carrying on a timber, mining, building, construction, farming business or petroleum operations to that person at a place or site where the field operation of the business is carried on;
- vii. a payment made to employees on a non-discriminatory basis and which by reason of the size, type and frequency of the payments, are unreasonable or administratively impracticable for the employer/to account for or to allocate to an individual;
- viii. redundancy pay.

## **9.5 Income from business**

The income of a person from a business for a year of assessment is the gains and profits of that person from that business for the year or a part of the year.

According to the Ghana Income Tax laws, income from business includes the following;

- i. service fees;
- ii. consideration/payments received in respect of trading stock;
- iii. a gain from the realisation/sale of capital assets and liabilities of the business
- iv. an amount derived as consideration for accepting a restriction on the capacity of the person to conduct the business;
- v. a gift received by the person in respect of the business;
- vi. an amount derived that is effectively connected with the business

The following are not included as part of the income (gain/profit) from business.

- i. any amount that is specifically exempted from tax by the tax laws of Ghana.
- ii. an amount on which withholding tax has been applied and the withholding amount is specified as a final withholding tax. (refer to the table on withholding tax) payment; and
- iii. other amounts that are not considered as income from employment or investment

## 9.6 Income from investment

In accordance with Ghanaian tax laws, the income of a person from an investment is the gains and profits of that person from conducting the investment. The following are considered as part of income, gain and profit from investment for the purposes of taxation:

- i. dividends, interest, annuity, natural resource payment, rent, and royalty;
- ii. a gain from the realisation of an investment asset
- iii. an amount derived as consideration for accepting a restriction on the capacity of the individual to conduct the investment;
- iv. winnings from lottery;
- v. a gift received by the person in respect of the investment; and
- vi. any other amount that the law may specify as accruing from investment for the year.

The following income are excluded as being derived from investment;

- i. any amount that is specifically exempted by the tax laws.
- ii. any payment received on which withholding tax has been applied and the amount of withholding tax is classified as final tax.
- iii. other amounts that are already considered as income from employment or business.

## 9.7 Amounts/Income exempted from tax

The Ghana Income Tax laws make provisions for specific incomes to be exempted from being taxed. Thus, any amount earned in this classification is not supposed to be taxed. They are as follows:

- a. Pension pay;
- b. capital sum paid to a person as compensation or a gratuity in relation to
  - i. a personal injury suffered by that person; or
  - ii. the death of another person;
- c. the income of a non-resident person from a business of operating ships or aircrafts, where the Commissioner General is satisfied that an equivalent exemption is granted by the country of residence of that person to persons resident in this country;
- d. the income from cocoa of a cocoa farmer;
- e. the income of a person receiving instruction at an educational institution from a scholarship, exhibition, bursary or similar educational endowment;
- f. the income of an individual entitled to privileges to the extent provided for by diplomatic immunities or other privileges.
- g. the income of an individual to the extent provided for in an agreement between the Government of Ghana and a foreign government.

- h. a cost of living allowance, other than training allowance paid in place of salary for services rendered abroad by members of the Ministry of Foreign Affairs, and officers attached to official Ghanaian diplomatic or consular missions abroad;
- i. income from a temporary employment of an individual with the Government of Ghana, where that individual is not a citizen of the country, the income is expressly exempt under the employment contract and the income is paid out of the Consolidated Fund;

This list is not limited to the provisions of the law.

## 9.8 Personal Income Tax/Taxation of individuals

Generally, in Ghana, the individual is taxed on income from employment, business and investment. The method of taxation of the individual depends on the residency of the individual. Whereas non-resident individuals are taxed at a flat rate, resident individuals are taxed at the graduated tax bands. Below are the current tax rates applicable to resident individuals:

### a. Yearly rate

Year 2024	Chargeable income	Tax rate %	Tax payable GHS	Cumulative income GHS	Cumulative Tax GHS
First	5,880.00	0	0	5,880.00	0
Next	1,320.00	5%	66.00	7,200.00	66.00
Next	1,560.00	10%	156.00	8,760.00	222.00
Next	38,000.00	17.5%	6,650.00	46,760.00	6,872.00
Next	192,000.00	25.0%	48,000.00	238,760.00	54,872.00
Next	366,240.00	30.0%	109,872.00	605,000.00	164,744.00
Exceeding	605,000.00	35%	210,750.00		

### b. Monthly rates

Year 2024	Rate	Range	Cum. Sal	Tax	Cum. Tax
First	0	490.00	490.00	0	0
Next	5%	110.00	600.00	5.50	5.50
Next	10%	130.00	730.00	13.00	18.50
Next	17.5%	3,166.67	3,896.67	554.17	572.67
Next	25.0%	16,000.00	19,896.67	4,000.00	4,572.67
Next	30.0%	30,520.00	50,416.67	9,156.00	13,728.67
Exceeding	35.0%	50,416.67			

**Note:** these rates were last updated as at the publishing date of this document. Users are advised to confirm the most current rate.

The chargeable income of a non-resident individual is taxed at the flat rate of 25%.

An individual who receives gain from disposal of an asset (capital gains) may opt for the gains to be taxed at a rate of 25% instead of it being added to the total income and taxed at the graduated rate.

In determining the chargeable income for the year, the following are considered;

**a. Contribution to retirement benefit scheme.**

In Ghana, both the individual and employer are required to make a statutory contribution towards pension. Generally, allowance is made for 35% (both employer and employee) contribution of basic salary which is not subject to tax.

Generally, the contribution is the responsibility of both the employer and employee.

Employer pays – 13% of employee's basic salary

Employee pays – 5.5% of employee's basic salary

Total contribution – 18.5%

It is the employer's responsibility to remit the total contribution to Social Security and National Insurance Trust (SSNIT) and an approved Trustee in the ratio of 13.5% and 5% respectively.

The statutory contribution towards retirement benefit is classified into three-tiered scheme, namely;

First Tier (Tier1), mandatory and managed by the Social Security and National Insurance Trust (SSNIT)

Second tier (Tier 2), Mandatory and managed by a private scheme selected by the contributors.

Third Tier (Tier 3), Voluntary contribution managed by a private trustee selected by the contributors.

Where total percentage of the three tiers is more than the 35% cap given, the excess is treated as additional income, added to chargeable income, and taxed accordingly. The maximum insurable earnings have been increased from GHS 52,000.00 to GHS 61,000.00 effective January 2025. The minimum insurable earning is now GHS 539.19.

**b. Interest incurred on loans towards an individual's residential premises.**

Mortgage interest incurred by an individual on a loan contracted towards the construction or acquisition of the individual's residential premises may be claimed as a deduction against the income of that individual. This provision of the law has been made clear that the individual can claim the exemption on a monthly basis. Thus, the amount of interest incurred in a mortgage towards an individual's premises can be deducted from the income before arriving at the chargeable income on which the tax rate is applied.

**c. Personal Reliefs**

A relief of tax is given to individuals with a certain class of dependency. Personal relief depends on the category of dependant. The amount ranges from One thousand two hundred to two

thousand for a year. The classes of dependants include old age, children, disability (25% of Income from employment and Business), education of children, and training.

### Annual personal reliefs

Criteria	Relief (GHS)
Individual with a dependent spouse or at least two dependent children	1,200.00
Aged 60 or above	1,500.00
Aged dependents (over 60 years)	1,000.00 per dependant (limited to 2 dependants)
Child Education	600 per child (limited to 3 children)
Disabled Person(s)	25% of the assessable income from employment or any business.
Professional, technical or vocational training cost	Limited to 2,000.00

### d. Non-cash benefits

Non-cash benefits are a kind of allowance that the employee does not receive in cash and yet the tax laws consider it as income/gain to the employee from employment. For these benefits, the employee does not receive it in cash. Therefore, the law provides a standard valuation of the benefit gained and taxed accordingly. They are often referred to as benefits in kind.

Benefits in kind received from employment arises when an employer makes payment for the personal needs of an employee by providing the employee with goods or services (instead of money).

#### They include:

- i. Vehicle, Fuel and accommodation for an employee
- ii. Employer providing for the education of the employee's children
- iii. Employer giving goods or services free or at a cost lower than the market value to the employee
- iv. Employer providing domestic servants and security to employee
- v. An employer absorbing the tax liability of an employee
- vi. Payment of utility bills by employer on behalf of employee and Share Options

In general, the value of the benefit in kind is quantified according to the market value of the benefit. That means the benefit must be valued as the amount that an independent, reasonable person would pay on the open market to receive the same goods or services.

The rules of quantification of benefits in kind are as prescribed in the

- i. Fourth Schedule of the Act
- ii. Regulations and
- iii. In the absence of Regulations, the market value, less the part of the cost of the benefit paid by the employee to the employer.

Accommodation and vehicle benefits are provided as below in the law:

**Accommodation**

Type of accommodation provided	Value
Fully Furnished accommodation	10% of total cash emolument
Accommodation only	7.5% of total cash emolument
Furnishing only	2.5% of total cash emolument
Shared accommodation	2.5% of total cash emolument

Type of means of transport provided	Value
Vehicle with Fuel and Driver	12.5% up to GHS1,500.00 of total cash emolument
Vehicle with Fuel	10% up to GHS1,250.00 of total cash emolument
Vehicle only	5% up to GHS625.00 of total cash emolument
Fuel only	5% up to GHS625.00 of total cash emolument

**e. Overtime and bonus**

Overtime and bonus are taxed at a reduced rate. For overtime, the rate of tax depends on the category of staff percentage of overtime amount of the total cash earnings from employment.

The first rule for overtime is that, the incentive is for qualifying junior staff. That is, a staff who is not a junior qualifying staff does not benefit from the incentive.

Bonus rate also depends on the amount of the bonus as a percentage of annual basic salary. Thus, there is a cap using a percentage of annual basic salary within which a lower rate is applied. Any amount excess of the cap given does not benefit the reduced rate.

Bonus rate within the cap is taxed at 5%. Overtime which is within the first 50% of total earnings is taxed at 5% with any excess taxed at 10%.

**f. Loan benefit**

Loan benefit is the deemed benefit an employee receives when he/she obtains a loan from the employer or an associate at an interest rate lower than he/she would have normally paid should the loan be contracted from the general/regular market at the market rate.

For a certain range of loan amounts, the concessionary rate being paid by the employer is compared with the market rate and the difference which is normally the excess of the market rate over the concessionary rate is treated as a taxable benefit and added to taxable income to be taxed. In determining the market rate, the GRA relies on the rate issued by the Bank of Ghana.

### **g. Temporal and Casual workers**

Payment to temporary workers is taxed just as permanent workers. Thus, the chargeable income is taxed in accordance with the graduated tax scale. It also implies that all tax reliefs provided in the law apply to the temporal worker in the same manner as the permanent worker.

However, payment to casual workers is taken at a flat rate of 5%.

### **Return of tax**

The employer is required to deduct employment tax called Pay-As-You – Earn (PAYE), file a return, and make payment to the GRA by the 15<sup>th</sup> or last working day before the 15<sup>th</sup> (where the 15<sup>th</sup> is on weekend or public holiday) of the month subsequent to the month for which the employment income was earned. Thus, PAYE for January shall be filed and paid by 15<sup>th</sup> of February.

At the end of the year, the employer shall file an Employer's Annual Tax Deduction Schedule with the GRA. This return provides a summary of annual income tax payable and tax withheld from each employee. The return is filed within four months after the end of the calendar year.

## **9.9 Income exempted from tax**

In Ghana, the following income is exempted from tax:

- i. Gain from life insurance where the proceeds are paid by a resident insurer.
- ii. A dividend paid to a resident company by another resident company when the company receiving the dividend controls at least 25% of the voting power in the company paying the dividend. This exemption does not apply to certain special industries.
- iii. Interest on an investment paid to a holder or a member of an approved unit trust scheme or mutual fund;
  - Gains made from the sale of Ghana Stock Exchange (GES) listed securities.
  - Income of an approved real estate investment trust
  - Income of an approved unit trust or mutual fund
  - The income of a non-resident person from a business that operates ships or aircraft, provided, the Commissioner-General is satisfied that an equivalent exemption is granted by that person's home country of residence to persons resident in Ghana.
  - Interest and gains by a non-resident person on bonds issued by the government of Ghana.
  - Dividend on an investment paid to a holder or a member of an approved unit trust scheme or mutual fund.

## **9.10 Taxation of a financial Institutions**

### **9.10.1 Banking**

Any other business engaged in by a bank is deemed a separate business activity from that of the bank. It is required that a separate book of account be kept for each business activity. For tax purposes, the income of the other business shall be separate from that of the banking business.

Specific provision for bad debt is allowed as deductible expense should the Commissioner-General be satisfied with the debt and the terms of the provision.

### **9.10.2 General insurance business**

According to the Ghana tax Law, any other business activity of a person who conducts a general insurance business is a separate business from the general insurance business and the income or loss of that person from each of the businesses for a year of assessment is to be computed separately.

For tax purposes, the income of the company includes premiums and proceeds. From the income, deduction is made for proceeds incurred, premium incurred under the re-insurance contract and reserve for unexpired risk at the end of the year.

### **9.10.3 Life Insurance business**

Insurance business is a separate business from the life insurance business and the income or loss of that person from each of the businesses for a year of assessment is to be computed separately.

For tax purposes, the income of life insurance business is determined as follows;

Exclude from the income;

- a. premiums derived by the person as an insurer or a re-insurer; and
- b. proceeds derived by the person under a contract of re-insurance in respect of proceeds.

Do not deduct from the income;

- a. proceeds incurred by the person as an insurer or re-insurer; and
- b. premiums incurred by the person under a contract of re-insurance in respect of proceeds.

### **9.10.4 Taxation of retirement fund**

Retirement contributions received by a retirement fund are exempt from tax. Conversely, retirement payments by the retirement fund are not tax deductible.

## **9.11 International Tax Arrangement**

### **9.11.1 Branch profit tax**

The profit of a branch of a non-resident entity is taxed at the rate of 8%. This tax is a final tax. The tax must be paid within thirty days after the end of the basis period.

The corporate income tax rate on branch profits is the same rate as local companies. The profit of the branch is subjected to the same tax rate applicable to resident entities.

When the non-resident company repatriates profit to its shareholders, the profit of the non-resident person is taxed at the rate 8%. This tax is a final tax. The tax must be paid within thirty days after the end of the basis period.

### 9.11.2 Double Taxation Relief

The Income Tax Act makes allowance for relief for foreign taxes paid by resident persons. The tax paid should have been sourced from the foreign country and as well be included in the assessable income of the resident individual. However, the foreign tax credit is limited to the average rate of Ghanaian income tax of the resident individual for the year of assessment.

Additionally, taxpayers can use foreign tax credits to offset taxes payable or claim a deduction for foreign taxes paid. A claim for deduction is available only if the taxpayer opts to relinquish the foreign tax credit. This election can only be made through the submission of an application to the Commissioner-General or by accompanying the tax return with a disclosure memo.

A foreign tax credit is granted upon submitting to the Commissioner-General a tax credit certificate, an official receipt, or a functional equivalent of a tax credit certificate issued by the tax department of a foreign country.

### 9.11.3 Double tax treaties

Double tax treaties/agreements (DTT) provide tax relief for residents of contracting state with the jurisdictions of the treaty parties. Ghana has signed double tax treaties with the following countries; Belgium, Germany, South Africa, France, Denmark, Italy, Switzerland, The Netherland, United Kingdom, Czech Republic, Singapore, Morocco, Mauritius and Qatar.

DTTs with the Republic of Ireland, Iran and Barbados are yet to be approved by the Cabinet.

Other countries for which the Government of Ghana currently arranging for treaty include: Nigeria, Norway, Saudi Arabia, Sweden, the United Arab Emirates, Seychelles, Tunisia, Egypt, Malta, Luxembourg, Portugal, Jersey, Turkey, South Korea, Israel, Japan and China.

No.	Jurisdiction	Dividends (where the recipient holds at least 10%/25% of shares) (%)	Dividend (in any other case) (%)	Royalties (%)	Technical/management service fees (%)	Interest (%)
1	United Kingdom	7.5	15	12.5	10	12.5
2	Germany	5	15	8	8	10
3	South Africa	5	15	10	10	10 (5% if derived by non-resident bank)
4	Italy	5	15	10	10	10
5	The Netherlands	5	10	8	8	8
6	France	7.5	15	10	10	10
7	Denmark	5	15	8	8	8
8	Belgium	5	15	10	10	10
9	Switzerland	5	15	8	8	10
10	Czech Republic	6	6	8	8	10
11	Morocco	5	10	10	10	10
12	Singapore	7	7	7	10	7
13	Qatar	5	7	10	10	7
14	Mauritius	7	7	8	10	7

## 9.12 Anti Avoidance Schemes

### 9.12.1 General Anti-Avoidance Rule (GAAR)

For the purposes of determining tax liability under Act 896, the Commissioner-General may re-characterize or disregard an arrangement that is entered into or carried out as part of a tax avoidance scheme:

- i. Which is fictitious or does not have a substantial economic effect; or
- ii. Which form does not reflect its substance.

An arrangement includes an action, agreement, course of conduct, promise, transaction, understanding, or undertaking, which is express or implied, enforceable by legal proceedings or not, and unilateral or involves two or more persons.

The Commissioner General has the power to disallow any expenses which she considers unfit for tax deductions. Before an expense can be allowed as a relief for tax purposes, it must be wholly, necessarily, and exclusively incurred by the business. Wholly means all the cost was incurred for the stated purpose. It means completely. Exclusively means that none of the costs incurred was for private purpose. Necessarily means the cost needed to be incurred to achieve the business objectives.

The Commissioner General will use these criteria to assess any allowable business expense for tax relief.

### 9.12.2 Income splitting

Income splitting is where a person attempts to split the income of one person with another with the aim of taking or enjoying the tax advantage of the other person so as to reduce tax liabilities. Where a person attempts to split income with another person, the commissioner of the GRA may prevent this by adjusting the chargeable income of both persons or re-characterise the source and type of any income, loss, amount or payment to prevent a reduction in tax payable as a result of the splitting of the income. In Ghana, Income splitting is not allowed.

### 9.12.3 Thin capitalisation

Where a resident entity that is not a financial institution and in which fifty percent (50%) or more of the underlying ownership or control is held by an exempt person either alone or together with an associate has a debt-to-equity ratio in excess of three-to-one (3:1) at any time during a basis period, a deduction is disallowed for any interest paid or foreign currency exchange loss incurred by that entity during that period on that part of the debt which exceeds the three-to-one (3:1) ratio, being a portion of the interest or loss otherwise deductible but for this subsection

"Exempt person" means

- i. A non-resident person.
- ii. A resident person for whom the interest is paid by a resident entity to an exempt person or for whom a foreign exchange gain is realized with respect to a debt claim against the resident entity (a) Constitute exempt income or (b) Is not included in ascertaining the exempt assessable income of that person; and

- iii. "resident entity" means a resident partnership, a resident company, a resident trust, or permanent establishment of a non-resident person in the country

The object of thin capitalization is to prevent the erosion of a company's profit by making sure that business profit is not paid to non-resident business owners as interest on loan without any cap.

#### **9.12.4 Taxation of undistributed profits**

A resident company that pays a dividend to a shareholder shall withhold tax on the amount of the dividend. The Withholding rate for this transaction is 8%.

Also, the tax laws permit in cases where the Commissioner-General is satisfied that a company controlled by not more than five (5) persons and their associates does not distribute to its shareholders as dividends, a reasonable part of the income of the company from all sources for a basis period within a reasonable time after the end of the basis period, the Commissioner-General may, by notice in writing treat as a dividend, that part of the income of that company which the Commission-General determines to be a dividend paid to its shareholders during that period or any other period.

#### **9.12.5 Treaty Shopping and Anti-Treaty Shopping**

Treaty Shopping is where a person not a resident of any of the two jurisdictions that have entered into a treaty indirectly benefits from tax arrangement. Ghana's principles on the anti-treaty provision may include:

To the extent that the terms of an international arrangement to which the Republic is a party are inconsistent with the provisions of the tax law, the terms of the international arrangement shall prevail over the provisions of the tax law.

The conditions under which this may be held include.

- a. Only to an international arrangement ratified by Parliament under Article 75 of the Constitution; and
- b. subject to
  1. Where an international arrangement requires Ghana to exempt an amount from tax or subject an amount to reduced taxation, the exemption from or reduction of tax is not available to an entity that
    - i. For the arrangement, is a resident of the other contracting state; and
    - ii. Fifty percent or more of whose underlying ownership is held by persons who, for the purposes of the arrangement, are not residents of the other Contracting State or Ghana
  2. Despite any provision in tax law, where the Commissioner-General is of the opinion that a person might otherwise secure a tax benefit under a tax avoidance arrangement, the Commissioner-General may adjust the tax liability of that person in a way that the Commissioner-General considers appropriate to counteract the tax benefit.

### 9.12.6 Transfer pricing (TP)

In Ghana, the transactions between related parties are regulated by the Transfer Pricing Regulations (TPRs). The regulations require that transactions between related parties be done at an arm's length. That is, the terms of the transactions do not differ from what would have transpired on a comparable transaction between unrelated parties.

The Transfer Pricing Regulations (TPRs) provide various methods of determining the acceptable (arm's length) price between related parties. The Organisation for Economic Co-operation and Development (OECD) on transfer pricing also provides guidelines on Transfer Pricing determination.

- Related party transactions that involve a technology transfer agreement approved by the GIPC where royalties, know-how and management/ technical fee, do not exceed 2% of net profit per transaction.
- Taxpayers use the cost-plus method in arriving at an amount charged for the provision of low value-adding intra-group services and the mark-up does not exceed 3% of the relevant costs.

The Transfer Pricing Regulations require that all companies that have related party transactions submit annual Transfer Pricing returns. The regulations entail the following key provision:

#### a. TP Documentation and Filing Requirements:

**Regulation 11(1) and Regulation 12(2) require** Taxpayers who engage in related-party transactions to file their Transfer Pricing returns and maintain contemporaneous documentation by a specific deadline as follows.

**Table 1: Documentation and Filing Requirements**

Annual Transfer Pricing Returns	Not later than four months after financial year end.
Country-by-Country-Reporting (CbCR)	Not later than twelve months after financial year end
Contemporaneous Documentation:	
Local file	Not later than four months after financial year end.
Master File	

#### b. Country-by-Country Reporting:

The Regulation has provisions dealing with country-by-country reporting. This is in line with Action 13 of the BEPS project which seeks to enhance transparency for tax administration, taking into consideration the compliance costs for business. The new Regulations require that Country-by-Country (CbC) reports be filed for each fiscal year.

#### c. Safe Harbor Rules:

Safe harbour provisions have also been introduced in the Regulations which exempt related-party transactions from having to retain contemporaneous transfer pricing documentation, specifically a Local and a Master file, in the following situation:

- » Taxpayers who are parties to a controlled arrangement worth up to \$200,000

**d. Business Restructuring**

The new Regulations cover Business Restructuring as it was addressed in the OECD's guidelines on transfer pricing. The aim of this provision is to ensure that the payment made for any transfer of functions, rights, interests, assets, and risks between individuals in a controlled relationship reflects the amount an independent person in similar circumstances would pay.

**e. Financing Arrangement**

The new Regulations require that the Tax Authorities may adjust interest on inter-company loans or loan fees to represent the amount an independent individual would have charged for providing the loan or credit facility in a comparable situation, according to the Transfer Pricing Regulations. The Regulations also require interest to be charged on related party trade payables which remains unpaid for 12 months.

**f. Penalties and Interest**

The penalties stipulated within the regulations are in reference to those provided in the Revenue Administration Act 2016 (Act 915).

The regulation, therefore, seeks to strictly apply the provision on penalties and interest as applicable in the Revenue Administrations Act 2016 (Act 915) as follows;

- i. A tax due and unpaid as a result of adjustment made by the Commissioner-General under sub-regulation (3) of regulation 15 is deemed to be adjusted assessment for the purposes of section 39 of the Revenue Administrations Act, 2016 (Act 915).

The provisions of the Revenue Administration Act, 2016 (Act 915) on extension of time to file tax a return, fraud, failure to maintain documentation, failure to file tax returns, penalties for under-payment of tax, interest, and offences, apply to these regulations.



A modern office interior with a long hallway on the left lined with large green plants and a glass-walled office area on the right containing desks, computers, and office chairs. The scene is lit with warm, overhead lights.

# 10.0

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## CORPORATE INCOME TAX

Corporate income Tax is a statutory tax obligation for every Company whether resident or non-resident in Ghana. The Tax is supposed to be paid at the end of the financial year of the company, assessing the chargeable profit from business operations.

In Ghana, the Corporate Income Tax is paid in instalments through self-assessment or by the company at the beginning of the financial year, filing the annual tax return of the company.

The cumulation of instalment payment usually on quarterly basis and withholding tax (backed by withholding tax certificate) make up tax payment for the year prior to filing the annual tax return. At the point of filing the return, any shortfall in tax paid compared with the annual income tax payable is then paid to complete the payment for the year.

Conversely, the excess of tax paid over the annual tax payable in the annual income tax return would serve as a tax credit for the company. It must however be stated that this credit must be confirmed by the GRA through a Tax Audit or any other means deemed appropriate by the Commissioner-General.

## 10.1 Rate of Income Tax for Companies in Ghana

In Ghana, there are different types of tax rate applicable to companies. The applicable rate depends on the industry, location, type of business, and incentive being given under the tax laws. Below are the current corporate tax rates applicable to companies in different industries in Ghana:

	Tax rate	Category
Companies	25%	General
Companies	22%	Hotel
Company	8%	Export of non-traditional goods
Financial Institution	20%	Loans to Farming enterprise
/Manufacturing	75% of 25% = 18.75%	Located Regional Capital
Manufacturing	50% of 25%=12.5%	Located elsewhere other than Regional Capital
	Tax holiday	1st 10 years
Free Zone Enterprise	15%	Only Export after the tax holiday
	25%	Local sales after the tax holiday
Petroleum, Mining Companies	35%	Extractive industry
Financial institution	20%	Loans to Lease company for purchase of assets for Lease
Company – Agriculture	5% for ten years	Tree crops
	5% for five years	Cash crop and live stock other than Fish and Cattle
	5% for Ten year	Cattle
Company – Agro processing	5% for Five years	Agro processing conducted wholly in Ghana

Company – Cocoa by – product	5% for five years	Cocoa by-product business Conducted wholly in Ghana
Company – Rural bank	5% for 10 years	Rural Bank designated as such by the Banking Act, 2004, (Act 673)
Company – Waste Processing	5% for 7 years	Waste processing company
Company – Housing	5% for 5 years	Approved as a Low-cost housing company
Company – Approved Trustee/Mutual fund	5% for 10 years	Trustee/Mutual fund approved under Security Industry Act 1993 (PNDC 333)
Company – Venture Capital	5% for Ten years	Approved venture Capital

### Financial sector recovery levy

Banks other than Rural and Community banks are obliged to pay a Financial Sector Recovery levy of 5%. This Levy is imposed on the profit before tax. The levy is not an allowable tax deductible expense. The Act that established this levy states that the Minister (for Finance) may, at the expiration of 2024 year of assessment, review it. However, there is no indication in recent policy updates that it has been reviewed.

## 10.2 Basis Period for companies

The accounting period of a company or trust is the accounting year of the company or trust. The Commissioner-General may, on application by a trust or company, approve a change of the accounting year of the trust or company on the terms and conditions that the Commissioner-General may approve. This approval may be revoked by the Commissioner General if the trust or company fails to comply with a condition attached to the approval.

The accounting year of the company or trust cannot be changed without the written approval of the Commissioner-General.

## 10.3 Allowable Deductions

Businesses are allowed to deduct expenses from income before charging the tax. Only expenses that are **Wholly, Exclusively and Necessarily** incurred in the production of the income.

Examples include business administrative expenses, capital allowance, losses carried over, repairs and improvement (within the cap), finance cost (within the cap), bad debt (upon meeting conditions), etc.

## 10.4 Non-allowable Deductions

In general, expenditures that are not Wholly, Exclusively, and Necessarily incurred towards generating the income are not allowed as deductible expenses. Expenditures of a capital nature are also allowed as deductible expenses.

Examples of unallowable deductions include; provision for bad debt, repair, and improvement in excess of the allowable cap, private expenses of the board and business owners, members, penalties and interest for non-compliance with any regulatory requirement etc

## 10.5 Capital Allowance

Capital allowances are granted to businesses who own depreciable assets and use those assets to generate income for the business.

The allowance granted is based of the class of assets. The basis of allowance is either reducing balance or straight-line method depending on the class of asset.

Class	Assets list	Rate In %	Basis/method of computation
1	Computers and data-handling equipment with peripheral devices	40	Reducing balance
2	Automobiles, trailers, construction and earth-moving equipment, plant and machinery used in manufacturing  Plantation capital expenditure	30	Reducing balance
3	Railroad cars, Locomotives, water transportation equipment, aircraft, equipment and machinery, specialised public utility plant, office furniture and fixtures  Equipment not included in another class	20	Reducing balance
4	Buildings, structures and works of a permanent nature	10	Straight-line
5	Intangible assets	Over the useful life.	

An importer or manufacturer of excisable goods shall be granted an accelerated depreciation of 50% capital allowance on machinery and equipment imported for the purpose of affixing excise tax stamps.

Capital expenditure on **petroleum operation** is granted capital allowance of 20% on the straight-line basis.

Capital expenditure on **mining and mineral operation** is granted capital allowance of 20% on the straight-line basis.

## 10.6 Carry over of losses

In Ghana, companies are allowed to carry over unrelieved losses for a period of 5 years. Thus, each financial year loss can be carried over for a period of five years and utilised to reduce/offset any income/profit that might be made in the subsequent year before applying the tax rate if any.

"unrelieved loss" means the amount of a loss that has not been deducted in calculating the income of the person.

### 10.6.1 Carry backwards of losses

In Ghana, carrying back unrelieved losses is allowed only in regard to long-term contracts.

The Law in Ghana permits unrelieved losses attributable to a long-term contract in the basis period in which the long-term contract is completed or an earlier basis period. This is allowed to be carried back and treated as an unrelieved loss of an earlier basis period.

## 10.7 Repairs and Improvement

Ordinarily, expenses incurred on repairs of an asset are allowed as deductible expense for tax purpose. However, in Ghana, the amount that is allowed for tax deductions is capped at 5% of the balance on assets in the pool that the asset belongs to. Thus, the deduction allowed in respect of repairs and improvement of a particular asset shall not exceed five percent of the written down value of the applicable pool of that depreciable asset held at the end of the year.

The implication is that any excess expense on repair and improvement during the year shall be capitalised and amortised through capital allowance.

For example, where a company spends an amount \$20,000 on repair and improvement of a company vehicles. Should the written down value (WDV) in the pool of vehicle which is class 2 be at 80,000. Then, 5% of the WDV which is ( 5%\*80,000) is \$4,000. From this scenario, although the company spent \$20,000 during the year in repairing the company vehicles, only \$4,000 shall be granted as allowable deductible expense. The balance of \$16,000 shall be capitalised and added to the pool in this class and capital allowance granted over the period at the rate of 30% as usual.

## 10.8 Financial cost

The Ghana Income Tax laws provide that; a company incurs financial cost when it incurs losses with respect to financial instrument, derivative or foreign currency instrument. For the purpose of financial cost tax deductible expense, it does not include interest expense.

The maximum amount of Financial cost allowed as deductible expense is limited to 50% of business income plus financial gains that the company realises during the year.

Any amount of financial cost that is not utilised during a particular year is allowed to be carried forward for the next five years until it is utilised.

## 10.9 Royalties

Royalty is interpreted by the Ghanaian Tax laws to include payment as consideration for the use of or right to use a copyright of literary, artistic or scientific work, including cinematograph films, **software** or video or audio recordings, whether the work is in electronic format or otherwise.

In Ghana, the rate for mineral royalty rate is 5% of the total revenue earned from minerals (excluding petroleum and water) obtained from mining operations by a holder of a mining lease, restricted mining lease or small-scale mining licence.

The general rate for natural resources is 15%. However, the mining and petroleum industries are able to arrange for a special concession with the Government of Ghana.

## 10.10 Ring-fencing of financial institutions, petroleum and mineral operations

The principle of ring fencing in Ghana is that, affected entities must separate all their separate business operations for tax purposes. That is, if a bank for instance engages in a different non-banking activity, this bank is required to treat each business activity separately for tax purpose. The tax calculations for each operation must not be consolidated.

The chargeable income of affected businesses, i.e. financial institutions, petroleum or mineral operations is calculated separately for each financial service, petroleum right or mineral operation. For Petroleum business, "common processing unit" for separate operations can allow these separate operations to be treated as one operation for tax purposes.

## 10.11 Growth and Sustainability levy

The Growth and Sustainability Levy Act 1095, repeals the National Fiscal Stabilization Levy Act 2013 (Act 862) and imposes a percentage of profit before tax or a percentage of gross production for companies specified in the second column of the schedule and institutions specified in the first column of the Schedule.

Despite the repeal of Act 862, it continues to apply for the years of assessment commencing prior to the date on which Act 1095 comes into force. Further, any right, liability or obligation in existence immediately after the repeal of Act 892 shall remain in existence until the right, liability or obligation is exercised or terminated.

Levy payable under this new Act is not an allowable deduction for the purpose of ascertaining the income a person under the income tax act and is payable with respect to profit before tax or production for 2023, 2024 and 2025 years of assessment.

This levy imposed applies to specified companies and institutions despite any provisions to the contrary in any arrangement or enactment relating to tax holiday or exemption from direct or indirect tax applicable to a company or institution.

A person who is subject to the levy shall file with the Commissioner General by the date of payment of the first tax installment, an estimate of Levy payable for the year of assessment.

An estimate of the levy payable for the year of assessment shall, subject to any directions of the Commissioner-General to the contrary,

- a. Be in the prescribed form; and
- b. Provide any other information that the Commissioner General may require.

The levy assessed for a year of assessment is payable quarterly and is due on 31st March, 30th June, 30 September and 31st December of the year.

The provisions of the Revenue Administration Act, relating to collection, enforcement, penalties and offences shall apply to the collection of the levy as if the levy is collected under Act 915.

A company or institution specified in the first column of the Schedule shall file a return in respect of the Levy with the Commissioner General in the manner and at the time and place determined by the Commissioner-General.

The Minister may, by legislative instrument, make Regulation to amend the schedule to revise:

- Rate of the levy
- The categories of companies and institutions liable to pay the levy
- The companies and institutions liable to pay the levy

The categories of companies and applicable rates are set out in the table below:

CATEGORY	RATE OF LEVY
<p><b>Category A</b></p> <ol style="list-style-type: none"> <li>1. Banks</li> <li>2. Non- Bank Financial Institutions</li> <li>3. Insurance Companies</li> <li>4. Telecommunication Companies liable to collect and pay Communications Service Tax under the Communications Service Tax Act, 2008 (Act 754)</li> <li>5. Breweries</li> <li>6. Inspection and Valuation Companies</li> <li>7. Companies providing mining support services</li> <li>8. Bulk Oil Distributors</li> <li>9. Oil Marketing Companies</li> <li>10. Communication Tower Operators</li> <li>11. Companies providing upstream petroleum services</li> <li>12. Companies and institutions registered by the Securities and Exchange Commission</li> <li>13. Specialized Deposit-Taking Institutions</li> <li>14. Electronic Money Issuers</li> <li>15. Shipping lines, maritime and airport terminals</li> </ol>	<p><b>5% of Profit Before Tax</b></p>
<p><b>Category B</b></p> <ol style="list-style-type: none"> <li>1. Gold mining companies</li> </ol>	<p>3% of gross production</p>
<p><b>Category BA</b></p> <ol style="list-style-type: none"> <li>2. Other Mining companies and upstream oil and gas companies</li> </ol>	<p>1% of gross production</p>
<p><b>Category C</b></p> <p>All other entities not falling within Category A or Category B</p>	<p>2.5% of profit before tax</p>

Impliedly, all companies are required to file a return of Growth and Sustainability Levy and make a quarterly payment just as the self-assessment tax instalment payment.

### **10.12 Gifts received by entities.**

In Ghana, any gift received by a company with respect to a business operation or an investment is included in the normal assessable income of the entity and taxed at the rate applicable to the entity.

### **10.13 Telecommunications and transportation business**

Payments received by a person who carries on a business of transmitting or receiving messages by cable, radio, optical fibre or satellite or electronic communication from an apparatus located in Ghana, whether or not the messages originate, terminate or are used in Ghana, are liable to a withholding tax rate of 15%.

Similarly, payments received by a person who conducts a business of carrying passengers, cargo, mail or other movable assets that are embarked in Ghana (other than transshipment), including the rental of containers and

related equipment that are incidental or supplementary to the transportation business, are liable to a withholding tax rate of 15%. For a non-resident entity, the withholding tax is treated as a final tax.

### **10.14 Change in control of business**

Where the underlying ownership of an entity changes by more than fifty percent at any time within a period of three years, the assets and liabilities of that entity immediately before the change is deemed to be realized.

Where there is such change in ownership, the entity shall not be allowed to deduct financial costs, losses and bad debts incurred before the change in ownership.

Where a change in ownership occurs during a year of assessment, both the period before and after the change shall be treated as separate years of assessment.

In determining the income for a business, the gain from realisation is included and taxed at the company's rate.

### **10.15 Taxation of shareholders**

In Ghana, where a resident company pays dividend to another resident company, the dividend is exempted from tax provided the company that received the dividend controls indirectly or directly, at least twenty-five percent of the voting right of the company which paid the dividend.

Both the dividend paid by a non-resident company and any gain made on the disposal of the shares, where a shareholder disposes of shares in a company summed up to arrive at the income of the shareholder for tax purposes.

Where the company capitalises profit without declaring dividend, dividend may be deemed to have been distributed to each shareholder in the proportion of their interest in the company. The Commissioner- General under certain conditions is allowed to allocate certain amount of undistributed profit as dividends and taxes applied thereof.

## 10.16 Company Tax Returns and Tax and payment

### Returns

Type of Return	Deadline
Company Self-Assessment	Three (3) months after the end of the previous financial year. i.e, 31 March if the financial year is 31 December
Corporate Income tax return (CIT) & Transfer Pricing return	Four (4) months after the end of the current financial year. i.e 30 April if the financial year is 31 December
Withholding Tax return	15th after the month in which the deduction was made. i.e 15th April for deductions made in month of March
Annual Employer Deduction Summary	Four (4) months after the end of the current financial year. i.e 30 April if the financial year is 31 December
PAYE Return	15th after the month in which the deduction was made. i.e 15th April for deductions made in month of March
Personal Income Tax Return	By the last working day of April after the end of the year to which the return relates. i.e, return for the year 2019 is due by 30 April 2020

### Payment of taxes

Generally, tax payment is due at the date that the filing of the return is due. Tax instalment payment arising from self-assessment or provisional assessment by the GRA is due on quarterly basis. Thus, the first quarter payment is due by end of March, second quarter is by end of June, third quarter by end of September and fourth quarter by the end of December.

Due dates for other taxes such as penalties and interest are being communicated through the letter of assessment.

In line with the Revenue Administration Act of Ghana, a person can seek an extension of time for payment of tax subject to conditions.

### Offenses and Penalties

Type of offense	Interest and penalties
<b>Failure to maintain Records</b>	Where the failure is deliberate or reckless, 75% of the tax attributable to that period; or  In any other case, the lesser of the 75% of the tax, and GHS 250.
<b>Failure to furnish Return of income on due date</b>	GHS500 plus; GHS 10 for each day of default
<b>Failure to pay tax on the due date</b>	Interest of 125% of the statutory rate, compounded monthly, on the amount of tax outstanding at the start of the period

**Understating estimated tax payable by instalment**

Interest of 125% of statutory rate compounding monthly on the difference between the total instalments paid and 90% of the actual income tax for the year. This penalty applies where the chargeable income estimate is less than 90% of the actual.

**Providing false or misleading statement**

A fine of double of tax underpayment where the omission or statement is made without a reasonable excuse.

In any other case, a fine of not less than GHS 600 and not more than GHS 2400 or to a term of imprisonment of not less than one month and not more than three months, or both the fine and imprisonment

There will be a triple fine where the statement or omission is made knowingly or recklessly, or you may be liable to a fine of not less than or omission is made knowingly or recklessly or to a fine of not less than GHS 600 and not more than GHS 2400 or to a term of imprisonment of not less than six months and not more than one year, or both the fine and imprisonment, in any other case

**Failure to pay tax**

Where the amount involved is in excess of GHS 2000, the person is liable on summary conviction to a fine of not less than GHS 2400 and not more than GHS 12000 or imprisonment for a term of not less than three months and not more than one year, or both; and

In any other case, to a fine of not less than GHS 600 and not more than GHS 2400 or imprisonment for a term of not less than one month and not more than three months, or both.

**Impeding tax administration**

A fine of not less than GHS 1200 and not more than GHS 12,000 or to a term of imprisonment of not less than six months and not more than two years, or both the fine and the imprisonment.



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# 11.0

—  
VALUE ADDED  
TAX (VAT)

## **11.1 Value Added Tax, National Health Insurance Levy and Ghana Education Trust Fund Levy (VAT, NHIL & GETFL)**

In Ghana, VAT, NHIL, and GETFL are charged on the supply of goods and services and import of goods and services. In general, the tax is borne by the recipient of the goods or services. Thus, the person liable to pay VAT, NHIL & GETFL is in the case of a taxable supply, by the taxable person making the supply; in the case of an import of goods, by the importer; or in the case of an import of services, by the recipient of the service. In the case of a non-resident person who provides telecommunication services or electronic commerce and is required to register for VAT, the non-resident is liable for the payment of the tax.

The VAT is charged by a taxable person on the supply of a taxable activity. In Ghana, a taxable person is a person who is registered for VAT or required to register for VAT as required by the VAT Act, 2025 (Act 1151).

Taxable activity on the other hand is an activity that is carried on by a person in the country, or partly in the country, whether or not for a pecuniary profit, that involves or is intended to involve, in whole or in part, the supply of goods or services to another person for consideration. It includes;

- a. an activity of a local authority or unincorporated association or body that involves, in whole or in part, the supply of goods or services to another person for consideration;
- b. the processing of data or supply of information or similar service;
- c. the supply of staff;
- d. the giving of gifts;
- e. the loaning of goods;
- f. the leasing or letting of goods on hire;
- g. the appropriation of goods or services for personal use or consumption by the taxable person or by any other person;
- h. the sale, transfer, assignment or licensing of patent, copyright, trademark, computer software or any other proprietary information;
- i. the exploration of natural resources;
- j. the export of a traditional product, other than cocoa beans, coffee and shea butter; and
- k. the export of a non-traditional product.

## **11.2 Rate of VAT, NHIL & GETFL**

There are some supplies that are Zero-rated. Thus, the rate of VAT is zero. The rate is 15% for VAT, 2.5% for NHIL, 2.5% for GETFL. Note that VAT is calculated by applying the VAT rate to the original cost of taxable goods or services.

## **11.3 Registration Requirements for VAT**

Under the VAT laws of Ghana, a person who is engaged in the supply of taxable activity is required to register for VAT if;

- a. at the end of any period of twelve months or less, the person made, during that period, taxable supplies exceeding seven hundred and fifty thousand Ghana Cedis; or

- b. at the end of any month, there are reasonable grounds to expect that that person will make taxable supplies in the next twelve months or less exceeding seven hundred and fifty thousand Ghana Cedis.

Despite the criteria above, a person may still register for VAT if;

- a. at the end of any period of three months, the person made, during that period, taxable supplies exceeding one hundred and eighty-seven thousand five hundred Ghana Cedis; and
- b. there are reasonable grounds to expect that the total value of taxable supplies made by that person during that period and to be made during the next consecutive nine months will exceed seven hundred and fifty thousand Ghana Cedis.

Where a person is required to register for VAT but is not registered, that person is considered a taxable person in Ghana and required to meet all the obligations under the law.

Other persons such as auctioneers, and entertainment promoters are required to register for VAT irrespective of the threshold.

An auctioneer that carries on a taxable activity shall apply for registration within thirty days after the date on which that person becomes an auctioneer.

A promoter of public entertainment shall apply for registration at least forty-eight hours before the commencement of the public entertainment..

#### **11.4 Unregistered, non-resident persons who provide telecommunication services or electronic commerce**

An Unregistered, non-resident person who provides telecommunication services or electronic commerce to persons for use in the country, unless the service is provided through a Value Added Tax registered agent, is required to register if that person makes taxable supplies.

Electronic commerce includes a business transaction, including a digital service, that takes place through the electronic transmission of data over a communication network such as the internet.

Telecommunication services include services that relate to:

- i. the transmission, emission or reception of signals, writings, images and sounds of information of any nature by wire, radio, optical or other electromagnetic systems, including the provision of access, transmission, emission or reception; and
- ii. the broadcast of political, social, cultural, artistic, sporting, scientific or entertainment events.

In addition to penalty that applicable for non-registration, the person who fails to register for VAT is liable to a restriction of access to the country until the person fulfils the obligation under the Act and Regulation.

The Commissioner-General can appoint a person to collect VAT and a levy on a supply made by a taxable person.

A non-resident person who provides telecommunication services or electronic commerce to persons for use or enjoyment in the country, other than through a Value Added Tax registered agent shall:

- submit a return to the Commissioner-General, not later than the last day of the month immediately following the month to which the return relates, whether or not tax is payable for the period; and
- pay the tax due to the Commissioner-General on the same day that the return is due

### **11.5 Group registration for VAT**

Group of persons may subject to the approval of the Commissioner-General, register for VAT as a single taxable person. Where the registration is permitted, each member of the members is jointly and severally liable for any liability or contravention under this Tax law of the country.

Alternatively, a taxable person whose taxable activity is structured into distinct divisions may apply to the Commissioner-General to register one or more of its divisions for tax purposes.

### **11.6 Mixed supplies**

A supply of services incidental to a supply of goods is part of the supply of goods. The supply of goods incidental to a supply of services is part of the supply of services. Again, the supply of services incidental to an import of goods is part of the import of the goods.

### **11.7 Exempt supply**

In Ghana, the supply of some goods are marked as exempt and not taxable. The full list is provided in the first schedule of the VAT Act, 2025 (Act 1151). Some are below;

Agricultural inputs; Water, excluding bottled or packaged water; supply of electricity to a dwelling; Textbooks, approved supplementary readers, newspapers, atlases, charts, maps and music; Education services, laboratory and library equipment for use in rendering such services; Medical services and medical supplies; pharmaceuticals supplied in Ghana, active ingredients and selected inputs; Domestic transportation of passengers; Machinery and parts of machinery designed for use in certain activities; Crude oil and hydrocarbon products; Accommodation in a dwelling, or land for agricultural use and civil engineering public works; Goods specifically designed for the disabled; and Financial Services excluding non-life insurance.

The supply of locally manufactured textiles has been included in the zero-rated supply of goods.

The supply of locally manufactured sanitary towels has been included in the second schedule as a zero-rated supply. This will mean that VAT on locally manufactured towels will be at zero rate (0%).

There is a waiver of Value Added Tax on the importation of electric vehicles purposely for public transportation. There is also waiver for the importation of machinery designed specifically for use in the automobile industry and kits by an automobile manufacturer or assembler who is registered under the Ghana Automotive Manufacturing Development Programme.

### **11.8 Recover of VAT, NHIL and GETFL incurred (Input VAT)**

In Ghana, the 15% VAT, 2.5% NHIL, 2.5% GETFL are recoverable by the taxable person. This is recoverable within a period of six months. It can be recovered by offsetting the amount incurred from VAT/levies collected on behalf of the Commissioner-General through VAT invoices

issued to customers. Any excess amount not recovered through the Input-Output set-off can be applied for from the Commissioner-General subject to conditions met.

### **11.9 Withholding of VAT**

Under the Withholding VAT system, a part of the VAT amount payable by the debtor/customer is withheld and paid directly to the GRA. . In Ghana, the Commissioner-General has gazetted some persons as agents to implement the Scheme. The rate of Withholding is 7% of the taxable output value of supplies. The withholding agent is required to issue a Withholding VAT Credit Certificate when the payment is being made.

### **11.10 Upfront Payment of VAT**

Importers of taxable goods who are not registered for VAT are liable to upfront payment of 20% of the custom value of the taxable goods. The law further provides that the upfront payment may be recovered after the person has registered for the VAT and files a return for the relevant period.

### **11.11 Certified Invoicing System (E-VAT)**

VAT Act, 2025 (Act 1151) requires a taxable person to issue a tax invoice through a certified invoicing system and ensure that the Certified Invoicing System is integrated into the invoicing system of the Commissioner-General. Currently, the implementation of the integration processes is still being carried out by GRA.

Furtherance to this, the VAT Act prescribes penalties for VAT registered persons that do not adhere to the provisions. Persons who issue a falsified tax invoice or sales receipt or fails to issue a tax invoice through a Certified Invoicing System or manipulate the proper functioning of the Certified Invoicing System or fail to integrate the Certified Invoicing System into the invoicing system of the Commissioner-General or fails to re-connect the Certified Invoicing System to the invoicing system of the Commissioner-General will, in addition to penalty prescribed for failure to issue a tax invoice under the VAT Act, be liable to a penalty of the higher of GHS50,000 or three times the amount of tax involved.

### **11.12 Betting and Game of Chance**

The introduction of Act 1151 has excluded betting and game of chance from the exempt schedule of the Act.

### **11.13 Import of textbooks, newspapers periodicals, etc.**

VAT is applicable on imported textbooks, exercise books, newspapers, publications and charts; architectural plans and similar plans; drawings; scientific and technical works; periodicals; magazines; trade catalogues; price lists; greeting cards; almanacs; calendars; diaries and stationery; and other printed matter.

### **11.14 Flat rate for Immovable Property**

The enactment of VAT Act, 2025 (Act 1151) has introduced the uniform VAT rate of 15%. As such, flat rate relating to immovable property has been abolished.

### 11.15 VAT Refund

In accordance with Act 1151, where deductible input tax exceeds the output tax due in a tax period, taxable persons can apply for a refund under the following conditions:

- i. Where the excess relates to exports and the credit for the excess amount remains outstanding for a continuous period of 3 months or more, except that where the Commissioner-General orders an audit of the claim for refund, the application shall be treated as received on the date that the audit is concluded.
- ii. In case of excess credit directly attributable to locally manufactured textiles or locally manufactured sanitary towels subject to a rate of zero percent, as provided in the Act.
- iii. In case where the excess credit is attributed to a person who qualifies for relief under the Act.
- iv. In any other case, the taxable person can apply with documentary proof of excess tax paid

### 11.16 VAT Returns

VAT, NHIL and GETFL are due by the last working day of the month after the month to which the return relates. VAT, NHIL and GETFL on imported goods are paid alongside the payment for the associated Duties when the goods are being cleared.

Imported Services – VAT, NHIL and GETFL on imported services are filed and paid within 21 days after the month in which the service was imported.

VAT withholding tax returns are filed and paid by the 15th day after the month in which the VAT was withheld.

The following are the offences associated with VAT and their respective applicable penalties.

Offense	Penalty
Failure to register for Tax	Not less than three times the amount of the Tax on taxable supplies payable from the time the person is required to apply for registration until the person applies for registration.
Failure to issue Tax invoice	Up to GHS1,200 or to a term of imprisonment of not more than six months or to both.
Late filing of return	GHS500 plus GHS10 each day the return remains unfiled
Failure to pay tax on due date	125% of the statutory (BoG) rate compounding monthly on the outstanding amount
Providing false or misleading statement	Up to 100% of the tax shortfall depending on the reasonability of the excuse
Issue of a falsified tax invoice or sales receipt or manipulate the proper functioning of the Certified Invoicing System, or fail to integrate the Certified Invoicing System into the invoicing system	In addition to penalty prescribed for failure to issue a tax invoice under the VAT Act, be liable to a penalty of the higher of GHS50,000 or three times the amount of tax involved

A photograph showing a person's hands working at a wooden desk. The person is wearing a blue denim shirt. They are holding a black pen over a white calculator. In the background, a laptop is open, displaying a bar chart. Several documents with charts and tables are scattered on the desk. A large red diagonal graphic is overlaid on the bottom left of the image.

# 12.0

—  
**OTHER  
TAXES**

## 12.1 Withholding Tax

### 12.1.1 WHT Rates Applicable to Resident Individuals

Type of Payment	Rate (%)
Dividend	8
Rent (Residential premises)	8
Rent (non-residential premises)	15
Interest (to an individual)	1
Interest (excluding individual and financial institution)	8
Supply of Goods	3
Supply of Services	7.5
Provision of works	5
Fees, emoluments to director, manager, trustee or board member of a company or body of persons	20
Examining, invigilating, supervising an examination, or part time teaching or lecturing;	10
Commission to insurance, sales and canvassing agents	10
commission to a sales agent;	10
commission to a resident lotto receiver or agent	10
Endorsement Fees	10
Royalty	15
Unprocessed precious mineral	1.5

#### Note\*\*

Act 1129 (amendment to the Income Tax Act) has removed unprocessed gold from the definition of unprocessed precious mineral. This will remove the 1.5% withholding tax on payments for unprocessed gold.

With regards to payment for goods and services to non-residents (excluding Permanent Establishments), the resident person is required to inform the Commissioner-General of the relevant details of the transaction within thirty days of entering into the contract. The CG shall determine whether to subject the payment involved to withholding tax and, if so, whether to impose the tax on the entire amount or on a portion of the amount. Tax withheld from payments to non-residents is a final tax.

### 12.1.2 Withholding Tax Rates Applicable to Non-Resident Individuals

Type of payment	Rate (%)
Dividend	8
Interest	8
Royalties, Natural Resources and Rents (equipment)	15
Supply of Goods & Provision of Services	20
Shipping, Air Transportation and Communication	15
Management and Technical Service	20
Endorsement Fees	10

Insurance Premium for short-term Insurance	5
Employment income	25
Branch profit being repatriated	8

A person who withholds tax from any payment is required to file monthly withholding tax returns and remit the taxes withheld to the Ghana Revenue Authority by the 15th of the month following the one in which the deduction is made.

Failure to do so, attracts a surcharge of the Tax involved with an additional interest of 125% of the statutory rate (BoG interest rate) compounding monthly. For instance, where the amount of tax withheld is GHS100. In a case of default, the GRA will charge an interest at the rate of 125% of the BoG interest rate and this interest by the GRA compounds monthly that the default continuous. If the BoG rate is 15%, then the GRA rate that would be applied is  $125% \times 15% = 18.75%$  compounding monthly.

## 12.2 Special Petroleum tax

Oil marketing companies (OMCs) are required to charge a Special Petroleum Tax at the specific rate of tax per litre or kilogramme corresponding to each of the petroleum products provided in the Special Petroleum Tax (Amendment) Act 2018 (ACT965). The petroleum products listed in the schedule are as follows;

- i. petrol
- ii. diesel
- iii. kerosene
- iv. Liquefied Petroleum Gas (LPG) and
- v. Natural Petroleum Gas (NPG).

Return for this tax is submitted and paid to Domestic Tax Revenue Division of GRA in line with VAT which is the last working day of the month following the month in which the transaction took place.

## 12.3 Special Rate of Tax on Income from Lottery Operations

The income of a person from lottery operations is subject to tax at the rate of (20%) twenty percent on the gross gaming revenue. The chargeable income of a person from lottery operations is the Gross Gaming Revenue (GGR).

The Gross Gaming Revenue is the total amount staked or wagered less prizes or Gross winnings paid or payable. Where a person has chargeable income other than income from lottery operations, the person shall be charged separately in accordance with imposition of income tax.

Operators required to pay tax on gross gaming revenue include;

- i. Private lotto operators
- ii. Sports betting operators
- iii. Casino operators
- iv. Route operators
- v. Remote interactive games operators
- vi. Other games of chance operators

### **12.3.1 Filing and Payment of Gross Gaming Revenue**

The tax on gross gaming revenue is due for payment at the same time as the due date for filing the return. The return is due by the 15th day of the month following the month in which the gross gaming revenue return relates. At the end of each year, all persons engaged in lottery operation are required to file annual GGR tax returns and pay any tax outstanding. The annual return and any tax payable are due not later than four months after the end of the basis period in accordance with section 124 of the Act.

In the event where Ghana Revenue Authority (GRA) ascertain that the total amount of GGR tax payment made for the year is less than the total monthly GGR tax liability for that year, GRA will issue an assessment notice (including interest and penalties as applicable) on the difference to the lottery operator for payment. On the other hand, where the total amount of payment made by the lottery operator for the year exceeds the GGR tax liability due, the operator will be allowed to take credit on the excess payment in the month(s) following the determination.

### **12.4 Communication Service Tax**

In Ghana, Communication Service tax is a form of consumption tax paid by users of Electronic Communication Services. Providers of Electronic Communication Services (ECS) are required to charge CST of 5% on services provided to customers and in turn pay all the CST collected to the Domestic Tax Revenue Division (DTRD) of GRA. The due date for filing CST monthly return is the last working day of the month following the month to which the tax return and payment relate unless the Commissioner-General otherwise directs.

Penalty of GHS2,000 and GHS500 for each day the return remains unfiled is charged for late filing of return. Penalty for late payment coincides with the general penalty which is 125% of statutory rate compounding month on the outstanding tax liability.

### **12.5 Customs and excise taxes**

In Ghana, Excise Tax Stamp Act, 2013 (Act 873) makes it mandatory for all qualifying excisable products that are imported or locally manufactured to be affixed with tax stamps specified and supplied by the GRA before they are delivered ex-factory, cleared from any port of entry into Ghana, or sold in the local market. Some of the affected goods include; bottled water, non-alcoholic drinks, alcoholic drinks, textiles etc and any other product that may be prescribed by the Minister for Finance.

Customs and excise duties are imposed on the importation of goods at the port of entry and some goods manufactured in the country. Excisable goods are taxed at different rates.

Per The Excise Duty (Amendment) Act, 2023 (Act 1093), the following are the new applicable excisable rate;

Commodity Description	New Rate of Duty
(i) mineral water	20 per centum of the ex-factory price
(ii) aerated water	
(iii) non-alcoholic beer	
(iv) energy drinks	
(v) Other non-alcoholic drinks	
Distilled, bottled water	17.5 per centum of the ex-factory price
Sachet water	0 per centum of the ex-factory price
Fruit juices, including grape and vegetable juices, unfermented and not containing added spirits whether or not containing added sugar or other sweetening matter falling under heading 20.09 of the Harmonised System and Custom Tariff Schedules, 2017:	20 per centum of the ex-factory price
Malt drink: Percentage use of local raw material	
(a) Less than 50 per centum of local raw material	20 per centum of the ex-factory price
(b) 50 per centum to 70 per centum of local raw material	12.5 per centum of the ex-factory price
(c) Above 70 per centum of local raw material	10 per centum of the ex-factory price
Beer, stout other than indigenous beer: Percentage use of local raw material	
(a) Less than 50 per centum of local raw material	47.5 per centum of the ex-factory price
(b) 50 per centum to 70 per centum of local raw material	32.5 per centum of the ex-factory price
(c) Above 70 per centum of local raw material	10 per centum of the ex-factory price
Cider beer	47.5 per centum of the ex-factory price
Wines, including sparkling wine	45 per centum of the ex-factory price
Spirits including "Akpeteshie"	
(a) Distilled or rectified	50 per centum of the ex-factory price
(b) Blended or compounded	50 per centum of the ex-factory price
(c) Other:	
(i) Denatured to the satisfaction of the Commissioner-General	10 per centum of the ex-factory price
(ii) For use solely in the laboratories or in the compounding of drugs	0 per centum
(iii) "Akpeteshie"	20 per centum of the ex-factory price
Tobacco Products:	
(a) Cigarette	50 per centum of the ex-factory price and a specific duty of 28 pesewas per stick

(b) Cigars	50 per centum of the ex-factory price and a specific duty of 28 pesewas per stick
(c) Negrohead	GHS 280 per kilogram
(d) Snuff and other tobacco	GHS 280 per kilogram
(e) Electronic cigarette liquids falling under heading 24.03 of the Harmonized System and Custom Tariff Schedules, 2022	50 per centum of the ex-factory price and a specific duty of 50 pesewas per millilitre
(f) Electronic cigarettes and similar personal electric vaporizing devices falling under heading 85.43 of the Harmonized System and Custom Tariff Schedules, 2017:	
(i) Electronic cigarettes	50 per centum of the ex-factory price
(ii) Electronic smoking devices	50 per centum of the ex-factory price
Plastic and Plastic products listed under chapters 39 and 63 of the Harmonised System and Custom Tariff Schedules, 2012	5 per centum of the ex-factory price
Other products	
Textiles	0 per centum
Pharmaceuticals	0 per centum

### 12.5.1 Import duties

There are a couple of duties paid at the port of entry of Ghana. The rate varies depending on the type of product being imported and penalties attached to it. Import duties is normally applied on the Cost, Insurance and Freight (CIF). Separately, NHIL of 2.5%, GETFL of 2.5% and VAT of 15% are all applied on the CIF alongside the import duty. Under the ECOWAS Common External Tariffs, Ghana now operates Five (5) -Band Tax Rates as follows;

- Zero (0) Rated – Essential Social Goods
- 5% – Basic necessities, basic raw materials, Capital Goods, Specific Inputs
- 10% – Inputs and Intermediary Products (Semi-Finished Goods)
- 20% – Finished Goods (final Consumer goods)
- 35% – Specific goods for Economic Development

### 12.5.2 Other duties at the port:

The above enumerated tax rates are not in respect of Import Duty only; they are also an imposition of the following;

Levies/ Charges	Applicable Rate
Special import levy	2%
ECOWAS levy	0.5%
African Union import levy	0.2%
Export and Import Levy (EXIM)	0.75%
Administrative charges	0.4 – 3.45%
Advance Eco levy	In accordance with HSC
Airport tax	GHS5 local travel, \$60 – \$200 for foreign travel

The GRA has implemented a reversal of 50% on the reduction of values of imports on selected items, otherwise known as the benchmark values.

The reversal will affect selected items from all the three categories on which the reversal was applied. These are:

- a. The home delivery value of vehicles;
- b. Goods on which benchmark values are applied;
- c. All other goods.

### 12.6 Energy Sector Levy

- The parliament of Ghana has approved a GHS1.00 increase to the Energy Sector Shortfall and Debt Repayment Levy on petrol, diesel and naphtha established by the Energy Sector Levies Act, 2025 (Act 1135). The upward review brings the levy to GHS1.95 for petrol, GHS1.93 for diesel and GHS1.95 for naphtha.







13.0

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DATA  
PROTECTION  
ACT

Data processing is simply converting data into a usable and desired form. Data processing is described generally as the collection and manipulation of items of data to produce meaningful information.

In Ghana, data processing is governed by the Data Protection Act, 2012 Act 843. The main objective of the Act is to establish a Data Protection Commission, to protect the privacy of the individual and personal data by regulating the processing of personal information, to provide the process to obtain, hold, use, or disclose personal information and for related matters.

### 13.1 Data Principles and Right of Privacy

A data controller or data processor has the responsibility of processing personal or operational data of a data subject. Every data subject essentially has a right of privacy thus the Act specifies data principles which are to be applied by data controllers and processors in processing the personal data of data subjects.<sup>71</sup> These principles include accountability, lawfulness of processing, specification of purpose, compatibility of further processing with purpose of collection, quality of information, openness, data security safeguards and data subject participation.

A data controller or processor is mandated to ensure that personal data is processed without infringing the privacy rights of the data subject and that the processing is done in a lawful and responsible manner. In regard to foreign data subjects, processing must be in compliance with the data protection legislation of the foreign jurisdiction where the personal data of the data subject originates.<sup>72</sup>

### 13.2 Purposes for Processing of Personal Data

The law requires that the purpose for processing personal data must be necessary, relevant, and not excessive.<sup>73</sup> In general, the prior consent of the data subject must be obtained before personal data is processed.<sup>74</sup> However, there are a few exceptions to this requirement where the processing is:

- necessary for the purpose of a contract to which the data subject is a party
- authorised or required by law
- to protect a legitimate interest of the data subject
- necessary for the proper performance of a statutory duty
- to pursue the legitimate interest of the controller or processor to whom the data is supplied.

### 13.3 Right of Objection

A data subject has the right to object to the processing of personal data and once an objection is made, the person processing the personal data shall stop processing.

71 Section 17 of Ghana's Data Protection Act

72 Section 18 of Ghana's Data Protection Act

73 Section 19 of Ghana's Data Protection Act

74 Section 20 of Ghana's Data Protection Act

### 13.4 Collection of Personal Data

Personal data could be collected directly from the data subject or indirectly<sup>75</sup> where.

- the data is contained in a public record or the data subject has made the data public
- the data subject has consented to the collection from another source and such collection is not likely to prejudice a legitimate interest of the data subject
- collection is for the prevention, detection, investigation, prosecution or punishment of an offence or breach of law
- collection is for the enforcement of a law which imposes a pecuniary penalty or concerns revenue collection
- for the conduct of proceedings before any court or tribunal
- collection is for protection of national security
- it is for the protection of the interests of a responsible or third party to whom the information is supplied
- compliance would prejudice a lawful purpose for the collection or compliance or not reasonably practicable.

A data subject must be informed that personal data is being collected and the purpose for which the data is being collected. The purpose for collection must be explicitly defined, lawful and related to the activity of the person collecting the data.<sup>76</sup>

### 13.5 Retention of Personal Data

A data controller is required to retain personal data for the period necessary to achieve the purpose for which the data was collected and processed.<sup>77</sup> However, the Act allows for circumstances where retention is not limited to a specified period and the time for retention could be extended, that is, where the retention is authorized by law; reasonably necessary for a lawful purpose related to a function or activity; required by virtue of a contract between parties; or the data subject consents to the retention of the record.

The Act provides no time limits or specific period for the retention of records of personal data which are retained for historical, statistical, or for research purposes.<sup>78</sup> Furthermore, a person who retains records for historical, statistical and research purposes must ensure that the records are adequately protected against access and use for unauthorised purposes.

Retention of a record shall be prescribed by law or code of conduct. In the case where no law nor code of conduct prescribes a period, the record shall be retained for a period which affords the data subject an opportunity to request for access to the record.<sup>79</sup>

At the expiration of the retention period, the data controller has the option to destroy, delete or re-identify the record in a manner that prevents its reconstruction in an intelligible form.

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75 Section 21 of Ghana's Data Protection Act

76 Section 22 of Ghana's Data Protection Act

77 Section 24 of Ghana's Data Protection Act

78 Section 24(2) of Ghana's Data Protection Act

79 Section 24(4) of Ghana's Data Protection Act

### 13.6 Further Processing

As indicated supra, processing of personal data must be for a specific and well-defined purpose thus, where further processing of the personal data is required, a data controller must ensure that the purpose for further processing is compatible with the purpose for collection.<sup>80</sup>

### 13.7 Quality of Information

Overall, a data controller who processes personal data shall ensure that the data is complete, accurate, up to date and not misleading having regard to the purpose for the collection or processing of the personal data.<sup>81</sup>

### 13.8 Prohibition of Processing of Personal Data

Processing of personal data of a child under parental control or the religious or philosophical beliefs, ethnic origin, race, trade union membership, political opinions, health, sexual life or criminal behavior of an individual is prohibited.<sup>82</sup> However, processing of personal data can be done where the processing is necessary or the data subject consents to it.

### 13.9 Security

A data controller shall ensure the security of integrity of personal data in the possession or control of a person through the adoption of appropriate measures to prevent loss or unlawful access of personal data.<sup>83</sup>

The data controller has a duty of notifying the Commission and data subject of any unauthorised access or acquisition by a third party or an authorised party.<sup>84</sup>



80 Section 25 of Ghana's Data Protection Act

81 Section 26 of Ghana's Data Protection Act

82 Section 37 of Ghana's Data Protection Act

83 Section 28 of Ghana's Data Protection Act

84 Section 31 of Ghana's Data Protection Act



14.0

ICT AND  
E-COMMERCE

## 14.1 General

With respect to ICT products and services, the regulatory requirements concentrate on electronic transactions (e-commerce) and consumer protection laws, data protection laws, cyber security laws and technology transfer regulations.

Some laws which altogether avail this protection to electronic consumers in Ghana includes **National Communications Authority Act, 2008 (Act 769)**, **Electronic Transactions Act, 2008 (Act 772)**, **Payment Systems and Services Act, 2019 (Act 987)**, **Cyber Security Act, 2020 (Act 1038)**, the **Data Protection Act, 2012 (Act 843)**, **Ghana Investment Promotion Centre Act, 2013 (Act 865)** and the **Technology Transfer Regulations, 1992 (L.I. 1547)**.

The National Communications Authority Act for instance establishes the National Communication Authority as the central body to licence and regulate communications activities and services in the country, and provides for related purposes. The Payment Systems and Services Act also seeks to amend and consolidate the laws relating to payment systems, payment services and to regulate institutions, which carry on payment service and electronic money business.

## 14.2 Technology Transfer

In Ghana, Technology transfer is governed by the **Ghana Investment Promotion Centre Act, 2013 (Act 865)** and the **Technology Transfer Regulations, 1992 (L.I. 1547)**.

Ghana Investment Promotion Centre (**GIPC**) is the institution in charge of the reviewing, registration and monitoring of all Technology Transfer Agreements (**TTA**) in Ghana. The GIPC Act categorises Technology Transfer Agreements into four (4) main forms namely:

- Agreements covering Industrial Property Rights
- Agreements for the provision of Technical Services/Assistance
- Agreements covering the transfer Know-How
- Agreements for the provision of Management Services

The TTA's are to be entered into between enterprises in Ghana and enterprises outside Ghana and they must be registered in Ghana by GIPC. Technology transfer agreements made and registered with the GIPC shall be governed by the laws of Ghana.

## 14.3 ICT Agreements and Standard Terms

In Ghana, ICT products include hardware, telecommunication services, internet services, software manufacturing, technology transfer, among others. The terms and conditions in Agreements relating to these can reflect standard contract and commercial terms. However, if such agreements are to cover services which run in Ghana, it is important for them to take into consideration laws on data protection, cyber security, anti-money laundering, and other pertinent laws. The Ministry of Communications and National Communication Authority (NCA) largely ensures these laws are complied with in Ghana. In addition to this, when it comes to Technology Transfer Agreements, the content of the Agreement must be in line with the provisions of the **Ghana Investment Promotion Centre Act, 2013 (Act 865)** and the **Technology Transfer Regulations, 1992 (L.I. 1547)**.

In the case of hardware or computer importers their agreements with their suppliers are governed by the usual commercial and contract law as applies to all other persons into importation business in Ghana, subject to customs and excise duties, tax, and other payments determined by the state.

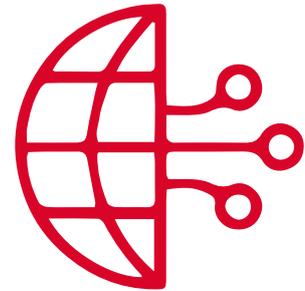
#### 14.4 Sector-Specific Alternative Dispute Resolution ("ADR")

Disputes arising from any ICT related agreement can be subjected to the Courts or Alternative Dispute Resolution mechanism agreed on by the parties in the agreement. There exists no sector-specific dispute resolution forum for ICT disputes in Ghana.

In the case of Technology Transfer Agreement Disputes registered in Ghana under the **Ghana Investment Promotion Centre Act, 2013 (Act 865)**, the **Technology Transfer Regulations, 1992 (L.I. 1547)** provides that the first step is for mutual discussions geared towards reaching an amicable settlement to be attempted. In the event of the parties to reach an amicable settlement, the parties may resort to arbitration in accordance with the rules of procedure for arbitration of the United Nations Commission on International Trade Law or within the framework of any bilateral and multilateral agreement on investment protection to which the Governments of the transferor and transferee are parties or in accordance with any other international machinery for the settlement of investment disputes agreed to by the parties.

#### 14.5 The Internet and E-business

In Ghana, there is no specific law regulating all types of online businesses. However, some e-transactions, including that carried out by the banks, telecommunication networks, and e-commerce businesses in Ghana are regulated by the Electronic Transactions laws, Payment Systems and Services laws, Cyber Security laws and the Data Protection laws. The telecommunication networks for instance, are regulated by the National Communication Authority in the discharge of their business. They may also need to comply with some directives of the Bank of Ghana and other related agencies and laws in Ghana. The Ghana Revenue Authority also has regulations where non-resident persons who provide digital services for use and enjoyment in Ghana are required to pay VAT in accordance with the Value Added Tax Act 2013, Act 870. A citizen of Ghana who maintains a permanent home outside Ghana and lives in that home for the entire year of assessment, or a foreign national who is in Ghana for less than 183 days in any 12-month period, is a non-resident for tax purposes.



The authorities mentioned here have the authority to investigate whether or not entities that are required to register with them or act in accordance with their regulations and directives are doing so and prescribe the sanctions made available by law to them against defaulting entities or persons. In addition to these, general contracting and commercial principles apply to businesses conducted online or offline in Ghana.

#### 14.6 E-Commerce

E-commerce directives are provided by the National Communication Authority, Ministry of Communications, Ghana Revenue Authority, Bank of Ghana, and related institutions. They fall under some laws, including but not limited to electronic transaction law, payment systems law, cybersecurity laws for the protection of online consumers and other regulations to execute their mandate.

## 14.7 Consumer Rights

The laws as mentioned in this chapter provide some protection and rights to consumers in the e-commerce space. For instance, the Electronic Transactions Act imposes on suppliers a duty to disclose a defined list of information to consumers on their electronic platforms to ensure that the consumer makes an informed decision about a transaction. It also offers consumers the right to cancel their orders within 14 days of receiving the goods, and seven days after concluding an agreement regarding services. However, the Act provides a long list of transactions, for which the statutory right to cancel does not apply, including foodstuffs, beverages or other goods that are intended for everyday consumption.

## 14.8 Electronic Signature

The **Electronic Transactions Act, 2008 (Act 772)** provides for the use of electronic signatures. Where the law requires for the provision of signatures, an electronic signature is deemed sufficient in fulfilling that legal requirement under some certain circumstances as contained in the Act. Affixing an electronic signature to a document or statement which needs to be notarised, acknowledged or verified is deemed sufficient under the Act. A corporate body is also deemed to have satisfied the requirement of affixing its corporate seal to a document if it affixes its electronic signature to the electronic document. Public agencies may indicate in a gazette the type of electronic signature and how it is to be affixed or incorporated into a document. In summary, in order for one to know whether or not an electronic signature can be used, the Electronic Transactions Act would need to be consulted.

## 14.9 Encryption

In Ghana, the **Electronics Transactions Act, 2008 (Act 772)** prohibits the rendering or sale of encryption services contrary to the provisions of the Act. The National Information Technology Agency established under **National Information Technology Agency Act 2008 (Act 771)** facilitates the establishment of the Certifying Agency which has the mandate to issue licenses for encryption services, monitor the conduct, system and operation of encryption and authentication service providers, revoke or suspend licenses and to appoint auditing firms to conduct periodic audits on the licenses to ensure compliance with conditions of the licence,

In addition to these, the **Cyber Security Act, 2020 (Act 1038)** allows for the High Court of Ghana to issue an interception warrant in order to aid a Cyber crime officer to acquire means by which an electronic data protected by encryption or passwords may be decrypted or accessed.

## 14.10 Computer Crime

The **Electronics Transactions Act, 2008 (Act 772)** deems an attempt to commit crime, aiding, abetting, and conspiring to commit crimes, failure to prevent a felony, forgery and criminal negligence using any electronic medium (computers inclusive) as a crime in the manner in which such acts amount to a crime under the **Criminal Offences Act of Ghana, 1960 (Act 29)**, subject to the necessary modifications needed in the circumstances. Also, the **Cyber Security Act, 2020 (Act 1038)** allows for persons who commit crimes in the cyber space using information technology, computers and other electronic gadgets to have their assets frozen, among other penalties.

### 14.11 Online Gambling

The Ghana Gaming Commission (GGC) is the sole regulatory body for the Ghanaian gambling industry with the exception of lottery, which is overseen and regulated by the National Lottery Authority (NLA). They were established by the **Gaming Act, 2006 (Act 721)** and the **National Lotto Act, 2006 (Act 722)** respectively. The purposes of the GGC and the NLA have been to regulate, supervise and control operators running businesses involving games of chance and lottery respectively, in the country. These laws however are yet to be amended to provide stringent rules for the regulation of online gambling and other games of chance. Nonetheless, the GGC and NLA still regulate same with the existing laws and issue directives for compliance by online gaming or lottery operators from time to time.





15.0

INTERNET  
TECHNOLOGY AND  
TELECOMMUNICATIONS

## 15.1 Registration and Regulation

A company which offers public telecommunication and internet services in Ghana is required to be licensed by the National Communication Authority. The license will be granted pursuant to an application in a form prescribed by the National Communications Authority. The license is usually granted for a period specified by the Authority on the license and is subject to renewal on expiration. A company which applies for the issuance or renewal of a license will be required to pay application fees which are provided by the authority.

There are currently four companies licensed to provide public telecommunications and internet services in Ghana.

## 15.2 Privacy of Subscribers Data Shared Over the Telecommunications Network

Each network provider is required by law to maintain a database with a subscriber identification module which is meant to keep details sufficient for the identification of every subscriber. Each subscriber identification module contains data which includes the name, date of birth (for natural persons), date of incorporation or registration for a company or partnership residential address as well as details from any valid identification documents.

The network provider is prohibited from using the information contained in the subscriber identification module database for any purpose other than is prescribed by law. Neither the telecommunications company nor any of their employees or agents is also permitted to disclose this information to any third party except they are authorized by law or by a court order to disclose such information. Subscriber identification information may also for instance be disclosed to third party companies for direct marketing purposes with the prior written consent of the subscriber.

The Electronic Communications Regulations also contains provisions meant to protect the privacy of information shared over an electronic communications network. Regulation 6 makes it an offence for any person other than the sender or intended recipient of a transmitted message to steal, intercept, interfere with, alter, modify, divert, unlawfully disclose, decode or attempt to decode messages transmitted over the electronic communications network. In addition, the Regulations prohibits a person from using an electronic communications network to store information or gain access to information stored in the terminal equipment of a subscriber unless the subscriber is provided with sufficient information on the purposes of the storage or access to that information, and the subscriber is given the opportunity to object to the storage or access to that information. The law also requires network operators to employ international best practices in the industry to promote privacy, secrecy and security of all communications carried or transmitted by the operator or through the communications system of the operator, and the personal and accounts data related to subscribers.

The Ghanaian Data Protection Act, 2012 also places an obligation on all persons who control and process personal data to ensure that data is processed in a lawful and reasonable manner without infringing on the privacy rights of the data subject. Telecommunication and internet service providers as data processors and controllers are subject to the obligations contained in the Data Protection Act and are to ensure that customer's data which is shared over the telecommunications network and compiled and stored by the network provider is protected and not disclosed except in accordance with the provisions of the law.

### 15.3 Data Retention

The Data Protection Act contains provisions regarding retention of data by Data Controllers and Processors. The Act prohibits a data controller who records personal data from retaining the personal data for a period longer than is necessary to achieve the purpose for which the data was collected and processed unless the retention of the record is required or authorized by law, reasonably necessary for a lawful purpose related to a function or activity, is required by virtue of a contract between the parties to the contract, or where the data subject consents to the retention of the record. This notwithstanding, a data controller or processor may be allowed to retain data for historical, statistical or research purposes.

Where a person retains records for historical, statistical or research purposes, the person is required to ensure that the records that contain the personal data are adequately protected against access or use for unauthorized purposes.

Where a person uses a record of the personal data of a data subject to make a decision about the data subject, the person is required to retain the record for a period required or prescribed by law or a code of conduct. On the expiration of the retention period, the data controller will be required to destroy, delete or de-identify the record in such a manner that prevents its reconstruction in an intelligible form.

Where there is no law or code of conduct that provides for the retention period, the person is allowed to retain the record for a period which will afford the data subject an opportunity to request access to the record.

### 15.4 Data Breach Notification

According to the provisions of the Data Protection Act, where there are reasonable grounds to believe that the personal data of a data subject has been accessed or acquired by an unauthorized person, the data controller or a third party who processes data under the authority of the data controller is required to notify the Data Protection Commission and the data subject of the unauthorized access or acquisition. The notification must be made as soon as reasonably practicable after the discovery of the unauthorised access or acquisition of the data. The notification to a data subject must be communicated by registered mail to the last known residential or postal address of the data subject, by electronic mail to the last known electronic mail address of the data subject, by placement in a prominent position on the website of the responsible party, publication in the media, or any other manner that the Commission may direct.

The notification to the data subject must provide sufficient information to allow the data subject to take protective measures against the consequences of unauthorised access or acquisition of the data. The information must include, if known to the data controller, the identity of the unauthorised person who may have accessed or acquired the personal data. The data controller will also be required to take steps to ensure the restoration of the integrity of the information system.

The data controller shall delay notification to the data subject where the security agencies or the Commission inform the data controller that notification will impede a criminal investigation. However, where the Commission has grounds to believe that publicity would protect a data subject who is affected by the unauthorised access or acquisition of data, the Commission may direct the data controller to publicise in the specified manner the fact of the compromise to the integrity or confidentiality of the personal data.

## 15.5 Unsolicited Communications

The Electronic Transaction Act of 2008 prohibits any person from sending unsolicited electronic communications to a consumer without obtaining the prior consent of the consumer except where the communication is sent by an electronic communications provider in relation to the service.

Further, the Electronic Communications Regulations provide that a person who wishes to send or cause another to send an unsolicited communication to a subscriber for direct marketing purposes by means of a fax machine, an automatic calling system, a call, an electronic mail, or text messaging must first obtain the consent of the subscriber before doing so. When a person sends or causes another to send an unsolicited communication with the prior consent of the subscriber, the person must include in the communication the name and either the address or telephone number on which the person can be reached free of charge. Furthermore, where the unsolicited communication is by means of an electronic mail the person is required to ensure that the person's identity is not concealed and must provide a valid address to which the subscriber can end a request to the person to desist from sending the subscriber any further communication.

The National Communications Authority has a Code of Conduct that governs the transmission of Unsolicited Electronic Communications. The Code defines unsolicited electronic communications as communications which are sent to a recipient without obtaining that recipient's consent and includes any form of electronic messages sent over a public telecommunications service to an electronic address, including but not limited to fax, SMS/MMS and pre-recorded voice/video messages.

A person who sends unsolicited electronic communications to a consumer without first obtaining the written consent of the consumer commits an offence which is punishable by law.





# 16.0

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## Legal Forms of Doing Business

Business can be conducted in Ghana by a Ghanaian holding company, a subsidiary, or a branch. In comparison to the legislation of many other Africa nations, the Ghanaian company law permits (non-resident) businesses to establish external companies (branches) and subsidiaries through a broad and open company structure.

### **16.1 External Company (Branch)**

An external company (also known as a branch) is a legal entity incorporated outside of the Republic of Ghana with a physical presence in Ghana.

A branch office is a physical place that functions as an extension of a foreign entity. It is completely owned by a foreign entity, and its taxes and other administrative matters are handled in accordance with the laws of Ghana.

A branch office gives an international company more freedom, but it also exposes it to extra-legal risks. Unlike a representative office, however, registration usually necessitates the presence of a manager or someone else on-site who is responsible for the company's operations. A citizen or permanent resident of Ghana is usually required to complete the registration.

The following information and documents are necessary for an external company's registration:

- Name of company (name of head office entity);
- Nature of business;
- Name and details of local manager;
- Authorised capital (for head office);
- Issued capital (for head office);
- Address of principal place of business in Ghana;
- Address of registered office in country of incorporation;
- Name and address of process agent;
- Memorandum and articles of association of head office, duly notarised by a notary public in the country of registration;
- A power of attorney executed in favour of the local manager, which must be notarised as well; and
- Certificate of incorporation of the head office, duly notarised in the country of registration.

All these particulars should be accompanied by a statement duly notarised in the jurisdiction of origin of the company establishing the external company in Ghana.

### **16.2 Subsidiary**

A subsidiary is a legal entity that is owned by the parent firm but works independently. The parent firm is protected from legal liability in the host country because of this status.

Under the Ghana Companies Act 2019, (Act 992) this is a company limited by shares. A subsidiary might be owned completely or partially by a Ghanaian or a non-Ghanaian. A Ghanaian subsidiary can be founded and owned by one or more shareholders, who can be individuals or legal entities and can be of any national.

The documentation/information required for the registration of a subsidiary includes the following:

- Name of company;
- Nature of business of the company;
- First directors (a minimum of two is required), of whom one must be present in Ghana at all times;
- Number of shares with which the company should be registered (shares of no par value);
- Name and address of auditor;
- Registered office and principal place of business and postal addresses;
- Authorised number of shares;
- Stated capital;
- Issued shares;
- Name and address of subscribers/ shareholders; and
- Name of company secretary.

**Stamp duty**

A 0.5% stamp duty is payable on the stated capital of the company.

**16.3 Partnership**

A partnership is an agreement in which two or more people pool some or all of their resources, talents, or industry in order to make a profit that will be split among the partners. Non-trading partnerships, commercial partnerships, and limited partnerships are the forms of partnerships in Ghana.

To register a partnership, the Register General's Department requires a copy of the partnership agreement and a statement signed by all partners, detailing the name of the partnership, nature of business, address of the principal place of business and all other places in Ghana where the business is carried on, names and addresses of the partners, date of commencement, and details of any charges requiring registration.

Upon registration, the Registrar issues a certificate of incorporation, which includes the partners' names as well as the fact that their responsibility is limitless. A notice of registration is published in the Gazette. It is prohibited to conduct business without a partnership's registration, which must be updated every year. Rights derived from a contract are enforceable against the partnership during unauthorized activity, but not against the other party.

**16.4 Sole Proprietorship**

A sole proprietorship is a type of business in which the owner and manager of the company are the same individual. The proprietor is the single owner of the business concept and has complete control over the company. They are liable for all debts and earnings incurred by the company. Sole proprietorships are more frequent in Ghana than any other type of business.

**16.5 Statutory/Regulatory Registration**

Depending on the industry in which they will operate, businesses must also register with other regulatory bodies (listed below) in addition to the Registrar General Department.

## **16.6 Ghana Revenue Authority (GRA)**

For tax purposes, all entities doing business in Ghana must register with the GRA.

## **16.7 Social Security and National Insurance Trust (SSNIT)**

By law, every employer must register with the SSNIT and pay Tier 1 pension contributions on behalf of their employees.

They must also register for Tier 2 pension contributions on behalf of their employees with a private pension fund manager.

## **16.8 Ghana Investment Promotion Centre (GIPC)**

All companies with foreign participation are required to register with the GIPC under the GIPC Act of 2013 (Act 865) .

The following are the GIPC Act's minimum capital requirements:

- a. A joint venture with at least 10% Ghanaian participation: In a joint venture with at least 10% Ghanaian participation, the foreign partner must contribute at least US\$200,000 (in cash or capital goods) to the project.
- b. A completely owned foreign entity: A wholly owned foreign entity must have a minimum of US\$500,000 in foreign equity capital in cash or capital goods relevant to the investment.
- c. Trading entity

A non-Ghanaian who owns all or part of a trading firm must have a minimum equity capital of US\$1,000,000 in cash or capital goods related to the venture.

## **16.9 Minerals Commission (MC)**

To participate in the mining industry, all mining and mine support service businesses must register with the MC. The registration entitles them to various benefits, including support in the form of an expatriate immigration quota, import duty exemption, and the ability to invoice, receive, and make payments in foreign currency, subject to Bank of Ghana permission.

## **16.10 Ghana Free Zones Board (GFZB)**

Non-mining, non-oil, and non-timber companies can apply for a GFZB license to operate as a free zone entity. A company must export at least 70% of its goods or services to be eligible for this. By registering with the GFZB, the company can get a ten-year tax holiday; after that, it must pay corporate tax of 25% on local sales and 15% on exports.

### **16.11 National Communication Authority (NCA)**

Businesses importing telecommunications equipment, such as servers, cellular phones, fax machines, cordless phones, and radio equipment, will need to register with the NCA.

### **16.12 Petroleum Commission (PC)**

Contractors, subcontractors, sub-subcontractors and all entities in the upstream oil and gas sector must register with the PC and pay registration costs.

As a foreign investor, you must form a joint venture (JV) with an indigenous Ghanaian firm (IGC) that owns at least 5% or 10% of the JV, depending on whether you're a contractor or a subcontractor.





17.0

LABOUR  
LAW

The relationship between the employer and employee is governed and regulated by various laws as follows:

- a. The 1992 Constitution of the Republic of Ghana
- b. The Labour Act 2003 (Act 651) – employees in the Armed forces, Police Service and Security and Intelligence Agencies specified under the Security and Intelligence Agencies Act are not covered by the Labour Act and/or regulations. These Agencies are covered by specific Acts related to the respective areas of operation.
- c. The Labour Regulations 2007 (li 1833)
- d. ILO Conventions that Ghana is a signatory

### **17.1 Types of Employment**

There are several types of employment recognized under the relevant employment laws in Ghana. Some of which are set out in Section 6 of the Labour Act 2003 (Act 631) referred to as Labour Act, as follows:

- a. Contract from month to month, remuneration at a monthly rate
- b. Contract from week to week, remuneration at a weekly rate
- c. Remuneration at a rate other than monthly or weekly rate – contract determinable by will

Other types of contracts are:

- a. Full time employment
- b. Part time employment
- c. Casual /temporary contract
- d. Consultancy contract (contract for service)
- e. Apprentices and trainees' contract

An employment contract may either be verbal or in writing. The validity of any employment contract shall be decided based on an agreement of the terms of the contract by both parties to the contract (employer/employee).

### **17.2 Terms**

Employers have a legal duty per section 13 of the Labour Act to give the employee within two months of commencement of the employment relations, written statement of particulars of employment.

These particulars outline the main terms and conditions of the employment relations. The following are the essential statement of particulars:

- a. Name of Employer
- b. Name of Employee
- c. Date of first appointment
- d. Job title and/or grade

- e. Initial base rate of pay, methods and intervals of pay
- f. Hours of work
- g. Periods of holidays and details of holiday pay.
- h. Conditions related to incapacity to work due to sickness or injury and the details of sick pay (if any).
- i. Details of social security or pension scheme.
- j. Notice period applicable to both parties (employee/employer)
- k. Disciplinary rules applicable
- l. Grievance procedure for resolution of disputes
- m. Overtime pay (if any).

The Statement of Particulars of Contract of Employment must be dated and signed by both the employer and employee.

Once the Statement of Particulars have been duly executed, they form the bedrock of the employment relationship and any significant breach of one or more of the terms by either party goes to the root of the contract or may make the relationship unworkable.

### **17.3 Probationary Period**

The Labour Act makes no specific mention of a mandatory probationary period. However, the Labour Regulations, 2007 (li 1833) referred to as Labour Regulations provides guidance. It states that where a contract of employment provides for a probation period, the duration and other rules governing the said period must be clearly outlined.

In practice, employers are recommended to set out clearly defined probation period in the employment contract as this period is critical for the success of the employment relationship. Both parties may use the period to assess the suitability of the job and other working conditions and make informed decisions of the future of the employment relationship.

During this period, it is advisable for both parties to agree clear standards of performance and conduct that the employee will be assessed for the duration. Employees are also recommended to communicate their reasonable expectations of their employers.

Notice period during this period is left for determination at the enterprise level. However, whatever the notice period (if any) must be spelt out in addition to circumstances under which, a first probation period may require extension (if any).

End of probation period formalities must also be clearly articulated so that both parties are left in no doubt whether the employee has been confirmed in the appointment.

At the end of the probation period, either party may end the contract and give the requisite notice or pay notice in lieu (if applicable).

The Labour Act provides that such termination shall not fall under Unfair termination as defined in the Act. The import of this provision is that employers may end at the end of probation without the challenge of a potential lawsuit from the employee for unfair termination under the Labour Act.

## 17.4 Rights and duties of the Employee

Sections 10 and 11 of the Labour Act, outlines the rights of the employee as follows:

- a. Right to Wages/Benefits agreed
- b. Right to resources need to complete jobs
- c. Right to resign
- d. Right to work under satisfactory, safe and healthy conditions
- e. Right to have rest, leisure and reasonable limitation of working hours and period of holiday with pay as well as remuneration for public holiday
- f. Right to form a trade union
- g. Right to be trained and retrained for the development of his or her skills
- h. Right to receive information relevant to his or her work
- i. Right to be protected from sexual harassment.

The 1992 Constitution also gives the employee protection from all forms of discrimination in the workplace

Employees have a duty to:

- Work conscientiously in the lawfully chosen occupation
- Report to work regularly and punctually
- Enhance productivity
- Exercise due care in the execution of assigned work
- Obey lawful instructions about the organisation and execution of his or her work
- Take all reasonable care for the safety and health of fellow workers
- Protect the interest of the employer
- Take proper care of the property of the employer entrusted to the worker or under the immediate control of the worker

## 17.5 Rights and duties of the Employer

Employers have rights and duties in respect of their relationship with employees as follows:

- a. Right to employ a worker, discipline, transfer, promote and end the employment of the worker
- b. Right to formulate policies, execute plans and programmes to set targets
- c. Modify, extend or cease operations
- d. Right to decide the type of products to make or sell and the prices of its goods and services

The duties of employers are as follows:

- Provide work and appropriate raw materials, machinery, equipment, and tools
- Pay the agreed remuneration at the time and place agreed on in the contract of employment or collective agreement or by custom without any deduction except that allowed by law or agreed between the employer and the worker.

- Take all practical steps to ensure that the worker is free from risk of personal injury or damage to his or her health during the worker's employment or while lawfully on the employer's premises.
- Develop the human resources by way of training and retraining of the workers.
- Provide and ensure the operations of an adequate procedure for discipline of the workers.
- Give the workers with a copy of the worker's contract of employment
- Keep open the channels of communication with the workers; and protect the interest of the workers

## **17.6 Prohibition of restrictive conditions of Employment**

An employer shall not in respect of any person seeking employment, or of persons already in his employment:

- a. Require that person to form or join a trade union or to refrain from forming or joining a trade union of his or her choice
- b. Require that person to take part or refrain from participating in the lawful activities of a trade union
- c. Refuse to employ the person because of that person's membership of a trade union
- d. Promise the person any benefit or advantage for not taking part in trade union activities
- e. Discriminate against the person on grounds of gender, race, colour, ethnic origin, religion, creed, social or economic status, disability or politics.

## **17.7 Restraint of trade (non-Competition)**

Employers wishing to restrain employees from collaborating with competitors after disengagement must ensure that a restraint of trade clause is agreed and inserted in the employment contract at inception. The Labour Act makes no specific provision of this. Any such provision must therefore be agreed by both parties in writing and signed by the parties to give it a binding effect in case of a dispute.

Judicial decisions on non-competition matters have shown that courts are skeptical of restraint of trade clauses that are onerous for the employee, in general. Thus, mere reference to a non-competition clause in either a collective labour agreement and/or internal rules/regulations, may not suffice to bind the employee, in case of a dispute.

The general position of the courts is that an employee must not be deprived from freely engaging in their trade/profession for an unreasonable length of time. It is therefore imperative for restraint of trade clause not to be for longer than is absolutely needed to protect a legitimate interest and must not cover a wide geographical area.

The justification for a restraint of trade clause may be to protect a legitimate business interest or to protect customers connections/trade secrets.

A request by the employer for the enforcement of a non-competition clause may be restricted or denied by the Court if any employee will be for example, become too restricted by a restraint of trade clause when trying to find a new position.

## 17.8 The National Labour Commission

The National Labour Commission was set up under the Labour Act, Section 135 to ease the settlement of industrial disputes. It is an independent body which settles labour disputes and promotes a healthy industrial environment for employment sustainability and growth.

The Commission mainly engages in alternative dispute resolution – arbitration and mediation to resolve disputes between parties to the employment contract.

Until 2018, the Courts were ousted from starting a dispute resolution related to unfair termination, redundancy related disputes and/or collective bargaining issues. The courts have affirmed that litigants may go ahead to court to mount actions without first routing through the labour commission. Notwithstanding, the Labour Commission is still a popular choice for collective bargaining, unfair termination and redundancy related disputes because of the relatively low cost of litigation in comparison to the courts, among others.

Section 138 (1) of the Labour Act outlines the functions of the Commission as follows:

- a. To ease the settlement of industrial disputes
- b. To settle disputes
- c. To investigate labour related complaints in particular, unfair labour practices and take such steps as it considers necessary to prevent labour disputes
- d. To keep a database of qualified persons to serve as mediators and arbitrators
- e. To promote effective labour co-operation between labour and management.

The commission has the power to receive complaints from workers, trade unions and employers or employers' organisations. They can also require an employer to give information and statistics concerning the employers' organisations.

The Commission can require an employer to give information and statistics concerning the employment of its workers and the terms and conditions of their employment in a form and manner the Commission considers necessary, among others.

## 17.9 Termination

Termination is loosely defined as the process of disrupting the employer/employee relationship. The term is universally used for various forms of disengagement, cessation, separation, close or break of the contract of employment. The Labour Law allows for various circumstances that brings an end to the employment relationship, under the umbrella of termination as follows:

- a. Resignation
- b. Retirement
- c. Death
- d. Termination with notice
- e. Termination without notice – summary dismissal
- f. Redundancy

### 17.9.1 Termination with Notice

If the contract of employment makes provision, an employer may end the contract of employment by giving the required under the contract of employment or the statutory minimum notice as stipulated under Section 17 of the Labour Act. In some instances, private sector employers may end without an obligation to provide reasons for such termination.

Under Section 17 of the Act provides as follows:

- where termination is made by mutual consent, any pay due to the worker, but which has been deferred must be paid upon termination.
- Compensation must also be made in respect of sickness or accident
- In the case of foreign contract, expenses and necessaries for the journey and repatriation expenses of the worker and accompanying members of his family or addition to all or any payments specified under paragraphs (a) to (c) of Section 17 of the Act.

Regarding termination without assigning reason, public service employees are exempt and employers in the public service must thus end only for just cause. Article 191 (b) of the 1992 Constitution provides that:

- A member of the public service shall not be dismissed or removed from office or reduced in rank or otherwise punished without just cause.

Although some employers may not have to assign reasons for termination, should the affected employee decide to challenge the termination either at the Labour Commission or the Courts, the employer must prove that the reason and procedure for the termination was fair. Section 53 (4) of the Labour Act makes this mandatory for the termination to be considered fair.

Section 62 of the Labour Act stipulates fair termination as:

- The worker is incompetent or lacks qualification in relation to the work for which he/she is employed
- Proven misconduct
- Redundancy
- Legal restriction imposed on him or her prohibiting him or her from the work for which he or she is employed. An example being termination because of inability to work arising from a pandemic
- By the worker on grounds of sexual harassment or ill treatment (constructive dismissal)

Section 63 of the Labour Act sets out the grounds for unfair termination as follows:

- If the employer does not prove that the reason for the termination is fair, and/or that the termination was made following a fair procedure
- Joining or taking part in trade union activities
- Pregnancy or absence from work due to maternity leave
- Not having the current level of qualification needed which is different from what was needed at the time of his or her engagement
- Worker's disability, illness, injury certified by a recognized medical practitioner.
- Complaints of sexual harassment in the workplace

### **17.9.2 Termination without Notice – Summary Dismissal**

Although dismissal is under the general umbrella of termination, the Labour Act, does not provide specific grounds to call for dismissal without notice. The grounds and procedure are left to every establishment to determine. However, such grounds and/or procedure must follow sections 15 and 62 of the Labour Act, which enjoins establishments to ensure that the reason and procedure must be fair.

Summary dismissal or termination without notice is defined as a fundamental breach by the employee which goes to the root of the employment contract and makes the relationship between the employer and employee unworkable.

Section 30 (3) of the Labour Act, gives employers the right to end without notice as far as there is a clearly spelt out written provision in the employee's collective agreement or conditions of service, detailing the circumstances, procedure and offences that may trigger termination without notice by the employer. Where an employer has such a right, dismissal may take place even for a first-time offence that is considered a fundamental breach that goes to the root of the employment contract. This also falls in line with the International Labour Organisation (ILO) Termination of Employment Recommendations 1963 (No 119).

### **17.9.3 Remedies for unfair termination**

Section 64 of the Labour Act, outlines some remedies as follows:

A worker who claims that the employment of the worker has been unfairly terminated by the worker's employer may present a complaint to the Commission and where the complaint is proven, the Commission may order reinstatement, compensation or both.

### **17.9.4 Redundancy**

The Legal framework that governs redundancy in Ghana are the 1992 Constitution, The Labour Act, 2003, Act 651 and the Labour Regulations.

Section 65 of the Labour Act, Act 651, provides that where an employer contemplates that the introduction of major changes in production, programme, organisation, structure or technology of an undertaking are likely to entail terminations of employment of workers in the undertaking, that employer is mandated to submit in writing to the Chief Labour Officer not later than three months before the contemplated changes, all relevant information including the reasons for any termination, the number and categories of workers likely to be affected and the period within which any termination is to be carried out.

The employer must also consult the Trade Union concerned or employee representatives (as applicable) on measures to be taken to avert or minimise the termination as well as measures to mitigate the adverse effects of any terminations on the workers concerned such as finding alternative employment.

Additionally, where an employment is closed down or undergoes an amalgamation and that arrangement is likely to sever the relationship between a worker and an employer immediately before the close down and this is likely to result in the worker being unemployed or suffering a diminution in the terms and conditions of employment, that worker is entitled to be paid compensation which is known as the redundancy pay.

The Act makes no provision for specific amounts as compensation. Thus, the amount of compensation or redundancy pay is subject to negotiation between the employer and the worker or representative on the one hand and the Trade Union or the worker on the other hand. Any dispute arising from the amount of redundancy pay and the terms and conditions of the payment may be referred to the Labour Commission whose decision shall be final.

### **17.9.5 Managing staff redundancies – Best Practice Steps**

Redundancy is usually a severance of the working relationship, started by the employer. Usually, it occurs when a role is no longer needed. You should only consider making redundancies if part or all the organisation is:

- closing, or has already closed
- changing the types or number of roles needed to do certain work
- changing location

If there are concerns about an employee's conduct or performance, it is advisable to follow a disciplinary or capability procedure.

When considering making redundancies, the employer must first check:

- why you think redundancies are necessary
- what issues you're trying to solve?
- other options that might be available

#### **a. Look at other options**

Before starting a redundancy process, an employer should consider all options to reduce or even avoid redundancies.

For example, an employer may consider the following:

- offer suitable alternative employment
- offer voluntary redundancy
- change working hours
- move employees into other roles
- let go of temporary or contract workers
- limit or stop overtime
- not hire any new employees

#### **b. Offer of alternative employment**

Employers must move employees selected for redundancy into other jobs within the organisation instead (offer 'suitable alternative employment').

Employers must find any available jobs in the organisation and talk to the affected employees to see if they agree they are suitable.

If a role is suitable, the employer should offer it instead of redundancy. In the absence of this, the employee could make a claim to the Labour Commission for unfair dismissal or start a suit in Court for unfair dismissal.

Affected employees should not have to apply for the role. But if more than one employee is interested in the same role a fair process selection process must be followed.

When an affected employee is offered another role, it must be:

- put in writing
- offered before their current contract expires.
- a different role to the one they are currently doing – you will need to explain how it's different
- start within 4 weeks of their current role ending

### **c. Trial periods**

Employees must be given a reasonable trial period if they accept a new role. If they need more time to train for the role, an agreement can be reached for a longer trial period. It must be agreed in writing and have a clear end date.

The trial period should start after they have worked their notice period and their earlier contract has ended.

This avoids any confusion or disputes over dates if the trial does not work out. It is a good idea to set out the dates for the trial in writing.

### **d. If an employee turns down an alternative role**

If an employee refuses an offer for a suitable alternative role, or turns it down after the trial period, they need to have a valid reason it is not suitable.

Examples of reasons could include:

- the job is on a lower pay
- health issues hinder them from doing the job
- they have difficulty getting there, for example because of a longer journey, higher cost or lack of public transport
- it would cause disruption to their family life

If the employee has a valid reason to turn down the job, they will be entitled to redundancy pay.

But if the employee does not have a valid reason for turning down the job, the employer could refuse to pay their redundancy pay. The employer will need to be able to prove that the employee's decision was unreasonable if they make a claim to the National Labour Commission or the Law Courts.

Redundancy can create tricky situations and conversations. The employer should think about how to support:

- employees at risk of redundancy
- managers who are breaking the news
- the people leading the consultation
- employee representatives
- those staying on

You can support staff by providing:

- counselling
- added face-to-face meetings
- help getting financial advice
- clear plans
- time off for those selected for redundancy to look for new jobs or get training

It is often forgotten that those staying on experience stress from seeing colleagues and friends being made redundant. They will also be part of a changing workplace and might feel uncertain about what the work and their roles will look like in future.

#### **e. Help staff find another job or training**

Employers must allow employees that have been made redundant a reasonable amount of time off during their notice period to look for another job or to undertake training.

#### **f. Offer voluntary redundancy**

Employers can give employees the choice to put themselves forward for voluntary redundancy.

It is your decision whether to accept the volunteers, considering the wider needs of the organization. It is a good idea to make this clear to the employees early.

#### **g. Avoid discrimination**

Where an employer gives the choice of voluntary redundancy, it is advised to:

- offer it as widely as possible, not necessarily just to those at risk of redundancy
- not to pressure or single anyone out
- to select employees in a fair way

This can avoid the risk of indirect discrimination. For example, it could be age discrimination if you only select older employees.

#### **h. Change working hours**

There could be ways for an employer to save costs by having staff work more flexibly.

Employers should always talk with employees and try to reach an agreement first.

For example, employees could be offered:

- homeworking
- job shares
- to work fewer hours

If it is written in their employment contracts, employees must be notified that they need to:

- stop working for a while (known as a 'temporary lay-off')
- work fewer hours (known as 'short-time' working)

Lay-offs and short-time working are temporary solutions and must not be a permanent change to agreed working hours.

**i. Where there are changes to the written employment terms**

Both parties must agree to the changes to the terms of the employment contract.

**j. Move employees into other parts of the organisation**

Employers should explore the possibility of moving employees into different areas of the organisation ('redeploy') to avoid redundancies. For example, by looking at:

- what transferable skills the staff has
- if there are other vacant or new roles in the organisation that require those skills

Where redundancies are imperative in the interest of the business, employers should check the existence of the following:

- a Collective Agreement with a Trade Union and/or Management Conditions of Service with details of processes to follow

Following a fair redundancy process is imperative and must include:

- collectively consulting staff via the trade union or employee representatives (in the case of Management or non-unionised staff)

Redundancies in some instances may be unavoidable, but by collaborating with employees, employers could find ways to save jobs and better understand how to plan.





18.0

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THE ENERGY  
SECTOR OF GHANA

## 18.1 THE UPSTREAM PETROLEUM SECTOR IN GHANA

### 18.1.1 Overview of the Upstream Petroleum Sector

Ghana's upstream petroleum sector consists of pre-licensing, licensing, exploration and appraisal, field development and production, disposal, and decommissioning. These upstream activities are conducted in Ghana's territorial areas and within its five sedimentary basins, namely the Tano Basin and Cape Three Points Basin in the Western Region (commonly referred to as the Western Basin); the Saltpond Basin in the Central Region; the Accra/Keta Basin; and the Inland Voltaian Basin. Ghana currently has three offshore producing fields: the Jubilee; Tweneboa, Enyera, and Ntomme (TEN) as well as Sankofa-Gye Nyame Fields<sup>85</sup>.

The 1992 Constitution of Ghana, provides that 'every mineral in its natural state in, under or upon any land in Ghana, rivers, water course throughout Ghana, the exclusive economic zone, any area covered by the territorial sea or continental shelf in the Republic of Ghana is the property of the Republic of Ghana and is vested in the President on behalf of, and in trust for the people of Ghana<sup>86</sup>'. The Constitution requires that any transaction involving the grant of a right to exploit natural resources in Ghana must be approved by Parliament. It further requires that special commissions are created and mandated to oversee the management and regulation of natural resources.

Ghana has emerged as one of West Africa's most promising hydrocarbon producers since the commercial discovery of oil in the Jubilee Field in 2007. The petroleum sector is a key contributor to the country's GDP, foreign exchange earnings, and government revenue. Ghana serves as an attractive destination for global oil and gas companies due to its robust government policies, stable regulatory environment, and availability of incentives for foreign direct investment.<sup>87</sup>

### 18.1.2 Legal and Regulatory Framework for the Upstream Petroleum Sector

Ghana's petroleum regulatory framework is made up of the set of laws, rules, and agreements that govern the conduct of petroleum operations. It explains the roles of both the government and contractors and how the financial benefits from petroleum activities are distributed.

The Petroleum Commission ('PC') is the primary authority that oversees upstream operations, including licensing, enforcement, and monitoring. The PC was established by an Act of Parliament, 2011 (Act 821), after the discovery of hydrocarbon in commercial quantities, to regulate and manage the utilization of petroleum resources and coordinate the policies in the upstream petroleum sector. Ghana National Petroleum Corporation ('GNPC') is the State's official oil company to produce petroleum products and represent Ghana in all petroleum-related transactions. The Environmental Protection Authority (EPA) issues permits for environmental activities and ensures compliance with environmental laws.

The upstream sector is governed by the Petroleum (Exploration and Production) Act, 2016 (Act 919), which covers petroleum exploration, development, and production, and is supervised by the Ministry of Energy (MoE). Other relevant Legislations that govern the upstream sector is the Petroleum Commission Act,(Act 821), GNPC Law 1983 (PNDCL64), Petroleum (Exploration and Production) Act, 2016 (Act 919) Petroleum (Exploration and Production) (Measurement)

85 Petroleum Commission Ghana, Sedimentary Basins <https://petrocom.gov.gh/sedimentary-basins/> accessed 20 June 2025.

86 Constitution of the Republic of Ghana 1992, art 256(6)

87 Oxford Business Group, Energy, from The Report: Ghana 2024 – Energy chapter <https://www.oxfordbusinessgroup.com/reports/ghana/2024-report/energy-chapter/>

Regulations, 2016 (LI 2246), Income Tax Act 2015 (Act 896) as amended, Value Added Tax Act 2013 (Act 870) as amended, Customs Act 2015 (Act 891), Mineral and Mining Act 2006 (Act 703) as amended, Mineral and Mining Regulations 2012 (LI 2173), Petroleum Revenue Management Act, 2011 (Act 815) as amended, the Petroleum (Local Content and Local Participation) Regulations 2013 (LI 2204) as amended, and Petroleum Commission (Fees and Charges) Regulations, 2015 (LI 2221).

The Petroleum Revenue Management Act, 2011 (Act 815), as amended by the Petroleum Revenue Management (Amendment) Act, 2015 (Act 893), was enacted to provide the framework for the management of petroleum revenues. The Petroleum (Exploration and Production) Act, 2016 (Act 919) (the E&P Act), is the primary legislation for the regulation of petroleum activities in the upstream sector, including licensing, exploration, and production. The Petroleum (Local Content and Local Participation) Regulations 2013 (LI 2204), as amended, mandates local participation and the use of local goods, services, and labour. To support the implementation of the key laws in the sector, the Government, through the Minister of Energy (the Minister) and the PC, has enacted several regulations, guidelines, and developed policies for the sector.

### **18.1.3 Licensing and Contracting Regime**

In Ghana, petroleum activities are conducted in an open area under a licence or petroleum agreement using direct negotiations and open competitive bidding.

### **18.1.4 Opening of an Area for Petroleum Activities**

- a. The Minister for Energy has the mandate to open up areas for petroleum activities, subject to the evaluation of various interests in the relevant area. This decision may be made in collaboration with the PC.
- b. The evaluation report is published in the Gazette and at least two state-owned daily newspapers and other public communication media. This report specifies the area proposed to be opened for petroleum activities, and the nature and extent of the petroleum activities.
- c. Persons with interests in areas that are subjects of an evaluation report are to present their views to the Minister within sixty days after the publication of the report. The Minister determines whether or not to open the area upon taking into consideration the report, together with the views of interested parties.
- d. The Minister publishes the decision in the Gazette and at least two state-owned daily newspapers and may publish the report in any other medium of public communication. The Minister may reserve a block, part of a block, or a number of blocks in an open area for GNPC.

### **18.1.5 Petroleum Agreement**

For a company to engage in the exploration, development, and production of petroleum, it must first enter into a petroleum agreement with the Republic of Ghana, represented by the GNPC. A petroleum agreement shall only be entered into after an open, transparent, and competitive public tender process. A petroleum agreement is valid for not more than twenty-five years. Where production from a field is projected to extend beyond the original term of the petroleum agreement, the Minister has the authority to approve an extension of the petroleum agreement on the terms agreed by the parties or execute a new petroleum

agreement by direct negotiations. The extension of a petroleum agreement or the execution of a new petroleum agreement is subject to ratification by Parliament.

The procedure for entering into a petroleum agreement includes;

- a. The Minister of Energy publishes an invitation to tender or an invitation for direct negotiations in the Gazette and at least two state-owned daily newspapers and any other medium of public communication.
- b. A company that wishes to submit a bid or participate in negotiations shall submit an expression of interest to the Minister, as prescribed by the PC. Petroleum agreements are entered into with companies that have the requisite technical competence and financial capacity to fulfil the obligations of the petroleum agreement and other requirements.
- c. Where the Minister receives more than one expression of interest, a transparent and competitive tender process is undertaken. The Minister may require a consortium as a condition for entering into a petroleum agreement.
- d. A petroleum agreement entered into by the Minister shall not be effective if it is not ratified by Parliament.
- e. A petroleum agreement shall contain a term that GNPC shall:
  - i. hold an initial participating carried interest of at least fifteen percent for exploration and development; and
  - ii. within a set period after a commercial discovery, choose to acquire an additional interest. This interest will require GNPC to share in project costs, except for exploration expenses.

### **18.1.6 Grant of a Reconnaissance License**

A reconnaissance licence grants a non-exclusive right to a licensed person to undertake data collection, (including seismic surveying and shallow drilling), processing and interpretation or evaluation of petroleum data in the area specified in the licence.

The right under a reconnaissance licence to collect new data in open areas ends when a petroleum agreement takes effect, and no fees will be refunded or other liabilities incurred due to this termination.

The Minister, in collaboration with the PC, has the power to grant a reconnaissance license to a person regarding a defined area. This license is granted to persons with the requisite technical competence and financial capacity to fulfil the obligations of the reconnaissance activities. A reconnaissance licence has a term of not more than three years but is subject to extension by the Minister for a period not exceeding two years. A petroleum agreement may be signed with a third party for an open area under a reconnaissance licence. No one may start reconnaissance activities without meeting environmental and other legal requirements.

### 18.1.7 Licence to install and operate facilities for transportation, treatment, and storage of petroleum

An investor or contractor must obtain a permit from the Petroleum Commission (PC) before commencing the installation and operation of a facility. Furthermore, installing and operating a facility for the transportation, treatment, or storage of petroleum requires a licence, unless there is an existing right to install and operate the facility stemming from the approval of a plan of development and operation.

An application for a licence to install and operate a facility for transportation, treatment, or storage of petroleum shall specify a description of the facility and be supported with a scoping report. The description shall contain detailed information on economic, resources, technical, operational, safety-related, commercial, local content, and environmental components of the proposed project and a scoping report approved per applicable laws.<sup>88</sup>

To obtain a licence to install and operate facilities, the following conditions must be met:

- a. ownership of the facility;
- b. the landing point, routing, dimension, and capacity for other pipelines;
- c. the main technical description and location for other facilities; and
- d. a decommissioning plan

### 18.1.8 Registration and Permit Requirements

1. A contractor, licensee, or person is required to register and obtain a permit from the PC to qualify to engage in petroleum activities or provide a service in the upstream petroleum industry.
2. Companies intending to bid for contracts must be registered with the PC and have a valid PC Registration Permit at the time of receiving the tender documents. Companies must possess valid PC Registration Permits prior to the Invitation to Tender (ITT) stage.
3. The PC may allow a company without a PC Registration Permit to bid for a contract by obtaining a PC Bidding Permit in exceptional cases.
4. After ratification by Parliament of a Petroleum Agreement, a contractor to the Petroleum Agreement shall register with the PC and pay the required fee in respect of the registration.
5. A person issued with a permit other than a Bidding Permit may apply to the PC for a renewal of the permit not less than one month before the expiration of the permit and upon payment of the required fee.
  - » A person issued with a permit other than a Bidding Permit may apply to the PC for a renewal of the permit not less than one month before the expiration of the permit and upon payment of the required fee.

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88 Petroleum (Exploration And Production) Act, 2016, Act 919.

### 18.1.9 Fee Schedules

CATEGORY	INITIAL FEE (GHANA CEDI EQUIVALENT OF US\$)	RENEWAL FEE (GHANA CEDI EQUIVALENT OF US\$)
Foreign	15,000	12,000
Local	8,000	6,400

#### a. Registration Fees Applicable to Contractors

#### b. Bidding Companies

CATEGORY	CONTRACT SUM (US\$)	FEES (GHANA CEDI EQUIVALENT OF US\$)
A1	Above 1 billion	100,000
B1	Above 500 million but not more than 1 billion	80,000
C1	Above 200 million but not more than 500 million	64,000
D1	Above 100 million but not more than 200 million	51,000
E1	Above 50 million but not more than 100 million	40,000
F1	Above 30 million but not more than 50 million	30,000
G1	Above 20 million but not more than 30 million	20,000
H1	Above 10 million but not more than 20 million	15,000
I1	Above 5 million but not more than 10 million	7,500
J1	5 million or less	3,750

### 18.1.10 Petroleum Exploration

#### a. Exploration Drilling

A contractor must apply to the PC for a permit before starting exploration drilling in Ghana and may only begin after receiving the permit and meeting all environmental requirements. The PC assigns a unique designation to each well or field, which cannot be changed without its written approval. Contractors must also provide any information requested by the Minister or PC and submit regular reports on exploration activities under the petroleum agreement.

#### b. Exploration Period and Extension

Petroleum agreements have an exploration period of up to seven years from the effective date, divided into an initial period and up to three extensions, as specified in the agreement. To move to the next working period, the contractor must notify the PC in writing before the current period expires. The Minister, in consultation with the PC, may extend the exploration period beyond seven years if petroleum is discovered in the final year and more time is needed to determine its commercial viability, or in other exceptional cases as prescribed. Where a discovery is declared to be commercial, the contractor is to submit to the Minister for approval a plan of development and operation in respect of any petroleum field to be developed.

Where exploration activities result in a petroleum discovery, the contractor is obligated to submit a written notification of the discovery to the Minister within forty-eight hours after the discovery, before notification to a third party. The Contractor must provide the Minister and the PC with full written details of any discovery within 100 days, indicating whether it merits appraisal. The date of the written notification to the Minister shall be the discovery date.

### **c. Plan of Development and Operation**

Where a discovery is declared to be commercial, a contractor shall submit to the Minister a plan of development and operation in respect of any petroleum field to be developed for approval. This is subject to a deadline set for submission by the Minister.

The plan of development and operation shall contain a description of the development programme and production programme together with an environmental report approved by the appropriate institutions in accordance with applicable enactments.

The description of the development and production programme shall provide detailed information on the economic, reserves, technical, operational, safety, commercial, local content, and environmental components of the proposed development.

## **18.1.11 Local Content Requirements**

Local content is the amount or percentage of locally produced goods, services, financing, personnel, and materials used in the petroleum sector value chain that can be quantified in monetary terms. The local content requirements promote value addition, job creation, and local participation in Ghana's petroleum industry. It helps ensure transparency, promotes domestic industry competitiveness, and mandates local content plans from all petroleum stakeholders.

Licensees, contractors, and the GNPC must employ qualified Ghanaians at all activity levels in line with applicable laws, licence terms, and agreements.

### **a. Requirements for Goods and Services in Ghana's Petroleum Sector**

- Before commencing any petroleum activity, contractors, subcontractors, licensees, or their affiliates must submit a detailed Local Content Plan to the PC. This is submitted together with the application to undertake a petroleum activity.
- The Local Content Plan must clearly outline:
  - i. The role and responsibilities of the indigenous Ghanaian partner.
  - ii. The level of equity participation by the indigenous company.
  - iii. A well-defined strategy for the transfer of technology and know-how to the Ghanaian entity.
- Companies are prohibited from engaging in discriminatory employment practices based on race, nationality, tribe, or gender.
- All petroleum operators are required, in consultation with GNPC, to design and implement structured training programmes for Ghanaian citizens, covering all operational aspects, in line with regulatory and contractual obligations.
- Any non-indigenous Ghanaian company intending to supply goods or services within the petroleum value chain must partner with a Ghanaian company through a joint venture, granting the local partner at least 10% equity.

- To qualify for a petroleum agreement or licence, there must be a minimum 5% equity participation by a Ghanaian company (excluding GNPC). The PC may, however, grant exceptions if the Ghanaian partner is unable to meet this threshold.
- Legal services must be sourced exclusively from Ghanaian legal practitioners or firms with their principal office in Ghana. Financial services for petroleum activities must be handled by Ghanaian financial institutions.
- Contractors and licensees are expected to procure materials, equipment, and consumer goods locally, provided the Ghanaian-sourced products:
  - » are of comparable quality to imports;
  - » are available in reasonable timeframes; and
  - » are not priced more than 10% higher than similar imported goods (after accounting for importation and associated costs).

**b. Progressive Local Participation Targets**

Category	At Inception	By Year 5	By Year 10
Goods and Services	10%	50%	60% – 90%
General Staff	30%	50% – 70%	80%
Core Technical Staff	20%	50% – 60%	70% – 80%
Other Staff	80%	90%	100%

**c. Penalties for Default of Local Content Requirements**

- i. False Declarations: Submitting false information in plans, reports, or documents attracts a fine between GHS 12,500 and GHS 3,000,000, or imprisonment of 2 to 5 years, or both.
- ii. Fronting by Citizens: Any Ghanaian who acts as a front for a foreign entity to misrepresent local ownership faces a fine between GHS 12,500 and GHS 3,000,000, or 1 to 2 years' imprisonment, or both.
- iii. Foreign Participation through Deception: Foreigners who connive with locals to falsely meet local content requirements face the same penalties as citizens involved in fronting.

**18.1.12 Joint Venture (JV)**

To operate in the petroleum industry in Ghana, a non-indigenous Ghanaian company must incorporate a JV company with an indigenous Ghanaian company(ies). The JV company shall be the vehicle through which the non-indigenous Ghanaian company shall transact all its business in the upstream petroleum industry. A JV company is a company incorporated in Ghana, under the laws of the Republic of Ghana, between a non-indigenous (foreign) Ghanaian company and an indigenous Ghanaian company to undertake petroleum activities.

Indigenous and non-indigenous companies, as well as the JV company, shall first register with the PC and be issued a valid Registration permit. The JV company, however, shall be exempt from paying the initial registration fees. Upon renewal, the JV company shall be required to pay the prescribed renewal fees.

**a. Guidelines for Operating a JV in the Upstream Petroleum Industry**

Guidelines for forming JV companies in the upstream petroleum industry promote local content and participation. The PC assesses compliance with these requirements and its guidelines before issuing a permit.

The following are the guidelines:

- i. An indigenous Ghanaian company must have a minimum of ten percent (10%) equity participation in the JV company.
- ii. The transfer of shares to an individual or company shall not be recognized as a JV.
- iii. The JV company shall be the vehicle through which the non-indigenous Ghanaian company shall transact all its businesses in the upstream petroleum industry.
- iv. The objects of the JV company must be in accordance with the line of business of both companies.
- v. Both parties must provide fair consideration for their equity in the JV company.
- vi. The indigenous Ghanaian company must be actively involved in the management and operations of the JV company.
- vii. The management structure of the JV company must consider the equity participation of the parties.
- viii. The JV parties must state, clearly, their roles and responsibilities in the JV company.
- ix. The JV companies shall prepare and submit to the PC, for approval, a detailed plan for the transfer of technology and know-how to the indigenous Ghanaian company.
- x. Parties to the JV must disclose all forms of agreements and 'arrangements' to the PC at the point of registration.
- xi. Except for contracts that are awarded to indigenous Ghanaian companies, all other contracts shall be signed and executed only by the JV company.
- xii. The parties must consider existing laws and regulations at the point of incorporating the JV company.

**18.1.13 Strategic Alliance**

A strategic alliance is an arrangement between a non-indigenous Ghanaian Company and an indigenous Ghanaian Company, by which the responsibilities of each partner are clearly defined. The partners agree to share resources to undertake a specific, mutually beneficial project, while each retains its independence.

With a strategic alliance, the partners do not need to set up a JV, however, the following requirements must be satisfied:

- » The partners must be existing and licensed in their respective capacities with the Petroleum Commission (PC);
- » There must be an agreement that defines the scope and distinct roles of each partner in the alliance; and

- » The agreement must also evince technology transfer, knowledge, and training for the benefit of the indigenous Ghanaian Company.

A Strategic Alliance shall be project-specific and terminated after the execution of the contract or project. An Indigenous Ghanaian Company or a Non-indigenous Ghanaian Company that intends to form a strategic alliance shall apply to the PC for approval.

The application for approval shall contain the details of the project the parties intend to execute; the objectives of the proposed Strategic Alliance and the intended benefits, including but not limited to local content development, technical and financial capabilities of the parties (including technical certifications), and a draft Agreement.

To apply for a permit for a strategic alliance, the applicants will first need to satisfy the PC that their engagement is qualified for the permit being applied for. If approved, the PC will then release the application forms for the same to be completed and the applicable fees paid.

The requirement to enter a Strategic Alliance arrangement shall be limited to;

- i. Short-term contracts where the duration of the contract is less than six (6) months and not to be re-awarded to the same Strategic Alliance parties within two (2) years.
- ii. One-off contracts with a duration not exceeding one year, which may not be re-awarded within the life span of the project.
- iii. Specialised projects/contracts with a contract value not exceeding two hundred thousand United States dollars (USD 200,000.00) and where, in the opinion of the PC, may lead to technological advancement in the industry.
- iv. Contracts executed under emergencies.
- v. Contracts classified as 'works for a specific duration not exceeding one (1) year, with Administrative Contract Value not exceeding Two Million United States Dollars (USD 2,000,000) and not to be re-awarded to the same Strategic Alliance parties within two (2) years; and
- vi. Portions of the Global Framework agreements as they relate to assets in Ghana.

Upon obtaining the PC's approval for a Strategic Alliance, the parties are to apply to the PC for a Strategic Alliance Permit.

For technology transfer, the PC shall encourage and facilitate the formation of JVs, partnerships, and the development of licensing agreements amongst indigenous Ghanaian companies, foreign contractors, and service or supply companies interested in the petroleum industry, where applicable.

#### **18.1.14 Channel Partnership**

Channel Partnership was introduced to provide an additional avenue, aside from Joint Partnership, to deepen local content and local participation in Ghana's upstream petroleum industry, and to open business opportunities that are currently inaccessible to indigenous Ghanaian companies.

Channel partnership is an arrangement between an indigenous Ghanaian company and a non-indigenous Ghanaian company, including a distributor, a vendor, a retailer, a consultant,

a system integrator, an original equipment manufacturer, or a value-added reseller to market and sell the products, services, or technologies of the non-indigenous Ghanaian company in the country.

**a. Principles guiding Channel Partnerships in the Upstream Petroleum sector include;**

- i. Where a Contractor, Subcontractor, Licensee, GNPC, among others, requires certain original equipment manufacturers or software developers to provide equipment or specialist technical services for petroleum operations, an application may be made in writing to the PC for approval to use Channel Partnership as the mode for procuring such equipment, goods, or services.
- ii. A Non-Indigenous Ghanaian company that enters into a Channel Partnership with an Indigenous Ghanaian Company shall operate through the Indigenous Ghanaian Company
- iii. The letter for approval to obtain a Channel Partnership permit should include, but not limited to:
  - » The nature of activities or services to be provided by the channel partners;
  - » Name and contact information of the non-indigenous partner;
  - » Services provided by the non-indigenous partner;
  - » Justification for the application for channel partnership; and
  - » List of previous contracts/purchase orders (if any) of the non-indigenous partner executed with contractors and subcontractors.
- iv. Upon obtaining the PC's approval for a Channel Partnership, the Indigenous Ghanaian Company shall apply to the PC for a Channel Partnership Permit.
- v. An Indigenous Ghanaian company shall, as part of the submission of the Channel Partnership Agreement to the PC, submit a strategic plan for the development and sustainability of the Indigenous Ghanaian company.
- vi. The scope of work related to in-country activities, including the installation, aftermarket service, repair and maintenance, value addition, etc., shall be executed by the Indigenous Ghanaian Company.
- vii. No Indigenous Ghanaian Company shall form more than three (3) Channel Partnerships.
- viii. An application for approval to execute a contract through the Channel Partnership arrangement should be supported by proof of the existence of an operational office.<sup>89</sup>

### **18.1.15 Health, Safety, Security, and Environment (HSSE)**

A contractor, sub-contractor, licensee, GNPC, or other person engaged in a petroleum activity is mandated to comply with the Health, Safety, and Environment Regulations regarding exploration and production of petroleum in the upstream sector. Contractors are required to comply with recommended standards provided by the Petroleum (Exploration and Production) Health, Safety, and Environment) Regulations, 2017.

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<sup>89</sup> Guidelines for the Formation of Channel Partnership in the Upstream Petroleum Industry, 2025

A licensee, contractor, sub-contractor, or GNPC undertaking petroleum activities is to take necessary measures to ensure that petroleum activities are conducted safely and securely, free from accidents, waste dumping, and pollution. A licensee or contractor is to establish and implement effective and safe systems for the disposal and treatment of waste, and prevent the pollution resulting from petroleum activities, in <sup>90</sup>accordance with applicable enactments and best petroleum industry practice. They are to establish a system to track the source, transport, and destination of potentially hazardous waste from petroleum activities.

A contractor, sub-contractor, licensee, GNPC, or any other person engaged in a petroleum activity shall have a health and safety plan that is adapted to the scope of the petroleum activity and submit the health and safety plan to the PC not later than three months before the commencement of the activity.

A person shall not conduct petroleum activities in an area unless the required environmental impact assessment has been conducted and other relevant environmental statutory requirements as prescribed in the Environmental Protection Authority Act, 2025 (Act 1124) have been complied with.

#### **a. Application for Consent, Approval, and Permit**

- i. A contractor, sub-contractor, licensee, GNPC, or any other person engaged in a petroleum activity shall apply to the PC for consent for the following:
  - » Engineering design of a petroleum facility;
  - » Modification of a petroleum facility;
  - » A structural change to a petroleum facility; and
  - » Safety case or health and safety plan.
- ii. A contractor, sub-contractor, licensee, GNPC, or any other person engaged in a petroleum activity shall apply to the PC for approval for the following:
  - » Commencement of upstream petroleum activity;
  - » Programme for plugging of relevant wells;
  - » Flaring or venting of petroleum; and
  - » Acquisition of a partly pre-designed or pre-fabricated petroleum facility to carry out a petroleum activity.

#### **b. HSE requirements for the Upstream Petroleum Sector.**

Operators, contractors, and licensees in Ghana's petroleum sector are required to adhere to strict Environmental, Health, and Safety (EHS) standards aligned with international best practices. Key obligations include:

- i. Environmental Approvals: Submission of Environmental Impact Statements (EIS) to relevant authorities is mandatory before commencing operations.
- ii. Health and Safety Plans: Detailed safety implementation plans must be submitted to the PC before starting any petroleum activity.
- iii. Risk Management: All stakeholders, licensees, contractors, sub-contractors, and GNPC must identify and assess risks related to petroleum activities to protect workers and nearby communities.

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<sup>90</sup> Petroleum (Exploration And Production) (Health, Safety And Environment) Regulations, 2017

- iv. Pollution and Waste Control: Operators must comply with Ghana's pollution control and waste management regulations.
- v. Emergency Preparedness: Companies must maintain robust emergency systems to address incidents such as oil spills, gas leaks, blow-outs, fires, and other emergencies that could harm life, property, or the environment.
- vi. Safety Zones: Each petroleum facility or well must be enclosed within a designated safety zone, as determined by the PC in consultation with relevant authorities.

### c. Safety Case

A contractor, sub-contractor, licensee, GNPC, or any other person engaged in a petroleum activity is required to prepare and submit to the PC a Safety Case not later than six months before the commencement of operation or decommissioning of a petroleum facility.

A Safety Case relates to a specific petroleum facility or proposed petroleum facility in a specified location. It demonstrates the activity to be carried out at the facility and is prepared in consultation with an independent and competent person, as well as the workers at the facility. It must be a true reflection of the state of safety arrangements for an existing or proposed petroleum facility.

A Safety Case submitted shall indicate:

- A description of the petroleum facility;
- The technical and other control measures;
- Risk and emergency preparedness analysis conducted in accordance with the applicable regulations;
- Relevant information on the part of the management system aimed at ensuring compliance with health and safety laws, while continuously identifying and minimizing risks to the lowest practicable level at petroleum facilities; and
- An emergency preparedness plan.

The Safety Case ensures implementation of the management system and enhances health and safety performance in compliance with relevant enactments.

Where significant modifications, changes, or new stages are introduced to existing petroleum facilities not covered in the current Safety Case, Contractors, Licensees, GNPC, or other petroleum operators must submit a revised Safety Case to the Petroleum Commission within six months of the change, or at most within five years of the last Safety Case submission.

### 18.1.16 Conclusion

While investors may face challenges such as regulatory delays, infrastructure constraints, and global market volatility, Ghana's upstream petroleum sector presents significant opportunities. Untapped reserves, particularly in the Voltaian Basin, along with prospects for gas-to-power initiatives and a receptive government to strategic partnerships, position the sector for long-term growth and investment potential. Disputes under petroleum agreements are typically resolved through Negotiation, Mediation, and Arbitration. For matters within the Ghanaian jurisdiction, the courts of Ghana are usually resorted to.

## 18.2 DOWNSTREAM PETROLEUM SECTOR IN GHANA

Ghana's downstream petroleum sector serves as a vital component of the nation's energy architecture, influencing everything from transportation to industrial production and economic stability. This section explores the structure, economic and regulatory framework, and compliance requirements of the downstream petroleum industry in Ghana.

### 18.2.1 Regulatory Authority

The downstream petroleum sector is regulated by the National Petroleum Authority ('NPA'), established under the National Petroleum Authority Act, 2005 (Act 691).<sup>91</sup> The Act mandates the NPA to regulate, supervise, and monitor all activities within the downstream petroleum industry. Its regulatory functions include monitoring petroleum product price ceilings in accordance with the approved pricing formula, issuing licenses to qualified applicants operating in the downstream industry, maintaining comprehensive registers and databases on licensed entities, petroleum products, and service providers, and developing guidelines and standards for petroleum marketing operations. The NPA is also responsible for safeguarding the interests of both consumers and service providers, monitoring service quality and performance standards across the sector and conducting investigations into the quality of petroleum products on the market to ensure safety, compliance, and consumer protection. Other key legislative and policy instruments that govern the downstream petroleum sector include the Petroleum Product Marking Scheme Regulations, 2012 (L.I. 2187), which aim to combat fuel adulteration; the Hazardous and Electronic Waste Control and Management Act, 2016 (Act 917), which regulates the disposal of lubricants and waste oil; and the LPG Promotion Policy, which supports the transition of households from biomass to liquefied petroleum gas. Additionally, the Petroleum Pricing Formula plays a central role in guiding the deregulation of fuel prices in the country.

### 18.2.2 The National Petroleum Authority (Amendment) Act, 2016, Act 913

The National Petroleum Authority (Amendment) Act, 2016, Act 913, was enacted to support the effective implementation of Ghana's petroleum price liberalisation policy by amending the National Petroleum Authority Act, 2005, Act 691. The amendments require petroleum service providers to publish ex-refinery and ex-pump prices in the Gazette, on the Authority's website, and in at least two national newspapers, using the prescribed pricing formula. The Act also mandates that reports and decisions of the Authority's Board be forwarded to the Ministry of Petroleum. It further clarifies that margins set by Liquefied Petroleum Gas (LPG) marketing companies are to be regulated. Additionally, the definitions of key terms were updated, including defining an LPG distributor as a company engaged in importing, transporting, marketing, and selling LPG, and specifying that "Minister" and "Ministry" refer to the Minister and Ministry responsible for Petroleum.

### 18.2.3 De-Regulated Market

Ghana's downstream petroleum industry has operated under a deregulated regime since 2015. This policy shift was introduced to allow market forces such as supply and demand, foreign exchange rates, and global oil prices to determine the ex-pump prices of petroleum products. The key objectives of deregulation are to promote competition among Oil Marketing Companies and Bulk Distribution Companies, improve service delivery and pricing efficiency,

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<sup>91</sup> National Petroleum Authority Act, 2005 (Act 691) Section 2

reduce government subsidies, ease the fiscal burden on the national budget, and enhance transparency in petroleum pricing. In this system, Oil Marketing Companies and Bulk Distribution Companies set and publish their own prices on a biweekly or monthly basis. These prices are influenced by international crude oil benchmarks such as Platts, the exchange rate between the US dollar and the Ghanaian cedi, applicable taxes and levies including the Energy Sector Levy and Road Fund Levy, as well as transportation and marketing margins. Although the market is deregulated, the National Petroleum Authority continues to monitor compliance with the pricing formula, tax obligations, and product quality standards.

#### 18.2.4 Requirement for a license.

<sup>92</sup>Under the National Petroleum Authority Act, individuals or entities are not permitted to engage in downstream petroleum activities unless they have first obtained a license from the National Petroleum Authority. This licensing requirement applies to all operations involving crude oil and refined petroleum products such as gasoline, diesel, liquefied petroleum gas (LPG), kerosene, and other designated fuels.

The regulated business activities under this framework include importation, exportation, re-exportation, shipment, transportation, processing, refining, storage, distribution, marketing, and sale. The scope of these regulated activities may be modified by the NPA through legislative instruments, allowing the Authority to expand or restrict the areas of commercial engagement as needed.

A license may be granted to a Ghanaian citizen, a body corporate registered under the Companies Act, 1992, a partnership registered under the Incorporated Private Partnerships Act, 1962 (Act 152), or to a foreign individual or foreign company engaged in a registered joint venture with a Ghanaian citizen or Ghanaian-owned company.

The application process for obtaining a license involves submitting a formal request to the NPA Board, following the procedure and format prescribed by the Authority, and paying the applicable fee. Upon receiving the application, the Board is required to acknowledge receipt within thirty working days and notify the applicant in writing of its decision. Where the Board is satisfied that all requirements have been fulfilled, including the payment of fees and submission of relevant supporting documentation, it will authorize the applicant's entry into the official Register of Licenses.

#### 18.2.5 Obtaining a License

An applicant who wishes to operate in the downstream petroleum industry is required to apply for a license by completing an online application form or submitting a physical form to the offices of the National Petroleum Authority with all supporting documents.

The National Petroleum Authority ('NPA') issues various types of licenses based on the specific nature of the petroleum-related business being conducted in the following categories

- Bulk Distribution Company (BDC);
- Oil Marketing Company (OMC);
- LPG Marketing Company (LPGMC);

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<sup>92</sup> National Petroleum Authority Act, 2005 (Act 691) Section 11

- Depot Operator;
- Retail Outlet (Fuel Station);
- Petroleum Transporter;
- Lubricant Manufacturer/Importer; and
- Bunkering Operator

### 18.2.6 Fees

The National Petroleum Authority Board, in line with its regulatory responsibilities, issues public notices or guidelines outlining the applicable fees for initial licence applications and renewals across various downstream petroleum activities. These fees may differ based on the type of licence being sought and typically cover charges such as the application processing fee, the licence fee, or an annual renewal fee once the licence has been granted. Depending on the category of licence, fees are quoted either in Ghana Cedis or in United States Dollars. The current Licensing fees are as follows:

### 18.2.7 Cedi-Denominated Licensing Fees for the Downstream Petroleum Sector

License Category	New Entrants (GHS)	Renewals (GHS)
Oil Marketing Companies	200,000	30,000
LPG Marketing Companies	N/A	12,000
Transportation by Lake, Sea, or Rail	45,000	25,000
Bunkering Services Companies	20,000	10,000
Onshore Bunkering	65,000	34,500
Calibrating Companies	23,000	12,650
Waste Oil Recycling Companies	17,000	9,000
Manufacturing of Lubricating Oil	58,000	31,000
Lubricant Blending Companies	8,400	4,500
Safety Audit and Installation	12,000	6,600
Petroleum Product Storage Tank Cleaning Services	12,000	6,600
BRV Inspection Facility License	24,000	12,650

### 18.2.8 Dollar-Denominated Licensing Fees for the Downstream Petroleum Sector

Licence Category	New Entrants (USD)	Renewals (USD)
Bulk Distributing Companies	750,000	400,000
BDC LPG	250,000	200,000
Offshore Bunkering	100,000	60,000
Joint User Hydrant Installations (JUHI)	100,000	60,000
Pipeline Operating Licence	N/A	60,000
Oil Trading Companies	41,000	22,000
Export Companies	45,000	26,000
SPM and CBM Operators	187,500	100,000

### 18.2.9 Inspection and Due Diligence

As part of the licensing and regulatory process, the National Petroleum Authority conducts site inspections to evaluate infrastructure, safety measures, and compliance with regulatory standards. It also performs background and technical assessments to verify a company's operational capacity and legal status. For activities involving higher risk, such as LPG operations and retail fuel stations, the Authority may also carry out environmental and safety audits.

### 18.2.10 Review and Approval

Following the completion of inspections and due diligence, the application undergoes review by the Licensing and Legal Departments of the National Petroleum Authority. If the application is approved, a licence is issued and formally recorded in the Authority's registry. In cases where the application is rejected, the applicant receives a written explanation outlining the reasons for the decision and may reapply once the identified deficiencies have been addressed.

### 18.2.11 Renewal and Ongoing Compliance

Most licences issued by the National Petroleum Authority are valid for one year and require annual renewal. Licensees are expected to comply with a range of obligations, including timely reporting, adherence to pricing transparency, conformity with product quality standards, and the implementation of safety measures. The Authority reserves the right to suspend or revoke licences in instances of non-compliance, fraudulent activity, or breaches of safety regulations.

### 18.2.12 Other Requirements for Specific Category Licensing

#### a. Bulk Distributing Company (BDC) License

A Bulk Distribution Company (BDC) licence authorizes a company to import, store, distribute, and export petroleum products in bulk within Ghana's downstream petroleum sector. It also permits the sale of these products to other entities, including Oil Marketing Companies. This licence is mandatory for any entity intending to engage in the bulk import or export of petroleum products, including Liquefied Petroleum Gas (LPG).

In addition to the general documentation required for licensing, applicants for a Bulk Distribution Company (BDC) licence must demonstrate a minimum equity capital of GHS 30 million. This capital must be in the form of cash or verifiable assets owned by the applicant.

#### b. Application Process

To begin the licensing process, applicants must obtain and complete the Bulk Distribution Company (BDC) licence application form, available at the National Petroleum Authority (NPA) office or online at [www.npa.gov.gh](http://www.npa.gov.gh). The completed form must be submitted together with all required supporting documents and a non-refundable processing fee. The NPA then undertakes a due diligence process, which includes site inspections, verification of storage capacity, and assessment of the applicant's financial and technical capabilities. Upon successful review, the NPA Board may issue a provisional approval. The applicant is then required to submit proof of a trade finance facility of at least USD 60 million. Once the financing terms are approved and the full licensing fees are paid, the final licence is issued.

Once issued, the BDC licence is valid for a period of one year. Licensees are required to renew the licence annually before its expiration to continue operations without interruption.

- Renewal requires:
  - » Updated compliance documentation;
  - » Financial statements;
  - » Payment of renewal fee; and
  - » Performance review by NPA

**c. Eligibility for a BDC License**

Licenses are issued only to<sup>93</sup> Ghanaian citizens, registered companies in Ghana, partnerships, foreign individuals or companies in a joint venture with a Ghanaian citizen(s).

**d. Main Requirements for a BDC License**

To qualify for a Bulk Distributing Company license, the following must be submitted or demonstrated<sup>94</sup>:

1. A detailed business plan;
2. A corporate environmental policy that leads to an environmental permit from the Environmental Protection Authority (EPA);
3. Minimum equity capital of 30 million Ghana cedis (must be in cash or demonstrable assets owned by the applicant);
4. Evidence of a US \$60 million credit facility from a Bank of Ghana-licensed institution;
5. Access to at least 40,000 cubic meters (m<sup>3</sup>) of petroleum storage (owned or under a long-term exclusive lease); and
6. Proof that at least 50 percent of company shares are owned by Ghanaian citizens

**e. Post-License Obligations**

Once the license is granted, the company must:

1. Install the GCNet (Ghana Customs Network) system at its office; and
2. Declare all petroleum imports and exports to Customs through the Ghana Customs Management System before any cargo delivery.

**f. Requirements for Constructing a Petroleum Storage, Bulk Sale, and Distribution Depot**

Entities that wish to build and operate petroleum product depots must also meet these additional requirements:

1. Proof that the applicant is:
  - » An oil marketing company, or
  - » A competent and licensed company recognized by the NPA, or
  - » An internationally reputable oil trader

<sup>93</sup> National Petroleum Authority Act, 2005 (Act 691) Section 12

<sup>94</sup> National Petroleum Authority Public Notice- NPA.N.009

2. Proof of land title registration or a valid agreement with the landowner.
3. An environmental permit from the Environmental Protection Authority
4. A development and building permit from the local town planning authority
5. A fire safety report signed by the Chief Fire Officer or regional fire officer
6. A geotechnical report
7. A report from the Geological Survey Department of Ghana
8. A letter of consent from the Customs, Excise and Preventive Services stating that the facility will be granted bonded warehouse status.

#### **g. Petroleum Product Marketing Licence**

In Ghana, any individual or company that intends to operate in the petroleum marketing sector, which includes the distribution, sale, or retail of petroleum products, is required to obtain a petroleum marketing license from the National Petroleum Authority (NPA). This requirement applies to both Ghanaian citizens and registered companies.

The following types of businesses are typically required to hold a petroleum marketing license:

- **Oil Marketing Companies:** These are companies involved in the marketing and sale of petroleum products to retail outlets and end users.
- **LPG Marketing Companies:** These companies handle the marketing and distribution of Liquefied Petroleum Gas, commonly known as LPG.
- **Companies involved in petroleum product operations:** This includes businesses that import, export, refine, store, transport, distribute, sell, or retail petroleum products.
- **Companies constructing petroleum product retail outlets:** These companies must obtain approval or a permit from the NPA before beginning any construction activities.

<sup>95</sup>To obtain a Petroleum Product Marketing Licence from the National Petroleum Authority (NPA), an applicant must meet the following requirements:

#### **i. A Comprehensive Five-Year Business Plan**

The business plan must be detailed and include the following sections:

- Business description, including the company's trading activities, history, and capabilities
- Organization and management structure
- Risk analysis
- Market analysis
- Legal issues
- Project strategy
- Financial analysis
- Economic analysis
- Environmental analysis

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<sup>95</sup> National Petroleum Authority Public Notice-NPA.N.002

## ii. Corporate Environmental Policy

A formal corporate environmental policy that leads to the issuance of an Environmental Permit by the Environmental Protection Authority ('EPA').

## iii. Service Station Ownership

Proof of ownership of at least seven modern, state-of-the-art service stations.

## iv. Bank Financing Support

A written commitment from a reputable bank licensed by the Bank of Ghana, confirming readiness to provide funding of not less than four million Ghana cedis.

### 18.2.13 Issues and Renewals of the License

<sup>96</sup>A licence issued under the Act remains valid for the duration specified in the licence document and may be renewed upon fulfilment of the applicable renewal conditions. The renewal process requires the licensee to apply at least sixty days before the licence expires, in accordance with procedures set by the Board. Renewal is also subject to the payment of the prescribed fee prior to the issuance of a new licence. Licensees are required to display their licences clearly in a prominent location within their business premises. Furthermore, licences may not be transferred to another person or entity without the prior written approval of the Board. In practice, the National Petroleum Authority (NPA) typically notifies Oil Marketing Companies (OMCs) of upcoming licence expirations three months in advance, outlining any updated renewal requirements. Renewal applications are submitted online.

### 18.2.14 Revocation, suspension, and refusal to renew license

The Board of the National Petroleum Authority reserves the right to revoke, suspend, or decline the renewal of any licence issued under the Act if certain conditions arise. These include failure by the licensee to comply satisfactorily with the provisions of the Act or its Regulations, if the ongoing operation of the business presents a threat to public health, safety, or security, or where the quality of services provided has fallen below the required standards. A licence may also be withdrawn if the licensee fails to adhere to the conditions outlined in the licence, is under investigation for an offence under the Act, or has contravened a provision of the Act, even without a formal conviction.

### 18.2.15 Submission of reports to the Board

Any petroleum service provider engaged in the importation, refining, and marketing of petroleum products within the downstream sector is required to submit a monthly report to the National Petroleum Authority on a date specified by the Board<sup>97</sup>. This report must detail actual figures relating to imports, production, domestic sales and consumption, inventory levels of crude oil and finished products, and exports.

In addition to regular reporting, the Board may request specific reports from a petroleum service provider to address particular issues. This may include information concerning the provider's operational conduct, management practices, and interactions with relevant institutions, partnerships, or individuals involved in the petroleum business.

<sup>96</sup> The National Petroleum Authority Act, 2005 (Act 691) Section 15

<sup>97</sup> The National Petroleum Authority Act, 2005 (Act 691) Section 37

### 18.2.16 Duties of petroleum service providers

Every licensee is required to submit a written quarterly report to the National Petroleum Authority beginning from the commencement of any business or commercial activity specified under the NPA Act. This report must detail the nature and scope of the activities undertaken during the reporting period.

### 18.2.17 Regulatory Requirements for Oil Marketing Companies

In addition to these enforcement provisions, oil marketing companies are required to submit monthly reports to a designated coordinator. These reports must include a detailed analysis of sales by location, along with corresponding delivery notes. Reports are to be submitted no later than the tenth day of the month following the reporting period.

Oil marketing companies must also retain copies of these reports and delivery notes for a minimum of six years. Upon receipt, the coordinator is responsible for reviewing the reports, preparing a summary of any payments due to or from each company, and submitting this summary to the Unified Petroleum Price Fund Management Committee for approval.

These records must also be made available to any auditor appointed by the Auditor General if requested by the Board. Additionally, the Unified Petroleum Price Fund Management Committee is required to submit a quarterly report to the Board, which must be forwarded to the Minister within fourteen days.

The law clearly states that the Unified Petroleum Price Fund is exempted from all forms of taxation. This exemption helps to ensure that the Fund operates efficiently and sustainably in fulfilling its mandate to support equitable petroleum distribution and pricing across the country.

### 18.2.18 Offences and Penalties

The misapplication of the petroleum pricing formula is prohibited under Ghana's downstream petroleum regulations<sup>98</sup>. Petroleum service providers are not permitted to manipulate the pricing formula in a way that results in consumers being overcharged. Any provider found to engage in such conduct commits an offence and is subject to penalties under the law.

It is also considered an offence for a petroleum service provider to make false statements in relation to any matter governed by the Act. Furthermore, submitting misleading information or knowingly providing false documents to the National Petroleum Authority, whether during application processes, reporting, or compliance checks, is strictly prohibited and constitutes a punishable offence.

Obstructing or interfering with an officer, agent, or employee of the National Petroleum Authority while they are carrying out their official duties is another offence.

The law also criminalizes the unlawful destruction or damage of petroleum infrastructure, which includes any equipment or facilities used for refining, storing, transporting, marketing, or selling petroleum products.

If the offence is committed by a corporate entity, its directors, managers, partners, secretaries, or officers, or any individuals acting in those roles, can also be held personally liable. However,

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<sup>98</sup> The National Petroleum Authority Act, 2005 (Act 691) Section 61

these individuals may be exempt from liability if they can prove that the offence occurred without their knowledge or consent and that they took reasonable steps to prevent its occurrence.

### **18.2.19 Petroleum Downstream (Ghanaian Content and Ghanaian Participation) Regulations**

Ghana has enacted the Petroleum Downstream (Ghanaian Content and Ghanaian Participation) Regulations, 2024 (L.I 2500), a wide-ranging policy framework designed to boost local ownership, guarantee fair participation, and retain greater economic value within the country. The new regulations place binding obligations on petroleum service providers, contractors, and subcontractors, making Ghanaian content and participation a cornerstone of the downstream petroleum industry. Below are the key provisions stakeholders should note:

#### **a. Ghanaian Content and Participation Requirements**

Under the regulations, every petroleum service provider is required to comply with the stipulated Ghanaian content and participation obligations when carrying out petroleum-related activities in the country.<sup>99</sup>

#### **b. Local Equity Participation**

Any petroleum service provider granted a licence to operate in the downstream industry must fulfil the local equity participation requirements outlined in the regulations.<sup>100</sup> The Authority shall, in granting a licence to a petroleum service provider, ensure that the petroleum service provider satisfies the local equity participation requirements as set out below:

#### **c. EMPLOYMENT OF CITIZENS IN THE PETROLEUM DOWNSTREAM INDUSTRY**

ITEM	PERCENTAGE OF GHANAIAN CITIZENS IN WORKFORCE REQUIRED
Managerial and Executive Positions	80%
Non-managerial and Other Positions	100%

#### **d. SPECIFIC GHANAIAN CONTENT REQUIREMENTS IN THE PETROLEUM DOWNSTREAM INDUSTRY:**

##### **i. Trading, shipping, and marketing of crude oil and petroleum products**

ITEM	PERCENTAGE OF GHANAIAN OWNERSHIP REQUIRED
Crude oil Trading	Up to 100%
Oil Trading	100%
Bunkering	100%
Bulk Oil Distribution	100%
Oil Marketing	100%
Retailing of Petroleum products at the retail outlets	100%

<sup>99</sup> Petroleum Downstream (Ghanaian Content and Ghanaian Participation) Regulations, 2024 (L.I 2500) Section 2

<sup>100</sup> Petroleum Downstream (Ghanaian Content and Ghanaian Participation) Regulations, 2024 (L.I 2500) Section 3

**ii. Infrastructure development and operation**

ITEM	PERCENTAGE OF GHANAIAN OWNERSHIP REQUIRED
Jetties, Single Point Mooring (SPM), Conventional Buoy Mooring (CBM), All Buoy Mooring (ABM)	51%
Storage tanks and depots	51%
Refineries, gas processing plants, and petro-chemical plants	51%
Lube plant, blending and packaging plant	51%
Liquefied Petroleum Gas bottling plant	51%
Retail outlets	100%
Cylinder exchange depots	100%

**iii. Bulk and commercial supply of petroleum products**

ITEM	PERCENTAGE OF GHANAIAN OWNERSHIP REQUIRED
Power generation plants	100%
Upstream Petroleum facilities	100%
Construction Products	100%
Quarries	100%
Mining	100%

**iv. Procurement of goods and services by Ghanaian companies**

ITEM	PERCENTAGE OF GHANAIAN OWNERSHIP REQUIRED
Supply of goods and services for the petroleum downstream industry	100%

**v. Ghanaian Content Requirements in the Aviation Industry**

ITEM	PERCENTAGE OF GHANAIAN OWNERSHIP REQUIRED
Aviation	51%

The Authority, in consultation with the Minister, may vary the local equity participation requirements in certain circumstances<sup>101</sup>. This flexibility applies particularly to the construction and operation of major downstream infrastructure projects, as well as the importation and distribution of crude oil and petroleum products. Variations may be granted on the grounds of:

- a. The lack of financial capacity by citizens or Ghanaian companies;
- b. National strategic reasons as assigned by the Minister; or

<sup>101</sup> Petroleum Downstream (Ghanaian Content and Ghanaian Participation) Regulations, 2024 (L.I 2500) Section 3

c. Any other reason determined by the Minister.

#### **e. Non-Transferability of Ghanaian Interest**

The regulations make it clear that the interest of a Ghanaian shareholder in an existing petroleum service provider cannot be transferred to a foreign-owned entity<sup>102</sup>. This measure is intended to safeguard local ownership and prevent dilution of Ghanaian participation in the downstream petroleum industry.

Furthermore, Ghanaian companies, dealers, and resellers are prohibited from selling existing retail outlets or petroleum-related infrastructure to foreign-owned firms.

#### **f. Supply of Goods and Services in the Petroleum Downstream Industry<sup>103</sup>**

The regulations require that goods and services for the petroleum downstream industry be procured from Ghanaian companies that comply with the Ghanaian content and participation requirements. Procurement must be conducted on a competitive and transparent basis.

Where it becomes necessary for a foreign company to provide goods and services in the downstream industry, the company must incorporate and operate a registered entity in Ghana. In addition, it must provide the goods and services in partnership with a Ghanaian company, ensuring that local involvement is maintained.

#### **g. Submission of Ghanaian Content and Ghanaian Participation Plan for Approval<sup>104</sup>**

At the time of applying for a licence or renewing an existing licence, a petroleum service provider is required to prepare and submit a Ghanaian Content and Ghanaian Participation Plan to the Authority for approval.

Both new applicants and existing licence holders must provide two types of plans. First, they must submit a long-term plan that corresponds with the petroleum activity the service provider is engaged in. Second, they must provide an annual plan that covers each year of operation.

Once the Authority receives a Ghanaian Content and Ghanaian Participation Plan, it is required to act within seven days. During this period, the Authority must formally acknowledge receipt of the plan and lodge it with the committee for further consideration.

#### **h. Content of the Ghanaian Content and Participation Plan<sup>105</sup>**

A Ghanaian Content and Participation Plan must contain detailed provisions that demonstrate how the petroleum service provider intends to comply with the requirements of the regulations. The plan must show that priority will be given to services provided within the country and to goods manufactured locally, provided that these goods meet the specifications of the petroleum downstream industry in line with standards set by the Ghana Standards Authority or other internationally acceptable standards.

In addition, the plan must guarantee that qualified Ghanaian citizens are given first consideration for employment opportunities. It should also make adequate provision for on-the-job training to build local expertise. The petroleum service provider is further expected to outline the steps it will take to ensure the consistent use of locally manufactured goods that meet industry

102 Petroleum Downstream (Ghanaian Content and Ghanaian Participation) Regulations, 2024 (L.I 2500) Section 4

103 Petroleum Downstream (Ghanaian Content and Ghanaian Participation) Regulations, 2024 (L.I 2500) Section 5

104 Petroleum Downstream (Ghanaian Content and Ghanaian Participation) Regulations, 2024 (L.I 2500) Section 8

105 Petroleum Downstream (Ghanaian Content and Ghanaian Participation) Regulations, 2024 (L.I 2500) Section 9

standards.

The Ghanaian Content and Participation Plan must also include specific components. These are: information on Ghanaian equity participation in the company, an employment and training sub-plan, a research and development sub-plan, a technology transfer sub-plan, and any other sub-plans considered necessary for compliance.

#### **i. Review of the Ghanaian Content and Participation Plan<sup>106</sup>**

Once a Ghanaian Content and Participation Plan has been submitted, the Committee is required to act within thirty days of receipt. During this period, the Committee will review and assess the plan to ensure it meets the requirements of the regulations. After completing its assessment, the Committee must formally inform the Authority in writing of its recommendations.

#### **j. Preference for Companies with Majority Ghanaian Ownership<sup>107</sup>**

The regulations establish a clear preference for companies with majority Ghanaian ownership in the award of contracts. Specifically, contracts for the bulk supply of petroleum products, goods, and services to certain industries are reserved exclusively for Ghanaian companies. These industries include power generation, upstream petroleum, construction, quarrying, mining, and any other industry that may be determined by the Authority.

In the aviation industry, the award of bulk supply contracts is also reserved for Ghanaian companies, with the required percentage of ownership specified in the accompanying regulations.

However, where a Ghanaian company lacks the capacity to provide bulk supplies of energy transition fuels or related goods and services, the regulations allow for such contracts to be awarded to foreign companies. This provision ensures that while Ghanaian ownership is prioritised, the industry can still operate efficiently where local capacity is limited.

#### **k. Employment of Citizens in Managerial and Other Positions<sup>108</sup>**

The regulations also address employment requirements within the downstream petroleum industry. A petroleum service provider is required to ensure that at least eight percent of managerial and executive positions are occupied by Ghanaian citizens.<sup>109</sup>

At the junior and middle levels, the rules are even stricter. Service providers may employ only Ghanaian citizens in these positions. Roles at these levels include foremen, supervisors, and other comparable positions as designated.

#### **l. Succession Planning<sup>110</sup>**

The regulations require petroleum service providers to submit a succession plan to the Authority for any position held by a non-citizen. The purpose of this plan is to ensure compliance with the minimum Ghanaian content and participation levels set out in the regulations.

Under the succession plan, Ghanaian citizens must be given the opportunity to understudy the responsibilities of non-citizens occupying specific roles. The Authority will determine the

<sup>106</sup> Petroleum Downstream (Ghanaian Content and Ghanaian Participation) Regulations, 2024 (L.I 2500) Section 10

<sup>107</sup> Petroleum Downstream (Ghanaian Content and Ghanaian Participation) Regulations, 2024 (L.I 2500) Section 11

<sup>108</sup> Petroleum Downstream (Ghanaian Content and Ghanaian Participation) Regulations, 2024 (L.I 2500) Section 13

<sup>109</sup> Petroleum Downstream (Ghanaian Content and Ghanaian Participation) Regulations, 2024 (L.I 2500) Section 15

<sup>110</sup> Petroleum Downstream (Ghanaian Content and Ghanaian Participation) Regulations, 2024 (L.I 2500) Section 16

period for such arrangements on a case-by-case basis. Once this period expires, the position must be transferred to a qualified Ghanaian.

#### **m. Promotion of Gender Balance<sup>111</sup>**

In addition to succession planning, petroleum service providers must also submit programmes that promote gender balance in their annual recruitment and training exercises. These programmes must demonstrate efforts to ensure equitable representation of men and women across both managerial and non-managerial roles, as well as technical and non-technical positions.

#### **n. Submission of Ghanaian Content and Participation Performance Report<sup>112</sup>**

Every petroleum service provider is required to submit an annual Ghanaian Content and Participation Performance Report to the Authority within forty-five days after the beginning of each year. This report must cover all projects and activities undertaken by the service provider in the year under review.

The report must be presented in the format prescribed by the Authority. It should outline planned activities and compare them with the actual results achieved. In addition, the report must detail any technology transfer initiatives being pursued and indicate the status of implementation of Ghanaian Content and Participation reports submitted by the company's partners, contractors, subcontractors, and other allied entities engaged in downstream petroleum activities.

#### **o. Offences and Penalties<sup>113</sup>**

The regulations set out tough consequences for non-compliance. Any person who knowingly submits false information in a plan, report, or other required document commits an offence. If found guilty, the offender may be fined heavily, sentenced to between five and ten years in prison, or both.

A citizen who serves as a front or collaborates with a foreign company to falsely claim Ghanaian ownership to meet local content requirements also commits an offence. Such a person faces a fine, a prison term of two to five years, or both. In addition, anyone who conspires with a citizen or a Ghanaian company to falsely present a foreign-owned business as a Ghanaian company is guilty of an offence. The punishment for this includes a fine, imprisonment for two to five years, or both.

### **18.2.20 Conclusion**

Ghana's downstream petroleum sector presents a well-regulated and opportunity-rich environment for investment, supported by a clear legal framework, structured licensing processes, and a growing demand for energy infrastructure and services. While the sector is open to foreign participation, the regulatory landscape strongly emphasises local content and equity participation through joint ventures, strategic alliances, or channel partnerships with fully Ghanaian-owned companies. The amended local content regulations further reinforce this by reserving specific goods and services for indigenous suppliers and promoting technology transfer and capacity building. For investors seeking to enter or expand in Ghana's

<sup>111</sup> Petroleum Downstream (Ghanaian Content and Ghanaian Participation) Regulations, 2024 (L.I 2500) Section 17

<sup>112</sup> Petroleum Downstream (Ghanaian Content and Ghanaian Participation) Regulations, 2024 (L.I 2500) Section 23

<sup>113</sup> Petroleum Downstream (Ghanaian Content and Ghanaian Participation) Regulations, 2024 (L.I 2500) Section 29

petroleum value chain, long-term success will depend on a solid understanding of the legal and compliance landscape, meaningful partnerships with local entities, and alignment with the country's national development goals.

## 18.3 THE POWER SECTOR IN GHANA

### 18.3.1 Introduction

The power sector in Ghana is one of the key drivers of the country's economic growth, supporting industrial development, production, and social services. Ghana derives its power supply from three main sources, which are hydropower, thermal power, and renewable energy. Hydropower is primarily generated from the Akosombo, Kpong, and Bui dams. The nation's thermal power is mainly fueled by natural gas and crude oil from domestic and imported sources. Although its contribution remains limited, renewable energy in Ghana is predominantly derived from solar sources. Ghana has a total installed plant capacity of about 4,132MW, comprising 38% hydropower, 61% thermal power, and 1% solar.<sup>114</sup>

### 18.3.2 Overview and Structure of the Power Sector in Ghana

The power sector operates in three (3) main tiers: generation, transmission, and distribution. The Government plays a significant role in each of these stages and owns approximately 56% of the country's installed electricity generation capacity.

The State serves as a vital connection between distribution networks and facilities that generate electricity and oversees the networked power transmission system. The Government can directly regulate the last mile of power transmission to customers due to its ownership of the two major distribution utilities in the country. Additionally, the Government has a major oversight function in developing policies and regulating the electricity industry.

#### a. Generation

Ghana has a vibrant power generation terrain with players from both the public and private sectors. Hydro and thermal plants are run by the state-owned Volta River Authority ("VRA"), with a major contribution from Independent Power Producers ("IPPs"), mostly through the production of thermal and renewable energy.

#### b. Transmission

Power transmission in Ghana is exclusively managed by the Ghana Grid Company Limited ("GRIDCo"), which owns and operates the country's transmission network and grants open access to bulk consumers and generators.

#### c. Distribution

Electricity distribution in Ghana is carried out by three primary distribution utilities, two state-owned and one private sector-operated. The Electricity Company of Ghana ("ECG") and the Northern Electricity Department ("NEDCo"), a subsidiary of the VRA, are the two state-owned distributors. Enclave Power Company Ltd ("EPC") is the only privately-owned electricity distribution company operating in the Tema Free Zones Enclave in the Greater Accra Region.

<sup>114</sup> Ministry of Energy, *Overview of the Ghana Power Sector* <<https://www.energymin.gov.gh/sector-overview>> accessed 13 June 2025.

### 18.3.3 Key Stakeholders

The Key stakeholders in Ghana's power sector include the following:

- i. The Ministry of Energy;
- ii. The Energy Commission;
- iii. The Public Utilities and Regulatory Commission ("PURC");
- iv. The Volta River Authority ("VRA");
- v. The Ghana Grid Company Limited ("GRIDCo");
- vi. The Electricity Company of Ghana ("ECG"); and
- vii. The Independent Power Producers (IPPs), which include Cenpower Generation Ltd, Karpowership Ghana, and Sunon Asogli Power Ghana.

### 18.3.4 Legal and Regulatory Framework

#### a. The laws governing the power sector in Ghana include:

- The Energy Commission Act, 1997, Act 541;
- Public Utilities Regulatory Commission Act, 1997, Act 538;
- Renewable Energy Act, 2011, Act 832;
- Energy Commission (Local Content and Local Participation) (Electricity Supply Industry) Regulations, 2017, L.I. 2354;
- The Electricity Transmission Rules, 2008, L. I. 1934;
- The Electricity Regulations, 2008, L.I. 1937;
- Electricity Supply and Distribution (Technical and Operational) Rules, 2005, L.I. 1816; and
- Electricity Supply and Distribution (Standards of Performance) Regulations, 2008, L.I. 1935.

#### b. Regulatory Bodies in the Power Sector

Three main bodies regulate the power sector in Ghana. They are *the Ministry of Energy*, the Energy Commission, and the Public Utilities Regulatory Commission ("PURC"). The Ministry of Energy is responsible for developing, overseeing, and assessing policies, programs, and initiatives within the energy sector. As part of its responsibilities, the Ministry oversees the execution of the National Electrification Scheme ("NES"), aimed at providing electricity access to all communities over the long term.

*The Energy Commission*, created under the Energy Commission Act 1997, Act 541 (as amended), serves as the technical regulator for Ghana's energy industry. Accordingly, the Commission is responsible for granting licenses to all participants in the electricity supply sector. Additionally, the Commission is charged with planning for the sector and provides technical advice to the Minister for Energy.

The other regulator of the power sector, *the PURC*, established by the Public Utilities Regulatory Commission Act 1997, Act 538, oversees the economic regulation of the electricity supply sector. It is responsible for approving and setting tariffs across the entire power value chain. Additionally, the PURC supervises adherence to performance standards by service providers within the sector.

### 18.3.5 Licensing Regime

Entities desiring to engage in any operations within Ghana's electricity supply industry must obtain a license from the Energy Commission. While permits from the Environmental Protection Authority and other relevant local authorities are required for the construction of any physical facilities and operations in the power sector, obtaining such permits does not exclude the primary mandatory obligation to obtain a license from the Energy Commission.

#### a. Types of Licenses and Permit

The power sector in Ghana is governed by a licensing regime that ensures entities engaged in the generation, transmission, distribution, and sale of electricity operate within a structured legal and regulatory framework. Depending on the nature of operations, entities must obtain the appropriate licence type to legally carry out their functions within the sector. The types of licenses issued by the Energy Commission are as follows:

##### i. Wholesale electricity supply license:

- Electricity Generation License (Grid Connected/ Embedded);

The Grid-Connected Generation License permits the licensee to acquire, construct, and operate an electricity generation facility linked to the transmission network, allowing for the sale of electricity to Distribution Companies and Bulk Customers either directly or through Electricity Brokers. The Embedded Generation License, on the other hand, allows the licensee to obtain, build, and operate an electricity generation facility that connects to a distribution network to sell electricity to a Distribution Company, Bulk Customer, or Electricity Broker.

- Electricity brokerage;

An electricity brokerage license enables the licensee to purchase electricity from wholesale suppliers for resale to Distribution Companies and Bulk Customers.

- Electricity export;

An electricity export license grants a licensed Wholesale Supplier the authority to export electricity to any other country.

- Electricity import;

An electricity import license authorises a licensed Distribution Utility or licensed Wholesale Supplier to import electricity into the country.

##### ii. Electricity transmission license

This license grants the license holder the right to do the following:

- oversee and regulate the operation of the national interconnected network for the transmission of electricity throughout Ghana, ensuring the safe, dependable, and economical dispatch of all electricity generation facilities linked to the national interconnected transmission system as specified in the license;
- to provide open access transmission and interconnection services without discrimination to other licensees in the Ghanaian electricity supply industry; and
- to provide open access transmission and interconnection services to operators of electricity networks or power systems in ECOWAS member states, subject to the ECOWAS Energy Protocol.

### iii. Electricity distribution license

An electricity distribution license enables the licensee to operate a distribution network and distribute electricity fairly to consumers within a specified area or concession, as noted in their license.

### iv. Electricity sale license

An electricity sale license allows the licensee to acquire electricity from a wholesale supplier and sell it to consumers without discrimination in the designated area or concession outlined in their license.

In addition to the licenses provided above, the Energy Commission has laid out **Permits** for some categories of activities and services in the electricity supply industry.

- **Bulk Customer Permit**

This permit is granted for bulk power purchase activities.

- **Siting Permit**

This permit is for the location of an electricity generation or supply infrastructure.

- **Construction Permit**

The Construction Permit authorises the actual building of the electricity generation or supply infrastructure at the approved site.

## b. Application and Renewal of the license

Eligibility for a power sector license in Ghana is limited to individuals who are citizens of Ghana, corporate entities duly registered under the Companies Act, 2019 (Act 992) or any other law in force in Ghana, and partnerships registered in accordance with the Incorporated Private Partnership Act, 1962 (Act 152).

In relation to power generation licenses for the supply of electricity to the regulated public market, the applicant must demonstrate that:

- i. The project was procured through a transparent and competitive selection process; and
- ii. It satisfies forecasted demand as determined by national electricity supply and demand assessments.

Licence applications must be filed with the Commission in the format it prescribes, along with the applicable fee and required documents.

Upon receiving an application, the Commission will issue an acknowledgement within 10 working days. A decision will then be provided in writing within a reasonable time, but no later than 60 working days following the acknowledgement period.

## c. Duration and Renewal of License

Licenses are issued for a fixed duration, as specified in the Table below. They may be renewed provided the licensee complies with the terms and conditions of the license.

However, for power generation licenses, the validity period must also reflect the expected useful life of the plant following its commissioning.

## Duration of License

Types of Licenses	Duration
Wholesale Supply – Electricity Generation	Up to 20 years
Wholesale Supply – Electricity Brokerage	Up to 20 years
Wholesale Supply – Electricity Export	Up to 5 years
Wholesale Supply – Electricity Import	Up to 5 years
Electricity Transmission	Up to 25 years
Electricity Distribution	Up to 20 years
Electricity Sale	Up to 20 years

## Duration of Permit

Type of Permits	Duration
Siting Permit (Siting Clearance)	Up to 24 months
Construction Permit	Up to 24 months
Bulk Customer Permit	Up to 60 months

### d. Renewal of License

A license is eligible for renewal only upon verification by the Energy Commission that the associated equipment or facility is technically sound and operational. The process for renewal shall be identical to that governing the issuance of the original license. The Energy Commission is mandated to suspend or cancel a license where it is satisfied that there is an issue of non-compliance.

### e. Prohibition on Cross-Ownership

To safeguard against the potential abuse of monopoly power by transmission and distribution utilities, the following restrictions are imposed:

- i. Any individual or entity holding, or applying for, a Generation Licence, Broker Licence, or Transmission Licence including their affiliates, shareholders, directors, officers, and any relatives up to the fourth degree of consanguinity or affinity (whether legitimate or by common law), as well as their spouses is prohibited from directly or indirectly owning shares or equity interests in any Distribution Utility; and
- ii. Similarly, any holder or applicant of a Generation Licence, Broker Licence, or Distribution Licence, along with their affiliates, shareholders, directors, officers, and relatives within the fourth degree of consanguinity or affinity, and their spouses, is barred from holding shares or equity interests, whether directly or indirectly, in the Electricity Transmission Utility (ETU).<sup>115</sup>

<sup>115</sup> Licence and Permit Application Manual for Service Providers in the Electricity Power Industry.

### 18.3.6 License and Permit Fees for Electricity Operators in Ghana

The license fees payable in the electricity sector have been categorised into two (2), the Initial Licence Fee (ILF) and the Annual License Fee or Operating Fee. New licenses will not be issued without full payment of the required Initial Licence Fee, which is determined by the type of license sought and must be paid in advance.

Additionally, an Annual Operating/ License Fee, made up of a fixed charge and a variable charge, shall apply to all issued licenses. These fees are subject to annual review and adjustment by the Parliament of Ghana.

Type of License	Application Fee (US\$)	Initial License Fee (ILF) (US\$)	Annual Operating Fee (AOF) Fixed (USD)	Annual Operating Fee (AOF) Variable (USD/kWh)
Wholesale Supply (Electricity Generation)	10,000	0.1% of EPC Cost	37,500	0.25% of PURC Approved Tariff or PPA
Combined Cycle Power Plants	10,000	0.1% of EPC Cost	62,500	0.25% of PURC Approved Tariff or PPA

Type of License	Application Fee (US\$)	ILF fixed (USD)	ILF Variable (US\$)	AOF Fixed (US\$)	AOF Variable (GHS/kWh)
Electricity Transmission Services	10,000	66,000	NIL	100,000	0.25% of Transmission Service Charge
Electricity Distribution Services	10,000	100,000	NIL	50,000	0.25% of Distribution Service Charge
Electricity Retail Sale Services	10,000	100,000	NIL	50,000	0.25% of Retail Service Charge
Electricity Brokerage Services	10,000	10,000	NIL	10,000	GHS 0.00034/kWh
Electricity Export Services	10,000	20,000	NIL	20,000	GHS 0.00034/kWh
Electricity Import Services	10,000	20,000	NIL	20,000	GHS 0.00034/kWh
Siting Fee	10,000	-	-	-	-
Construction Permit Fee	0.1% of EPC* Cost	-	-	-	-
Bulk Customer Permit Fee	GHS3,000	-	-	-	GHS 0.00075/kWh of energy consumed

### 18.3.7 Local Content and Participation Laws

Ghana has established local content laws to ensure the maximum use of financial capital, expertise, goods, and services locally by providing an enabling environment. The laws seek to create employment for Ghanaians, promote businesses in the electricity supply industry and promote development initiatives for local stakeholders. The law is focused on achieving

a minimum of sixty (60%) local content and fifty-one (51%) per cent local participation in the electricity supply industry in Ghana.

**a. Legal and Regulatory Framework of Ghana's Local Content and Participation Laws**

The primary legislation governing local content and participation of the power sector in Ghana is the Energy Commission (Local Content and Local Participation) L.I 2354 and Energy Commission Act, 1997, Act 541 (as amended). The Energy Commission is the regulatory body responsible for enforcing local content regulations in the electricity supply industry.

**b. Scope of Application of Local Content and Participation in the Power Sector**

The local content and participation laws apply to all licensed activities in the power sector, including the following:

- i. Electricity Generation;
- ii. Electricity Transmission;
- iii. Electricity Distribution;
- iv. Electricity Bulk Supply;
- v. Export and Import of electricity;
- vi. Electricity Brokerage;
- vii. Operators, contractors, subcontractors or person performing paid services for a licensed persons; and
- viii. Registered manufacturers of electrical equipment, electrical appliances or renewable energy equipment.

**18.3.8 Local Participation**

With a minimum target of 51% local equity ownership set for the power sector, the law stipulates the initial local participation requirements and the period for achieving the required local participation target in the power sector.

Activity	Initial level of Local Participation (LP)	Timeline for targeted Local Participation level	Target Local Participation Level
Wholesale Power Supply (Generation)	15%	10 years	51%
Electricity Distribution	30%	10 years	51%
Electricity Sale Services	80%	5 years	100%
Electricity Brokerage Services	80%	5 years	100%
Electricity Transmission	15%	10 years	49%

**18.3.9 Local Content**

The key objective of the Local Content Law is to secure a minimum local content threshold of 60% in the electricity supply sector. This involves using Ghanaian personnel, goods, services, and enterprises throughout the power sector. The key areas of local content requirements include:

- i. Submission of a local content and participation plan;
- ii. Source goods and services locally;
- iii. Comply with the thresholds for development projects;
- iv. Engage local professionals and service providers;
- v. Employment and training of Ghanaians;
- vi. Establishment of a local office;
- vii. The use of locally sourced equipment;
- viii. Limiting foreign business activities; and
- ix. Meeting reporting requirements.

**a. The thresholds for development**

The thresholds for development projects in the power sector are outlined below:

Activity	Engineering and Procurement	Construction Works and Installations	Post Construction Works Supplies	Services	Operations and Maintenance Contracts
Wholesale Power Supply (Generation)	Minimum of 30% of the value of the project, other than machinery, must be given to Ghanaian companies.  To be increased to 50% within 10 years	Minimum of 60% of cost of the construction works of the project shall go to Ghanaian Companies  To be increased to 80% in 5 years	Minimum of 70% of the value of all supplies shall go to Ghanaian owned Companies.  To be increased to 80% in 5 years.	Minimum levels for: Catering is 100%;  Janitorial Services is 100%;  vehicle maintenance is 100%  To be increased to 100% in 5 years.	Not Applicable
Electricity Distribution	Minimum of 70% of the value of the project must be given to Ghanaian companies.  To be increased to 80% within 10 years	Minimum of 70% of the cost of construction works must be given to Ghanaian companies.  To be increased to 80% within 10 years.	Minimum of 80% of the value of all supplies must be given to Ghanaian companies.  To be increased to 100% within 10 years.	Minimum levels for: Catering-100%; Janitorial Services-100%,  Vehicle Maintenance is 100%;  Equipment Servicing -70% To be increased to 100% within 10 years.	Minimum of 90% of the value of all operation and maintenance contracts must be awarded to Ghanaian Companies.  To be increased to 100% within 5 years

Electricity Sale Services	100% to Ghanaian owned Companies.	100% to Ghanaian owned Companies.	Minimum of 80% of the value of all supplies shall go to Ghanaian owned Companies.  To be increased to 100% within 5 years	Minimum levels for: Catering-100%,  Janitorial Services-100%  Vehicle Maintenance-100%;  Equipment Servicing-70%  To be increased to 100% in 5 years	Minimum of 95% of the value of all operation and maintenance contracts shall be awarded to Ghanaian owned Companies  To be increased to 100% in 5 years
Electricity Brokerage Services	Minimum of 90% of value of the project shall go to indigenous Ghanaian Companies  To be increased to 100% in 5 years	100% of cost of the construction works of the project shall be awarded to indigenous Ghanaian Companies.	Minimum of 80% of the value of all supplies shall go to indigenous Ghanaian Companies  To be increased to 100% in 5 years	Minimum levels for: Catering -100% ; Janitorial Services-100% Vehicle Maintenance-100%; Equipment Servicing-70%  To be increased to 100% in 5 years	N/A
Electricity Transmission	Minimum of 30% of value of the project shall go to Ghanaian Companies  To be increased to 50% in 10 years	Minimum of 60% of cost of the construction works of the project shall go to Ghanaian Companies  To be increased to 80% in 10 years	Minimum of 60% of the Value of all supplies shall go to Ghanaian owned Companies  To be increased to 80% in 10 years	Minimum levels for Catering-100%;  Janitorial Services-100%;  Vehicle Maintenance-100%;  Equipment Servicing-70% To be increased to 100% in 10 years	100% of the value of all operation and maintenance contracts shall be awarded to indigenous Ghanaian companies

Service providers operating in Ghana's power sector are obligated to ensure that all (100%) staff are Ghanaians, except for individuals employed in operations and maintenance or holding management positions. The respective local content for management and operations and maintenance staff are provided below:

Activities	Management	Operations and Maintenance staff
Wholesale Power Supply (Generation)	Minimum of 60% must be Ghanaians.  To be increased to 90% within 5 years	Minimum of 60% must be Ghanaians.  To be increased to 80% within 5 years.
Electricity Distribution	Minimum of 90% must be Ghanaians.  To be increased to 95% within 5 years.	Minimum of 90% must be Ghanaians.  To be increased to 100% within 5 years.
Electricity Sale Services	Minimum of 90% must be Ghanaians.  To be increased to 95% within 5 years	Minimum of 95% must be Ghanaians.  To be increased to 100% within 5 years.

Electricity Brokerage Services	Minimum of 90% must be Ghanaians. To be increased to 95% within 5 years.	Minimum of 95% must be Ghanaians. To be increased to 100%.
Electricity Transmission	Minimum of 80% must be Ghanaians. To be increased to 100% within 10 years.	Minimum of 80% must be Ghanaians. To be increased to 100% within 10 years.

### 18.3.10 Offences and Penalties

Non-compliance with the provisions of the Regulations constitutes an offence, punishable by a fine, imprisonment, or both. In the case of a corporate entity, its directors and officers may be deemed liable and subject to similar sanctions.

Fronting to deceive the authorities by presenting a foreign citizen or company as an indigenous Ghanaian company to achieve the local content or local participation requirement is specifically prohibited. This offence is subject to a fine between GHS 6,000.00 and GHS 12,000.00 or a term of imprisonment of six (6) to twelve (12) months or both.

### 18.3.11 The Electricity Company of Ghana

#### a. Overview

The Electricity Company of Ghana ("ECG") is one of the power distribution companies responsible for power distribution within the southern sector in Ghana. As a State-owned Company, they meet about 80% electricity distribution for the national demand. ECG distributes electricity in nine regions: Greater Accra Region, Eastern Region, Western Region, Western North Region, Central Region, Volta Region, Oti Region, and Ashanti Region.

#### b. Legal and Regulatory Framework

In addition to the primary legal and regulatory authorities overseeing the power industry, ECG is managed by a Board of Directors and an executive management team responsible for the company's daily functions. The Board of Directors at ECG is responsible for supervising corporate governance and providing strategic guidance for the firm.

In accordance with its mandate, the Energy Commission, in consultation with PURC, is empowered to establish standards of performance for licensed public utilities engaged in the supply, distribution, and sale of electricity.

#### c. Operations of ECG

The ECG receives power transmitted from power transmission companies such as GRIDCo to distribute electricity to final customers in the residential, commercial and industrial sectors. These power purchases are regulated through tariffs set by PURC, the economic regulator. Also, ECG's voltage stability, measurement of scheduled and unscheduled outages, load shedding frequency and duration and metering accuracy are regulated.<sup>116</sup> ECG is required to maintain voltage at customer supply points within approved thresholds. These prescribed voltage levels include 230V, 400V, 11kV, 33kV, and 34.5kV.

<sup>116</sup> Electricity Supply and Distribution (Standards of Performance) Rules, 2008 (L.I 1935).

The ECG functions under both the electricity distribution license and the electricity sales license. This is due to their role in distributing, selling, or retailing electricity in Ghana.

#### **d. The Electricity Company of Ghana's Power Sales Tariffs**

PURC controls ECG's charges in accordance with its guidelines.<sup>117</sup> Power sales tariffs for ECG include the tariff for end-users for the distribution of power by ECG and charges for services rendered by ECG, as approved by PRUC.

Utility Companies such as ECG are mandated to file their rates to the PRUC for approval. Following this, the PRUC evaluates and approves the rates after a thorough review of the tariff proposals submitted. Non-compliance.

#### **e. Offences and Penalties.<sup>118</sup>**

ECG's non-compliance with the following requirements constitutes an offence subject to a summary conviction to a fine not exceeding five hundred penalty units and, in default of payment, a term of imprisonment not exceeding two years for the principal officer or the secretary of ECG:

- i. The required standards of performance in the provision of utility services;
- ii. Approved charges and demands for its service rates;
- iii. The submission of its tariff rates; and
- iv. The requirement of billing consumers in accordance with the law.

### **18.3.12 Renewable Energy in Ghana**

Ghana has emerged as one of the African countries taking proactive steps to diversify its energy mix through the development of renewable energy. With increasing energy demand and concerns over climate change, Ghana has identified renewable energy as a strategic sector to enhance energy security, promote environmental sustainability, and create economic opportunities. Renewable energy in Ghana includes wind, solar, hydro, biomass, biofuel, landfill gas, sewage gas, geothermal energy, ocean energy, and any other energy source.<sup>119</sup>

### **18.3.13 Licensing Regime for the Renewable Energy Sector**

The regulatory framework for the renewable energy industry in Ghana is established by the Renewable Energy Act of 2011, Act 832 (as amended), with the Energy Commission tasked with overseeing licensing activities. The Commission grants the licence if it is convinced that the applicant is a qualified person to possess the licence and that the specified criteria for each type of licence are fulfilled.

Furthermore, when issuing a licence, the Commission may impose specific statutory and other limitations as deemed appropriate. They have the authority to modify license conditions through a written notice to the renewable energy service provider as they find suitable. Additionally, they continue to oversee and ensure adherence to the license conditions. The licence may be suspended or cancelled where the licence holder fails to comply with any of the conditions stipulated in the licence.<sup>120</sup>

<sup>117</sup> Public Utilities and Regulatory Commission (PURC) Guidelines on Tariffs 2017.

<sup>118</sup> Section 38 of the Public Utilities Regulatory Commission Act 1997, Act 538

<sup>119</sup> Section 2 of the Renewable Energy Act 2011, Act 832

<sup>120</sup> Section 16 of the Renewable Energy Act 2011, Act 832

**a. Types of Licences**

The licences are granted by the Commission in respect of the activities involving production, transportation, storage, distribution, sales and marketing, exportation and re-exportation, and installation and maintenance under the renewable energy sector in Ghana. The Commission issues licenses for activities related to production, transportation, storage, distribution, sales and marketing, export, re-export, as well as installation and maintenance within Ghana's renewable energy sector.

Engaging in the renewable energy sector in Ghana requires a licence for key operations such as electricity production, production and transporting renewable energy products, storage, distribution, marketing and sale, as well as importing, exporting, and the installation and maintenance of renewable energy products and facilities. However, no licence is required for the retail sale of charcoal and renewable energy products.

Type of Licence	Scope of Licence	Duration of Licence
Wholesale Electricity Supply Licence	This licence authorises the licensee to produce electricity using renewable energy sources for supply to distribution companies and bulk consumers.	20 years
Biofuel Production Licence: Small Scales	This licence authorises the license holder to produce less than 15,000 litres of biofuel (ethanol and biodiesel) annually.	20 years
Biofuel Production Licence: Medium Scale	The licence permits the holder to produce biofuel (ethanol and biodiesel) in quantities ranging from 15,000 to 50,000 litres annually.	20 years
Biofuel Production Licence: Large Scale	This licence authorises the holder to produce over 50,000 litres of biofuel (ethanol and biodiesel) annually.	20 years
Bulk Biofuel Transportation Licence	This licence is granted for the transportation of biofuel	5 years
Bulk Biofuel Storage Licence	This licence permits the holder to store biofuel in commercial quantities.	20 years
Biofuel Export Licence	This licence permits the holder to export biofuels, including ethanol and biodiesel.	5 years
Charcoal Production Licence	This licence is granted to applicants intending to produce over 100 tonnes of charcoal annually.	20 years
Bulk Charcoal Transportation Licence	The licence grants the holder the right to convey charcoal with registered vehicles.	5 years
Charcoal Wholesale/Storage Licence	This licence authorises the storage of charcoal in commercial quantities for local sale.	5 years
Charcoal Export Licence	This licence authorises the holder to export charcoal.	1 year
Briquettes/Pellet Production	The licence grants approval for the production of briquettes or pellets.	20 years
Briquettes/Pellets Export Licence	This licence grants the holder the authority to export briquettes or pellets derived from biomass waste.	10 years
Importation Licence	This licence allows the holder to import renewable energy products for sale.	10 years
Installation and Maintenance Licence	This licence authorises the holder to carry out the installation and maintenance of renewable energy systems.	10 years

**b. Application of Licence**

In Ghana, renewable energy licences may only be granted to Ghanaian citizens, companies properly incorporated under the Companies Act, 2019 (Act 992) or any other applicable legislation, and partnerships registered under the Incorporated Private Partnership Act, 1962 (Act 152).

A licence may be granted to an applicant upon the Energy Commission's assessment of several key factors, including:

- i. The applicant's technical, administrative, and financial capacity to undertake the regulated activity;
- ii. The sustainability and reliability of the proposed renewable energy resource;
- iii. The environmental impact of the proposed activity, as well as its compliance with the provisions of the Renewable Energy Act, 2011 (Act 832); and
- iv. The technical specifications and suitability of the renewable energy technologies to be deployed.

**e. Renewal of Licence**

Licences may be renewed through the same procedure as the original application, provided the licensee remains in compliance with all applicable conditions. To ensure continuity, renewal applications must be submitted at least 60 days prior to the licence expiration date.

Where a licence is not renewed, or the Commission rejects a renewal application, the licensee must cease all activities authorised under the licence. Additionally, licences are not automatically transferable and may not be assigned to another party without the prior written approval of the Commission.

**f. Licence Fees**

Applicants for licences in the renewable energy sector are required to pay prescribed fees as part of the licensing process. These fees vary depending on the category and scope of the licence being applied for and are intended to support regulatory oversight and administrative costs. The applicable licensing fees for each licence type are outlined below.

**Schedule of Licence Fees**

Type of Permit	Application Fee (USD)	Initial Licence Fee (USD)	Annual Operating Fee (USD)	
			Fixed	Variable
Wholesale Electricity Supply				
<ul style="list-style-type: none"> <li>• <b>Small Scale</b> 10kW -&lt;100kW 100kW -&lt;10MW</li> </ul>	1,000.00	1,500.00	1,000.00	100.00 per MW availability
<ul style="list-style-type: none"> <li>• <b>Medium scale:</b> 10-&lt;100MW or more</li> </ul>	5,000.00	8,000.00	10,000.00	
<ul style="list-style-type: none"> <li>• <b>Large scale</b> 100MW or more</li> </ul>	7,000.00	15,000.00	15,000.00	

<b>Biofuel Production</b>				
<b>Small scale:</b> <15,000 litres/annum	500.00	Nil	Nil	Nil
<b>Medium scale:</b> <15,000-50,000 litres/ annum	1,500.00	1,000.00	1,000.00	0.01/ Litre
<b>Large scale:</b> >50,000 litres/ annum	5,000.00	5,000.00	1,500.00	0.01/ Litre
<b>Bulk Biofuel Transportation</b>	200.00	500.00	500.00	20.00/BRV
<b>Bulk Biofuel Storage</b>	500.00	1,000.00	1,000.00	0.01/litre
<b>Biofuel Export</b>				
<10,000,000 litres/ annum	2,000.00	1,000	Nil	0.05/ litre
10,000,000 litres/ annum and above	5,000.00	10,000	Nil	0.05/ litre
<b>Charcoal Production</b>				
(> 100 tonnes/ annum)	100.00	500.00	500.00	0.1 per bag of 45kg
<b>Bulk Charcoal Transportation</b>	100.00	500.00	500.00	20.00/ BRV
<b>Charcoal Wholesale/ Storage</b>	100.00	200.00	200.00	0.1 per bag of 45kg
<b>Charcoal Export</b>				
Charcoal from wood source	1,000.00	Nil	Nil	4.00/ tonne
Charcoal from other sources	1,000.00	Nil	Nil	4.00/ tonne
<b>Briquettes Production</b>				
(> 100 tonnes/annum)	500.00	1,000.00	1,000.00	1.00/tonne
<b>Briquettes Export</b>	2,000.00			4.00/ tonne
<b>Importation Licence</b>	100.00	100.00	100.00	
<b>Installation and Maintenance of Renewable Energy Technologies</b>				
• <100MW	100.00	100.00	100.00	Nil
• 100MW or more	200.00	200.00	500.00	Nil

### 18.3.14 Local Content and Participation of the Renewable Energy Sector

The regulatory framework for local content and participation in Ghana's renewable energy sector is established under the Renewable Energy Act, 2011 (Act 832), as amended, and the Energy Commission (Local Content and Local Participation) Regulations, 2017 (L.I. 2354). The Energy Commission is mandated to implement and enforce these provisions within the electricity supply industry.

### 18.3.15 Local Participation

A statutory minimum of 51% local equity ownership is mandated for the renewable energy sector. The law further prescribes the initial thresholds for local participation and the timeframe for meeting this requirement.

Activity	Initial level of Local Participation (LP)	Timeline for targeted Local Participation level	Target Local Participation Level
Renewable Energy Sector	15%	10 years	51%

### 18.3.16 Local Content

The primary objective of Ghana's Local Content Law is to achieve a minimum local content threshold of 60% within the electricity supply industry, including the renewable energy sector. This target encompasses the use of Ghanaian human resources, goods, services, and businesses across the entire renewable energy sector. The specific local content thresholds applicable to the renewable energy sector are outlined below.

Activity	Engineering and Procurement	Construction Works and Installations	Post Construction Works Supplies	Services	Operations and Maintenance Contracts
Renewable Energy Sector	<p>Minimum of 70% of the value of the project, other than machinery, must be given to Ghanaian companies.</p> <p>To be increased to 100% within 10 years</p>	<p>Minimum of 60% of cost of the construction works of the project shall go to Ghanaian Companies</p> <p>To be increased to 80% in 3 years and 90% in 6 years.</p>	<p>Minimum of 70% of the value of all supplies shall go to Ghanaian-owned Companies.</p> <p>To be increased to 100% in 10 years.</p>	<p>Minimum levels for: Catering is 100%. Janitorial Services is 100%. vehicle maintenance is 100% Equipment Servicing 70%</p> <p>To be increased to 100% in 10 years.</p>	<p>Minimum of 50% of the value of all operation and maintenance contracts shall be awarded to indigenous Ghanaian companies.</p> <p>To be increased to 80% in 5 years.</p>

Activities	Management	Operations and Maintenance staff
Renewable Energy Sector	<p>Minimum of 80% must be Ghanaians.</p> <p>To be increased to 100% within 10 years</p>	<p>Minimum of 80% of operation and maintenance staff shall be Ghanaians at any time in the lifetime of the business</p> <p>To be increased to 100% in 10years.</p>

### 18.3.17 Local content for Professional Services in the Power Sector

#### i. Legal Services

Service providers operating within Ghana's electricity supply sector requiring legal assistance must engage a Ghanaian legal practitioner or a firm of Ghanaian legal practitioners whose registered office is situated within the country. A Ghanaian legal firm may collaborate with a foreign service provider, provided the foreign partner contributes no more than 49% of the legal services' value.

#### ii. Insurance Services

Insurable risks within the electricity supply industry must be covered through an indigenous Ghanaian insurance brokerage firm or, where applicable, by a reinsurance brokerage firm.

#### iii. Financial Services

For financial services, the service provider must engage only a Ghanaian financial institution. If local capacity proves insufficient, the service provider may use a non-Ghanaian financial institution but only with the Committee's approval. Additionally, the provider must maintain an account with a Ghanaian bank (one with majority Ghanaian ownership) and ensure that at least 10% of all financial transactions are conducted through this account.

#### iv. Engineering, technical consultancy and maintenance services

Contracts for supplying engineering, technical consultancy, and maintenance services must be awarded to indigenous Ghanaian engineering or technical consultancy firms, except in circumstances involving proprietary equipment or technology, or where it is demonstrated that the necessary expertise is not available locally.



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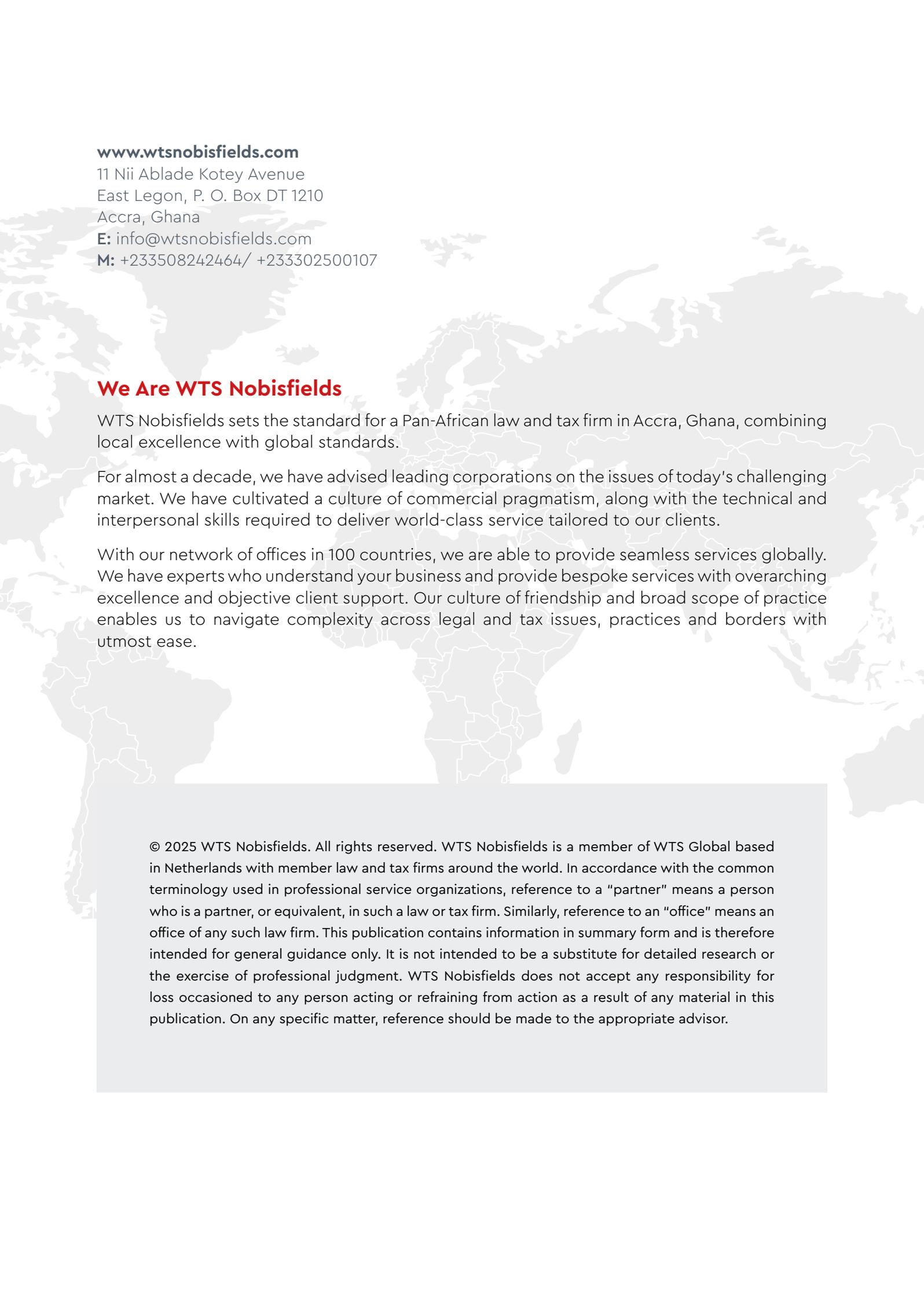


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