

MEMORANDUM

Article 240 (2)(d) of the Constitution provides that as far as practicable, persons in the service of local government shall be subject to the effective control of local authorities. Section 37 (1) of the Local Government Act, 1993 (Act 462) states that a Local Government Service shall be established as part of the public service.

This Bill establishes a Local Government Service in furtherance of these statutory provisions and provides for its objects, functions, administration and management.

Currently, local government staffing comprises regular civil servants in the departments and offices of the Regional Coordinating Councils and District Assemblies; salaried staff engaged directly by District Assemblies and locally recruited employees who are not members of any legally constituted public service. This situation has led to problems of poor supervision and control of personnel and unsatisfactory programme coordination. It also encourages centralisation. The lack of staff ownership by the Regional Coordinating Councils and District Assemblies has been a major drawback to the decentralisation process.

The new Local Government Service will create a loyal and dedicated public service devoted to the service of local government. It will create a legal and institutional framework for the recruitment of personnel with the appropriate skills to support and promote effective development and economic management at the local level. The Service is intended to decentralise the management of the human and related resources and to improve the performance of government machinery.

The Bill is divided into three parts. Part I establishes the Service, Part II provides for administration and Part III contains financial provisions.

Membership of the Service in clause 2 includes persons holding non-elected office in Regional Co-ordinating Councils, District Assemblies, Sub-Metropolitan District Councils, Urban, Zonal, Town and Area Councils, the Secretariat of the Service and other people employed by the Service.

The object of the Service (clause 3) is to secure the effective administration and management of local government structures. One of the functions of the Service in clause 4 is the provision of technical assistance and assistance to the Regional Co-ordinating Councils and District Assemblies in the performance of their functions under the Local Government Act, 1993 (Act 462) and the National Development Planning (Systems) Act, 1994 (Act 480).

The governing body of the Service is the Council in clause 5 which comprises fourteen people. The chairperson is to be a person with extensive experience in local government matters. Other members include a representative of the Ministry other than the Minister or the Deputy Minister; a representative from the National Development Planning Commission, one from the Public Services Commission and one from the Institute of Local Government Studies.

The functions of the Council in clause 6 relate to policy formulation, implementation of the functions of the Service, monitoring, evaluation and co-ordination and leadership on matters related to personnel.

The tenure of the Council is four years (clause 7) and provisions on allowances, meetings, conflict of interest and committees of the Council are in clauses 8–11. The Minister may issue directives to the Council and this authority is stipulated in clause 12.

Part II establishes the Local Government Secretariat in clause 13, the Office of the Regional Co-ordinating Council in clause 16 and the Office of the District Assembly in clause 19. The Regional Minister is responsible for the work, career progression and discipline of the officers of the Regional Co-ordinating Council and the District Chief Executive is responsible for the career progression and discipline of the officers in the Office of the District Assembly. Staff of existing decentralised Departments are to be transferred to the Local Government Service and provision has been made for inter-service transfer and secondment of staff in clause 26.

Part III contains financial provisions such as the expenses of the Service; accounts, audit and annual report. The Regulations section is clause 32 and the Minister, on the advice of the Council, may make regulations on the institutional co-operation between the Service and other branches of the public service; recruitment, promotion, discipline, transfer and posting.

The transitional provision in clause 34 provides that on commencement of the Act the members of staff of the branches, divisions or units of the departments specified in the Eighth Schedule of Act 462 are to be transferred by the Minister to a Department of a District Assembly and will form part of the Service.

Finally clauses 35 and 36 deal with consequential amendments in the Civil Service Law, 1993 (PNDCL 327) and Act 462 and clause 37 saves regulations and statutory instruments currently in force.

KWADWO BAAH-WIREDU

Minister for Local Government and Rural Development

Date: 18th February, 2003.

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SCHEDULE



**THE SIX HUNDRED AND FIFTY-SIXTH
ACT**

OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA
ENTITLED

THE LOCAL GOVERNMENT SERVICE ACT, 2003

AN ACT to establish a Local Government Service and to provide for the objects, functions, administration and management of the Service and for connected purposes.

DATE OF ASSENT: *24th December, 2003.*

BE IT ENACTED by Parliament as follows:

PART I—ESTABLISHMENT OF THE LOCAL GOVERNMENT SERVICE

Establishment of the Local Government Service

1. There is established by this Act a Local Government Service referred to in this Act as “the Service”.

Membership of the Service

2. The Service shall comprise persons holding non-elected public office in
- (a) Regional Co-ordinating Councils;
 - (b) District Assemblies;
 - (c) Sub-Metropolitan District Councils, Urban, Zonal, Town and Area Councils;
 - (d) the Secretariat of the Service; and
 - (e) such other persons as may be employed for the Service.

Object of the Service

3. The object of the Service is to secure the effective administration and management of local government in the country.

Functions of the Service

4. (1) For the purpose of achieving its object, the Service shall

- (a) provide technical assistance to District Assemblies, and Regional Co-ordinating Councils to enable the District Assemblies and the Regional Co-ordinating Councils effectively perform their functions and discharge their duties in accordance with the Constitution and the Local Government Act, 1993 (Act 462);
- (b) conduct organisational and job analysis for the Regional Co-ordinating Councils and the District Assemblies;
- (c) conduct management audits for Regional Co-ordinating Councils and District Assemblies in order to improve the overall management of the Service;
- (d) design and co-ordinate management systems and processes for Regional Co-ordinating Councils and District Assemblies;
- (e) assist the Regional Co-ordinating Councils and the District Assemblies in the performance of their functions under the Local Government Act, 1993, (Act 462), the National Development Planning (Systems) Act, 1994, (Act 480) and under any other enactment;
- (f) perform such other functions incidental or conducive to the achievement of the objects of this Act.

Governing body of the Service

5. (1) The governing body for the Service shall be known as the Local Government Service Council referred to in this Act as “the Council”.

(2) The Council shall consist of

- (a) a chairperson who shall be a person with extensive experience in local government matters;
- (b) a representative of the Ministry responsible for Local Government other than the Minister or the Deputy Minister;
- (c) a representative of the National Development Planning Commission;
- (d) a representative of the Ghana Education Service;
- (e) a representative of the Ghana Health Service;
- (f) the Head of the Service;
- (g) the Administrator of the District Assemblies Common Fund or a representative of the Administrator;
- (h) a representative of the National Association of Local Authorities of Ghana (NALAG);
- (i) a representative of the Local Government Workers’ Union;
- (j) a representative of the Institute of Local Government Studies;
- (k) a representative of the National House of Chiefs; and
- (l) four other persons with considerable knowledge of local government matters at least two of whom are women.

(3) The chairperson and other members of the Council shall be appointed by the President in consultation with the Council of State.

Functions of the Council

6. The Council shall have general management and control of the Service and shall

- (a) recommend to the Minister matters of policy relating to the management of the Service;
- (b) ensure the implementation of the functions of the Service;
- (c) recommend to the Minister a scheme of service prescribing the terms and conditions of service as well as the remuneration of the employees of the Service;
- (d) develop policy guidelines for handling matters relating to recruitment, training, promotion, remuneration, discipline, arbitration and petition within the Service;
- (e) set performance standards within which District Assemblies and Regional Co-ordinating Councils shall carry out their functions and discharge their duties;
- (f) monitor and evaluate the performance standards of District Assemblies and Regional Co-ordinating Councils;
- (g) develop and co-ordinate the personnel plans and assess the personnel needs of the District Assemblies and the Regional Co-ordinating Councils in consultation with the respective Assemblies and Co-ordinating Councils;
- (h) develop and co-ordinate the training implementation plans of District Assemblies and Regional Co-ordinating Councils in consultation with the respective Assemblies and Co-ordinating Councils;
- (i) develop professional standards and guidelines for the various categories of staff who are members of the Service;
- (j) work in consultation and close co-operation with other services of the public service;
- (k) perform such other functions as may be assigned to it by or under this Act or any other enactment; and
- (l) advise the Minister on such matters as the Minister may request.

Tenure of office of members of the Council

7. (1) The members of the Council other than the ex-officio members shall hold office for four years and shall on the expiration of that term be eligible for re-appointment for one more term only.

(2) Any member of the Council other than an ex-officio member may resign from office in writing addressed to the President through the Minister.

(3) Where the office of a member of the Council other than an ex-officio member becomes vacant by death, resignation or any other cause before the expiration of that member's term of office, the Minister shall notify the President of the occurrence of the vacancy and the President shall, acting in consultation with the Council of State, appoint another person in the place of that member to hold office for the unexpired term of office of that member's term of office.

(4) Where it appears to the President on the recommendation of the Minister that a member of the Council is incapacitated by absence from the country or illness or any other cause from performing the duties of office as member, the President may appoint another person to hold the office of the member until such time as the President is

satisfied that the incapacity of that person has terminated or until the term of the member expires whichever occurs first.

(5) A member of the Council other than an ex-officio member who is absent from three consecutive ordinary meetings of the Council without reasonable cause shall cease to be a member.

(6) The President may in writing remove a member for non performance or stated cause.

Allowances for members

8. Members of the Council, co-opted members and members of committees of the Council shall be paid such allowances as shall be determined by the Minister in consultation with the Minister for Finance.

Meetings of the Council

9. (1) The Council shall meet for the despatch of business at such times and in such places as the chairperson may determine but shall meet at least once in every three months.

(2) The chairperson shall, upon the request of not less than one-third of the membership, convene a special meeting of the Council.

(3) The quorum at a meeting of the Council shall consist of seven members including the head of the Service or the person acting in that capacity.

(4) Decisions of the Council shall be by majority votes of the members present and voting and in the event of equality of votes the chairperson or person presiding shall have a second or a casting vote.

(5) The Council may co-opt any person to attend any of its meetings but a co-opted person cannot vote at the meeting.

(6) The validity of the proceedings of the Council shall not be affected by a vacancy among its members or by a defect in the appointment or qualification of a member.

(7) Except as otherwise provided, the Council shall determine and regulate the procedure for its meetings.

Conflict of interest

10. (1) Any member of the Council who has an interest in a contract or other transaction proposed to be entered into with the Service shall disclose in writing to the Council the nature of the interest and the member is disqualified from participating in any deliberations of the Council in respect of the contract or other transactions.

(2) A member of the Council who contravenes subsection (1) of this section is liable to be removed from the Council.

Committees of the Council

11. (1) The Council may for the discharge of its functions appoint committees of the Council consisting of members or non-members or both and may assign to the committees such of its functions as it may determine.

(2) The Council shall determine the membership, functions and terms of reference of a committee.

(3) In exercise of its powers under this section, the Council shall in consultation with the Regional Co-ordinating Council or the District Assembly concerned appoint

(a) appointments and promotions committees; and

(b) disciplinary committees

at the regional and district levels.

Minister to give directions

12. The Minister may issue directives in writing to the Council on matters of policy and the Council shall comply with the directives.

PART II—ADMINISTRATION

Secretariat

13. (1) There is established by this Act a Local Government Service Secretariat referred to in this Act as “the Secretariat”.

(2) The Secretariat shall be under the Council.

Functions of the Secretariat

14. The Secretariat shall

(a) be responsible for the day to day administration of the Service;

(b) provide technical and other support to the Service and to the Council for the execution and performance of the functions under this Act;

(c) be responsible for implementing the decisions of the Council;

(d) ensure the effectiveness of the Service;

(e) perform such other functions as the Council may specify; and

(f) perform such functions as are incidental to the effective operation of the Service.

Head of the Service

15. (1) There shall be a head of the Local Government Service who shall be appointed by the President in accordance with the advice of the Council given in consultation with the Public Service Commission.

(2) The Head of Service shall also be the head of the Secretariat.

(3) The Head of Service shall hold office on such terms and conditions as shall be specified in the letter of appointment.

(4) The Head of Service shall, subject to the general directions of the Council, be responsible for the efficient organisation and management of the Service and for the day to day operation of the Secretariat.

(5) The Head of Service may delegate the functions of the office to an officer of the Service but shall not be relieved from the ultimate responsibility for the discharge of the delegated function.

(6) The Head of Service shall

(a) provide leadership and guidance in the performance of the functions of the Service and the implementation of the decisions of the Council;

- (b) ensure the effective organisation and development of training programmes consistent with the sectoral requirements of the Service;
- (c) establish, with the approval of the Council, systems for effective inter-service and sectoral collaboration and co-operation between the Service, the Education Service, the Health Service, the Forestry Service and other Services, to harmonise local government programmes and avoid duplication; and
- (d) initiate plans and programmes within the Service, for the consideration and approval of the Council, to activate and accelerate the local government decentralization process in accordance with the Constitution, the Local Government Act, 1993, (Act 462) and any other enactment.

Office of the Regional Co-ordinating Council

16. (1) There shall be an office of the Regional Co-ordinating Council in each region of the country.

(2) The Regional Co-ordinating Director shall be the administrative head of the Regional Co-ordinating Council and shall be responsible to the Regional Minister.

(3) The Regional Co-ordinating Director shall have the conditions of service as may be determined by the Council.

(4) The Regional Co-ordinating Director shall ensure the effective and efficient performance of the office of the Regional Co-ordinating Council.

(5) A person assigned from any public office to the office of the Regional Co-ordinating Council shall be an officer of the Regional Co-ordinating Council.

(6) The Regional Co-ordinating Council shall be responsible for the work, career progression and discipline of the officers of the Regional Co-ordinating Council.

Departments of the Regional Co-ordinating Council

17. (1) Government departments in any region of the Civil Service shall be known as Departments of the Regional Co-ordinating Council.

(2) The heads of departments of a Regional Co-ordinating Council are answerable in the performance of their duties to the Regional Co-ordinating Council.

Functions of Departments of Regional Co-ordinating Council

18. The Departments of a Regional Co-ordinating Council shall

- (a) implement the decisions of the Regional Co-ordinating Council; and
- (b) provide quarterly reports on the implementation of policies and programmes to the Regional Co-ordinating Council through the office of the Regional Co-ordinating Council.

Directorate of the District Assembly

19. There shall be a Co-ordinating Directorate of the District Assembly.

District Co-ordinating Director

20. (1) There shall be a District Co-ordinating Director for each district in Ghana who shall be the Secretary to the Assembly and head of the District Co-ordinating Directorate.

(2) A District Co-ordinating Director shall ensure that the functions and responsibilities of the office are efficiently and effectively carried out.

(3) A District Co-ordinating Director is answerable to the District Chief Executive in the performance of functions under this Act.

(4) Staff of a District Assembly are answerable to the District Chief Executive through the District Co-ordinating Director.

(5) The District Assembly is responsible for the career progression and discipline of the officers in the Office of the District Assembly.

Functions of the Co-ordinating Directorate of a District Assembly

21. The Co-ordinating Directorate of a District Assembly is responsible for assisting the District Assembly in the performance of its duties under the Local Government Act 1993 (Act 462), the National Development Planning (Systems) Act 1994 (Act 480) and any other enactment for the time being in force.

Departments of District Assembly

22. The decentralised government Departments in the District shall be known as the Departments of the District Assembly.

Heads of Department of District Assembly

23. (1) Departments of a District Assembly, shall be headed by heads of Department of the District Assembly who shall be responsible for the efficient and effective performance of the functions and responsibilities assigned to the Departments.

(2) The heads of Departments shall be answerable to the District Chief Executive through the District Coordinating Director.

Functions of Departments of District Assembly

24. The Departments of District Assemblies shall

- (a) be responsible for the implementation of the decisions of the District Assemblies; and
- (b) provide quarterly reports on the implementation of decisions of the Assemblies to the Executive Committees of the respective District Assemblies through the offices of the District Assembly.

Appointment of other staff of the Service

25. (1) The Service shall have such other officers and staff as may be necessary for the proper and effective performance of its functions.

(2) The staff of the Service shall perform such functions as are conferred on them under this Act or any other enactment.

(3) The President shall in accordance with the advice of the Council given in consultation with the Public Services Commission and on such terms and conditions as may be determined, appoint the officers and staff of the Service.

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

(5) The Council may engage the services of such consultants and advisers as it may determine upon the recommendation of the head of the Service.

Transfer and secondment of staff

26. (1) Officers and staff may be transferred or seconded from any public service to the Service.

(2) The Minister shall approve the transfer or secondment to the Service.

Secretary to the Council

27. (1) The Minister shall, acting in consultation with the Head of Service, designate an officer of the Service as the Secretary to the Council.

(2) The Secretary shall arrange the business for and cause to be recorded and kept the minutes of the meetings of the Council.

(3) The Secretary shall also perform such functions as the Council or the Head of Service may assign to the Secretary.

(4) The Secretary shall be assisted in the discharge of the functions of office as Secretary by such of the staff of the Service as the Council may on the recommendation of the Head of Service direct.

(5) The Secretary shall in the discharge of his or her functions as Secretary be subject to the administrative control of the Head of Service.

PART III—FINANCIAL PROVISIONS**Expenses of the Service**

28. The expenses of the Service, including the administrative expenses, salaries, allowances, operational and other expenses of the Service, as well as retirement benefits payable in respect of persons employed by the Service, shall be a charge on the Consolidated Fund.

Submission of budget estimates

29. (1) The Head of Service shall, not later than three months before the end of each financial year, prepare and submit to the Minister through the Council, the budget estimates of expenditure to be incurred by the Service during the next financial year.

(2) The budget estimates shall be in the form approved for that purpose by the Minister responsible for Finance.

(3) New or special expenditure shall receive the approval of the Council before being submitted to the Minister for approval.

(4) Except with the approval of the Minister responsible for Finance, given in consultation with the Minister, no further sum shall be expended during a financial year other than as provided in the estimates relating to the financial year.

Accounts and audit

30. (1) The Service shall keep books of account and proper records in relation to them which shall be prepared in a form approved by the Auditor-General.

(2) The Auditor-General shall audit the accounts of the Service within six months after the end of each financial year.

(3) The financial year of the Service shall be the same as the financial year of the government.

Annual report and other reports

31. (1) The Council shall within eight months after the end of each financial year submit to the Minister an annual report covering the activities and the operations of the Service for the year to which the report relates.

(2) The annual report submitted under subsection (1) shall include the report of the Auditor-General.

(3) The Council shall also submit to the Minister such other reports as the Minister may require in writing.

(4) The Minister shall within two months after the receipt of the annual report submit a report to Parliament with such statement as the Minister may consider necessary.

Regulations

32. (1) The Minister may, on the advice of the Council, make Regulations necessary to give effect to the provisions of this Act and to regulate any matter that falls within the scope of the functions of the Service.

(2) Without limiting subsection (1), Regulations made under this section may provide for

- (a) institutional co-operation between the Service and other branches of the public service;
- (b) recruitment procedures for members of the Service;
- (c) promotion procedures for members of the Service;
- (d) disciplinary procedures for members of the Service; and
- (e) transfer and posting procedures for members of the Service.

Interpretation

33. In this Act unless the context otherwise requires,

“Council” means the Local Government Service Council established under section 5 of this Act;

“District Assembly” includes Municipal and Metropolitan Assembly;

“Minister” means the Minister responsible for Local Government;

“NALAG” means the National Association of Local Authorities of Ghana;

“secretariat” means secretariat established under section 13(1) of this Act; and

“Service” means the Local Government Service.

Transitional provision

34. On the coming into force of this Act, the members of staff of the branches, divisions or units of the departments specified in the Schedule to this Act shall be deemed to have been transferred to a department of a District Assembly as determined by the Minister and shall form part of the Service from the date of transfer.

P.N.D.C.L. 327 amended

35. (1) The Civil Service Law, 1993 (P.N.D.C.L. 327) is amended as follows:

- (a) in subsection (3) of section 1 by the repeal of the words “both” and “and local”;

Act 656

Local Government Act, 2003

- (b)* in section 4 *(a)* by the repeal of subparagraphs (iv), (v), (vi), (vii);
- (c)* by the repeal of Part V;
- (d)* by the repeal of section 45;
- (e)* in section 46 by the deletion of the words “Regional and District”;
- (f)* by the repeal of subsections (3) and (4) of section 62; and
- (g)* in section 70 by the deletion of the words “and decentralized administration”.

(2) On the coming into force of this Act, the Civil Service Law 1993, (P.N.D.C.L. 327) shall cease to apply to the Service established under this Act and its members.

Act 462 amended

36. The Local Government Act, 1993 (Act 462) is amended

- (a)* in section 146 by the repeal of subsection (1);
- (b)* in the Eighth Schedule by the deletion of the following:
 - (i) Forestry Department;
 - (ii) office of the District Medical Officer of Health;
 - (iii) National Fire Service;
 - (iv) Department of Games and Wildlife.

Savings

37. Notwithstanding the repeals specified in section 35 (1) any regulations or other statutory instrument made under or continued in force under the Civil Service Law, 1993 (P.N.D.C.L. 327) and in force immediately before the date of coming into force of this Act shall continue to apply with the necessary modification to members of the Service established under this Act unless made inapplicable by law.