



GHANA FREEPORT ACT, 1995

**A MARITIME LEGISLATION DRAFTING PROJECT SUBMITTED
IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE
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DRAFTING INSTRUCTIONS

As part of its economic recovery programme and in line with its market reform policies, the Government of Ghana has taken a policy decision to establish a Freeport system in Ghana. The main objective is to foster the development of industrial and economic enterprises within the Freeport and to encourage a closer and more efficient linkage between local and foreign industries. To attain this objective, the policy requires that the Freeport operates on purely commercial lines with as little public interference and bureaucracy as possible so that it will be free to respond to market opportunities.

To this end the Government has, as a first step designated certain areas of the Port of Tema as Freeport Zones, and a joint government/private limited liability company has been incorporated to be responsible for the management, administration and control of these zones. The Freeport will operate separately and independently from the other ports of Ghana. This means that it will not fall under the control of the Ghana Ports and Harbours Authority, and the provisions of the Ghana Ports and Harbours Authority, (Establishment) Law, 1986, PNDCL 160, shall not be applicable to the Freeport Zones.

It is, therefore, required that a separate statute be enacted to regulate the establishment and operation of the Freeport system. For the time being, however, provisions will be required to cover the following areas only:-

DECLARATION OF FREEPORT

Those areas of the port of Tema designated as Freeport Zones should be clearly defined and a precise delineation of the geographical limits of the Freeport should be set out. Since the Government anticipates that the present limits of the Freeport may be extended in future, it would be necessary for provision to be made for a possible variation of those limits.

There should, therefore, be a clear statement empowering the Minister for Transport, through subsidiary legislation to vary or extend the boundaries of the Freeport, or to constitute any port, roadstead, bay or other place into a Freeport Zone.

ESTABLISHMENT AND ADMINISTRATION OF FREEPORT CORPORATION

Even though a limited liability company has already been incorporated to be responsible for the administration and management of the Freeport, it will be required that the company be expressly constituted under this Act, to be known as the Ghana Freeport Corporation, and all its rights, powers, duties and obligations should be made to derive from the provisions of the Act.

It will, however, not be necessary for provision to be made with regard to the administrative structure of the Corporation, as well as the allocation of functions and powers between the respective units and officials, since this has already been extensively elaborated in the Corporation's Memorandum of Association. Provision should, therefore, be made for the Corporation to be primarily regulated by its Memorandum of Association, unless otherwise provided by the Act.

As a corollary, however, it will be essential for the Corporation's power to amend its Memorandum of Association to be specifically curtailed. The Corporation should thus be prohibited from merging with another company or going into liquidation. Further prohibitions should be imposed on the Corporation from altering its Memorandum of Association or disposing of shares.

No provision will be required to deal with the sources of funds and the financial structure of the Corporation since this has already been comprehensively set out in the Memorandum of Association.

ASSETS

Even though the Memorandum of Association deals with such matters as the power of the Corporation to acquire and hold property and other assets, it will be necessary for express provision to be included in the Act to regulate those assets of the Ghana Ports and Harbours Authority (GHPA) situate in areas now designated as Freeport Zones, and which will be required by the Corporation for the discharge of its functions under the Act.

Accordingly, provisions should be made dealing with the transfer of any structures, installations, or other immovable property owned by the GHPA in the Freeport Zones to the Corporation upon such terms and conditions as the GHPA may determine. There should, however, be a clear statement excluding any liability which would otherwise be imposed on the Corporation for any act or omission done by the GHPA before the creation of the Freeport.

FUNCTIONS

Those functions of the Corporation which are not elaborated in its Memorandum of Association should be clearly set out in the Act. This should include the duty of the Corporation to liaise with, and advise all Government Ministries and other governmental bodies on all matters relating to Freeports.

The Corporation must also be empowered to license companies to operate within the Freeport. The right of the Corporation to construct, install, maintain and operate port installations and other facilities must be clearly specified. In addition to this, the Corporation must be empowered to allocate areas, factories, sheds, warehouses, tanks and other facilities or structures to companies licensed to operate within the Freeport.

The Corporation's right to determine charges to be paid in connection with any services and facilities provided by it should also be specified. The Corporation should further be empowered to make rules and regulations for the control and operation of the Freeport, and the maintenance of good order therein.

CERTIFICATION

In line with the objectives behind the Freeport concept, it is anticipated that a substantial portion of the goods imported into the Freeport will be subject to some form of manipulation before re-export. To this end, it is essential that a certification regime be created by which goods receiving a substantial transformation within the Freeport may be certified as having originated from Ghana.

It is, therefore, required that express provision be included empowering the Freeport to grant the necessary certificates indicating whether or not any goods exported from a Freeport have originated from Ghana.

LICENSING REGIME

This regime should be designed to minimise as much as possible bureaucratic procedure which may have the effect of frustrating private investment in the Freeport system. The legislation must, therefore, contain a clearly defined system of licensing companies which desire to operate within a Freeport.

The Corporation should further be empowered to issue licences upon such conditions as it thinks fit. This must be accompanied by express power to revoke or suspend any licence upon violation of any of those conditions or upon failure to comply with any provisions of the Act or any other law.

Furthermore, it will be required that any company which is aggrieved by a revocation or suspension of its licence, should be given an opportunity to appeal against the Corporation's decision. An appeal procedure should, therefore, be elaborated under this regime.

The provisions under this regime must also take account of the fact that it is a major objective of the Freeport system to open up the Freeport to all manner of goods irrespective of their nature, quantity, country of origin or destination. A clear statement to this effect should, therefore, be included in the Act. This should, however, be accompanied by appropriate provisions enabling either the Government or the Corporation to impose such prohibitions or restrictions as may be necessary for any of the following reasons:-

- (a) on grounds of public morality, public policy or public security;
- (b) for the protection of human, animal or plant health and life;
- (c) the protection of national treasures of artistic, historic or archaeological value.
- (d) the protection of industrial or commercial property.

FISCAL REGIME

In line with the objectives behind the Freeport system it will be required that companies operating within the Freeport should enjoy certain fiscal reliefs and benefits. In the first place, goods imported into the Freeport should be exempt from the payment of any customs duty and a definite provision to this effect would be required in the Act.

This relief must, however, apply only where:

(i) the goods are imported exclusively for the construction, alteration, reconstruction or extension of an industrial building or structure within the Freeport.

(ii) the goods are raw materials, components, intermediate products, by-products, unfinished goods or other goods imported for the trade or business for which the company has been granted a licence.

It will be necessary for goods which qualify as "raw materials", "components", intermediate products or "by- products" to be clearly defined. However, sec.47 of the Customs Excise and Preventive Services Law, 1994, contains comprehensive definitions of these words, and those definitions are sufficient for the purpose sought to be achieved here. Accordingly, the definitions of those words are to be determined by reference to sec. 47 of the CEPS Law, 1994.

Furthermore, the Act must spell out clearly the conditions to be attached to the grant of exemption from payment of customs duty. In particular, provisions must be made prohibiting the sale or disposal of any such goods, except to another licensed company or to the Corporation, or except through re-export from Ghana.

In certain cases goods originally destined for a Freeport may be landed elsewhere outside the Freeport, for instance at the airport or at another port. In other cases, goods destined for export by other means, for instance by air, may have to leave the Freeport and remain outside the Freeport for sometime pending such export. In such cases, it will be required that the Comptroller of Customs and Excise should have the power to allow the goods to be landed or remain outside the Freeport without payment of any customs duty upon such terms and conditions as may be necessary.

Provision will also be required excluding the application of the excise law of Ghana to any goods produced in a Freeport, unless such goods are entered for consumption or for any other use in to Ghana outside the Freeport. In order to attract substantial private investment in the operation of the Freeports, the government has further decided to grant tax reliefs to companies licensed to operate within a Freeport. It will therefore be necessary for the Act to make provision for the exemption of licensed companies from paying income tax on the gains or profits arising out of a trade or business exercised in a Freeport.

DUTIES OF LICENSED COMPANIES

For the efficient discharge of it's functions under the Act it is essential that the Corporation must at all times be kept informed of certain matters pertaining to the activities of companies licensed to operate within a Freeport. To this end, it will be required that the Act imposes on the licensed companies a specific obligation to keep the Corporation at all times informed of its operations.

In particular, to qualify for the grant of any exemption or benefit under the Act, each company must be required to keep such records, statements of accounts, returns, or other particulars and would enable the Corporation to make an informed assessment of the nature and extent of the exemption or benefit to be granted. These records must in addition, be certified by a public accountant or auditor.

The provision must specify penalties against any person who wilfully, and with intent to obtain any incentive or benefit, prepares any incorrect statement or prepares any information in relation to any matter or thing regulated by this Act.

Furthermore, it will be required that express provision be made imposing a specific obligation on each licensed company, whether or not it enjoys any exemption or benefit, to furnish the Corporation with the following information at the end of each financial year:

(a) an annual report or its activities and operations within the Freeport during the relevant financial year containing its audited annual balance sheet together with its profit and loss account.

(b) report of its auditors and Directors.

This must be accompanied by provisions empowering the Corporation to revoke a company's licence or any exemption or benefit it enjoys, in the event of non-compliance with the duty to furnish the Corporation with any relevant information.

Provision must also be made for the companies to keep the Corporation informed of the following matters;

(a) any change in the control of the company;

(b) any industrial dispute between the company and its employees;

(c) any fire occurrence within its premises;

(d) any theft or pilferage within its premises or any goods under its possession or control.

(e) any proceeding or claim instituted or made against the company which may affect its ability to perform any condition under the licence.

PENALTIES

Penalties for failure to comply with any provisions under this Act or Regulations made thereunder, must be specified.

MISCELLANEOUS

Power should be given to the Minister to make regulation through subsidiary legislation for the carrying into effect of the objectives of the Act.

Goods moving out of a Freeport must be evidenced by a waybill and the Corporation should be empowered to detain any goods which attempts to leave the Freeport without the necessary documentation.

GHANA FREEPORTS ACT, 1995
ARRANGEMENT OF SECTIONS

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15. Exemption from custom duty
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THE HUNDRED AND NINETY-THIRD

ACT

OF THE PARLIAMENT OF THE REPUBLIC
OF GHANA

ENTITLED

THE GHANA FREEPORTS ACT, 1995

AN ACT to make provision for the establishment of a Freeport system in Ghana and to regulate its operation.

BE IT ENACTED by this present Parliament as follows:-

PART I -PRELIMINARY

- | | |
|-------------------------------------|--|
| Short title and commencement | <p>1. (1) This Act may be cited as the Ghana Freeports Act, 1995.</p> <p>(2) The provisions of this Act shall come into force on such date as the President may by notice in the Gazette establish.</p> |
| Interpretation | <p>2. In this Act unless the context otherwise requires:</p> <p>"company" means a limited liability company incorporated under the laws of Ghana.</p> <p>"Comptroller" means the Comptroller of Customs and Excise appointed under the provisions of the Customs, Excise and Preventive Services Law, 1994 and includes any person having an express or implied authority to act for the said Comptroller in carrying out the provisions of this Act.</p> <p>"Corporation" means the Ghana Freeport Corporation constituted under section 4 of this Act.</p> <p>"customs duty" means duty charged or chargeable under the Customs, Excise and Preventive Services Law, 1994.</p> |

Freeport for the purposes of this Act and any other law, and may define the area of the Freeport so declared.

PART III - ESTABLISHMENT OF FREEPORT CORPORATION

Freeport Corporation 4. (1) The Ghana Freeport Company Limited, a limited liability company incorporated under the provisions of the Companies Code, 1962, shall be deemed to be constituted under this Act and shall constitute the Ghana Freeport Corporation, hereinafter in this Act referred to as the "Corporation".

(2) All rights and obligations of whatever nature of the said Ghana Freeport Company Limited, constituted and registered under the Companies Code, 1962, as aforesaid, and all acts done by the said Company shall, after the coming into force of this Act, be deemed to be rights and obligations of, and acts done by, the Corporation.

Administration of Corporation 5. (1) Subject to the provisions of this Act, the Corporation shall continue to be regulated by its Memorandum of Association, provided that :

(a) the Corporation shall not alter its Memorandum of Association without the prior approval of the Minister;

(b) no share in the Corporation shall be allotted except to the present members of the Corporation, and no change in ownership of shares in the Corporation carrying a right to vote in a general meeting or otherwise to appoint directors shall be effected unless such allotment or such change is authorised by the Minister;

(c) the Corporation shall not be dissolved or be merged with another company.

(2) The Corporation shall afford to the Minister full facilities for obtaining information with respect to its properties and activities, and shall furnish him with returns, accounts and other information with respect thereto, and afford him facilities for the verification of the information so furnished in such manner and at such times as the Minister may request.

(3) The Minister may, after consultation with the Corporation, give to the Corporation directions of a general character not inconsistent with the provisions of this Act, and the Corporation shall give effect to any such direction.

Transfer of
GPHA assets
to the
Corporation

6 (1) Any structures, installations or other property owned by the Ghana Ports and Harbour Authority and situate in the areas specified as Freeport Zones under section 3, shall be transferred to the Corporation upon such terms and conditions as may be necessary for the carrying into effect of the provisions of this Act.

(2) Nothing in this section shall operate to impose on the Corporation any liability for any act done or omitted to be done by the Ghana Ports and Harbours Authority before the coming into force of this Act.

Functions of the
Corporation

7. (1) Notwithstanding the provisions of any existing law, it shall be the duty of the Corporation to:

(a) administer, manage and control the affairs of the

Freeports, with a view to fostering the economic development of Ghana by encouraging the establishment of industrial and economic enterprises therein;

(b) liaise with all Ministries and other governmental bodies or authorities established by law in all matters concerning Freeports;

(c) advise Government in all matters relating to Freeports.

(2) Without prejudice to the generality of the powers conferred upon the Corporation by this Act, the Corporation may:

(a) enter into agreements with companies that seek to become licensed to operate in a Freeport;

(b) construct, install, maintain and operate such structures, installations and facilities as may be necessary for the provision of safe and efficient services within a Freeport;

(c) allocate areas, spaces, factories, sheds, tanks and any other facility or structure which may be available in a Freeport on such terms as the Corporation may think fit, provided that the Corporation shall not by title of sale or any other similar title, alienate any immovable property situate within a Freeport;

(d) determine the rents, charges, dues and other levies to be paid in, or in connection with any aspect of, a Freeport or the services and facilities provided thereunder;

(e) do all such acts as may be necessary or conducive to the attainment of the objectives, duties and obligations of the Corporation.

(3) No immovable property situate in a Freeport shall be transferred to a licensed company under any title for a term beyond a period covered by its licence to operate within the Freeport.

(4) The Minister may, by legislative instrument, vest the Corporation with such supervisory and executive powers and impose such conditions, obligations and restrictions as to him may seem necessary for the proper and fruitful establishment, development, maintenance, operation, control and conservation of Freeports.

Power of
Corporation
to make
Regulations

- 8 (1) The Corporation may, with the approval of the Minister by legislative instrument, make regulations for the control and management of a Freeport and all activities carried on therein or connected therewith, and in particular the regulations may:
- (a) provide for the control by the Corporation of any project for
 - the improvement and development of facilities and services within a Freeport;
 - (b) regulate the safe use of docks, wharves, piers, landing places, warehouses, sheds, tanks and premises vested in or under the control of the Corporation;
 - (c) regulate traffic within the limits of a Freeport;
 - (d) regulate the use of fires, lights, and the signals to be used and measures to be taken in case of fire in any part of a Freeport;
 - (e) provide for the cleanliness of the basins, works and premises within the limits of a Freeport and to prevent pollution of the waters therein;
 - (f) provide for the prevention of nuisance and misuse of the premises within a Freeport;
 - (g) provide for the classification and regulation of the conveyance, loading and unloading of goods, including dangerous goods, within a Freeport;

(h) regulate the manner in which specified operations within a Freeport are to be carried out;

(i) generally to give effect to this Act.

(2) Any person who fails to comply with any regulation made under this section shall be guilty of an offence and shall on conviction be liable to a fine not exceeding - or for a term of imprisonment not exceeding - years or to both.

Certificate of origin and of non-manipulation

9. (1) The Corporation may, having regard to a substantial transformation achieved in the identity of goods and to the value added through any processing or other operation carried out in a Freeport, release a certificate indicating that Ghana is the origin of any such goods or articles.

(2) The Corporation may, where it is so satisfied, release a certificate to the effect that any goods or articles which have been transhipped through a Freeport have not suffered any manipulation in the Freeport so as to transform their identity.

(3) It shall not be lawful for any person, unless a certificate has first been obtained from the Corporation under the provisions of this section, to indicate in any manner that:

(a) goods or articles which have been subjected to any process or other transformation whatsoever in a Freeport have Ghana as their origin;

(b) any goods or articles transhipped through a Freeport have not suffered any manipulation in the Freeport.

PART IV - LICENSING REGIME

Licensing of Companies

10. (1) Subject to the provisions of this Act, the Corporation may grant licences to companies to carry out in a Freeport a trade or

business being principally:

(a) the processing, labelling, packaging, sorting, warehousing, storage, exhibition or assembly of any goods, materials, commodities, equipment, plant or machinery;

(b) any activity concerned solely with the conduct of a Freeport, including but not limited to, stevedoring, wharfage, operation of terminals and container handling.

(2) No company shall be granted a licence contemplated by this Act unless its activities are in the opinion of the Corporation, wholly or mainly carried on or exercised within a Freeport.

(3) For the purpose of subsection (2) of this section, the following activities carried on or exercised outside a Freeport shall not be deemed to infringe the rule therein set out:

(a) the management and administration of a company, its trade, business or property and the holding thereof;

(b) the execution of instruments, transactions, negotiations or agreements relative to a company's trade or business;

(c) the transit of goods or other commodities to and from a Freeport.

Procedure for
grant of licences

11. (1) Any application for the grant of a licence under this Part shall be made in writing and shall contain, or be accompanied by, such information and documents as may be specified by the Corporation for the purposes of determining the application and the suitability of the applicant for the licence.

(2) Upon receiving any application made in accordance with subsection (1), the Corporation may:

- (a) subject to the provisions of subsection (3) and the payment of such fees as the Corporation thinks fit, issue the licence to the applicant; or
- (b) refuse to issue the licence.

(3) Every licence issued under subsection (2) shall set out the duration of the licence and shall further prescribe:

- (a) the types of services or facilities to be provided by the licensee,
- (b) the annual licence fees payable by the licensee,
- (c) the particular duties of the licensee in respect of the services or facilities provided by it, and
- (d) such other matters or conditions as the Corporation thinks fit.

(4) The issue of a licence to any licensee by the Corporation under subsection (2) shall not impose any liability on the Corporation for any loss or damage occasioned by any act, omission or default of such licensee.

Suspension and
Revocation of
Licences

12. (1) The Corporation may at any time suspend or revoke any licence issued under section 10 upon breach of any of the conditions of the licence or upon failure to comply with any provisions of this Act or any of the regulations made thereunder or upon the conduct of any criminal activity.

(2) The Corporation shall not revoke any licence granted under section 10 of this Act unless the licensee has been notified in writing of the action the Corporation proposes to take.

Appeal to the
Minister

13 (1) Any licensee aggrieved by the suspension or revocation of its licence under subsection (1) of section 12 may lodge an

appeal with the Minister .

(2) Every such appeal shall be made in writing within 30 days from the date on which the decision of the Corporation is served on the licensee.

(3) The decision of the Minister under this section shall be final and conclusive.

(4) A decision of the Corporation under subsection (1) of section 12 shall be of immediate effect notwithstanding any appeal lodged with the Minister.

Goods Imported 14
into Freeport

(1) In issuing licences for operation in a Freeport, the Corporation shall ensure that a Freeport shall be open to all goods irrespective of their nature, quantity and country of origin or destination, and no limit shall be placed on the time during which goods may be retained in a Freeport.

(2) Notwithstanding the provisions of subsection (1) of this section:

(a) the Minister or the Corporation shall have the power to impose such prohibitions or restrictions as it considers justified on grounds of -

(i) public morality, public policy or public security;

(ii) the protection of human, animal, or plant health and life;

(iii) the protection of national treasures of artistic, historic or archaeological value; or

(iv) the protection of industrial or commercial property;

(b) the Corporation shall have power to require that goods which are dangerous or likely to cause damage to other goods or which, for any reason whatsoever,

require special facilities, be placed in premises specially equipped to receive them.

PART V - FISCAL REGIME

- Exemption from Customs Duty
15. (1) Subject to the provisions of this Act, all goods imported into a Freeport by a licensed company or by the Corporation shall be free from customs duty, provided that:
- (a) such goods are imported exclusively for the construction, alteration, reconstruction or extension of an industrial building or structure within a Freeport or for any extension thereof or for the purpose of effecting repairs to such an industrial building or structure or the extension thereof;
 - (b) such goods are raw materials, components, intermediate product, by-products, unfinished goods or other goods imported for the purposes for which the company has been granted a licence by the Corporation under the provisions of this Act.
- (2) For the purposes of paragraph (b) of subsection (1), the words "raw materials", "components", "intermediate products", "by-products" and "unfinished goods" shall bear the same meaning assigned to them by section 47 the Customs Excise and Preventive Services Law, 1994.
- (3) The exemption granted in this section shall not apply where the goods have been imported for any purpose other than for the trade or business carried on or intended to be carried on by the company pursuant to the provisions of this Act.
- Company to keep sufficient
16. (1) Every company which imports into a Freeport any goods free of customs duty under section 15 shall:

records of
goods

(a) keep proper and sufficient records of the goods which it so imports, as may be necessary to identify their nature, quantity and country of origin or destination,
and

(b) permit the Corporation at all reasonable times to inspect the said records and to have access to any premises of the company for the purpose of examining any such goods which it believes to be therein and of satisfying itself of the accuracy of said records.

Restrictions of
sale of customs
free goods

17 (1) No goods imported into a Freeport, free of customs duty under the provisions of this Part shall be sold, given away or otherwise disposed of, other than to the Corporation or another licensed company except:

(a) through re-export from Ghana whether in the same state as when imported or otherwise; or

(b) by transfer into Ghana outside the Freeport on the payment of customs duty in accordance with the provisions of subsection (2) of section 18.

(2) When goods imported into a Freeport by the Corporation or by a licensed company free of customs duty are sold, given away or otherwise disposed of, to the Corporation or a licensed company in terms of subsection (1), such goods shall, for the purposes of this Act, be deemed to have been imported by the Corporation or by the company to which they are sold, given away or otherwise disposed.

Power of
Comptroller to

18. (1) Subject to such conditions and the giving of such security as he may determine, the Comptroller may:

allow goods to
be landed outside
Freeport without
payment of duty

(a) allow any goods destined for a Freeport to be landed in Ghana free of customs duty, provided that in all cases the said goods shall be transferred into a Freeport within seven working days of having been landed;

(b) allow any goods destined for export, to be transferred from a Freeport to any port or airport without levying customs duty thereon, provided that the said goods shall be loaded on a ship or aircraft within seven working days of having left the Freeport.

(2) Whenever any goods which have entered a Freeport free of customs duty in accordance with this Act are transferred out of the Freeport and remain in Ghana otherwise than for the purpose contemplated in paragraph (b) of subsection (1) hereof, such goods shall, as soon as so transferred, be deemed to have been imported into Ghana and shall be subject to appropriate customs duty.

Exemption from
tax income tax

19. (1) A licensed company shall be exempt from paying income on the gains or profits arising to it from a trade or business exercised in a Freeport pursuant to the provisions of section 10 of this Act.

(2) The exemptions contemplated by this section shall only apply to transactions and operations for which the company has been licensed under the provisions of this Act.

PART V - MISCELLANEOUS

Licensed
companies to
maintain certain

20. (1) Notwithstanding anything to the contrary in this Act, no exemption or other benefit which may be granted or obtained, and no entitlement thereto shall exist, unless:

records

- (a) proper and sufficient records and accounts, including supporting documentation, have been maintained for the relative period covered by the exemption or benefit,
- (b) separate accounts have been kept as may be necessary to identify and quantify the exemption or benefit, and
- (c) such computations, returns, statements, particulars or documents as may be necessary to establish clearly the entitlement to an exemption or benefit are submitted to the Corporation as appropriate.

(2) No claim, statement, account or document whatsoever, that is in any way connected with the entitlement or presumed entitlement to any exemption or benefit contemplated under the provisions of this Act, shall be considered or taken into account unless certified by a certified public accountant and auditor.

Information
required by
Corporation

21 (1) Every licensed company shall, within three months after the end of each financial year or such longer period as the Corporation may allow, submit to the Corporation:

- (a) a report of its operations during that financial year containing such information as is necessary to enable the Corporation to make an informed assessment of such operations,
- (b) its audited annual balance sheet, profit and loss account together with any note thereon, and the reports of the auditor and directors, and
- (c) such other statistical information relating to its operation as may be required by the Corporation from time to time.

(2) The Corporation may require such further or additional information as it may deem necessary, either by way of an explanation, amplification or otherwise, with reference to any report or information forwarded by the company under subsection (1) and such information shall be submitted within the period and in such manner as the Corporation may require.

(3) Any person who wilfully and with intent to obtain any incentive or benefit under this Act, prepares any incorrect statement or prepares any information in relation to any matter or thing falling under this Act shall be guilty of an offence and shall on conviction be liable to a fine not exceeding - or to imprisonment for a term not exceeding - years or to both.

General duties
of licensed
companies

22. (1) It shall be the duty of every licensed company at all times to immediately inform the Corporation of the following matters:

- (a) any changes in the control of the company;
- (b) any industrial dispute between the licensed company and its employees;
- (c) any fire occurrence within its premises;
- (d) any theft or pilferage within its premises of any goods under its possession or control and imported into a Freeport;
- (e) any proceeding or claim instituted or made against the licensed company which may affect its ability to perform any condition under its licence;

(2) For the purposes of paragraph (a) of subsection (1), the expression "control" in relation to a licensed company means the power to direct the management and policy of the company.

Removal of

23. (1) No person shall remove goods from a Freeport unless

of goods from
Freeport

he has first obtained a waybill in a form approved by the Corporation authorising the removal of the goods.

(2) A person removing goods from a Freeport under the authority of a waybill shall, before leaving the Freeport, supply to the security officer on duty for the purposes of checking the removal of goods, a copy of the waybill.

(3) A security officer or other authorised person may :

(a) detain any person attempting to remove goods from a Freeport without having in his possession a waybill authorising the removal of the goods, for such reasonable time as may be necessary to investigate the circumstances under which the goods are being removed;

(b) detain any goods which are being removed from a Freeport without authority.

(4) Any person who fails to comply with the provisions of this section commits an offence and shall on conviction be liable to a fine not exceeding - or to imprisonment for a term not exceeding - years or to both.

Power of
Minister to
make
regulations

24. The Minister may from time to time make such regulations as may be necessary or expedient for carrying out or achieving the objectives and purposes of this Act.

Power of
Corporation
exercisable
by servants
and agents

25. (1) When powers are conferred or duties imposed by or under this Act or any other enactment on the Corporation, such powers may be exercised or such duties performed by or through any servant or agent of the Corporation authorised in that behalf by the Corporation.

(2) Nothing done by any servant or employee of the Corporation shall, if it is done bona fide for the purpose of executing any provision of this Act, subject the servant or employee or any person acting by his directions, personally to any civil liability.

General
penalty

26. (1) Any person who contravenes or fails to comply with any of the requirements of this Act or of any regulations made thereunder in respect of which no penalty is expressly provided shall be guilty of an offence and shall on conviction, be liable to a fine not exceeding - or to imprisonment for a term not exceeding - years or to both.

(2) Where an offence under this Act or under any of the regulations made thereunder is committed by a body corporate, every director or manager of the body corporate shall be deemed to be guilty of the offence unless he proves that the offence was committed without his consent or connivance and that he had exercised all due diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances of the case.

The provisions
of PNDCL 160
inapplicable to
Freeports

27 The provisions of the Ghana Ports and Harbours Authority (Est.) Law, PNDCL 160 shall not apply to any Freeport established under the provisions of this Act.

Made this 4th day of April, 1995

DATE OF GAZETTE NOTIFICATION: