

ACT 46

VOLTA RIVER DEVELOPMENT ACT, 1961

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The Volta River Authority

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SCHEDULES

FIRST SCHEDULE

SECOND SCHEDULE

ACT 46

VOLTA RIVER DEVELOPMENT ACT, 1961¹

AN ACT to provide for the establishment of an Authority charged with the duties of generating electricity by means of the water power of the Volta River, and by any other means, and of supplying electricity through a transmission system; for the construction of a dam and power station near Akosombo, and for the creation of a lake by the damming of the River; for giving the Authority power to administer certain lands liable to be inundated and lands adjacent thereto, and for dealing with the resettlement of people living in the lands to be inundated; for charging the Authority with certain incidental responsibilities and for related matters.

The Volta River Authority

1. Establishment of the Authority

There shall be established an authority to be called the Volta River Authority charged with the functions and responsibilities specified in this Act.

2. Status of the Authority

The Authority is a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name, and may acquire and dispose of movable and immovable property and enter into contracts and any other transactions.

1. The Act was assented to on 26th April, 1961.

3. Constitution of the Authority

(1) The Authority shall consist of a chairman, the chief executive appointed under section 5, and six other persons of whom one, being a person who has experience in financial matters, may be appointed as finance member, and two persons shall be appointed to represent major consumers of the electrical power generated by the Authority.

(2) Subject to section 5, the chairman and the other members of the Authority shall be appointed by the President in accordance with article 70 of the Constitution.

(3) The chairman shall preside at the meetings of the Authority and in the absence of the chairman a member elected by the members present from among themselves shall preside.²

4. Members of the Authority

(1) A member of the Authority, other than the chairman and the chief executive shall, subject to subsection (2), hold office for a period of three years.³

(2) The appointment of a member may be terminated by the President if the President is of the opinion that it is necessary in the interests of the Authority to do so.

(3) Subject to this Act, the terms and conditions of appointment of a member shall be determined by the President.

5. Chief executive

(1) The Authority shall have an officer to be known as the chief executive.

(2) The chief executive shall be nominated by the President and appointed by the Authority and shall hold office on the terms and conditions determined by the Authority.

(3) The chief executive's full time shall be devoted to the affairs of the Authority.

(4) Subject to the general control of the Authority on matters of policy, the chief executive is charged with the direction of the business of the Authority, and of its administration and organisation and with the employment, control and dismissal of the Authority's staff and workpeople.⁴

6. Resignation and re-appointment of members

(1) A member, other than the chief executive, may at any time resign the appointment by notice in writing to the President.⁵

2. Substituted by section I of the Voila River Development Act, 1961 (Amendment) Decree, 1968 (N.L.C.D. 268), and further substituted by section I of the Voila River Development (Amendment) Act, 1970 (Act 338).

3. The proviso to subsection (I) has been omitted as spent. This section provided that, "The first such members to be appointed, other than those appointed to represent major consumers of electrical power, shall serve for the following periods, which shall be specified when they are appointed, that is to say, two such members shall serve for two years and the remaining two for one year."

4. Substituted by section 2 of the Volta River Development Act, 1961 (Amendment) Decree, 1968 (N.L.C.D. 268). The Decree, by section 32, provided that the person holding the office of Chief Executive of the Authority before the commencement of the Decree shall be deemed to have been duly appointed under section 5 of this Act.

5. Amended by section I of the Voila River Development (Amendment) Act, 1962 (Act 95).

- (2) A member is eligible, on ceasing to be a member, for re-appointment.

7. Proceedings of the Authority

(1) The Authority may make standing orders, which are not inconsistent with this Act, to provide for the application of the Authority's seal to legal documents, the proper conduct of the business and for the meetings of the Authority or a committee of the Authority, including the manner in which a matter may be determined on behalf of the Authority.

(2) The standing orders shall be observed by the Authority and its committees and members.

(3) The quorum of the members of the Authority is four, and the chairman shall have an original and a casting vote.

(4) The validity of the proceedings of the Authority shall not be affected by a vacancy amongst its members or by a defect in the appointment of a member.

8. Employees of the Authority

(1) The Authority shall employ the staff and workpeople necessary for the performance of its functions, on the terms and conditions determined by the Authority.

(2) The terms and conditions referred to in subsection (1) need not be the same as those relating to the Civil Service.

9. Authority to institute training programme

The Authority shall, so far as may be consistent with the proper performance of its functions, institute arrangements for the training of citizens in administrative, technical, managerial and any other capacities,

- (a) with a view to securing the benefit of their knowledge and experience in the conduct of the Authority's operations, and
- (b) with a view to the branches of the Authority's activities being, in due course, performed by citizens.

Functions of the Authority

10. Primary functions of the Authority

(1) The Authority shall plan, execute and manage the Volta River development which comprises

- (a) the generation of electrical power for the operation of an aluminium industry, and for general industrial and domestic uses, by the means determined by the Authority, and in particular in the first instance, by the construction and operation of a dam and hydro-electric generating station in the vicinity of Akosombo,
- (b) the construction and operation of a transmission system for the distribution of the electrical power generated by the Authority,

- (c) the supply of the electrical power generated by the Authority to,
 - (i) a government department or a public corporation responsible for the supply of electrical power to the public,
 - (ii) the township of Akosombo, and
 - (iii) any other consumer in the Republic or elsewhere under the arrangements agreed on between the Government, the Authority and the Electricity Company of Ghana,⁶
- (d) the provision, when and so far as practical, of facilities and assistance for the development of the lake as a source of fish, and as a route for the transportation of goods and passengers, and in any other manner, and
- (e) the development of the lakeside area for the health and well being of the inhabitants, and people living adjacent to that area.

(2) The Authority may also own, maintain and operate vessels or craft of any kind and size for the purpose of transporting goods and passengers along the lake and may charge fares for those services.

11. Flow of water and flooding

(1) The Authority shall control the dam to prevent, so far as is practicable,

- (a) the harmful penetration of salt water up the River Volta to a greater degree than was normal at minimum river flow preceding the construction of the dam,
- (b) the level of the lake from rising to a height greater than two hundred and eighty feet above mean sea level, and
- (c) the flow of water past the dam as may cause flooding downstream from the dam above the levels which were normal proceeding the construction of the dam.

(2) The Authority shall take reasonable measures to give warning of possible flooding from the lake or from the River Volta downstream from the dam.

12. Powers in relation to transmission system

(1) For the purposes of constructing and operating the transmission system referred to in paragraph (b) of section 10, or of preventing damage or obstruction to the system, the Authority shall have the power of the Chief Engineer set out in section 3 of the Electricity Supply (Control) Ordinance (Cap. 66)⁸ to be exercised by itself, its workmen and agents, and be subject to the limitations and the duties there provided.

(2) A person who has an estate or interest in a land injuriously affected by the exercise of the powers conferred by subsection (1) is entitled to compensation to be settled, awarded and paid in accordance, as nearly as may be, with the provisions relating to compensation which are contained in the State Property and Contracts Act, 1960 (C.A. 6).

6. Amended by the Volta River Development (Amendment) Law, 1987 (P.N.D.C.L. 171).

7. Inserted by section I of the Volta River Development Act, 1961 (Amendment) Decree Cap. 1967 (N.L.C.D. 211).

8. Cap. 66 of the 1951 Edition of the Laws of the Gold Coast.

13. Health safeguards

(1) The Authority shall take reasonable measures, in co-operation with the Minister responsible for Health, and with local authorities, to safeguard the health and safety of its employees and persons engaged on the construction of works referred to in section 10 and their families and dependents, and the inhabitants of Akosombo township and the lakeside area.

(2) The Authority is the authority, in and over the lake and the lakeside area, and in the township of Akosombo, for executing the provisions of the Mosquitoes Act, 19119 and has the powers referred to in section 3 of that Act and the amounts recovered under that Act by the Authority shall be paid to the credit of the Authority.

14. Local government functions of the Authority

(1) The President may, by executive instrument, make provision for constituting the Authority as the local authority for the township of Akosombo and the lakeside area, and for applying to the Authority, and with the modifications that are expedient, the enactments relating to local government.

(2) The Authority may, in consultation with the Minister responsible for town and country planning, exercise the powers of that Minister in relation to town and country planning in the township of Akosombo and the lakeside area.

(3) The Authority shall take measures to enhance the natural beauty of the lakeside area by the planting of trees and otherwise; and is responsible for the development of Akosombo township in a manner that will prevent the growth of a slum or any other conditions likely to be injurious to the health or well being of the inhabitants.

15. Additional powers

The President may, on terms to be agreed between the Government and the Authority and for the better performance by the Authority of its functions under this Act, require the Authority for the period specified by the President to perform a function of a Minister or a public authority or a body of which the Government is in control or over which it has powers of direction, in relation to the township of Akosombo and the lakeside area.

16. Research and records

The Authority shall, with a view to facilitating present or future research or planning, maintain and preserve the records relating to its functions as it shall consider proper, and may engage in research, and assist others to engage in research, in respect of a matter relating to those functions and may publish the records and the results of a research in which it may engage.

17. Incidental powers

The Authority may carry on an activity which is reasonably requisite or convenient for or in connection with the performance of its functions under this Act.

18. Co-operation with other public authorities

In the performance of its functions the Authority shall co-operate fully with Government departments and agencies and any other public authorities.

19. Exercise of statutory powers

A person shall not perform a statutory function inconsistently with the performance of a function conferred on the Authority by or under this Act.

20. Directions to the Authority

The President may, after consultation with the Authority, give to the Authority in a matter of exceptional public importance, directions of a general character which are not inconsistent with this Act, nor with the contractual or any other legal obligations of the Authority as to the performance by the Authority of its functions under this Act, and the Authority shall give effect to those directions.

*Finance***21. Authority to aim at making profit**

(1) The Authority shall conduct its affairs on sound commercial lines, and in particular, perform its functions under this Act as to ensure that, taking one year with another, its revenues are greater than its outgoings properly chargeable to revenue account.

(2) The Authority shall charge to revenue account the charges which in the normal conduct of a business are proper to be charged to revenue account, including in particular, proper provision for depreciation of assets or for renewal of assets, and in addition the interest on borrowings, repayments to be made each year in respect of loans incurred by the Authority to the extent that the repayments exceed provision for depreciation, and proper allocations to reserve.

(3) Without prejudice to the power of the Authority to establish appropriate reserves for replacements or any other purposes, the Authority shall establish a reserve fund and out of its profits make payments to a reserve fund for the purpose of expanding its activities.

(4) The Authority shall fix the rates at which it supplies the electrical power generated by it so as to ensure that it is able to comply with the requirements of this section.

22. Borrowing powers

(1) In order to enable the Authority to meet an expenditure of a capital nature, including provision for working capital, for the performance of its functions under this Act, and in particular for the financing of the operations referred to in section 10, the Authority may borrow the sums that it requires, on the terms and in the currencies that may be agreed between it and the lender.

(2) The Authority may borrow temporarily, by way of overdraft or otherwise the sums of money that it requires for meeting its current obligations or performing its functions.

(3) The Authority may charge its assets, undertakings and revenues with the repayment of the money borrowed together with interest on that money and may issue debentures, bonds on any other securities in order to secure the repayment of the money so borrowed together with interest on that money and may do any other thing necessary in connection with or incidental to the borrowings are authorised by this section.

(4) The President may prescribe the maximum sums of money which the Authority may borrow under this section.

23. Investment by the Republic

(1) During the ten years following the commencement of this Act, the Republic shall invest in the Volta River development the sums of money not exceeding thirty-five million pounds, as the Authority may require for the performance of its functions under this Act.

(2) The payment of the thirty-five million pounds is hereby charged on the Consolidated Fund, and shall be made to the Authority in the instalments and at the times agreed on between the Minister responsible for Finance and the Authority.

(3) By way of return on the investment, the Authority may pay to the Accountant General, out of income remaining available when the charges referred to in subsections (2) and (3) of section 21 have been provided for, the sums of money that the Authority after consulting the Minister responsible for Finance, thinks proper having regard to its future financial requirements.

(4) Where the Authority considers that its financial position justifies it, the Authority may, by agreement with the Republic, repay in the amounts and at the times that may be agreed, part or the entire capital sum of money invested by the Republic under this section.

(5) The sums of money received under subsections (3) and (4) shall be paid into the Consolidated Fund. ¹¹

24. Exemption from income tax

The Authority is exempt from the tax imposed by the Internal Revenue Act, (Act 593).

25. Re-imburement to the Authority

The Republic shall pay to the Authority the net cost of the measures undertaken by it under sections 13 to 15 the necessity for which is not attributable to the creation of the lake or any other activities of the Authority.

26. Accounts and audit

(1) The Authority shall

(a) keep proper accounts and any other records in relation to the accounts, and

10. The original amount has not been revised as that amount has been invested. That investment still stands and thus the provision has not been considered as spent.

II. Amended by section 2 of the Volta River Development (Amendment) Act, 1962 (Act 95).

- (b) prepare an annual statement of accounts in the form and containing the particulars directed by the Auditor-General or as are required to satisfy its undertakings or engagements.

(2) The accounts of the Authority shall be audited by an independent auditor appointed annually by the Authority subject to the approval of the Auditor-General, and the auditor shall make a report in each year on the accounts audited by that auditor.

(3) The remuneration of the auditor shall be determined by the Minister responsible for Finance and shall be paid out of the funds of the Authority.

(4) The Authority's financial year shall end on the last day of December in each year, and the period between the commencement of this Act and the last day of December, 1962 shall be the Authority's first financial year.²

Acquisition of Land and Resettlement Measures

27. Filling of the lake and acquisition of land

(1) The Authority shall, on the completion of the dam, so operate the dam as to cause the lake to fill by the accumulation of water in the upstream of the dam.

(2) The President shall cause to be acquired lands which in the opinion of the Authority

- (a) may be required to be inundated by the filling of the lake together with any other land not extending beyond one mile from the shores of the lake at its maximum fill,
- (b) may be required for the development of the Akosombo township,
- (c) may be required for the use of persons being resettled as a result of the inundation of their lands by the filling of the lake,
- (d) are necessary to acquire for the proper performance of the Authority's functions.

(3) The lands acquired under paragraphs (a), (b) and (d) of subsection (2) shall immediately after their acquisition vest in the Authority without a further assurance than this subsection free from any encumbrances and the Authority may sell, transfer, exchange, let or demise or otherwise dispose of all or any of them to or with a person and on the terms that it considers necessary for the proper performance of its functions.

(4) Despite any other enactment under which the lands were acquired the lands falling under both or either of the descriptions set out in paragraphs (b) and (d) of subsection (2), which are lands which have been acquired before the commencement of this Act and vested in the President immediately before the commencement are hereby vested in the Authority and are subject to the powers conferred on the Authority by subsection (3).

(5) Lands acquired under paragraph (c) of subsection (2) may be transferred, exchanged, let, demised or otherwise disposed of by the President to or with a person whether or not that person is included among the persons being resettled and on the terms that are necessary for the promotion of the well being of the resettlement areas and the inhabitants of those areas.

12. Amended by section 3 of the Volta River Development (Amendment) Act, (Act 95). The amendment was to the then subsection (3).

(6) Legal proceedings do not lie against the Authority as a result of the inundation of lands caused by the filling of the lake.

28. Compensation

The provisions of the State Lands Act, 1962 (Act 125) relating to the acquisition of land shall, subject to the following and any other modifications required by this Act, apply to the lands acquired under subsection (2) of section 27:

- (a) the market value of the property acquired shall be the amount which that property might have been expected to realise if sold in the open market by a willing seller to a willing buyer on the sixth day of March, 1957;
- (b) compensation may be paid in money or in the case of lands acquired under paragraph (a) of subsection (2) of section 27 in non-monetary assistance towards settlement or both and a person is not entitled to dispute the compensation offered to that person by reason only that it is not in money, whether in whole or in part;
- (c) lands subject to the Administration of Lands Act, 1962 (Act 123) may be acquired under this Act.¹⁴

29. Resettlement measures

(1) The Minister responsible for Social Welfare is charged with the duty of taking reasonable measures to assist in the resettlement of the people inhabiting lands liable to be inundated and lands adjacent to those lands which are needed by the Authority for the performance of its functions, and the Minister shall ensure that so far as is practicable, a person does not suffer undue hardship or is deprived of necessary public amenities, as a result of the resettlement.

(2) *Repealed.*¹⁵

30. Defraying expenses incurred

Expenses incurred in pursuance of this sections 27, 28 and 29 shall be defrayed, as to the first three million pounds by the Authority, as to the next million pounds by the Authority and the Government equally, and as to an excess of over four million pounds by the Government.¹⁶

31. Guarantees

(I) Subject to article 181 of the Constitution, in the name and on behalf of the Republic, the President may in writing guarantee the performance of an obligation undertaken by the Authority

13. Substituted by section 2 of the Volta River Development Act. 1962 (Amendment) Decree. 1967 (N.L.C.D. 211). the commencement here refers to the date of the commencement of the Decree which was made on the 17th day of November 1967 and notified in the *Gazette* on 24th November. 1967.

14. Substituted by section 3 of the Volta River Development Act. 1961 (Amendment) Decree. 1967 (N.L.C.D.211).

15. By section 4 of the Volta River Development Act 1961. (Amendment) Decree. 1967 (N.L.C.D. 211). The provision reads:
"Lands required by the Minister to enable him to discharge his duties under this section may be acquired in accordance with the provisions of the State Property and Contracts Act. 1960 (C.A. 6)."

16. The original currency denomination has been kept.

(2) The moneys payable under that guarantee are hereby charged on the Consolidated Fund.

32. Annual report

The Authority shall annually, not later than six months after the end of its financial year, present to the President a report dealing generally with the activities and operations of the Authority during the preceding financial year and containing

- (a) the information with regard to the proceedings and policy of the Authority that the Authority considers may properly be given without detriment to the interests of the undertaking of the Authority, and
- (b) a copy of the statement of accounts referred to in section 26, together with a copy of the report made by the auditor on that statement or on the accounts,

and the report shall not later than seven months after the end of the Authority's financial year be laid before Parliament.

33. Regulations

(I) The Authority may, by legislative instrument, make Regulations

- (a) prohibiting, restricting or regulating the use of the lake and the lakeside area;
- (b) prohibiting, restricting or regulating the abstraction of water from the River Volta or the lake, otherwise than for the purpose of only obtaining water for domestic use in a village, town or house situated within the catchment's area of the River Volta;
- (c) for the protection of the transmission lines erected by the Authority or the works or apparatus connected with those lines;
- (d) imposing penalties on persons trespassing on land in the ownership or possession of the Authority;
- (e) prohibiting, restricting or regulating the movement of motor or other vehicular traffic on or in the vicinity of the dam;
- (f) for the better discharge of the Authority's functions under section 13; and
- (g) generally for the purpose of enabling the better performance by the Authority of its functions.

(2) The Regulations may, in addition to the penalties which can be imposed by virtue of section 9 of the Statutory Instruments Act, 1959 (No. 52), impose in the case of continuous offences, a fine of two million cedis for each day during which the offence continues.

(3) In lieu of prohibiting, restricting or regulating an activity, the Regulations may prohibit, restrict or regulate that activity without a licence to be granted by the Authority.

(4) The Regulations may prescribe the forms to be used and fees to be paid for the licenses, and may provide for the delegation of the power to grant licences to a local authority.

(5) Proceedings for offences against the Regulations shall not be instituted except by the Attorney-General, or by, or with the consent of, the Authority.

34. Protection of officers

A matter or thing done by an officer or employee of the Authority shall not, if the matter or thing is done bona fide for the purpose of executing a provision of this Act, subject that officer or employee or a person acting by the directions of that officer or employee personally, to a civil liability.

35. Sections 5 and 6 of Act 2S not to apply to certain agreements

The provisions of sections 5 and 6 of the Contracts Act, 1960 (Act 25) shall not apply to the agreements specified in the First Schedule, except as otherwise expressly provided for in this Act.¹⁷

36. Financial agreements

(1) In the name and on behalf of the Republic, the President may, in writing, as the President considers it expedient in the public interest to do so

- (a) enter into agreements providing for the guarantee of an obligation undertaken by the Volta Aluminum Company Limited, and
- (b) enter into agreements providing for loans by the Government to the Volta Aluminum Company Limited, as provided in article 8 of the Master Agreement.

(2) Moneys payable under an agreement referred to in subsection (1) are charged on the Consolidated Fund.

37. Validity of certain agreements

A provision of an agreement specified in the Second Schedule is not illegal or void by reason of an existing provision or rule of the laws of Ghana other than the Constitution.

38. Interpretation

(1) In this Act, unless the context otherwise requires,

"**abstract**" includes divert, or by any means cause to flow;

"**Akosombo township**" means the area that the President may by executive instrument specify in that behalf;

"**Authority**" means Volta River Authority established by section I;

"**dam**" means the dam referred to in paragraph (a) of section 10;

"**citizen**" means a citizen of Ghana;

"**functions**" includes powers and duties;

17. Sections 35, 36 and 37 were sections 1.2 and 3 of the Volta River Project (Supplementary Provisions) Act, 1962 (Act 96), and were assented to on 20th January, 1962.

Volta River Development Act, 1961

"lake" means the lake created as a result of the construction of the dam, as the waters of the lake extend from time to time, including the islands in the lake;

"lakeside area" means any of the lands referred to in paragraph (a) of subsection (2) of section 27 as are not for the time being comprised in the lake;

"Master Agreement" means the Master Agreement entered into between the Government and the Volta Aluminum Company Limited in the terms approved by the National Assembly in January, 1962; and the Agreements specified in the Schedules have the same meanings as in the Master Agreement;¹⁸

"member" means a member of the Authority;

"Regulations" means the Regulations made under this Act;

"River Volta" includes the following rivers so far as they are within the Republic, that is to say, the Volta, the Black Volta, the White Volta, the Red Volta, and the Oti river, and the rivers, streams and water courses which are tributaries whether direct or indirect of any of the those rivers, or whose waters flow directly or indirectly into the lake, but does not include a part of the lake;

"supply" in relation to electrical power includes maintaining potential, whether or not the power so supplied is taken.

(2) For the purposes of the Rivers Act, 1903,¹⁹ and any other enactment, the lake is not a river, and section 10 of the Rivers Act shall not apply to any part of the River Volta upstream of the lake.

• (3) Officers of the Authority are, public officers for the purposes of the Criminal Offences Act, 1960 (Act 29) and the Criminal and other Offences (Procedure) Act, 1960 (Act 30).

39. Commencement

*Spent*²⁰

SCHEDULES

FIRST SCHEDULE

[Section 35]

The Master Agreement

The Power Contract

The Smelter Site Lease

18. This definition is taken from section 4 of the Volta River Project (Supplementary Provisions) Act, 1962 (Act 96). 19. Cap. 226 of the 1951 Edition of the Laws of the Gold Coast. 20. The section provided for the coming into force of the Act by legislative instrument. The Volta River and

Development Act, 1961 (Commencement) Instrument, 1961 (L.1162) appointed the 12th day of December, 1961

as the day on which it came into force.

FIRST SCHEDULE-continued

The Water Agreement
The Port Agreement
The Currency Agreement
The Voting Trust Arrangements The
Subscription Agreement

SECOND SCHEDULE

[Section 37]

The Master Agreement
The Power Contract
The Smelter Site Lease
The Water Agreement
The Port Agreement
The Currency Agreement
The Voting Trust Arrangements
The Subscription Agreement
The Long Term Tolling Contracts
The Valco Current Accounts Trust
The Management and Technical Assistance Agreement
The Exim-Valco Loan Agreement
The IBRD Loan Agreement
The AID Loan Agreement
The Exim-Authority Loan Agreement
The U.K. Loan Agreement

A guarantee of any of the preceding Agreements specified in this Schedule or a part of those Agreements by the Governments of Ghana.