

# **Bui Power Authority Act, 2007 Act 740**

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THE SEVEN HUNDRED AND FORTIETH

ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA ENTITLED

BUI POWER AUTHORITY ACT, 2007

AN ACT to provide for the establishment of an Authority charged with the development of a hydroelectric power project on the Black Volta River at Bui and any other potential hydroelectric power sites on the Black Volta River and for related matters

DATE OF ASSENT: *31st July, 2007* ENACTED by the President and Parliament:

*The Bui Power Authority*

Establishment of the Authority

1. (1) There is by this Act established an authority to be known as the  
Bui Power Authority charged with the functions specified in this Act.  
(2) The Authority is a body corporate with perpetual succession  
and a common seal and may sue and be sued in its corporate name.  
(3) The Authority may acquire and dispose of movable and immovable property and enter  
into a contract and any other transaction.

The governing body of the Authority

2. (1) The governing body of the Authority is a Board consisting of
  - (a) the chairperson,
  - (b) the chief executive officer appointed under section 9, and

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- (c) five other members,
  - (i) one of whom is a person who has experience in  
financial matters,
  - (ii) one of whom is an engineer conversant with the  
operations of a power utility,
  - (iii) one of whom is appointed to represent major consumers of the electrical power generated  
by virtue  
of the dam, and

(iv) one of whom is a woman.

(2) Subject to section 3, the chairperson and the other members of the Board shall be appointed by the President in accordance with article 70 of the Constitution

Tenure of office of members;

3. (1) A member of the Board, other than the chief executive officer, shall hold office for a period not exceeding four years and is eligible for re-appointment, but a member shall not be appointed for more than two consecutive terms.

(2) A member of the Board may at any time resign from office in writing addressed to the President through the Minister.

(3) A member of the Board who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.

(4) The President may by letter addressed to a member revoke the appointment of that member.

(5) Where a member of the Board is, for a sufficient reason, unable to act as a member, the Minister shall determine whether the inability would result in the declaration of a vacancy.

(6) Where there is a vacancy

(a) under subsection (2), (3), (4) or subsection (2) of section 5, or (b) under subsection (5), or

(c) because of the death of a member,

the Minister shall notify the President of the vacancy, and the President shall in accordance with article 70 of the Constitution appoint a person to fill the vacancy.

Meetings of the Board

4. (1) The Board shall meet at least once every three months for the dispatch of business at the times and in the places determined by the chairperson.

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(2) The chairperson shall at the request in writing of not less than one third of the membership of the Board convene an extra-ordinary meeting of the Board at the place and time determined by the chairperson.

(3) The quorum at a meeting of the Board is four members of the Board or a greater number determined by the Board in respect of an important matter.

(4) The chairperson shall preside at the meetings of the Board and in the absence of the chairperson, a member of the Board elected by the members present from among their number shall preside.

(5) Matters before the Board shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Board may co-opt a person to attend a Board meeting but that person shall not vote on a matter for decision at the meeting.

(7) The proceedings of the Board shall not be invalidated because of a vacancy among the members or a defect in the appointment or qualification of a member.

(8) Subject to this section, the Board may determine the procedure for its meetings.

#### Disclosure of interest

**5.** (1) A member of the Board who has an interest in a matter for

Consideration by the Board shall disclose in writing the nature of that interest and is disqualified from participating in the deliberations of the Board in respect of that matter.

(2) A member who contravenes subsection (1) ceases to be a member.

#### Establishment of committees

**6.** The Board may establish committees consisting of members of the Board or non-members or both

(a) to perform a function of the Board determined by the Board,

and

(b) to advise the Board on a matter referred to the committee.

#### Allowances

**7.** Members of the Board and members of a committee of the Board shall be paid the allowances approved by the Minister in consultation with the Minister responsible for Finance.

#### Policy directives of the Minister

**8.** The Minister may give policy directives in writing not inconsistent with a provision of this Act to the Authority and the Board shall comply.

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Chief executive officer

- 9.** (1) The Authority shall have a chief executive officer.
- (2) The chief executive officer shall be appointed by the Board and shall hold office on the terms and conditions determined by the Board.
- (3) The chief executive officer is a full time officer of the Authority.
- (4) Subject to the general control of the Board on matters of policy, the chief executive officer is charged with the direction of the business of the Authority and with its administration and organisation.

Employees of the Authority

- 10.** The Authority shall employ the staff and any other employees as are necessary for the performance of its functions, on the terms and conditions determined by the Board.

*Functions of the Authority*

Objects and functions of the Authority

- 11.** (1) The Authority shall plan, execute and manage the Bui hydro electric power project which comprises
- (a) the generation of electrical power for general industrial and domestic use, and the operation of the dam and the hydroelectric generating station in the vicinity of Bui,
- (b) the construction of a transmission system for the evacuation of the electrical power generated at the dam to the national electricity grid,
- (c) the supply of the electrical power generated at the dam to
- (i) a public utility licensed under the Energy Commission Act, 1997 (Act 541) responsible for the transmission or distribution of electrical power to the public,
- (ii) the township of Bui and its environs, and
- (iii) any other consumer in Ghana or elsewhere under an arrangement agreed on between the Government, the Authority, a consumer and the Electricity Company of Ghana or any other public utility licensed under the Energy Commission Act 997 (Act 541),
- (d) the provision of facilities and assistance for the use of the lake so created by the construction of the dam for multipurpose uses.

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(2) The Authority may .

(a) carry on an activity which is reasonably requisite or convenient for or in connection with the performance of its functions under this Act,

(b) own, maintain and operate vessels or craft of any description for the purpose of transporting goods and passengers along the lake and may charge fares for those services.

Flow of water and flooding

**12.** (1) The Authority shall control,

(a) the level of water in the lake to prevent the overtopping or breaching of the dam by flood to ensure that the safety of the dam and its structures are not jeopardized, and

(b) the flow of water in the lake to prevent flooding downstream from the dam above the levels which were normal proceeding the construction of the dam.

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

Powers in relation to transmission system

**13.** (1) For the purposes of constructing the transmission system' referred to in paragraph (b) of subsection (1) of section 11, or of preventing damage or obstruction to. the systems, the Authority may

(a) enter on any lands for the purpose of constructing any works, or of examining, repairing, altering, or may remain there for a reasonable time and execute and do the things that the Board considers necessary,

(b) survey and take levels of the lands or part of the lands, and do any other acts or things which the nature of the works may require.

(2) Where an owner of the lands cannot, after reasonable enquiry be found, the Board shall cause not less than one week's notice in writing of the intention to enter the lands for the purposes of this Act, to be posted in a conspicuous place on the lands so proposed to be entered; and after the expiration of that time the Board may exercise its powers as if notice had been served on the owner of the lands.

(3) The Authority may, without giving notice enter on any lands for the purpose of inspecting, repairing, or altering any works whether wholly or in part constructed

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(4) In the exercise of the powers conferred under this section the Board, the employees, the agents and workmen of the Authority shall do as little damage as possible; and, where the surface of a road or street has been disturbed, the Authority shall, as far as practicable, restore it to its former condition.

(5) 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) For the purpose of this section,

"owner" includes an occupier;

"works" includes the erection of electrical plants, works and equipment.

#### Health safeguards

**14.** The Board shall take reasonable measures in co-operation with the Minister responsible for Health, and with the relevant District Assemblies, to safeguard the health and safety of its employees and persons engaged on the construction of works referred to in section 11, their families and dependents, the inhabitants of Bui township and its environs.

#### Research and records

**15.** The Board shall, with a view to facilitating present or future research or planning, maintain and preserve the records relating to the functions of the Authority as the Board considers 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.

#### Co-operation with other public authorities

**16.** In the performance of the functions of the Authority, the Board shall co-operate with Government departments and agencies and any other public authorities.

#### *Finance* Authority to operate on commercial lines

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

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(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 proper provision for depreciation of assets or for renewal of assets, and in addition the interests on borrowings, repayments to be made each year in respect of loans incurred by the Authority to the extent that the repayments exceed provision of 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 the fund for the purpose of expanding its activities.

(4) The Board shall determine charges for the supply of electrical power so as to ensure that it is able to comply with the requirements of this section.

**Borrowing powers**

**18.** The Authority may, in accordance with article 181 of the Constitution, borrow the sums of money that it requires, on the terms and in the currencies that may be agreed between it and the lender, for, the performance of its functions under this Act.

**Funds of the Authority**

**19.** (1) The Funds of the Authority include

(a) money approved by Parliament,

(b) a fee or charge determined by the Board in consultation with the Minister and the Minister responsible for Finance,

(c) loans granted to the Authority by the Government or by any other person or body,

(d) revenue accruing from banks,

(e) donations, grants and gifts, and

(f) any other moneys that are approved by Parliament.

(2) Funds received by or on behalf of the Authority shall be deposited by the appropriate person or authority to the credit of the Authority in an account in a bank approved by the Authority.

(3) Each payment from the Funds shall be signed by the

(a) chief executive, and

(b) the officer responsible for financial matters designated by the Board.

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Re-imbusement to the Authority

**20.** The Republic shall pay the Authority the net cost of the measures undertaken by the Authority under section 14 the necessity for which is not attributable to the creation of the lake or any other activities of the Authority.

Accounts and audit

**21.** (1) The Board shall keep proper books of accounts and records in relation to them in the form approved by the Auditor-General.

(2) The Board shall submit the accounts of the Authority to the Auditor-General for audit within three months after the end of the financial year. .

(3) The Auditor-General shall, not later than three months after the receipt of the accounts, audit the accounts and submit a copy of the audit report to Parliament.

(4) The financial year of the Authority is the same as the financial year of the Government."

*Acquisition of land and resettlement measures*

Filling of the lake and acquisition of land

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

(2) Subject to article 20 of the Constitution, the President shall cause to be acquired lands which, in the opinion of the Board,

(a) may be required to be inundated by the filling of the lake together with any other land not extending beyond two kilometres from the shores of the lake at its maximum fill,

(b) may be required for the development of the Bui 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 functions of the Authority..

(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, demise or otherwise dispose of all or any of them to or with a person, and on the terms that the Board considers necessary for the proper performance of the functions of the Authority.

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(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.

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

### Compensation

**23.** Subject to article 20 of the Constitution, the provisions of the State Lands Act, 1962 (Act 125) relating to the acquisition of land shall apply to the lands acquired under subsection (2) of section 22.

### Resettlement measures

**24.** The Government shall take 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.

### Defraying expenses incurred

**25.** The expenses incurred in pursuance of sections 22, 23, and 24 shall be defrayed by the Republic.

### Annual and other reports

**26.** (1) The Board shall within one month after the receipt of the audit report, submit an annual report to the Minister covering the activities and the operations of the Authority for the year to which the report relates.

(2) The annual report shall include the report of the Auditor-General.

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(3) The Minister shall, within one month after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.

(4) The Board shall also submit to the Minister any other reports, which the Minister may require in writing.

Regulations

**27.** (1) 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 Black Volta River or the lake, otherwise than for the purpose of obtaining water for domestic use in a village, town or house situated within the catchment's area of the Black Volta River;

(c) imposing penalties on persons trespassing on land in the ownership or possession of the Authority;

(d) prohibiting, restricting or regulating the movement of motor or any other vehicular traffic on or in the vicinity of the dam;

(e) for the better performance of the Authority's functions under section 11; and

(f) 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, an appropriate fine for each day during which the offence continues.

(3) In lieu of prohibiting, restricting or regulating an activity, the Regulations may regulate that activity under a license to be granted by the Board.

(4) The Regulations may prescribe the forms to be used and the fees to be paid for the licenses.

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

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#### Protection of officers

**28.** A matter or thing done by an officer or employee of the Authority shall not subject that officer or employee or a person acting by the directions of that officer or employee personally, to a civil liability where that matter

or thing is done bona fide for the purpose of executing a provision of this Act.

#### Financial agreements

**29.** (1) Subject of article 181 of the Constitution, the President may, in writing, as the President considers it necessary in the public interest,

(a) enter into agreements providing for the guarantee of an obligation undertaken by the Board, and

(b) enter into agreements providing for loans by the Government to the Board.

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

#### Interpretation

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

"abstract" includes divert, or by all other means cause to flow; "Authority" means the Bui Authority established by section 1; "Board" means the governing body of the Authority;

"Bui township" means the area of land acquired for the development of the Bui township;

"chief executive officer" means the Chief Executive Officer of the Authority, appointed under section 9;

"citizen" means a citizen of Ghana;

"functions" includes powers and duties;

"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 22 as are not for the time

being comprised in the lake;

"member" means a member of the Board;

"Minister" means the Minister responsible for Energy; "Regulations" means the Regulations made under this Act.

"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, 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 Black Volta River 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).

Amendments to Act 46

**31.** The Volta River Development Act, 1961 (Act 46) is amended by the deletion of the words "the Black Volta" in the definition of the words "River Volta" in section 38 of that Act.

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