

ACT 124
CONCESSIONS ACT, 1962
ARRANGEMENT OF SECTIONS

SECTION

1. The Ordinance except certain provisions, to cease to apply to stool lands.
2. Certain existing concessions to continue in force.
3. Determination of existing concessions by Tribunal.
4. Modification of terms of concession.
5. Cancellation of concession by the President.
6. Powers of the President in respect of recommendations.
7. Tribunal to reserve questions of law for consideration of the Supreme Court.
8. Constitution of Tribunal.
9. Appointment of attorneys for non-resident persons.
10. Rents for mining concessions.
11. Option to be determined.
12. Transmission of decisions.
13. Assignments, of concessions invalid without the Minister's consent.
14. Regulations.
15. Pending matters.
16. Forest reserves and timber concessions.
17. Interpretation.

ACT 124
CONCESSIONS ACT, 1962]

AN ACT to provide that the provisions of the Concessions Ordinance shall cease to apply in respect of stool lands, to continue in force certain existing concessions subject to their terms and to provide for purposes connected therewith or incidental thereto.

1. The Ordinance except certain provisions, to cease to apply to stool lands

Subject as provided in this Act, the Concessions Act, 19392, other than section 30, Part 4 and section 40, shall cease to apply to stool lands with effect from the date of the commencement of this Act.

1. This Act was assented to on 14th June, 1962.
2. The Concessions Ordinance Cap. 136 of the 1951 Edition of the Laws of the Gold Coast.

2. Certain existing concessions to continue in force

A concession in respect of a stool land which is in force on the day immediately before the date of the commencement of this Act shall continue in force on and after that date according to the terms of the concession; but

- (a) the terms may be varied by agreement between the parties to the concession, subject to the written consent of the Minister; and to article 267 of the Constitution,
- (b) a person authorised by the Minister may use for any purpose a road made on a land specified in the concession and may enter and inspect the land for a purpose which the Minister thinks appropriate.

3. Determination of existing concessions by Tribunal

(1) The Minister may at any time apply to the Tribunal to determine a concession referred to in section 2 if the Minister is satisfied that

- (a) there has been a breach of any of the terms of the concession; or
- (b) two or more holders of a concession whether individuals or corporations are so intimately related to each other in respect of a substantial unity of directorate, or financial control, or otherwise, that the commercial interests of both or all are in substance bound with one another, and therefore they can be deemed to be one person for the determination of the area of land which that person is legally entitled to hold under the law in force at the time of the application of the Minister; or
- (c) a holder of a concession unreasonably withholds consent to a variation of any of the terms of the concession which in the opinion of the Minister have become oppressive by reason of a change in economic conditions; or
- (d) a holder of a concession has lost the financial ability to develop the concession, or a holder of a concession not resident in Ghana has not appointed an attorney so resident in accordance with section 9; or
- (e) the land specified in the concession has not been developed or used in accordance with the object for which the concession was granted during the eight years preceding the application of the Minister; or
- (j) the limits as to area prescribed under the law in force at the time of the grant of the concession have been exceeded.

(2) The Tribunal on an application made by the Minister under subsection (1), shall, within three months of the application, after calling and hearing the relevant evidence and subject to section 7, make a recommendation to the Minister, if the Tribunal is satisfied that any of the conditions specified in subsection (1) has been fulfilled, that the concession shall be determined.

4. Modification of terms of concession on

(1) The Minister may at any time apply to the Tribunal for a modification of the terms of a concession referred to in section 2 if the Minister is satisfied that the limits relating to term or area which have been prescribed under the law in force at the time of the application of the Minister and appropriate to the concession have been exceeded.

(2) The Tribunal on an application made by the Minister under subsection (1) shall within one month of the application, notify the holder of the concession of the fact of, and reason for, the application and request the holder to select within three months of the notification the boundaries of the area the Minister is desirous of retaining in the event of the Tribunal deciding to restrict the area of the concession.

(3) Where, within the three months referred to in subsection (2), the holder of the concession does not select the boundaries referred to in that subsection, the Tribunal shall notify the fact to the Minister and the Minister within one month of the notification, shall select the boundaries of the area which in the opinion of the Minister the holder should retain and recommend the boundaries so selected to the Tribunal.

(4) The Tribunal in fixing the area for the purpose of this section shall take into account the boundaries selected by the holder of the concession only if

(a) it is satisfied that the holder of the concession has furnished adequate evidence that the holder has used the area within those boundaries in accordance with the terms of the concession, or

(b) it is satisfied that the holder intends to commence the use within two years from the date of the application of the Minister under subsection (1).

(5) Where the Tribunal is satisfied that condition (a) or condition (b) of subsection (4)

has not been fulfilled, and, accordingly, does not take into account the boundaries selected by the holder of the concession, it shall request the Minister, within one month of the request, to select the boundaries that the holder should retain and recommend the boundaries so selected to it.

(6) The Tribunal, within three months from the date of the selection of the boundaries by, the Minister or, if the boundaries selected by the holder satisfy the Tribunal, by the holder of the concession, after calling and hearing relevant evidence and subject to section 7, shall make a recommendation modifying the concession in respect of term or area.

5. Cancellation of concession by the President

(1) Subject to this section, the President may cancel a concession held by any of the persons referred to in subsection (5), if the President considers that it is or may prove prejudicial to public safety or interests.

(2) The cancellation shall have effect despite anything to the contrary in any other law.

(3) A person affected by the cancellation of a concession may apply to the Minister, within three months of the date of the cancellation for transmission to the Tribunal for the making of an order in settlement of the variation of rights between the parties to the concession resulting from the cancellation, if in its opinion the circumstances and justice of the case so require.

(4) The Minister, on an application made under subsection (2) shall transmit the application, within one month from the date of its receipt to the Tribunal.

(5) The Tribunal shall, within three months of the cancellation of the concession by the President, after calling and hearing the relevant evidence and subject to section 7, make the order referred to in subsection (2).

ACT 124

- (6) The persons referred to in subsection (1) include
- (a) an individual who is not a citizen within the meaning of the Citizenship Act, 2000 (Act 591),
 - (b) a body corporate
 - (i) which is not incorporated or registered in Ghana, or
 - (ii) the effective control of the operations of which is in the hands of those individuals, and
 - (c) a partnership or a union or an association of partners or bodies corporate, a partner or body corporate being a person as defined in this subsection.

6. Powers of the President in respect of recommendations

(1) The Minister shall within fourteen days of the receipt of a recommendation under section 3 or section 4 submit the recommendation to the President, who may by order confirm or vary the terms of the recommendation.

(2) An order under subsection (1) shall have effect, despite anything to the contrary in any other law.

7. Tribunal to reserve questions of law for consideration of the supreme Court

The Tribunal in the performance of its functions under this Act may reserve for the consideration of the Supreme Court a question of law and the relevant provisions of the Courts Act, 1993 (Act 459) shall, with due attention to detail apply accordingly.

8. Constitution of Tribunal

(1) There is established, for the purposes of this Act, a Tribunal constituted in accordance with subsection (2).

(2) The Tribunal consists of the following five members appointed by the President, one of whom shall be appointed as the chairman:

- (a) one member appointed to represent the Minister responsible for Lands,
- (b) one member appointed to represent the Minister responsible for Mining,
- (c) one member appointed to represent the Minister responsible for Forests,
and
- (d) two other members.

9. Appointment of attorneys for non-resident persons

(1) A person entitled to a benefit under a concession but who is a non-resident of Ghana, or a body corporate not incorporated or registered in Ghana, or a partnership having its principal place of business outside Ghana, or a union or an association of partners or bodies corporate having that place of business, shall appoint by instrument, an attorney resident in Ghana to act on behalf of that person, body corporate, partnership, union or association.

(2) An instrument referred to in subsection (1), is void, unless the instrument has, as far as may be practicable, been proved and registered in a registry office in the manner prescribed by the Land Registry Act, 1962 (Act 122).

(3) The reasons specified in the Land Registry Act, 1962 (Act 122) for refusal to register an instrument shall, for the purposes of this Act, include, in the case of an instrument referred to in subsection (1), the fact that the instrument had not been made or the power of attorney contained in it is not in accordance with the law in force in the country where, if the person executing the instrument

- (a) is an individual, and that individual is resident;
- (b) is a body corporate, and the body corporate is registered or incorporated, and
- (c) is a partnership or any union or association of partners or bodies corporate, and its principal place of business is situated in Ghana.

10. Rents for mining concessions

A holder of a mining concession shall, with effect from the date of the commencement of this Act, pay the mining rent prescribed by the terms of the concession; but

- (a) where a certificate of validity has not been issued in respect of a concession by the date of the commencement of this Act, the rent shall commence to be paid two years after that date; and
- (a) this section is subject to the other provisions of this Act and the Rent Stabilisation Act, 1962 (Act 109)

11. Option to be determined

An option not exercised within the period prescribed by section 10 (6) of the Concessions Act, 1939 or within three months after the date of the commencement of this Act, whichever period terminates earlier, shall become null and void and the right of the holder shall determine absolutely.

12. Transmission of decisions

A copy of an order of the President under this Act or order of the Tribunal under section 5 shall be transmitted to the holder of, and the grantor of, the concession, and shall be published in the *Gazette*.

13. Assignments, of concessions invalid without the Minister's consent

(1) A transaction which is an assignment, sub-demise, mortgage or surrender of the whole or of a part of the rights granted by a concession referred to in section 2 is void unless made with the written consent of the Minister.

(2) The provisions of this Act shall apply to a transaction referred to in subsection (1) and made before the commencement of this Act in respect of which the provisions of subsection (1) or subsection (2) of section 31 of the Concessions Act, 1939 were not complied with, but that transaction shall be deemed to be valid, with effect from the date of the execution of the instrument embodying that transaction, if

- (a) a fee calculated at the rate of seventy-five thousand cedis for every day of the period, commencing on the date of the execution of the instrument and ending on the date of the payment of the fee, is paid;

3. The Rent Stabilisation Act, 1962 (Act 109) and its amended Act, (Act 168) was repealed by the Rents Stabilisation Act (Repeal) Decree, 1966 (N.L.C.D. 49).

4. Cap. 136 of the 1951 Edition of the Laws. of the Gold Coast.

- (b) stamp duty calculated at the rate of seventy five thousand cedis for every square mile or outstanding part of the area referred to in the instrument is paid;
- (c) any other duties payable under an enactment for the time being in force are paid; and
- (d) the Minister's written consent to the transaction is granted.

14. Regulations

- (1) The Minister may, by legislative instrument, make Regulations
 - (a) in respect of the records to be maintained for the purposes of this Act and for the imposition of fees for those purposes;
 - (b) in respect of a matter relating to the Tribunal including the payment of fees and allowances to the members; and
 - (c) for the purposes of giving effect to the principles and provisions of this Act.

(2) A statutory instrument made under the provisions of the Concessions Act 19395 and in force on the day immediately before the date of the commencement of this Act shall continue in force on and after that date as if the instrument was made under this Act.

15. Pending matters

(1) A matter relating to a concession referred to in section 2, and pending before a Court on the day immediately before the date of the commencement of this Act shall be continued and concluded on or after that date in accordance with the provisions of the Concessions Act, 1939.

(2) Where the matter is not concluded within twelve months from that date, the matter shall be deemed to have lapsed and the concession to which it relates shall be determined subject to the payment of the rent or royalty due up to the date of the lapse.

16. Forest reserves and timber concessions

(1) The lands referred to in subsection (2) or subsection (4) of section 4 of the Forests Act, 19276 and which have been constituted or proposed to be constituted as forest reserves under that Act and the lands deemed to be constituted as forest reserves under subsection (7) of this section are hereby vested in the President in trust for the stools concerned; but the rights, customary or otherwise, in those lands validly existing immediately before the commencement of this Act shall continue on and after the commencement subject to this Act and any other enactment for the time being in force.

(2) The lands which in the future shall be proposed to be constituted as forest reserves under the Forests Act, 1927 shall become vested in the President in trust for the stools concerned with effect from the date of the publication of the notice relating to that land and prescribed under section 5 (1) of that Act.

5. Cap. 136 of the 1951 Edition of the Laws of the Gold Coast.

6. Cap. 157 of the 1951 Edition of the Laws of the Gold Coast.

- (3) A land, other than land referred to in subsections (1) and (2), subject to the Administration of Lands Act, 1962 (Act 123) and in respect of which rights have been granted with respect to timber or trees under a concession and in force immediately before the commencement of this Act are vested in the President in trust for the stools concerned, subject to the terms of the concession, this Act and any other enactment for the time being in force and article 267 of the Constitution.
- (4) The rights with respect to timber or trees on a land other than land specified in subsections (1), (2) and (3) of this section are vested in the President in trust for stools concerned subject to article 267 of the Constitution.
- (5) Subject to article 267 of the Constitution the President may execute a deed or do an act as a trustee in respect of lands or rights referred to in this section.
- (6) The revenue from lands or rights vested in the President under this section or derived under subsection (11) shall be collected, paid in and disbursed as provided by the Administration of Lands Act, 1962 (Act 123) and article 267 of the Constitution.
- (7) Forest reserves established under a law relating to local government shall be deemed to be forest reserves constituted under the Forest Act, 1927 and paragraph 27 of Part Two of the First Schedule to the Local Government Act, 1961 (Act 54) is hereby rescinded.
- (8) The Forest Act, 1927 shall apply with due attention to detail to a land outside a forest reserve in respect of which rights relating to timber or trees have been or shall be granted.
- (9) Section 30 of the Concessions Act, 1939 and the Concessions (Timber Restriction) Order, No. 55 of 1939, shall apply with due attention to detail to all land in Ghana in respect of which rights relating to timber or trees have been or shall be granted.
- (10) The Minister may terminate the concession of a holder, if the holder is found guilty of an offence under section 30 (4) of the Concessions Act, 1939.
- (11) A person who has been convicted of an offence under paragraph (1) of section 22 of the Forests Act, 1927, is liable in addition to any other punishment imposed under that section, to pay twice the value of each tree or of the timber which is the subject-matter of the offence.

17. Interpretation

In this Act, unless the context otherwise requires,

"**concession**" and "certificate of validity" have the same meanings as in the Concessions Act, 1939 and, for the resolution of doubts, include concessions excluded in whole or in part from the provisions of that Act;

"**Minister**" means the Minister to whom functions under this Act have been assigned by the President;

7. Cap. 157 of the 1951 Edition of the Laws of the Gold Coast.

8. Cap. 157 of the 1951 Edition of the Laws of the Gold Coast.

9. Cap. 136 of the 1951 Edition of the Laws of the Gold Coast.

"stool lands" means stool lands to which the Administration of Lands Act, 1962, and article 267 of the Constitution apply;

"terms of concession" include, where applicable, the terms of a certificate of validity; and

"Tribunal" means the Tribunal established under section 8 of this Act.