

# **IMMIGRATION SERVICE LAW, 1989 (PNDCL 226)**

**As amended by**

*MINISTRIES, DEPARTMENTS AND AGENCIES (RETENTION OF FUNDS) ACT, 2007 (ACT 735)<sup>1</sup>*

## **ARRANGEMENT OF SECTIONS**

### **Section**

1. Establishment of Immigration Service.
2. Membership of Service.
3. The Board.
4. The Functions of the Board.
5. Tenure of Office of Members of the Board.
6. Meeting of the Board.
7. The Director of Immigration.
8. Duty of the Director.
9. Deputy Directors.
10. Staff of the Service.
11. Secretary to the Board.
12. Administrative Expenses.
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18. Regulations.
19. Modification of Existing Enactments.
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21. Interpretation

IN pursuance of the Provisional National Defence Council (Establishment) Proclamation, 1981, this Law is hereby made:

### **Section 1—Establishment of Immigration Service.**

- (1) There is hereby established a Service to be known as the "Immigration Service" (hereafter referred to as the "Service") which shall form part of the Public Service of Ghana.
- (2) The Service may for and in connection with the performance of its functions, hold, manage, or dispose of any movable or immovable property, sue and be sued in its name and enter into such contract and transactions as it may deem expedient.

### **Section 2—Membership of Service.**

The Service shall consist of—

- (a) the personnel of the Immigration Department existing in the Ministry of Interior immediately before the coming into force of this Law;
- (b) such public officers of public institutions that may be transferred or seconded to the Service;
- (c) such other persons as may be employed by the Service.

### **Section 3—The Board.**

- (1) The governing body of the Service shall be the Immigration Service Board (hereafter referred to as the "Board").
- (2) The Board shall be made up of—
  - (a) a Chairman and five other persons appointed by the Council; and
  - (b) the Director of Immigration.
- (3) The Chairman shall hold office on such terms and conditions as the Council may decide.

#### **Section 4—The Functions of the Board.**

- (1) The functions of the Board shall be—
  - (a) to advise on and to ensure the effective implementation of all laws and regulations pertaining to immigration and related issues;
  - (b) generally to control the management of the Service on matters of policy subject to the provisions of this Law;
  - (c) to examine and advise on all matters concerning the welfare, training and discipline (including dismissals) of all employees of the Service;
  - (d) to appoint and promote employees of the Service;
  - (e) to draw up a scheme of service prescribing the terms and conditions of service as well as the remuneration of the employees of the Service;
  - (f) to provide for the organisation of the Service into viable units;
  - (g) to make recommendations to the Secretary on bilateral and multilateral co-operation with foreign countries in matters related to immigration;
  - (h) The Immigration Service may retain the percentage specified in the <sup>ii</sup>second column of the First Schedule out<sup>iii</sup>[sic] the moneys realised in the performance of its functions. *[Amended by Ministries, Departments and Agencies (Retention of Funds) Act, 2007 (Act 735) s.2, (sch.2)]*
- (2) The Board may for the discharge of its functions appoint committees and assign to such Committees such functions as it may deem fit or as otherwise prescribed by law.

#### **Section 5—Tenure of Office of Members of the Board.**

A member of the Board, other than the Director, shall hold office for a period not exceeding three years but shall be eligible for re-appointment.

#### **Section 6—Meeting of the Board.**

- (1) The Board shall meet at such times and places as it may determine but shall meet at least once every month.
- (2) A special meeting of the Board may be called by the Director in consultation with the Chairman or at the instance of the Secretary or the Council.
- (3) The Chairman shall preside at every meeting of the Board at which he is present and in his absence, a member of the Board appointed by those members present shall preside.
- (4) The quorum of every meeting of the Board shall be four.
- (5) The Board may co-opt any person to attend and participate in any of its meetings but no person so co-opted shall be entitled to vote on any issue for decision by the Board.
- (6) The validity of any proceedings of the Board shall not be affected by any defect in the appointment of

any member.

- (7) Subject to the provisions of this Law, the Board shall regulate its own procedure.
- (8) At any meeting of the Board, where there is an equality of votes on any matter falling for decision, the Chairman or person presiding shall be entitled to a casting vote.

### **Section 7—The Director of Immigration.**

The Director of Immigration shall be the Head of the Service and shall be appointed by the Council.

### **Section 8—Duty of the Director.**

Subject to the direction of the Board on matters of policy, the Director shall be responsible for the day-to-day administration of the Service and shall be chief adviser of the Board.

### **Section 9—Deputy Directors.**

- (1) There shall be three Deputy Directors of Immigration one of whom shall be a legal practitioner who shall be appointed by the Council.
- (2) The Deputy Directors shall head the Finance and Administration, Command Post and Operations, Legal Research and Monitoring and such departments as the Board may direct and shall perform such other functions as the Director may in consultation with the Board direct.

### **Section 10—Staff of the Service.**

- (1) The Board may engage such staff as may be necessary for the proper and efficient discharge of its functions.
- (2) The Board may on the recommendations of the Director engage the services of consultants or experts.
- (3) The staff, consultants and experts shall be engaged on such terms and conditions as the Board may determine.
- (4) The Board may delegate any power conferred on it by this section to the Director.

### **Section 11—Secretary to the Board.**

- (1) There shall be a Secretary to the Board who shall be appointed by the Council.
- (2) The Secretary to the Board shall arrange the business of the Board, and cause to be recorded and kept the minutes of all meetings of Board and shall perform such administrative functions relating to Board's work as the Board may determine.

### **Section 12—Administrative Expenses.**

The administrative expenses of the Service including all salaries, operational and other allowances, gratuities and pensions payable in respect of persons employed by the Service shall be a charge on the Consolidated Fund.

### **Section 13—Service to Submit Estimate.**

The Service shall submit to the Secretary for Finance and Economic Planning through the Secretary, three months to the end of each financial year detailed estimates of income and expenditure of the Service for the ensuing year.

### **Section 14—Annual Reports.**

The Board shall every year submit to the Council through the Secretary a detailed report of the activities of the Service, within three months of the end of each year.

### **Section 15—Accounts.**

- (1) The Service shall keep proper books of account and proper records in relation thereto.
- (2) The accounts books and records which shall be in such form as the Auditor-General may approve, shall be audited at least once a year by the Auditor-General or by an auditor appointed by him.

### **Section 16—Internal Auditor.**

- (1) The Service shall have an Internal Auditor who shall be responsible to the Director in the performance of his functions.
- (2) The Internal Auditor shall at the end of every three months submit a report on the audit carried out by him in respect of that period to the Director.
- (3) The Internal Auditor shall forward copies of the report to the Auditor-General and the Secretary.

### **Section 17—Transfer of Assets and Liabilities.**

- (1) All rights, assets and properties vested in or in any manner held on behalf of or for the purposes of the Immigration Department immediately before the commencement of this Law shall be vested in the Service.

### **Section 18—Regulations.**

The Secretary on the recommendation of the Board may by Legislative Instrument make regulations to give full effect to the provisions of this Law.

### **Section 19—Modification of Existing Enactments.**

Any enactment or instrument in force immediately before the commencement of this Law shall apply with such modifications and adaptations as may be necessary to give full effect to the provisions of this Law.

### **Section 20—Indemnity for Acts Done in Good Faith.**

No action shall lie against the Service in respect of any act done by an officer thereof in good faith in the execution or intended execution of his powers or duties under this Law.

### **Section 21—Interpretation.**

- (1) In this Law unless the context otherwise requires—

"**Council**" means the Provisional National Defence Council;

"**Secretary**" means the Provisional National Defence Council Secretary responsible for the Interior.

- (2) Any reference in any enactment to the Chief Immigration Officer or the Immigration Department shall be construed as reference to the Director and the Service respectively.

Made this 28th day of November, 1989.

**FLT.-LT. JERRY JOHN RAWLINGS**

Chairman of the Provisional National Defence Council

**Date of Gazette Notification: 29th December, 1989.**

<sup>i</sup>MINISTRIES, DEPARTMENTS AND AGENCIES (RETENTION OF FUNDS) ACT, 2007 (ACT 735)

*DATE OF ASSENT: 18TH MAY, 2007*

*Date of Gazette Notification: 24th May, 2007.*

<sup>ii</sup>20% as cited by the Ministries, Departments and Agencies (Retention of Funds) Act, 2007 (Act 735) s.2, (sch.1)

<sup>iii</sup>same in original.