

# NATIONAL INFORMATION TECHNOLOGY AUTHORITY BILL, 2025

## ARRANGEMENT OF SECTIONS

### *Sections*

#### *National Information Technology Authority*

1. Establishment of the National Information Technology Authority
2. Object of the Authority
3. Functions of the Authority
4. Power of the Authority
5. Regulatory and best practice of the Authority
- Governance of the Authority
6. Governing body of the Authority
7. Functions of the Board of Directors
8. Duties and liabilities of members of the Board of Directors
9. Tenure of office of members of the Board of Directors
10. Meetings of the Board of Directors
11. Disclosure of interest
12. Declaration of registrable interests
13. Establishment of committees
14. Allowance
15. Policy directives
16. Independence of the Authority

#### *Administrative Provisions*

17. Appointment of Director General and Deputy Director
18. Functions of the Director General
19. Secretary
20. Appointment of other staff
21. Offices, divisions, directorates, departments and units
22. Internal Audit Unit

#### *Financial Provisions*

23. Funds of the Authority
24. Bank account of the Authority
25. Expenses of the Authority
26. Exemption from tax
27. Borrowing powers
28. Accounts and audit
29. Annual report and other reports
30. Budget Estimates

31. Establishment of the e-government ICT operator
32. Object of the Company
33. Use of Funds
34. Reporting and audits

#### *Licensing and Certification*

35. Requirements for licence
36. Categories of licences
37. Qualification for licence
38. Application for licence
39. Consideration of an application for licence
40. Grant of licence
41. Validity and renewal of licence
42. Non-transferability of licence
43. Suspension of licence
44. Restoration of suspended licence
45. Revocation of licence
46. Certification of ICT professionals
47. Register of ICT product and service providers

#### *Closure, Mergers and Alterations*

48. Closure of premises or facility
49. Sales, merger, amalgamation and alteration of business

#### *ICT Standards and Innovation*

50. Performance standards
51. Specifications for ICT products and services
52. Compliance monitoring and technical clearance
53. National Digital Architecture
54. ICT Project Registry
55. Shared services and infrastructure
56. Audit and standards for public ICT
57. Performance monitoring and reporting
58. ICT performance certification tiers
59. ICT Development and Innovation Fund
60. Capacity building and local innovation support
61. Regulatory sandbox for ICT innovation
62. Risk-based and principles-oriented regulation
63. Future technologies and adaptive regulation
64. Digital inclusion and accessibility
65. Multi-stakeholder advisory forum
66. Periodic review of regulatory instruments
67. Collaboration with other agencies

#### *Reporting Requirements*

68. Report by the Authority

- 69. Submission of reports by ICT service providers
- 70. Inspector
- 71. Powers of an inspector
- 72. Obstruction of an inspector
- 73. Enforcement powers of the Authority
- 74. Other powers of the Authority
- 75. Other enforcement measures

#### *Dispute Resolution*

- 76. Negotiation
- 77. Dispute Resolution Committee
- 78. Composition and procedure of the Dispute Resolution Committee
- 79. Decisions of the Dispute Resolution Committee
- 80. Appeal against the decision of the Dispute Resolution Committee

#### *National Information Technology Authority Tribunal*

- 81. Establishment of the Tribunal
- 82. Composition of the Tribunal
- 83. Administration of the Tribunal
- 84. Expenses of the Tribunal
- 85. Allowances
- 86. Rules of procedure
- 87. Right of appeal
- 88. Decisions of the Tribunal
- 89. Appeal against decision of the Tribunal

#### *Offences and Penalties*

- 90. General offences and penalties
- 91. Embezzlement, misappropriation or diversion of funds
- 92. Offences relating to licensing and certification
- 93. Interference with technical clearance
- 94. Obstruction of compliance reviews
- 95. Offence by a body corporate
- 96. Administrative penalty
- 97. Other Offences

#### *Miscellaneous Provisions*

- 98. Procedure for decision-making by the Authority
- 99. Register of interest
- 100. Code of conduct
- 101. Publication of notices and directives
- 102. Public engagements
- 103. Regulations
- 104. Interpretation
- 105. Transitional provisions

106.Repeals and savings  
107.*Schedule*

## **A BILL**

## **ENTITLED**

### **NATIONAL INFORMATION TECHNOLOGY AUTHORITY ACT, 2025**

**AN ACT** to establish the National Information Technology Authority to regulate and promote information and communications technologies and digital services; to provide for the licensing and certification of ICT service providers and professionals; to enforce standards for digital systems and infrastructure; to enhance interoperability, and innovation; and to provide for related matters.

DATE OF ASSENT:

PASSED by Parliament and assented to by the President

#### *National Information Technology Authority*

#### **Establishment of the National Information Technology Authority**

1. (1) There is established by this Act, the National Information Technology Authority as a body corporate.

(2) The Authority may, for the performance of its functions acquire and hold property, dispose of property and enter into a contract or any other related transaction.

(3) Where there is a hindrance to the acquisition of land, the land may be acquired for the Authority under the Land Act, 2020 (Act 1036) and the cost shall be borne by the Authority.

#### **Object of the Authority**

2. The object of the Authority is to regulate, coordinate, promote, and develop information and communications technology and digital services in Ghana in line with national development goals and to

- (a) ensure the provision of quality information and communications technology,
- (b) promote standards of efficiency and ensure high quality of service in the Information and Communications Technology ecosystem, and
- (c) coordinate the management and development of information and communications technology personnel or practitioners in the public services

#### **Functions of the Authority**

3. (1) To achieve the object under section 2, the Authority shall

- a. license and regulate ICT infrastructure, products and service providers;
- b. develop and enforce standards to ensure consistency and accountability across the people, technology, and processes involved in ICT systems, services, and architectures
- c. provide technical clearance for ICT procurement, investments and projects undertaken by public institutions;
- d. maintain a national repository of ICT assets, investments and public digital infrastructure;
- e. act as the exclusive government body empowered to coordinate the development, capacity building, and certification of ICT professional serving public institutions to ensure a skilled and well-managed ICT workforce in the public service;

- f. coordinate the implementation of national digital platforms and shared services;
- g. ensure interoperability, security, and integrity of public ICT systems;
- h. promote research, innovation, and local content development in ICT;
- i. monitor compliance and enforce sanctions for breaches under this Act;
- j. advise the Minister on ICT development and regulation in Ghana and lead the review of the national ICT policy;
- k. regulate the use of emerging technologies;
- l. maintain a register of ICT personnel in the public service;
- m. regulate ICT associations and related professional bodies;
- n. coordinate the development and enforcement of safeguards to ensure the responsible and secure use of technology in the country;
- o. coordinate the implementation of anti-trust policies to safeguard fair competition and prevent monopolies within the ICT ecosystem in Ghana;
- p. perform the functions of the certifying Agency established under the Electronic Transactions Act, 2025 (Act ...);
- q. coordinate the systematic implementation and monitoring of the national information and communications technology policy;
- r. coordinate the implementation and enforcement of the provisions of this Act, the Electronic Transactions Act, 2025 (Act ...); and regulations made under this Act;
- s. resolve matters that involve domain names between the Domain Name Registrar under the Electronic Transactions Act 2025 ( Act....) in accordance with the provisions of this Act;
- t. maintain registers for approvals given for equipment under the Electronic Transactions Act 2025 ( Act....);
- u. provide access to registers for licences, applications for licences and approvals for equipment except where commercial confidentiality does not allow for access;
- v. collect fees and other charges to be paid to the Authority under this Act;
- w. investigate and resolve disputes between licence holders under the Electronic Transactions Act 2025 ( Act....) referred to the Authority by licence holders;
- x. investigate complaints by users who fail to obtain redress from a licence holder;
- y. carry out investigations on the conduct of persons at the Authority's own initiative or at the request of another person to determine whether any person is engaging in acts contrary to the provisions of this Act;
- z. establish quality of service indicators and reporting requirements that apply to licence holders under the Electronic Transactions Act 2025 ( Act....);
- aa. issue and publish on its website and in the Gazette necessary guidelines and standards;
- bb. obtain from persons the necessary information for the performance of its functions;
- cc. carry out investigations and determine complaints that involve anti-competitive, price-fixing and unfair trade practices by persons under the Electronic Transactions Act 2025 ( Act....);
- dd. formulate the strategy of the Authority;
- ee. ensure that the policy directions given by the Minister are implemented;
- ff. ensure high standards of propriety within the Authority;

- gg. promote efficiency and effective use of resources and staff of the Authority;
- hh. establish the policy and resource framework for the operations and the overall strategic direction of the Authority;
- ii. ensure that the principles of good corporate governance are complied with; and
- jj. perform any other function necessary to achieve its object.

- (2) In discharging its functions, the Authority shall take into account the following:
- (a) the principle that regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed;
  - (b) any other principle that represents best regulatory practice;
  - (c) the protection of the interests of consumers under the Electronic Transactions Act 2025 ( Act....) as regards the choice, price, quality of service and value for money;
  - (d) the needs of persons who are physically challenged, the elderly and those on low incomes;
  - (e) the opinions of consumers and of members of the public generally; and
  - (f) the different interests of persons living in rural and urban areas.

### **Powers of the Authority**

4. The Authority may exercise the following powers
- (a) enter into a contract for the supply of goods and services;
  - (b) invest the funds of the Authority that are not immediately required for the performance of its functions and ensure the judicious use of the funds, with the prior written approval of the Minister responsible for Finance;
  - (c) publish information that is relevant to its functions and activities in a manner that it considers appropriate;
  - (d) promote and where necessary fund the training of persons for the information and communications technology industry;
  - (e) undertake research and development work related to its functions; and
  - (f) promote research and the development by other persons of the ICT industry.

### **Regulatory and best practice of the Authority**

5. The Authority shall in the performance of its functions have regard to
- (a) the principles of transparency, accountability, proportionality, innovation-enablement, and consistency in ICT regulation;
  - (b) best regulatory practices relevant to information and communications technology and digital governance;
  - (c) the protection of the rights and interests of users of public digital services, with particular attention to user choice, data protection, quality of service, and value for money;
  - (d) the environmental impact of ICT infrastructure, digital devices, and e-waste management in the deployment of public ICT systems;
  - (e) the promotion of inclusive competition and local innovation, including incentives for Ghanaian technology firms and start-ups in the ICT ecosystem;

- (f) the need for interoperability, digital inclusion, and equitable access, especially for persons with disabilities, women, rural populations, the elderly, and vulnerable groups;
- (g) the views and feedback of public institutions, civil society, and end-users of government digital services;
- (h) the interests of both urban and rural communities in the planning and deployment of ICT infrastructure;
- (i) any applicable international ICT standards and best practices, including those developed by the International Organization for Standardization (ISO), International Telecommunication Union (ITU), World Wide Web Consortium (W3C), and relevant multilateral conventions ratified by Ghana.

### **Governing body of the Authority**

6.(1) The governing body of the Authority is a Board of Directors consisting of

- (a) a chairperson nominated by the President;
  - (b) one representative of the Ministry responsible for Communication, Digital Technology, and Innovations, not below the rank of Director;
  - (c) one representative of the Ministry of Finance, not below the rank of Director;
  - (d) the Director-General of the Authority;
  - (e) one representative from a recognised ICT professional body, nominated by the executive body of that professional association;
  - (f) two persons with expertise in digital innovation, ICT, governance, or law, nominated by the President;
  - (g) one person with expertise in digital innovation, ICT, governance, or IT law nominated by the Minister responsible for Gender or Social Protection;
  - (h) one lawyer with expertise in digital economy or ICT law.
  - (i) one representative of the National Security Council; and
  - (j) three other persons with knowledge or expertise in electronic engineering, law, economics, business or public administration and at least one of whom is a woman.
- (2) At least three (3) members of the Board of Directors shall be women.
- (3) The President shall, in accordance with article 70 of the Constitution, appoint the chairperson and other members of the Board of Directors.

### **Functions of the Board of Directors**

7. The Board of Directors shall

- (a) exercise general oversight responsibility for the strategic direction of the Authority;
- (b) ensure the achievement of the object of the Authority; and
- (c) ensure the effective and efficient performance of the functions of the Authority.

### **Duties and liabilities of a member of the Board of Directors**

- 8 (1) A member of the Board of Directors has the same fiduciary relationship with the Authority and the same duty to act with loyalty and in good faith as a director of a company incorporated under the Companies Act, 2019 (Act 992).



- (2) Without limiting subsection (1), a member of the Board of Directors has a duty
  - (a) to act honestly and in the best interest of the Authority in the performance of the functions of the Authority;
  - (b) to exercise the degree of care and diligence in the performance of functions that a person in that position would reasonably be expected to exercise in the circumstances;
  - (c) not to disclose information acquired in the capacity of the member as a member of the Board of Directors to any person or make use of that information, except in the performance of functions;
  - (d) not to abuse the position of the office; and
  - (e) not to pursue personal interests at the expense of the Authority.
- (3) A member of the Board of Directors, other than the Director General, shall not participate in the day-to-day running of the Authority.
- (4) Where a court determines that the Authority has suffered a loss or damage as a result of the act or omission of a member of the Board of Directors, the court may, in addition to imposing a fine, order the member to pay appropriate compensation to the Authority.

#### **Tenure of office of members of the Board of Directors**

- 9 (1) A member of the Board of Directors shall hold office for a period of four years and is eligible for reappointment for another term only.
- (2) Subsection (1) does not apply to the Director General.
- (3) A member of the Board of Directors may, at any time, resign from office in writing, addressed to the President through the Minister.
- (4) A member of the Board of Directors, other than the Director General, who is absent from three consecutive meetings of the Board of Directors without sufficient cause ceases to be a member of the Board of Directors.
- (5) The President may, by letter addressed to a member, revoke the appointment of that member.
- (6) Where a member of the Board of Directors is, for a sufficient reason unable to act as a member, the Minister shall determine whether the inability of the member to act would result in the declaration of a vacancy.
- (7) Where there is a vacancy
  - (a) under subsection (3), (4), (5), or subsection (2) of section 11,
  - (b) as a result of a declaration under subsection (6),
  - (c) under subsection (3) of section 12; or
  - (d) by reason of the death of a member,

the Minister shall notify the President of the vacancy and the President shall appoint another person to fill the vacancy for the unexpired term.

### **Meetings of the Board of Directors**

- 10 (1) The Board of Directors shall meet at least once every three months for the conduct of business at a time and place determined by the chairperson.
- (2) The chairperson shall, at the request in writing of not less than one-third of the membership of the Board of Directors, convene an extraordinary meeting of the Board of Directors at a time and place determined by the chairperson.
- (3) The quorum for a meeting of the Board of Directors is seven members.
- (4) The chairperson shall preside at meetings of the Board of Directors and in the absence of the chairperson, a member of the Board of Directors elected by the members present from among their number shall preside.
- (5) Matters before the Board of Directors 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 of Directors may co-opt a person to attend a meeting of the Board of Directors but that person shall not vote on a matter for decision at the meeting.
- (7) The proceedings of the Board of Directors shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member
- (8) Subject to this section, the Board of Directors may determine the procedure for the meeting of the Board of Directors.

### **Disclosure of interest**

- 11.(1) A member of the Board of Directors who has an interest in a matter for consideration by the Board
- (a) shall disclose in writing the nature of that interest and the disclosure shall form part of the record of the consideration of the matter; and
  - (b) is disqualified from being present at or participating in the deliberations of the Board of Directors in respect of that matter.
- (2) A member ceases to be a member of the Board of Directors if that member has an interest in a matter before the Board of Directors and
- (a) fails to disclose that interest; or
  - (b) is present at or participates in the deliberations of the Board of Directors in respect of that matter.
- (3) Without limiting any further cause of action that may be instituted against the member, the Board of Directors shall recover any benefit derived by a member who

contravenes subsection (1), in addition to the revocation of the appointment of the member.

### **Declaration of registrable interests**

12. (1) Each member of the Board shall, prior to taking office, submit to the Authority a written declaration of that member's registrable interest whether directly or indirectly owned by the member.

(2) A member of the Board shall inform the Authority of any change in respect of that member's registrable interest from the date of the change.

(3) A member who without reasonable excuse fails to declare a registrable interest, or knowingly makes a false declaration, contravenes subsections (1) and (2), ceases to be a member of the Board and the appointment of the member to the Board shall be revoked by the President

### **Establishment of committees**

13. (1) The Board of Directors may establish committees or advisory bodies consisting of members of the Board of Directors, non-members, or both, to perform a function of the Board of Directors.

(2) A committee composed of members and non-members of the Board of Directors shall be chaired by a member of the Board of Directors.

(3) A committee composed exclusively of non-members may only advise the Board

(5) Without limiting subsection (1), the Board of Directors shall establish the following committees:

- (a) Technical Committee;
- (b) Audit Committee; and
- (c) Risk Committee.

(5) The Board of Directors shall determine the composition and functions of the committees established under subsection (3).

(6) Section 11 applies to a member of a committee of the Board of Directors

### **Allowance**

14. A member of the Board of Directors and members of a committee of the Board of Directors shall be paid allowances and benefits approved by the Minister in consultation with the Minister responsible for Finance.

### **Policy directives**

15. (1) The Minister may give written directives to the Board of Directors on matters of policy in line with the object and functions of the Authority, and the Board of Directors shall comply in a manner consistent with the effective performance of the functions of the Authority.

(2) Subsection (1) shall not be construed to confer on the Minister the power to instruct the Authority on specific technical or operational matters in relation to the objects and functions of the Authority.

### **Independence of the Authority**

16. Except as otherwise provided in this Act, the Authority shall not be subject to the direction or control of any person or authority in the exercise of its mandate and regulatory functions.

### *Administrative Provisions*

### **Appointment of Director General and Deputy Director General**

17.(1) The President shall, in accordance with article 195 of the Constitution, appoint a Director-General and one Deputy Director-General for the Authority.

(2) The Director-General and the Deputy Director-General shall hold office on the terms and conditions specified in the letters of appointment.

(3) The Director-General shall hold office for a period of not more than four years and is eligible for re-appointment.

### **Functions of the Director-General and Deputy Director-General**

18.(1) The Director General

(a) is responsible for the day-to-day administration of the affairs of the Authority and is answerable to the Board in the performance of the functions under this Act; and

(b) shall ensure the implementation of the decisions of the Board of Directors.

(2) The Director General may delegate a function to an officer of the Authority but shall not be relieved of the ultimate responsibility for the performance of the delegated function.

(3) The Deputy Director-General shall act in the absence of the Director-General.

(4) The Deputy Director-General shall be assigned other responsibilities as the Board may determine.

### **Secretary**

19.(1) The President shall, on the recommendation of the Board of Directors, and in accordance with article 195 of the Constitution appoint an employee, not below the rank of a Deputy Director of the Authority, as Secretary of the Board of Directors.

(2) The Secretary shall hold office on the terms and conditions specified in the letter of appointment.

(3) The Secretary shall be responsible for—

(a) recording and keeping minutes of meetings of the Board;

(b) maintaining records and correspondence of the Board;

- (c) advising the Board on compliance with applicable laws and procedures; and
- (d) performing any other functions assigned by the Board or the Director-General, facilitating the smooth operation of the decision-making and reporting machinery of the Authority;
- (e) formulating agenda for meetings with the chairperson and the Director-General;
- (f) advising the Board on
  - (i) content,
  - (ii) organisation of memoranda, or
  - (iii) presentations for Board meetings.

(4) The Secretary shall attend all meetings of the Board but shall not have a right to vote on any matter before the Board.

### **Appointment of other staff**

20.(1) The President shall, in accordance with article 195 of the Constitution, appoint other staff of the Authority that are necessary for the effective and efficient performance of the functions of the Authority.

(2) Other public officers may be transferred or seconded to the Authority or may otherwise give assistance to the Authority.

(3) The Authority may, for the effective and efficient performance of the functions of the Authority, engage the services of advisors and consultants on the recommendations of the Board of Directors.

### **Offices, divisions, directorates, departments and units of the Authority**

21. The Authority may establish offices, divisions, directorates, departments and units of the Authority as determined by the Board of Directors for the effective and efficient performance of the functions of the Authority.

### **Internal Audit Unit**

22.(1) The Authority shall have an Internal Audit Unit in accordance with section 83 of the Public Financial Management Act, 2016 (Act 921).

(2) The Internal Audit Unit shall be headed by an Internal Auditor who shall be appointed in accordance with the Internal Audit Agency Act, 2003 (Act 658).

(3) The Internal Auditor is responsible for the internal audit of the Authority.

(4) The Internal Auditor shall, subject to subsections (3) and (4) of section 16 of the Internal Audit Agency Act, 2003 (Act 658), at intervals of three months

(a) prepare and submit to the Board of Directors a report on the internal audit carried out during the period of three months immediately preceding the preparation of the report; and

(b) make recommendations in each report with respect to matters necessary for the conduct of the affairs of the Authority.

(5) The Internal Auditor shall, in accordance with subsection (4) of section 16 of the Internal Audit Agency Act, 2003 (Act 658), submit a copy of each report prepared under this section to the Director General and the chairperson of the Board of Directors.

### *Financial Provisions*

#### **Funds of the Authority**

23. The funds of the Authority include—

- (a) moneys approved by Parliament;
- (b) a percentage of customs duties paid on imported ICT equipment, as approved by Parliament;
- (c) fees and charges that accrue to the Authority in the performance of its functions under this Act;
- (d) administrative penalties imposed and collected under this Act;
- (e) a portion of the communications service tax, as approved by Parliament;
- (f) a portion of the funds of the Ghana Infrastructure Investment Fund, as approved by Parliament;
- (g) a portion of fees generated from the use of the government.gov portal, as approved by Parliament;
- (h) one percent (1%) of regulatory fees on gross revenue of all ICT businesses;
- (i) loans, grants, and donations;
- (j) fees and charges payable under this Act or the Electronic Transactions Act, 2025(Act ...); and
- (k) income derived from the investment of the funds of the Authority.

#### **Bank account of the Authority**

24. Moneys for the Authority shall be paid into a bank account opened for the purpose with the approval of the Controller and Accountant-General.

#### **Expenses of the Authority**

- 25.(1) The expenses of the Authority shall be charged on the funds of the Authority.
- (2) Where after having defrayed the outstanding expenses, the Authority has an excess amount, the Authority shall transfer that amount to the Consolidated Fund unless the Minister for Finance in consultation with the Minister approves the retention by the Authority of a part or the whole of that excess amount.

#### **Exemption from tax**

26. Subject to article 174 of the Constitution and the Exemptions Act, 2022 (Act 1083), the Authority is exempt from the payment of taxes that the Minister responsible for Finance may, in writing, determine with the prior approval of Parliament.

### **Borrowing powers**

27.(1) Subject to article 181 of the Constitution and section 76 of the Public Financial Management Act, 2016 (Act 921), and with the prior consent in writing of the Minister, the Authority may borrow money from a body corporate or any other person.

(2) For the purposes of securing the money borrowed, the Authority may, with the prior consent in writing of the Minister mortgage, charge or pledge a right, title or an interest in any of the properties of the Authority.

### **Accounts and audit**

28. (1) The Authority shall keep books, records, returns of account and other documents relevant to the accounts in the form approved by the Auditor-General.

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

(3) The Auditor-General shall, within six months after the end of the immediately preceding financial year, audit the accounts of the Authority and forward a copy of the report to the Minister and the Board of Directors.

(4) The financial year of the Authority shall be the same as the financial year of the Government.

### **Annual report and other reports**

29. (1) The Board of Directors shall, within thirty days after the receipt of the audit report, submit an annual report to the Minister, covering the activities and operations of the Authority for the year to which the report relates.

(2) The annual report shall include—

- (a) the report of the Auditor-General;
- (b) an assessment of the targets of the Authority; and
- (c) a summary of challenges and feedback from stakeholders and recommendations to improve the efficiency and effectiveness of the Authority.

(3) The annual report shall be prepared in accordance with the format and content set out in the Schedule to this Act.

(4) The Minister shall, within thirty days after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.

(5) The Board of Directors shall submit to the Minister any other report that the Minister or the Minister responsible for Communication, Digital Technology, and Innovations may require in writing

### **Budget Estimates**

30. The Board shall submit a budget for the operations of the Authority for the following year to Parliament for approval through the Minister within three months after the commencement of the financial year.

*e-government ICT infrastructure operator*

**Establishment of the e-government ICT infrastructure company**

31. (1) The Minister shall ensure the incorporation of a company to be licensed by the Authority as the Government e-government ICT infrastructure operator within six months of the coming into force of this Act.

(2) The company shall be governed by an independent board consisting of representatives from:

- (a) the Ministry,
- (b) the Authority,
- (c) the private sector, and
- (d) civil society and academia with expertise in digital infrastructure.

**Object of the Company**

32 (1) The object of the Company is to deploy, maintain, and manage e-government infrastructure and platforms for the public sector, including—

- (a) government data centers;
- (b) cloud hosting environments for public institutions;
- (c) platforms for national digital identity services;
- (d) shared government systems and digital services; and
- (e) enterprise software solutions deployed solely for e-government purposes.

**Use of Funds**

33 (1) The Company shall apply its funds to

- (a) develop and maintain secure and interoperable digital infrastructure for government use,
- (b) invest in cloud computing, cybersecurity systems, and business continuity solutions,
- (c) reduce dependence on external contractors for critical ICT systems, and



(d) provide services to public institutions under agreed service level agreements (SLAs).

### **Reports and audits**

34 The Company shall:

- (a) submit quarterly financial and operational performance reports to the Authority;
- (b) undergo annual audits by the Auditor-General or an auditor approved by the Authority, and
- (c) be subject to technical audits and performance reviews conducted by the Authority.

### *Licensing Provisions*

#### **Requirement for licence**

35. (1) A person shall not engage in a business or a related activity in the ICT sector unless that person has been granted a licence by the Authority.

(2) For the purpose of subsection (1), a business or a related activity in the information and communications technology sector includes

- (a) the installation of ICT infrastructure;
- (b) the development or provision of ICT products and services; and
- (c) all activities requiring licensing or certification under this Act.

(3) The Authority shall determine the mode of operations for the activities permitted under this section.

(4) A person who engages in a business or other related activity under this Act or Regulations made under this Act without a licence commits an offence and is liable on summary conviction to a fine of not less than two thousand penalty units and not more than five thousand penalty units or to a term of imprisonment of not less than six months and not more than two years, or to both.

#### **Categories of licences**

36. (1) The Authority may issue the following categories of licences to a person engaged in a business or related activity in ICT sector

- (a) Public/commercial ICT Infrastructure Licence;
- (b) Cloud Hosting Service Licence;
- (c) Software as a Service (SaaS) Provider Licence;
- (d) Government Digital Services Partnership Licence;
- (e) National Digital Platform Operator Licence;
- (f) Data Centre Operator Licence;
- (g) Any other categories of licences as determined by the Authority.

(2) The Authority shall publish the terms and conditions of each licence category in the Gazette.

(3) The Authority may, by regulations, expand, modify or repeal any category of licence as may be necessary.

### **Qualification for licence**

37. (1) A person qualifies to apply for a licence under this Act if that person is
- (a) a citizen of eighteen years or above; or
  - (b) a company, a partnership, an association or other body, whether incorporated or unincorporated, which is wholly owned by a citizen.

### **Application for licence**

- 38.(1) A person who qualifies under section 37 shall
- (a) apply for a licence to the Authority in the prescribed form; and
  - (b) comply with the prescribed requirements.
- (2) An application under subsection (1) shall be accompanied with the prescribed fee.

### **Consideration of an application for licence**

39. The Authority shall, within ten days of receipt of an application, consider the application.

### **Grant of licence**

- 40.(1) Where the Authority is satisfied that an applicant has met the requirements for the grant of a licence, the Authority shall
- (a) approve the application and issue the applicant with a licence in the prescribed form; and
  - (b) within sixty days, communicate the decision in writing to the applicant.
- (2) Despite subsection (1), the Authority may refuse an application for a licence where
- (a) it is against the public interest, public safety or public security; or
  - (b) the applicant fails to comply with a directive of the Authority
- (3) The Authority shall communicate the reason for the refusal of an application to the applicant.

### **Validity and renewal of licence.**

- 41.(1) A licence issued under this Act is valid for the period specified in the licence and may be renewed.
- (2) An application for renewal of a licence shall
- (a) be made to the Authority in the prescribed manner;

(b) comply with the conditions for renewal as specified in the licence and guidelines issued by the Authority; and

(c) be accompanied with the prescribed fee.

(3) The Authority may refuse to renew a licence where

(a) the ICT service provider fails to comply with the terms and conditions of the licence;

(b) the ICT service provider fails to pay in full the prescribed fee for the renewal of the licence;

(c) the ICT service provider fails to use the licence for the intended purpose one year after issuance;

(d) the ICT service provider uses falsified documents in an application for the licence;

(e) the ICT service provider fails to comply with the provisions of this Act or Regulations made under this Act;

(f) the continued operation of the business or related activity in the ICT sector poses a risk to public health, public safety or public security;

(g) the services provided by the ICT service provider have deteriorated below the required standards;

(h) an offence under this Act or Regulations made under this Act is being investigated in relation to the ICT service provider;

(i) the ICT service provider fails to honour a financial obligation to the Authority or another public institution regarding sanctions, penalties, levies and taxes; or

(j) the ICT service provider fails to comply with a directive of the Authority.

### **Non-transferability of licence**

42. (1) A licence granted under this Act is not transferable except with the prior written approval of the Authority.

(2) A person who transfers a licence contrary to subsection (1) commits an offence and is liable on summary conviction to a fine of not less than fifty thousand penalty units and not more than two hundred thousand penalty units or to a term of imprisonment of not less than five years and not more than ten years or to both and in addition the Authority shall revoke the licence of that person.

### **Suspension of licence**

43. (1) The Authority may suspend a licence issued under this Act where

(a) the ICT service provider fails to comply with the terms and conditions of the licence;

(b) the ICT service provider fails to use the licence for the intended purpose one year after the issuance of the licence;

(c) the ICT service provider uses a falsified document in an application for the licence;

(d) the ICT service provider fails to comply with the provisions of this Act or Regulations made under this Act;

- (e) the continued operation of the business or commercial activity of the ICT service provider poses a risk to public health, public safety or public security;
- (f) the services provided by the ICT service provider have deteriorated below the required standards;
- (g) an offence under this Act or Regulations made under this Act in relation to the ICT service provider is being investigated;
- (h) the ICT service provider fails to honour a financial obligation to the Authority or another public institution regarding sanctions, penalties, levies and taxes;
- (i) the ICT service provider fails to comply with a directive of the Authority; or
- (i) the ICT service provider
  - (i) becomes insolvent or bankrupt;
  - (ii) enters into an arrangement or scheme of composition with the creditors of the ICT service provider; or
  - (iii) takes advantage of an enactment for the benefit of the debtors of the ICT service provider or goes into liquidation, except as part of a scheme for an arrangement or amalgamation.

- (2) The Authority shall, before suspending a licence,
- (a) give the ICT service provider fifteen days' notice in writing of the intention to suspend the licence;
  - (b) specify in the notice the reasons for the intended suspension; and
  - (c) give an opportunity to the ICT service provider to make a written representation within ten days of receipt of the notice or remedy the breach if the breach is capable of remedy.

### **Restoration of suspended licence**

44. (1) The Authority may restore a suspended licence if the ICT service provider remedies the breach in the manner specified by the Authority.
- (2) The Authority shall restore a licence of a ICT service provider within sixty days of the ICT service provider remedying the breach that resulted in the suspension.
- (3) Where the Authority restores the licence of a ICT service provider, the Authority shall reinstate the name of the ICT products and service provider in the register of ICT products and service providers.

### **Revocation of licence**

45. (1) The Authority may revoke the licence of a ICT service provider, where the licence of the ICT service provider has been suspended and the ICT service provider fails to remedy the breach that resulted in the suspension.
- (2) The Authority shall, before revoking a licence,
- (a) give the ICT service provider fifteen days' notice in writing of the intention to revoke the licence;

- (b) specify in the notice the reasons for the intended revocation; and
- (c) give an opportunity to the ICT service provider to make a written representation within ten days of receipt of the notice or remedy the breach within twenty-one days if the breach is capable of remedy.

#### **Certification of ICT Professionals**

- 46.(1) A person shall not be appointed as an ICT professional in a public or private institution unless that person is certified by the Authority.
- (2) The Authority shall determine the criteria and procedure for the certification of ICT professionals.

#### **Register of ICT products and service providers**

- 47.(1) The Authority shall establish and maintain a register of ICT products and service providers in which the Authority shall record
- (a) the names and particulars of ICT products and service providers issued with licences under this Act;
  - (b) the categories of licences issued to ICT products and service providers;
  - (c) licence applications;
  - (d) equipment approvals;
  - (e) infrastructure service providers; and
  - (f) any other information that the Authority may determine.
- (2) The Authority shall update the register of ICT products and service providers every six months.

#### *Closure of Premises or Facility by the Authority*

#### **Closure of premises or facility**

- 48.(1) The Authority may close down the operations of any premises or a facility used for a business or related activity in the ICT sector where
- (a) the continued operation of the business or related activity poses a risk to public health, public safety, public security or the environment;
  - (b) the services provided by the ICT provider have deteriorated below the required standard;
  - (c) the ICT service provider fails to comply with any of the terms and conditions of the licence;
- or
- (d) the provisions of this Act or Regulations made under this Act are not being complied with.
- (2) The Authority shall, before closing down the operations of any premises or facility
- (a) give the ICT service provider fifteen days' notice in writing of the intention to close down the operations of the premises or facility; and
  - (b) specify in the notice the reason for the intended closure.
- (3) Despite subsection (2), where the operation of premises or a facility poses imminent danger to public health, public safety, public security or is injurious to the public interest, the Authority may take necessary interim measures including
- (a) the immediate seizure of ICT products or equipment;
  - (b) the suspension of the business or related activities; or
  - (c) the closure of the premises or facility.
- (4) The Authority shall issue guidelines to govern the exercise of the powers of the Authority under this section.

#### *Sale, Merger, Amalgamation and Alteration of the Nature of Business*

### **Sale, merger, amalgamation and alteration of nature of business by ICT service provider**

- 49.(1) An ICT service provider shall not enter into an agreement or arrangement for
- (a) the sale, disposal or transfer of the whole or part of the business of the ICT service provider,
  - (b) the amalgamation or merger of the business of the ICT service provider with another ICT service provider, or
  - (c) the alteration of the business of the ICT service provider,
- except with the prior written approval of the Authority.
- (2) Despite the provisions specified in the Companies Act, 2019 (Act 992) a sale, merger, amalgamation or the alteration of the nature of a business which involves an ICT service provider shall not take effect unless approved by the Authority.
- (3) A person who acquires shares of a ICT service provider in connection with a sale, merger, or amalgamation shall meet the requirements of this Act before applying for approval under the Securities Industry Act, 2016 (Act 929).
- (4) An agreement or arrangement entered into in contravention of subsection (1) is null and void.

### *Performance Standards and Specifications*

#### **Performance standards**

50. The Authority shall
- (a) develop performance standards in the ICT sector;
  - (b) publish the performance standards in the Gazette; and
  - (c) enforce the performance standards in the ICT sector.

#### **Specifications for ICT products and services**

51. The Authority shall
- (a) set specifications for ICT products and services; and
  - (b) publish the specifications in the Gazette.

#### **Compliance Monitoring and Technical Clearance**

52. (1) The Authority shall monitor the activities of licensees and certified persons to ensure compliance with this Act.
- (2) A public institution shall obtain technical clearance from the Authority before undertaking any major ICT procurement or deployment.
- (3) The Authority may issue guidelines to define the thresholds for what constitutes a major ICT project requiring technical clearance.

#### **National Digital Architecture**

- 53(1) The Authority shall develop and maintain a National Digital Architecture to guide the deployment and integration of ICT systems across the public sector.
- (2) The architecture shall include standards for data exchange, interoperability, cybersecurity, user authentication, and shared platforms.

#### **ICT Project Registry**

- 54.(1) The Authority shall establish and maintain an ICT Project Registry to record all public sector ICT projects.
- (2) A public institution shall register a project before initiating procurement or implementation.
- (3) The Authority may review registered projects to ensure alignment with national priorities and standards.

### **Shared Services and Infrastructure**

- 55.(1) The Authority shall coordinate the deployment of shared ICT infrastructure and services for public institutions.
- (2) Shared services shall include hosting platforms, security frameworks, and cross-sectoral digital tools.
- (3) A public institution shall use shared services designated by the Authority unless otherwise exempted in writing.

### **Audit and Standards for Public ICT**

56. (1) The Authority shall conduct periodic audits of public ICT systems to assess compliance with prescribed standards.
- (2) The Authority may issue improvement plans to public institutions based on audit findings.
- (3) An institution that fails to implement an improvement plan commits an administrative breach and shall pay to the Authority an administrative penalty of not less than five thousand and not more than ten thousand penalty units.

### **Performance Monitoring and Reporting**

- 57.(1) The Authority shall develop a framework for monitoring performance indicators for digital governance.
- (2) Each public institution shall submit periodic ICT performance reports in a manner directed by the Authority.
- (3) The Authority shall compile an annual Public Sector Digital Index Report for submission to the Minister and publication.
- (4) The Authority shall maintain a register of certified professionals and may suspend or revoke certification for misconduct or breach of standards.

### **ICT Performance Standards and Certification Tiers**

58. (1) The Authority shall prescribe and enforce ICT performance standards and certification tiers for infrastructure, services, and professionals.
- (2) Certification tiers shall reflect levels of security, interoperability, reliability, and user accessibility.
- (3) A public institution shall procure ICT services and systems only from providers certified by the Authority at a prescribed tier.

### **Capacity Building and Local Innovation Support**

59. (1) The Authority shall implement programmes for the training and professional development of ICT officers in the public sector.
- (2) The Authority shall promote partnerships with technology firms, start-ups, and academia to support indigenous ICT innovation.

### **Regulatory Sandbox for ICT Innovation**

- 60.(1) The Authority shall establish a Regulatory Sandbox Framework to allow eligible innovators to test new ICT products, services, business models, or delivery mechanisms in a controlled environment, subject to defined parameters and duration.
- (2) A person or entity that qualifies for participation in the sandbox shall receive temporary regulatory reliefs as determined by the Authority.
- (3) The Authority shall issue guidelines governing the eligibility, application, monitoring, exit, and evaluation criteria for participation in the Regulatory Sandbox.

(4) Participation in the sandbox shall not exempt a person from obligations under data protection, consumer protection, and anti-money laundering laws, unless explicitly provided for by the Authority.

### **Risk-Based and Principles-Oriented Approach**

61.(1) The Authority shall exercise its regulatory functions using a risk-based and principles-oriented approach, focusing on the outcomes of compliance, consumer protection, security, and innovation facilitation.

(2) The Authority shall develop a risk categorisation model to differentiate regulatory oversight based on the scale, nature, and impact of the ICT activity or service.

(3) In applying this Act or Regulations, the Authority shall adopt regulatory measures that are proportionate to the risks posed and shall promote flexibility and innovation within the ICT ecosystem.

### **Future Technologies and Adaptive Regulation**

62.(1) The Authority shall ensure that regulatory instruments under this Act are technology-neutral and do not unduly constrain innovation.

(2) The Authority shall periodically review its rules, standards, and procedures to accommodate emerging technologies, including but not limited to artificial intelligence, blockchain, the Internet of Things, cryptocurrency and cross-border cloud services.

### **Digital Inclusion and Accessibility**

63.(1) The Authority shall promote universal and inclusive access to ICT services, with particular focus on persons with disabilities, women, rural populations, and marginalized groups.

(2) The Authority shall develop and implement national standards for ICT accessibility based on international best practices, including the Web Content Accessibility Guidelines (WCAG).

(3) The Authority shall collaborate with relevant agencies and civil society organizations to implement digital literacy programs and gender-responsive digital empowerment initiatives.

### **Multi-Stakeholder Advisory Forum**

64.(1) There is established by this Act a Multi-Stakeholder Advisory Forum to provide policy and strategic advice to the Authority.

(2) The Forum shall comprise representatives from:

- (a) the private ICT sector;
- (b) civil society organizations;
- (c) academic and research institutions;
- (d) certified ICT professionals;
- (e) international development partners; and
- (f) any other stakeholder the Authority may determine.

(3) The Forum shall meet at least once a year and submit recommendations to the Board of Directors.

(4) The Authority shall publish a summary of the Forum's deliberations and responses in its annual report.

### **Periodic Review of Regulatory Instruments**

65. (1) The Authority shall undertake a comprehensive review of all regulatory instruments made under this Act at least once every five (5) years.



(2) The review shall evaluate the continued relevance, effectiveness, and flexibility of regulations in light of technological advancements, market developments, and stakeholder needs.

(3) The Authority shall conduct public consultations and publish a Regulatory Impact Assessment Report following each review.

### **Collaboration with Other Agencies**

**66.** The Authority shall collaborate with public sector institutions, regulatory bodies, private sector actors, and international development partners and organisations in the discharge of its mandate.

### **Submission of reports by ICT service providers**

**67. (1)** A ICT service provider shall submit annual reports on the business and related activities of the ICT service provider to the Authority.

(2) A report under subsection (1) shall be submitted within

(a) fifteen days after the end of month ending December 31 in any year; or

(b) a period specified in guidelines issued by the Authority.

(3) The Authority may request additional information from a ICT service provider on the following

(a) the conduct, practices and management of the business of the ICT service provider;

(b) the transactions related to the operations of the ICT service provider; and

(c) financial and operational compliance with applicable enactments.

(4) The Authority shall, within thirty days after receipt of the report, consider the report and take necessary action.

### *Investigation and Enforcement*

#### **Inspector**

**68. (1)** The Director General, in consultation with the Board of Directors, may for the purpose of this Act, designate an officer as an inspector to, subject to strict ethical guidelines, inspect premises or a facility engaged in a business or related activity in the ICT sector to ensure compliance with this Act.

(2) An inspector shall, before conducting an inspection, obtain prior written authorisation from the Director General, and if required, produce the authorisation to the person in charge of the premises or facility.

(3) An inspector shall be subject to a code of conduct with penalties for misconduct.

#### **Power of an inspector**

**69. (1)** An inspector may, at any reasonable time, enter premises or a facility to investigate activities if there is reason to believe the premises or facility is being used for an unlicensed business or related activity in the ICT sector.

(2) The inspector shall, upon entry into the premises or facility, inspect

(a) the licence of the ICT service provider;

(b) the premises of the ICT service provider; and

(c) any records relevant to compliance with this Act.

(3) An inspector may, at any reasonable time, enter premises, a vehicle, a vessel or an aircraft to

(a) examine records or documents related to ICT transactions;

(b) search for evidence of illegal ICT transactions or unlicensed operations;

- (c) require the owner or manager of the premises, vehicle, vessel or aircraft to provide relevant documents;
  - (d) seize and detain ICT product or related materials suspected to be used in contravention of this Act; and
  - (e) ascertain whether a ICT service provider is conducting business in accordance with this Act and Regulations made under this Act.
- (4) Upon the seizure and detention of ICT products or equipment by an inspector of the Authority, the Authority shall within seven (7) days after the seizure and detention, apply to the Tribunal under section 77 of this Act for validation or otherwise of the seizure and detention.
- (5) An inspector may be accompanied by a police officer or any other security personnel in the exercise of powers under this section.
- (6) An inspector who conducts an inspection under this section shall, within forty-eight (48) hours of the conduct of the inspection, submit a written report of the inspection to the Director General.

### **Obstruction of an inspector**

70. A person who obstructs an inspector in the exercise of a power under section 67 commits an offence and is liable on summary conviction to a fine of not less than two thousand penalty units and not more than five thousand penalty units or to a term of imprisonment of not less than six months and not more than two years or to both.

### **Enforcement powers of the Authority**

71. (1) The Authority may
- (a) require an applicant for a licence or a ICT service provider to produce a document or other relevant information;
  - (b) apply to a court of competent jurisdiction for a warrant to
    - (i) search premises and seize evidence; or
    - (ii) seize any materials related to a contravention of this Act
  - (c) require the attendance of a witness for investigation;
  - (d) restrain a ICT service provider who has breached a condition of the licence from engaging in a business or a related activity in the ICT sector; and
  - (e) assess and award damages against a ICT service provider in favour of an injured third party.
- (2) The Authority shall have custody of all confiscated ICT products and equipment.
- (3) For the purpose of subsection (1), an officer authorised by the Authority may exercise the power of search or investigation conferred on a police officer under the Criminal and Other Offences (Procedure) Act, 1960 (Act 30).

### **Other powers of the Authority**

72. Without limiting section 69, where a person contravenes a provision of this Act or Regulations made under this Act, the Authority may
- (a) issue a warning to the violator;
  - (b) order the forfeiture of ICT products or equipment obtained illegally;
  - (c) issue a cease-and-desist order;
  - (d) suspend or revoke a licence in accordance with this Act; and
  - (e) take any other action necessary to ensure compliance with this Act.

### **Other enforcement measures**

73(1) The Authority shall, in collaboration with relevant institutions conduct a random ICT audit of a public/commercial ICT infrastructure or an ICT service provider.

- (2) The Authority may seize and confiscate ICT products or equipment if
- (a) the ICT product or equipment lacks necessary documentation;
  - (b) a ICT service provider or any other person seeks to bypass regulatory oversight; or
  - (c) the ICT operations violates anti-money laundering and counter-terrorism financing laws.

### *Dispute Resolution*

#### **Negotiation**

74.(1) Where a dispute arises between ICT service providers regarding licensed activities, the ICT service providers shall resolve the dispute amicably through negotiation.

(2) Where the parties are unable to resolve the dispute through negotiations, either party to the dispute may refer the dispute to the Dispute Resolution Committee established under section 75.

#### **Dispute Resolution Committee**

75. (1) There is established by this Act a Dispute Resolution Committee.

(2) The Dispute Resolution Committee shall

- (a) investigate and hear disputes between ICT service providers without delay;
- (b) conduct proceedings fairly and transparently; and
- (c) deliver decisions within thirty days from the date of receipt of a dispute.

#### **Composition and procedure of the Dispute Resolution Committee**

76. (1) The Board of Directors shall determine the composition and the rules of procedure of the Dispute Resolution Committee.

(2) Despite subsection (1), the Dispute Resolution Committee shall be chaired by a lawyer with at least ten years' experience in the practice of alternative dispute resolution.

(3) The Authority shall publish the rules of procedure of the Dispute Resolution Committee in the Gazette.

#### **Decisions of the Dispute Resolution Committee**

77. The Dispute Resolution Committee may, in resolving a dispute

- (a) declare the rights and obligations of the parties;
- (b) make a provisional order or an interim order;
- (c) provide directions to facilitate the proceedings;
- (d) dismiss a frivolous or a vexatious claim;
- (e) award costs against a party, where appropriate; and
- (f) issue any other directive necessary to resolve the matter.

#### **Appeal against the decision of the Dispute Resolution Committee**

79. A person who is aggrieved by a decision of the Dispute Resolution Committee may appeal to the National Information Technology Tribunal established under this Act.

### *National Information Technology Tribunal*

#### **Establishment of the National Information Technology Authority Tribunal**

80.(1) There is established by this Act, the National Information Technology Tribunal.

(2) The Tribunal shall be constituted to consider appeals regarding

- (a) a decision made by the Authority;

- (b) a matter relating to a licence issued under this Act; or
- (c) a decision of the Dispute Resolution Committee.

### **Composition of the Tribunal**

81. (1) The Tribunal consists of

- (a) a chairperson, who is
    - (i) a retired Justice of the Superior Courts of Judicature, or
    - (ii) a lawyer with at least fifteen years' experience in the regulation of the ICT sector or the practice of alternative dispute resolution; and
  - (b) two other members with expertise in ICT.
- (2) The Minister shall appoint the chairperson and other members of the Tribunal
- (3) Sections 9 and 11 on disclosure of interest and allowances apply to a member of the Tribunal.

### **Administration of the Tribunal**

82.(1) The Minister shall appoint

- (a) a Registrar to manage the administrative affairs of the Tribunal; and
  - (b) other staff necessary for the efficient and effective operation of the Tribunal.
- (2) The Registrar shall oversee the day-to-day operations of the Tribunal.

### **Expenses of the Tribunal**

83. (1) The expenses of the Tribunal shall be a charge on the funds of the Authority.
- (2) The chairperson of the Tribunal shall submit an annual budget for approval by the Board of Directors.
- (3) The Board of Directors shall release funds for the operations of the Tribunal no later than the first quarter of the financial year.

### **Allowances**

84. The members and staff of the Tribunal shall be paid such allowances determined by the Minister in consultation with the Minister responsible for Finance as and when the Tribunal hears cases.

### **Rules of procedure of the Tribunal**

85. (1) The Board of Directors shall, within ninety days of the coming into force of this Act, prescribe rules of procedure for the Tribunal.
- (2) The Board of Directors shall publish the rules in the Gazette.

### **Right of appeal**

86. (1) A person aggrieved by a decision of the Authority or the Dispute Resolution Committee may, within twenty-one days of the date of the decision, appeal to the Tribunal.
- (2) A notice of appeal under subsection (1) shall specify
- (a) the decision being appealed against;
  - (b) the legal provisions under which the decision was made; and
  - (c) the grounds for appeal.
- (3) The Tribunal shall convene to hear the appeal within thirty days of receipt of the notice of appeal.

### **Decisions of the Tribunal**

- 87(1) The Tribunal may, after hearing an appeal,
- (a) overturn the decision being appealed;

- (b) partially allow the appeal; or
- (c) dismiss the appeal and uphold the decision of the Dispute Resolution Committee or the Authority.
- (2) Where the Tribunal allows an appeal in part, the Tribunal may modify the decision of the Authority or the Dispute Resolution Committee subject to conditions that the Tribunal considers appropriate.
- (3) The decision of the Tribunal shall have the same effect as a judgment of the High Court.

### **Appeal against a decision of the Tribunal**

88. (1) A party who is dissatisfied with a decision of the Tribunal on a matter may appeal to the Court of Appeal.
- (2) An appeal under subsection (1) shall be
- (a) on a point of law only; and
  - (b) filed within thirty days of the decision of the Tribunal.

### *Offence, Penalties and Administrative Penalty*

#### **General offences and penalties**

89. (1) A person shall not
- (a) unlawfully destroy, damage, or interfere with equipment, installations, or facilities used in the ICT sector ;
  - (b) provide false information or fraudulent documentation related to ICT transactions;
  - (c) fail or neglect to comply with the terms and conditions of a licence;
  - (d) offer a bribe or incentive to an officer of the Authority to circumvent this Act or Regulations made under this Act;
  - (e) front or connive to acquire a licence under this Act or Regulations made under this Act.
- (2) A person who contravenes a provision of subsection (1) commits an offence and is liable on summary conviction to a fine of not less than two thousand penalty units and not more than five thousand penalty units or to a term of imprisonment of not less than six months years and not more than two years or to both.

#### **Embezzlement, misappropriation or diversion of funds**

- 90.(1) A person shall not embezzle, misappropriate or divert funds meant for the Authority or the Republic under this Act.
- (2)A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not less than five thousand penalty units and not more than ten thousand penalty units or to a term of imprisonment of not less than five years and not more than twenty years or to both.

#### **Offences Relating to Licensing and Certification**

- 91.(1) A person who
- (a) provides ICT services or operates ICT infrastructure without a valid licence,
  - (b) falsely represents themselves as a certified ICT professional, or
  - (c) submits false information to obtain a licence or certification,
- commits an offence and is liable on summary conviction to a fine of not less than one thousand penalty units and not more than two thousand penalty units or to a term of imprisonment of not less than six months years and not more than two years, or to both.

#### **Interference with Technical Clearance**

92. A person who obstructs or circumvents the technical clearance process of the Authority commits an offence and is liable on summary conviction to a fine of not less than one thousand penalty units and not more than two thousand penalty units or to a term of imprisonment of not less than six months years and not more than two years, or to both.

### **Obstruction of Compliance Reviews**

93. A person who

(a) refuses to provide information lawfully requested by a Compliance Inspector of the Authority,

(b) prevents or delays access to ICT systems or facilities during an inspection, or

(c) conceals, alters, or destroys relevant documentation,

commits an offence and is liable on summary conviction to a fine of not less than two thousand penalty units and not more than five thousand penalty units or to imprisonment for a term of not less than twelve months and not more than two years, or to both.

### **Offence by a body corporate**

94. Where a body corporate commits an offence under this Act, every director, manager, officer and shareholder responsible for the operations of the body corporate is considered to have committed the offence unless the director, manager, officer or shareholder proves that the director, manager, officer or shareholder exercised due diligence to prevent the commission of the offence.

### **Administrative penalty**

95.(1) A ICT service provider or any other entity regulated under this Act or Regulations made under this Act who

(a) fails to comply with a directive issued by the Authority, or

(b) refuses or neglects to provide required information to the Authority,

is liable to pay to the Authority an administrative penalty of not less than twenty thousand penalty units and not more than fifty thousand penalty units.

(2) Where a person fails to pay an administrative penalty imposed under subsection (1), the Authority may

(a) suspend or revoke the licence of the person; or

(b) prohibit the person from engaging in a business or related activity in the ICT sector within the country.

### *Other Offences*

96. A person who

(a) makes a false declaration in an application for a licence,

(b) makes a false declaration in an application for registration of a licence,

wilfully destroys or damages a register kept under this Act commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or to a term of imprisonment of not more than two years or to both and in the case of a continuing offence to a further fine of ten penalty units for each day during which the offence continues after written notice has been served on the offender by the Authority .

97.(1) A person who negligently causes a cybersecurity breach commits an offence and is liable on conviction to a fine of up to two thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

- (2) A person who engages in fraudulent ICT practices, including but not limited to cryptocurrency scams, commits an offence and is liable on conviction to a fine of up to five thousand penalty units or to imprisonment for a term not exceeding ten years, or to both.
- (3) A data center operator who fails to meet licensing or operational standards prescribed by the Authority commits an offence and is liable to a fine of up to three thousand penalty units and/or suspension of operations.
- (4) A person who hosts critical data without accreditation as required by the Authority commits an offence and is liable on conviction to a fine of five thousand penalty units or to imprisonment for a term not exceeding seven years, or to both.
- (5) A person who fails to conduct and submit an audit report as required by the Authority commits an offence and is liable to a fine of one thousand penalty units for each month of delay.
- (6) A person who submits a false report to the Authority commits an offence and is liable on conviction to a fine of five thousand penalty units or to imprisonment for a term not exceeding five years, or to both.
- (7) A person who obstructs Compliance Officers by rejecting, interfering with, or evading their lawful duties commits an offence and is liable to immediate suspension of ICT operations until compliance is achieved.
- (8) A person who repeatedly violates multiple provisions of this Act or Regulations commits an offence and is liable on conviction to a fine of five thousand penalty units and permanent revocation of operating licences.
- (9) A person whose gross negligence leads to data breaches or system failures commits an offence and is liable on conviction to a fine of up to ten thousand penalty units or ten percent of annual turnover (whichever is higher), plus mandatory third-party audits.
- (10) A person who retaliates against a whistleblower in connection with any offence under this Act commits an offence and is liable on conviction to double the maximum penalty prescribed for the underlying offence.

### *Miscellaneous Provisions*

#### **Procedure for decision-making by the Authority**

98.(1) In the exercise of its function under this Act and the Electronic Transactions Act, 2025 (Act ...) , the Board shall

- (a) observe reasonable standards of procedural fairness,
- (b) act timeously, and
- (c) observe the rules of natural justice.

when making decisions that affect a person.

(2) Without limiting subsection (1), the Board shall

- (a) publish a matter for decision in the Gazette as considered necessary or as required by the Electronic Transactions Act, 2025 (Act ...) prior to making a decision;
- (b) grant a person who is or is likely to be affected by a decision of the Board, an opportunity;
  - (i) to make a submission to the Board,
  - (ii) to be heard by the Board, or
  - (iii) to consult with the Board in good faith, 'and
- (c) have regard to evidence adduced and matters contained in a submission made or received in the course of any consultation.

(3) Where the Board makes a decision, it shall

- (a) state in writing the reasons for the decision; and
  - (b) provide in accordance with its procedure; notification of the decision to the relevant persons.
- (4) The Board may, on application or on its own motion, review, rescind or vary a decision made by it or hear a matter again before rendering a decision.

### **Register of interests**

99.(1) The Director-General shall cause to be kept and maintained a Register in which shall be recorded details of

- (a) any share or debenture owned by a member of the Board;
- (b) other financial interests a member of the Board has in a corporate body;
- (c) any public or charitable appointment or directorship held by a member; and
- (d) any other matter required to be registered.

(2) The Register shall be publicly accessible, in both physical and electronic form.

(3) The Register shall be open to the public for physical inspection during normal working hours and subject to the payment of a fee determined by the Authority.

(4) A person may

- (a) make a copy of the content of the Register, or
  - (b) take an extract from the Register,
- at the fee that the Authority may determine.

### **Code of conduct**

100.(1) The Board shall establish within one year of the commencement of this Act, a code of conduct for members of the Board, staff and persons whose services the Authority engages.

(2) The Code of Conduct shall among other provide for disciplinary and ethical matters

(3) The Board shall revise the code of conduct from time to time having regard to the changing regulatory objectives in the communications industry.

### **Publication of notices and directives**

101.(1) Where a provision of this Act requires publication of a notice or a directive in the Gazette, the Authority may, in addition to publication in the Gazette, publish the notice or directive

- (a) in a daily newspaper of national circulation;
- (b) on radio and television; and
- (c) on the website of the Authority.

(2) The Authority shall ensure that a notice or directive is accessible to relevant stakeholders.

### **Public engagement**

102. The Authority shall organise periodic public engagement on the operations of the Authority.

### **Regulations**

103. The Minister may, by legislative instrument, make Regulations to

- (a) define, expand or modify the scope of activities that constitute business or related activities in the ICT sector;
- (b) specify procedures for submitting, investigating and resolving complaints in the ICT sector;
- (c) establish disciplinary procedures for ICT service providers;



- (d) regulate the licensing process for business and related activities in the ICT sector;
- (e) set guidelines and standards of performance for ICT services;
- (i) establish health and safety protocols for the ICT sector ;
- (g) provide for the digitalisation of the operations of the Authority;
- (h) prescribe rules for Ghanaian content and Ghanaian participation in the ICT sector;
- (i) prescribe rules for consumer protection in the ICT sector;
- (j) prescribe licensing procedures and categories;
- (k) certification standards;
- (l) compliance monitoring mechanisms;
- (m) public sector ICT governance;
- (g) prescribe for fair trade practices and anti-competition rules in the ICT sector;
- (h) regulate data centres and ICT infrastructure;
- (i) prescribe fees chargeable under this Act,
- (j) provide for forms for applications,
- (k) prescribe requirements for licences and approvals for equipment,
- (l) provide procedures for the systematic implementation of a national information communications technology policy,
- (m) provide for any other matter necessary for the effective and efficient implementation of this Act.

## Interpretation

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

"adaptive regulation" means regulatory practices designed to evolve in response to emerging technologies and changing market dynamics;

"Authority" means the National Information Technology Authority established under section 1;

"Board" means the Governing Board of the Authority;

**"certification tiers"** means graduated levels of certification that indicate the performance, reliability, and compliance level of ICT services or professionals;

"certified professional" means a person certified under this Act to provide ICT services in the public sector;

"chairperson" means the chairperson of the Board;

"cloud computing" means delivery of computing services—including servers, storage, databases, networking, software—over the internet ("the cloud") ;

"cloud hosting environments" means virtualized computing platforms provided over the internet to host data, applications, and services;

"compliance inspector" means an officer designated by the Authority to monitor, audit, and inspect entities for compliance with this Act;

"data centre" means a facility used to house computer systems, servers, and associated components such as telecommunications and storage systems for data processing and storage;

"domain name" means a unique, human-readable identifier that corresponds to a numeric Internet Protocol address and is used to locate websites or digital services on the internet;

"enactment" includes an Act of Parliament, a legislative instrument, or any subsidiary legislation or regulation made under statutory authority and having the force of law in Ghana;

"enterprise software solutions" means integrated digital systems designed to manage core operations of an organization, including finance, human resources, and supply chain;

"Government ICT Infrastructure Operator" means a company licensed by the Authority to manage, operate, and develop core government digital infrastructure;

"ICT" means information and communications technology which refers to all technologies, systems, infrastructure, software, and platforms used for the collection, processing, storage, transmission, and dissemination of digital information and electronic communications. For the purposes of this Act, ICT shall include—

- a) digital hardware and software systems;
- b) information systems and digital applications, especially within government operations;
- c) data centres, hosting facilities, electronic and cloud-based infrastructure;
- d) digital innovation, platforms, and emerging technologies deployed in the public sector; and
- e) associated standards, architecture, and interoperability frameworks;

"ICT infrastructure" includes physical and virtual systems such as servers, networks, data centers, cloud platforms, and related hardware or software required for digital operations;

"ICT service provider" means an individual or entity licensed by the Authority to provide ICT products, services, platforms, or infrastructure within the ICT sector;

"improvement plan" means a set of recommendations and steps issued by the Authority to guide an entity towards compliance with performance standards;

"information technology" means the application of digital systems, computing devices, software, networks, and electronic data processing tools to collect, process, store, retrieve, and disseminate information for operational, administrative, or strategic purposes;

"internet protocol address" means a unique numerical label assigned to a device or node connected to a computer network that uses the Internet Protocol for identification and communication;

"interoperability" means the ability of different ICT systems and applications to communicate, exchange data, and use the information effectively;

"Minister" means the Minister responsible for Communication, Digital Technology, and Innovations;

"Ministry" means the Ministry responsible for Information Communications Technology or Digitalisation;

"national digital identity services" means digital systems and platforms that authenticate and manage unique identities of individuals or institutions for electronic services;

"performance standards" means formalized metrics and criteria prescribed by the Authority to evaluate the quality, efficiency, security, and user experience of ICT systems and services;

"prescribed" means specified by or in accordance with this Act or Regulations, directives, notices or guidelines issued under this Act;

"principles-oriented regulation" means a regulatory approach focused on broad objectives and outcomes rather than prescriptive rules;

"public institution" means a Ministry, Department, Agency, Metropolitan, Municipal or District Assembly, a statutory or constitutional body, or any entity owned wholly or partly by the Republic;

"registrable interest" includes any direct or indirect financial interest, shareholding, beneficial ownership, partnership, trusteeship, or fiduciary obligation held by a person, which is required to be disclosed under section 12 or section 99 of this Act;

"risk-based approach" means a method that allocates regulatory resources and scrutiny based on the potential risks posed by ICT activities or providers;

"sandbox" means a controlled regulatory environment where innovations can be tested temporarily under relaxed regulatory requirements;

"service level agreements (SLAs)" means formal contracts between service providers and clients that define expected service performance, responsibilities, and penalties for non-compliance;

"technical clearance" means approval issued by the Authority confirming that an ICT project meets prescribed technical standards and compliance requirements;

"technology-neutral" means a regulatory stance that does not favor any particular technology or solution and promotes innovation across alternatives; and

(2) In this Act unless the context otherwise requires, words and expressions defined in the Electronic Transactions Act 2025 (Act ....) have the same meaning in this Act.

### **Transitional Provisions**

105. (1) The rights, assets and liabilities that have accrued in respect of the properties vested in the National Information Technology Agency in existence immediately before the coming into force of this Act are transferred to the National Information Technology Authority established under this Act.

(2) A person in the employment of the National Information Technology Agency immediately before the coming into force of this Act shall, on the coming into force of this Act, be deemed to have been duly employed by the National Information Technology Authority established under this Act on the terms and conditions which are not less favourable in aggregate to the terms and conditions attached to the post held by the person before the coming into force of this Act.

(3) A contract subsisting between the National Information Technology Agency and another person and in effect immediately before the coming into force of this Act shall subsist between the National Information Technology Authority established under this Act and that other person subject to modifications that are necessary to ensure compliance with this Act.

(4) A licence, permit, or certificate issued by the Ministry or any other public body for matters related to ICT before the coming into force of this Act shall remain valid for six months unless revoked earlier by the Authority.

(5) A person whose licence ceases to be valid under subsection (4) may apply to the National Information Technology Authority for a licence under this Act.

### **Repeals and Savings**

106.(1) The National Information Technology Agency Act, 2008 (Act 771) is hereby repealed.

(2) Despite the repeal, any action lawfully taken under the repealed Act shall be deemed to have been taken under the corresponding provisions of this Act.

## **SCHEDULE** **(Section 29)**

### **Form and Content of Annual Report of the National Information Technology Authority**

<b>Part of Report</b>	<b>Description</b>
<b>PART I – Introductory Information</b>	Table of contents. Index of terms. Glossary of technical and legal terms and acronyms. Contact details of officer(s) responsible for preparing the report. Official website address of the Authority and hyperlink to the published report.
<b>PART II – Review by the Board and Executive Management</b>	A review by the Board of the Authority ency, which shall include—

	<ul style="list-style-type: none"> <li>(a) a concise overview of NITA’s legal mandate and strategic focus;</li> <li>(b) a description of the Authority’s statutory roles and core functions;</li> <li>(c) a summary of significant policy, regulatory, or operational developments during the year;</li> <li>(d) the organisational structure and changes therein;</li> <li>(e) performance highlights, including achievements in service delivery, infrastructure development, and regulatory enforcement;</li> <li>(f) financial performance overview; and</li> <li>(g) strategic outlook and key initiatives planned for the ensuing year.</li> </ul>
PART III – Policy and Legal Mandate Implementation	<p>A report on implementation of NITA’s statutory functions under the Act, including—</p> <ul style="list-style-type: none"> <li>(a) the development, review, and enforcement of ICT and digital economy policies and standards;</li> <li>(b) progress on digital government enablement and ICT architecture across the public sector;</li> <li>(c) coordination with MDAs, MMDAs, and international agencies;</li> <li>(d) monitoring of compliance by regulated ICT entities; and</li> <li>(e) stakeholder engagements, capacity-building and advisory services.</li> </ul>
PART IV – Regulatory Performance	<p>A report on the performance of the Authority’s regulatory functions, including—</p> <ul style="list-style-type: none"> <li>(a) ICT systems certification and audit outcomes;</li> <li>(b) issuance, suspension, or revocation of ICT licences, accreditations, or authorisations;</li> <li>(c) cyber and digital resilience assessments conducted under applicable laws or frameworks;</li> <li>(d) enforcement actions and compliance statistics;</li> <li>(e) number and resolution of complaints or investigations initiated;</li> <li>(f) key findings from sector monitoring and evaluation;</li> <li>(g) summary of public consultations, stakeholder feedback, and regulatory</li> </ul>

	<p>reforms initiated;</p> <p>(h) risk-based supervision and regulatory reliefs granted;</p> <p>(i) use and outcomes of regulatory sandbox initiatives.</p>
PART V – Service Delivery and Infrastructure Development	<p>An operational performance review, including—</p> <p>(a) implementation status of national ICT infrastructure projects;</p> <p>(b) digital platforms commissioned, upgraded, or maintained by the Authority;</p> <p>(c) contributions to the national digital transformation agenda;</p> <p>(d) alignment of services with service charters, quality assurance benchmarks, and turnaround times;</p> <p>(e) innovations deployed and lessons learned;</p> <p>(f) user satisfaction levels and complaints management performance.</p>
PART VI – Financial and Resource Reporting	<p>A financial performance report, including—</p> <p>(a) audited financial statements;</p> <p>(b) analysis of budgeted versus actual expenditure and income;</p> <p>(c) explanation of significant financial variances;</p> <p>(d) summary of internally generated funds, donor funding, and government allocations;</p> <p>(e) procurement activities and compliance with the Public Procurement Act;</p> <p>(f) summary of assets held, asset performance, and life cycle management.</p>
PART VII – Governance and Accountability	<p>A corporate governance report, including—</p> <p>(a) Board and Executive membership and roles;</p> <p>(b) meetings held, attendance records, and decisions made;</p> <p>(c) risk management strategies and major risks identified;</p> <p>(d) ethical standards and anti-fraud measures implemented;</p> <p>(e) mechanisms for internal control and audit compliance;</p> <p>(f) external oversight reports including Auditor-General, Parliament and others;</p> <p>(g) tribunal appeals and Dispute Resolution Committee outcomes.</p>

PART VIII – Human Capital Management	Report on human resource development and management, including— (a) staffing levels, turnover, and retention rates; (b) training and professional development initiatives; (c) staff productivity and performance incentives; (d) implementation of workplace health and safety measures; (e) initiatives to promote gender equity, disability inclusion, and diversity.
PART IX – Sectoral Collaboration and Research	Report on national or sectoral initiatives including— (a) public-private partnerships in ICT; (b) sponsored or commissioned research activities; (c) support for innovation, digital entrepreneurship, and SME digitalisation; (d) international engagements or technical cooperation.
PART X – Cross-Cutting and Legal Compliance Matters	Report on— (a) freedom of information compliance; (b) advertising and public education campaigns; (c) ecologically sustainable ICT practices; (d) accessibility of digital services for persons with disabilities; (e) digital literacy programmes and gender-responsive ICT outreach; (f) any corrections to material errors from prior reports.
PART XI – Performance Monitoring and Indicators	Report on— (a) performance against key indicators and benchmarks set by the Authority; (b) public sector digital readiness and impact evaluation; (c) institutional compliance with service level agreements (SLAs).
PART XII – Discretionary and Statutory Grants	Summary of discretionary or statutory grants issued, including purpose, beneficiaries, and value.

*Date of Gazette notification:*