



REPUBLIC OF GHANA

BANK OF GHANA (AMENDMENT) ACT, 2016

(ACT 918)

ARRANGEMENT OF SECTIONS

Section

1. Section 2A inserted
2. Section 3 of Act 612 amended
3. Section 4 of Act 612 amended
4. Section 8 of Act 612 amended
5. Section 10 of Act 612 amended
6. Section 11 of Act 612 amended
7. Section 11A inserted
8. Section 12 of Act 612 amended
9. Section 13 of Act 612 amended
10. Section 14 of Act 612 amended
11. Section 17 of Act 612 amended
12. Sections 20A and 20B inserted
13. Section 22 of Act 612 amended
14. Section 27 of Act 612 amended
15. Section 29 of Act 612 amended
16. Section 30 of Act 612 amended
17. Section 34A inserted
18. Section 46A inserted
19. Section 49 of Act 612 amended
20. Section 50 of Act 612 amended
21. Section 53 of Act 612 amended
22. Section 53A inserted
23. Section 54 of Act 612 amended
24. Section 57A inserted
25. Section 68A inserted
26. Section 69 of Act 612 amended
27. Act 612 amended



REPUBLIC OF GHANA

THE NINE HUNDRED AND EIGHTEENTH
ACT

OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED

BANK OF GHANA (AMENDMENT) ACT, 2016

AN ACT to amend the Bank of Ghana Act, 2002 (Act 612) and to provide for related matters.

DATE OF ASSENT: 19th August, 2016.

PASSED by Parliament and assented to by the President:

Section 2A inserted

1. The Bank of Ghana Act, 2002 (Act 612) referred to in this Act as the “principal enactment” is amended by the insertion after section 2 of “Establishment of departments”

2A. The Bank may establish departments and other administrative structures for the effective performance of its functions.”.

Section 3 of Act 612 amended

2. The principal enactment is amended in section 3 by the substitution for subsection (2) of

- “(2) Without limiting subsection (1), the Bank shall
- (a) support the general economic policy of the Government;
 - (b) promote economic growth and development, and effective and efficient operation of the banking and credit system; and
 - (c) contribute to the promotion and maintenance of financial stability in the country.”.

Section 4 of Act 612 amended

3. The principal enactment is amended in section 4 by the insertion of a new subsection (1A)

“(1A) Except as provided in the Constitution, the Bank of Ghana, in the performance of its functions under this Act, shall not be subject to the direction or control of any person or authority.”.

Section 8 of Act 612 amended

4. The principal enactment is amended by the substitution for section 8 of

“The Board of Directors

8. The governing body of the Bank is the Board of Directors consisting of

- (a) the Governor of the Bank who shall be the chairperson,
- (b) the First and Second Deputy Governors appointed under section 17,
- (c) one representative of the Ministry of Finance not below the rank of a Director, and
- (d) nine other directors including a Chartered Accountant

appointed by the President in accordance with article 70 of the Constitution.”.

Section 10 of Act 612 amended

5. The principal enactment is amended by the substitution for section 10 of

“Tenure of office of members of the Board

10. (1) A member of the Board other than the Governor and the Deputy Governors shall hold office for a period of four years and is eligible for re-appointment for another term only.

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

(3) A member of the Board other than the Governor and the Deputy Governors who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.

(4) Where a member of the Board is unable to perform the functions of that member by reason of infirmity of mind or body, the chairperson shall determine whether the inability would result in the declaration of a vacancy.

(5) Where there is a vacancy

- (a) under subsection (3) or section 12 or 13;
- (b) as a result of a declaration under subsection (4); or

(c) by reason of the death of a member

the chairperson shall notify the President of the vacancy and the President shall, in consultation with the Council of State, appoint a person to fill the vacancy.

(6) A person who is appointed to fill a vacancy under subsection (5) shall serve for the unexpired period of the term.

(7) The members of the Board other than the Governor and the Deputy Governors shall be paid the allowances determined by the Board in consultation with the Minister.”.

Section 11 of Act 612 amended

6. The principal enactment is amended by the substitution for section 11 of

“Qualification of members

11. A person qualifies for appointment as a member of the Board if that person has extensive knowledge and experience in monetary, banking, financial and economic matters or any other discipline relevant to the functions of the Board.”.

Section 11A inserted

7. The principal enactment is amended by the insertion after section 11 of a new section 11A as follows:

“Disqualification for membership

11A. A person is not qualified to serve as a member of the Board if that person

- (a) is a director, officer, employee, partner in, or significant shareholder of a bank or any other institution regulated by the Bank;
- (b) has entered into an agreement with a creditor of that person to compound or suspend the payment of a debt owed by that person;

- (c) is disqualified or suspended by order of a competent authority, otherwise than at the request of that person, from practising the profession of that person; or
- (d) has been convicted
 - (i) for high crime under the Constitution or high treason or treason or for an offence involving the security of the Republic, fraud, dishonesty or moral turpitude, or
 - (ii) for any other offence punishable by death or by a sentence of not less than ten years imprisonment.”.

Section 12 of Act 612 amended

8. The principal enactment is amended by the substitution for section 12 of

“Grounds for removal from Board

12. A person other than the Governor and the Deputy Governors ceases to be a member of the Board if that person is found guilty of gross misconduct in relation to the duties of that person.”.

Section 13 of Act 612 amended

9. The principal enactment is amended by the substitution for section 13 of

“Disclosure of interest

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

- (a) shall disclose the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and
- (b) shall not participate in the deliberations of the Board in respect of that matter.

(2) A member ceases to be a member of the Board, if that member has an interest in a matter before the Board and

- (a) fails to disclose that interest, or
- (b) participates in the deliberations on the matter.”.

Section 14 of Act 612 amended

10. The principal enactment is amended by the substitution for section 14 of

“Meetings of the Board

14. (1) The Board shall meet at least once every two months for the despatch of business at the times and in the places 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 convene an extraordinary meeting of the Board at the place and time determined by the chairperson.

(3) The quorum at a meeting of the Board is seven members of the Board including the Governor or a Deputy Governor.

(4) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, the First Deputy Governor shall preside and in the absence of the Governor and the First Deputy Governor, the Second Deputy Governor shall preside.

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

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

(7) The validity of proceedings of the Board shall not be affected by a vacancy in the membership or a defect in the appointment or qualification of a member of the Board.

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

Section 17 of Act 612 amended

11. The principal enactment is amended in section 17 by

(a) the substitution for subsection (1) of

“(1) The President shall, in accordance with article 183 (4) of the Constitution, appoint a Governor of the Bank for periods of four years each.”;

(b) the substitution for subsection (2) of

“(2) Subject to subsection (2A), the President shall, in accordance with article 195 of the Constitution, appoint two Deputy Governors of the Bank on the terms and conditions specified in the letters of appointment.”; and

(c) the insertion after subsection (2) of a new subsection (2A)

“(2A) The Deputy Governors shall be appointed for a term of four years and are eligible for re-appointment for a further term of four years.”.

Sections 20A and 20B inserted

12. The principal enactment is amended by the insertion after section 20 of sections 20A and 20B as follows:

“Removal of Governor

20A. The Governor shall not be removed from office except on the same grounds and in the same manner as a Justice of a Superior Court of Judicature, other than the Chief Justice.

Removal of Deputy Governor

20B. (1) The Deputy Governor shall not be removed from office except

- (a) for stated misbehavior or incompetence; or
- (b) for inability to perform the functions of the office arising from infirmity of mind or body.

(2) The President shall constitute a Panel to investigate a matter specified under subsection (1)(a).

(3) The Panel consists of

- (a) a chairperson, who is a Justice of the Superior Court of Judicature,
- (b) a lawyer of at least ten years standing at the Bar, and
- (c) one other person with knowledge in banking, finance, economics or a related field.

(4) The Panel shall investigate the matter and make a recommendation to the President.

(5) The President may act in accordance with the recommendation of the Panel.”.

Section 22 of Act 612 amended

13. The principal enactment is amended by the substitution for section 22 of

“Chief Internal Auditor”

22. (1) There shall be a Chief Internal Auditor of the Bank.

(2) The Chief Internal Auditor shall be appointed by the Board in accordance with section 23.

(3) A person qualifies for appointment as a Chief Internal Auditor if that person

(a) is a Chartered Accountant of not less than ten years post qualification experience;

(b) is not declared bankrupt or indebted and has not failed to make arrangements for the payment of a debt owed by that person;

(c) has not been convicted of an offence involving fraud, dishonesty or moral turpitude; and

(d) has not been found to have committed an offence involving dishonesty, fraud or moral turpitude after a disciplinary hearing.

(4) The Chief Internal Auditor shall be an employee of the Bank.

(5) The Chief Internal Auditor shall perform the functions of office with a high degree of professional independence and without interference.

(6) Subject to this Act, the Chief Internal Auditor is responsible to the Board in the performance of functions as Chief Internal Auditor.

(7) The Chief Internal Auditor shall as part of the functions of office, at intervals of three months, prepare a report on the internal audit work carried out by the Chief Internal Auditor during the three month period immediately preceding the preparation of the report and submit the report to the Board through the Audit Committee.

(8) The Chief Internal Auditor shall only be transferred or reassigned with the express approval of the Board.

(9) The Bank shall make available to the Chief Internal Auditor every logistic or condition reasonably required for the effective performance of functions as a Chief Internal Auditor.

(10) A person ceases to be a Chief Internal Auditor if that person

- (a) ceases to be an employee of the Bank;
- (b) is disqualified from practice as a Chartered Accountant by an order of the relevant competent authority;
- (c) ceases to be a member of a professional body;
- (d) becomes bankrupt or is unable to pay or make acceptable arrangements to pay a debt owed by that person;
- (e) has been convicted of an offence involving fraud, dishonesty or moral turpitude; or
- (e) has been found to have committed an offence involving dishonesty, fraud or moral turpitude after a disciplinary hearing.”.

Section 27 of Act 612 amended

14. The principal enactment is amended by the substitution for section 27 of

“Monetary Policy Committee

27. (1) There is established by this Act, a committee of the Bank to be known as the Monetary Policy Committee.

(2) The Monetary Policy Committee is responsible for the formulation of the monetary policy of the Bank.

(3) The members of the Monetary Policy Committee comprise

- (a) the Governor,
- (b) the First and Second Deputy Governors,
- (c) the head of the Department responsible for economic research of the Bank,
- (d) the head of the Department responsible for Treasury Operations of the Bank, and
- (e) two other persons with knowledge and experience which is relevant to the functions of the Monetary Policy Committee, appointed by the Board who are not employees of the Bank.

(4) The members of the Monetary Policy Committee other than the employees of the Bank shall be paid the allowance determined by the Board.

(5) A person who is appointed under paragraph (e) of subsection (3) shall hold office for a period of five years and is eligible for re-appointment for another term only.

(6) The grounds for removal from office of a member of the Board under section 12 apply to a member of the Monetary Policy Committee appointed under paragraph (e) of subsection (3).”.

Section 29 of Act 612 amended

15. The principal enactment is amended in section 29 by the deletion of subsection (6).

Section 30 of Act 612 amended

16. The principal enactment is amended by

(a) the substitution for subsection (2) of

“(2) The total loans, advances, purchases of treasury bills and securities made under subsection (1) shall not at any time exceed five percent of the total revenue of the previous fiscal year.” and

(b) the insertion of a new subsection after subsection (6) as follows:

“(7) Where the total of loans, advances, purchases of treasury bills and securities made under subsection (1) is five percent of the previous fiscal year’s total revenue, the Governor shall notify the Minister and Parliament of the attainment of the limit under subsection (2) and the Minister upon notification shall report to Parliament on the remedial measures to be taken.”.

Section 34A inserted

17. The principal enactment is amended by the insertion after section 34 of a new section 34A as follows:

***Investment of balances on the Consolidated Fund**

34A. The Minister may authorise the Bank through the Controller and Accountant-General to invest any sum standing to the credit of the Consolidated Fund or Government Account position other than in Government Security.”.

Section 46A inserted

18. The principal enactment is amended by the insertion after section 46 of

“Emergency liquidity assistance

46A. (1) The Bank may, for the purpose of section 3(2)(c), provide liquidity assistance to a bank or savings and loans company or financial house which the Bank has determined to be illiquid but solvent.

(2) The Bank shall, for purposes of providing emergency liquidity assistance under this section, prescribe the terms and conditions for the grant of emergency liquidity assistance.

(3) The terms and conditions include

- (a) the requirement for the bank or savings and loans company or financial house receiving the emergency liquidity assistance to provide the Bank with adequate collateral for the assistance granted;
- (b) the tenure of the emergency liquidity assistance; and
- (c) the interest rate chargeable on the emergency liquidity assistance.

(4) For purposes of this section, “emergency liquidity assistance” means the provision by the Bank of money as a loan to a solvent bank or savings and loans company or financial house that is facing temporary liquidity challenges.”.

Section 49 of Act 612 amended

19. The principal enactment is amended in subsection (1) of section 49 by

- (a) the substitution for paragraph (b) of
 - “(b) purchase the shares of a company or grant loans upon the security of shares;”;
- (b) the substitution for paragraph (g) of
 - “(g) accept for discount or as a guarantee for an advance made by the Bank, bills or notes signed by members of the Board or by the officials of the Bank or any other employee; and

(c) the insertion after subsection (1) of

“(1A) Despite paragraph (b) of subsection (1), where before the coming into force of this Act the Bank held shares in a financial institution that the Bank regulates, the Bank shall dispose of the shares within a period of nine years or other period that the Board may determine.”.

Section 50 of Act 612 amended

20. The principal enactment is amended in paragraph (d) of subsection (1) of section 50 by the deletion of “silver” and “platinum”.

Section 53 of Act 612 amended

21. The principal enactment is amended by the substitution for section 53 of

“53. The Bank shall hold all foreign exchange of Ghana and submit a report to Parliament on all foreign exchange receipts and payments or transfers of the Bank in and outside Ghana once every six months.”.

Section 53A inserted

22. The principal enactment is amended by the insertion after section 53 of a new section 53A as follows:

“Reporting to Parliament

53A. (1) The Bank shall submit a report to Parliament once every six months including

(a) a report on the conduct of activities in the exercise of the mandate of the Bank under section 4; and

(b) a report on any other relevant function being exercised by the Bank under various enactments.

(2) The Bank shall submit the report

(a) in respect of the first six months of the year, by the end of July; and

(b) in respect of the remaining six months of the year, by the end of February of the ensuing year.”.

Section 54 of Act 612 amended

23. The principal enactment is amended by the substitution for section 54 of

“Banking Supervision Department”

54. (1) The Bank shall have a Banking Supervision Department for the supervision of banks and specialised deposit-taking institutions.

(2) The Bank shall designate an officer as the head of the Banking Supervision Department created under subsection (1).

(3) The head of the Banking Supervision Department shall be appointed by the Board in accordance with section 23.

(4) The Board shall

(a) establish other supervisory structures necessary for the effective performance of functions under subsection (1); and

(b) delegate a specified supervisory function to a supervisory body created in accordance with paragraph (a). ”.

Section 57A inserted

24. The principal enactment is amended by the insertion after section 57 of

“Financial statements”

57A. The financial statements of the Bank shall be prepared in compliance with the international accounting standards adopted by the Board.”.

Section 68A inserted

25. The principal enactment is amended by the insertion after section 68 of

“Application of Act”

68A. Where there is any conflict between this Act and any other enactment relating to banking and related matters, the provisions of this Act shall prevail.”.

Section 69 of Act 612 amended

26. The principal enactment is amended in section 69 by the insertion in the appropriate alphabetical order of the following definitions:

“primary market” means a market that issues new securities on an exchange; and

“secondary market” means a market where investors purchase securities or assets from other investors, rather than from an issuing company.”.

Act 612 amended

27. A reference in the Bank of Ghana Act, 2002 (Act 612)

- (a) to "Authority" shall be read as a reference to the "Board";
and
(b) to "Authority of Directors" shall be read as a reference to
the "Board of Directors".

Date of Gazette notification: 19th August, 2016.

