

GUIDANCE

THE REGULATORY REGIMES FOR BUSINESS OPERATIONS IN GHANA - PART I

THE OBJECTIVE OF THIS EDITION

This edition of **“SUSTINERI GUIDANCE”** seeks to review the regulatory regime and compliance demands on business operations in Ghana.

In this Part I of the review, we shall focus on the General Regulatory demands and highlight what businesses must do to improve their compliance culture.

BUSINESS REGULATORY REGIMES IN GHANA

In force in Ghana are several enactments (regulations, laws, directives, guidelines, etc) that regulate permissible business activities and their operations. These enactments subject to review, amendment, and repeal, are designed to accommodate the local business operational demands and respond competitively to international business best practices.

By their nature, these regulations could be classified into two main categories namely General and Industry-specific regulations.

GENERAL BUSINESS REGULATORY REGIMES IN GHANA

We have classified some business-related regulations as “general business regulatory demands” due to their scope and universal application to all business forms or types in Ghana.

These “general business regulatory demands” have been imposed following the enactment of laws which among others establish regulatory bodies with the mandate to register business operations, ensure their compliance with operational standards, and/or renew or revoke registrations, permits, or licenses where necessary.

To provide a clear and easy understanding of these demands, we have reviewed the following regulatory bodies established as a result of the general business regulations requiring mandatory compliance:

a. THE OFFICE OF THE REGISTRAR OF COMPANIES (ORC)

This regulatory body, formerly under the Registrar-General's Department is responsible for the registration or incorporation of Companies, either private or public, for-profit, or not-for-profit. Its power to register companies for permissible business activities in Ghana is derived from the Companies Act, 2019 (Act 992). By the process of registration, the ORC authorizes incorporated entities and confers on them, the legal status for the commencement of business.

Additionally, the ORC is mandated to ensure compliance with the provisions of the Companies Act, 2019 (Act 992) including the filing of annual returns, update of changes in a company's profile – officers, capital position, debentures, winding-up, and liquidation processes among others.

Also, the ORC is mandated by the Business Name Registration Act, 1962 (Act 151) and the Incorporated Private Partnership Act, 1962 (Act 152) to register and regulate operational activities of Sole-Proprietorships (and Subsidiaries) and Partnerships respectively.

Therefore, the primary responsibility of business owners/managers is to ensure their enterprises are registered with the ORC before the commencement of their operations. Further, they must ensure strict compliance with the filing of annual returns demands to ensure their registered businesses are not struck off the register of companies or listed as non-compliant businesses.

The ORC has offices in some regional capitals to perform these functions.

b. THE GHANA REVENUE AUTHORITY (GRA)

The Ghana Revenue Administration Act, 2016 (Act 915) has established the Ghana Revenue Authority (GRA) with the mandate to register registrable institutions, collect taxes, and impose sanctions for tax non-compliance.

To honour the various tax obligations on businesses, each registered or incorporated entity is mandatorily required to register with the GRA and pay the resulting tax obligations either as direct or indirect taxes at the required times to same.

This registration with GRA and payment of taxes are requirements for every business enterprise operational in Ghana. Failure to comply may result in the imposition of sanctions by the GRA including criminal prosecution.

Business owners must look for the nearest GRA offices and register with them.

c. THE SOCIAL SECURITY AND NATIONAL INSURANCE TRUST (SSNIT)

SSNIT established by the National Pensions Act, 2008 (Act 766) is responsible for the collection of employees' pension benefits. In compliance with this mandate, registered entities are required to register with SSNIT and pay monthly the resulting pension contributions for their employees.

Failure to register and/or pay the resulting contributions will result in the imposition of sanctions by SSNIT including criminal prosecution.

SSNIT offices have been established across the country to facilitate compliance by employers.

d. THE DATA PROTECTION COMMISSION (DPC)

The registration requirement of the Data Protection Act, 2012 (Act 843), an Act which establishes the Data Protection Commission has imposed a mandatory registration requirement for all registered businesses in Ghana.

Therefore, every registered business entity is required to register with the DPC and comply with the data protection demands as well as renew registrations every 2 years.

Failure to register and/or comply with the data protection demands will result in the imposition of sanctions.

The DPC accepts online registration.

e. DISTRICT, MUNICIPAL, AND METROPOLITAN ASSEMBLIES

District, Municipal, and Metropolitan assemblies established by the Local Governance Act, 2016 (Act 936) have been charged with the responsibility of issuing business operating permits to businesses operating within their jurisdictions.

The registration and procurement of a business operating permit is mandatory before the commencement of any business operation within a district, municipal, or metropolitan assembly.

The business operating permit is renewed yearly subject to the payment of an assessed fee.

Additionally, before the installation of a business advertising stationery such as signposts, facial boards, or billboards, businesses are required to procure permits from their respective district, municipal, or metropolitan assemblies.

REGULATIONS AFFECTING MULTIPLE INDUSTRIES

These institutions and their permits or licenses are required as part of the general operational compliance demands for business operations involving activities related to their scope of authority.

i. THE GHANA STANDARD AUTHORITY (GSA)

A business operation producing goods measurable in units of kilograms, grams, litres, etc is required to register and procure GSA approval and confirmation of the said unit of measurement.

Additionally, the GSA has the responsibility to ensure compliance with the industry-specific established standards for goods before approvals including monitoring of post-approval.

ii. THE ENVIRONMENTAL PROTECTION AGENCIES (EPA)

To ensure compliance with environmental standards for projects and business activities, registered entities are required to procure EPA permits for operational activities with impacts on the environment.

Such registration will require businesses to comply with the established environmental standards for their operations.

iii. THE NATIONAL FIRE SERVICE

Particularly for projects involving the construction of buildings, factories, and other business infrastructure, regulations require businesses to procure fire certificates as evidence of the design of such projects in compliance with the fire prevention standards in Ghana.

iv. TOWN & COUNTRY PLANNING

Town & Country Planning permit requirements ensure that projects and buildings are aligned with the development plan of a particular area. By so doing, permits are only issued to businesses for the commencement of projects that conform to the development plan and demonstrate architectural and structural integrity.

v. DEPARTMENT OF FACTORIES INSPECTORATES

For businesses that establish factories for the production of their goods, there is the requirement of registration with the department of factories inspectorates. This renewable registration is to ensure compliance with health and safety standards and prevent industrial accidents on factory floors.

ABOUT THE FIRM

SUSTINERI ATTORNEYS PRUC is Ghana's foremost Start-up and Technology law firm specializing in Corporate, Transactions, Tax, and Dispute Resolutions.

At the core of our practice is our competitive advantage of leveraging our professional, entrepreneurial, and sound legal understanding of Ghana's commercial ecosystem to simplify client problems and deliver outstanding results.

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