

## MEMORANDUM

The object of the Bill is to establish a Fund to complement the efforts of Government in the fight against COVID-19 and to assist in the welfare of the needy and the vulnerable who have been afflicted or impacted by the COVID-19 pandemic.

The Fund is to receive and manage contributions and donations from well-meaning individuals and corporate bodies, to support persons engaged in the combat of the COVID-19 pandemic, support the needy and the vulnerable infected with or affected by the COVID-19 pandemic, and any other matter necessary to achieve the object of the Fund.

The Director-General of the World Health Organisation (WHO), Dr. Tedros Adhanom Ghebreyesus, on Wednesday, 11<sup>th</sup> March, 2020 declared COVID-19 a pandemic, pointing to over one hundred and eighteen thousand cases in over one hundred and ten countries around the world and the risk of further global spread.

According to WHO, COVID-19 is a new strain that was discovered in 2019 and has not been previously identified in humans. Its common signs of infection include respiratory symptoms, fever, cough, shortness of breath and breathing difficulties. In severe cases the disease can cause pneumonia, severe acute respiratory syndrome, kidney failure and even death.

The first two cases of the disease were reported and confirmed in Ghana on Friday, 13<sup>th</sup> March, 2020, followed by six cases on Sunday, 15<sup>th</sup> March, 2020, involving persons who had travelled into the country. As at Tuesday, 31<sup>st</sup> March, 2020, the number of cases reported and confirmed in Ghana had increased to one hundred and sixty-one.

In recognition of the threat of COVID-19 to life and its high potential to escalate in this country, the President of the Republic has addressed the nation on measures being taken by Government in response to the pandemic. The measures are intended to limit and stop the importation of the virus; contain its spread; provide adequate care for the sick; and limit the impact of the virus on social and economic life.

The measures include the declaration of COVID-19 as a public health emergency; mandatory quarantine for fourteen days; testing of persons who entered the country from 21<sup>st</sup> March, 2020 and treatment of persons who test positive for COVID-19.

Government has also instituted preventive measures to avoid the spread of the disease through regular hand washing with soap under running water; use of alcohol-based hand sanitisers; avoiding hand shaking; covering of mouth and nose when coughing or sneezing; maintaining social distancing; being physically active; sipping water to keep mouth and throat continuously moist; healthy eating; avoiding stress and taking enough rest and sleep.

Since the outbreak of the virus in Ghana, organisations and individuals have been making contributions and donations to Government to combat the COVID-19 pandemic. It has therefore become necessary for a special fund to be established to receive and properly manage the contributions and donations for the intended beneficiaries.

The Bill is divided into five groups of *clauses*. The introductory group of clauses provides for the establishment of the COVID-19 National Trust Fund, *clauses* 1 to 5. *Clauses* 6 to 13, the second group of *clauses*, provide for governance of the Trust Fund. *Clauses* 14 to 18, the third group of *clauses*, outline administrative matters. The fourth group of *clauses*, *clauses* 19 to 22, deals with the financial matters of the Fund. The final group of *clauses*, *clauses* 23 to 26 provides for miscellaneous matters.

*Clause* 1 of the Bill provides for the establishment of the COVID-19 National Trust Fund. The objects of the Fund are specified in *clause* 2 of the Bill. The objects of the Fund are to complement the efforts of Government in the fight against COVID-19 and to assist in the welfare of the needy and the vulnerable who have been afflicted or impacted by the COVID-19 pandemic.

Sources of money for the Fund are provided for in *clause* 3. The sources of money for the Fund include donations, gifts, voluntary contributions and any other moneys that the Board of Trustees in consultation with the Minister responsible for Finance may determine.

*Clause* 4 provides for the bank accounts of the Fund. Under this *clause*, the moneys for the Fund are to vest in the Board of Trustees. The bank accounts of the Fund are to be opened with the approval of the Controller and Accountant-General.

Under *clause* 5, for the purposes of achieving the objects of the Fund, moneys from the Fund are to be applied to support persons engaged in the combat of the COVID-19 pandemic, support the needy and the vulnerable infected with or affected by the COVID-19 pandemic, and any other matter necessary to achieve the objects of the Fund.

*Clauses* 6 to 13 provide for the Governance of the Fund. *Clause* 6 provides for the Board of Trustees which consists of a chairperson, and six other persons appointed by the President at least one of whom is a woman.

The functions of the Board of Trustees are enumerated in *clause* 7. The Board of Trustees is mandated to monitor and evaluate the operations and performance of the Fund; ensure accountability of the Fund by defining the appropriate procedures for the management of the Fund; invest moneys of the Fund that are not required for immediate use in safe securities that are financially beneficial to the Fund subject to the Public Financial Management Act, 2016 (Act 921); prepare guidelines, with the approval of the Minister, for the disbursement of moneys from the Fund and perform any other functions assigned and incidental to the achievement of the objects of the Fund.

Standard provisions on the tenure of office of members of the Board of Trustees, meetings of the Board of Trustees, disclosure of interest, establishment of committees, allowances and ministerial directives are provided for in *clauses* 8, 9, 10, 11, 12 and 13, respectively.

*Clauses* 14 to 18 provide for the administration of the Fund. The appointment and functions of the Administrator are detailed in *clauses* 14 and 15 respectively.

*Clause* 16 provides for the appointment of other staff for the proper and effective performance of the functions of the Fund. The Board of Trustees may also, for the effective discharge of functions, engage the services of advisors and consultants on the recommendations of the Administrator.

*Clause 17* provides for the establishment of an Internal Audit Unit in accordance with section 83 of the Public Financial Management Act, 2016 (Act 921).

Under *clause 18*, the Fund is to have a Secretariat headed by the Administrator.

*Clauses 19 to 22* cover matters related to the finances of the Fund. *Clause 19* provides for the expenses of the Fund. *Clause 20* provides for exemption of the Fund from tax. Standard provisions on accounts and audit and annual reports are provided for in *clauses 21 and 22*, respectively.

Miscellaneous matters are provided for in *clauses 23 to 26*. *Clause 23* deals with the winding up of the Fund. Upon the winding up of the Fund, the Board of Trustees is to ensure that any moneys in the bank account of the Fund is transferred to the Consolidated Fund and any other asset acquired for and on behalf of the Fund is to be transferred to the appropriate state agency determined by the Minister. *Clause 24* empowers the Minister to make Regulations for the effective implementation of the Bill.

Interpretation of words and phrases used in the Bill and transitional provisions are dealt with in *clauses 25 and 26* respectively.

**GLORIA AFUA AKUFFO (MISS)**

*Attorney-General & Minister for responsible for Justice*

Date: 1<sup>st</sup> April, 2020.

## ARRANGEMENT OF SECTIONS

### *Section*

#### *COVID-19 National Trust Fund*

1. Establishment of the COVID-19 National Trust of the Fund
2. Object of the Fund
3. Sources of moneys for the Fund
4. Bank account of the Fund
5. Application of moneys of the Fund

#### *Governance of the Fund*

6. Board of Trustees
7. Functions of the Board of Trustees
8. Tenure of office of members of the Board of Trustees
9. Meetings of members of the Board of Trustees
10. Disclosure of interest
11. Establishment of committees
12. Allowances
13. Ministerial directives

#### *Administrative Provisions*

14. Appointment of Administrator
15. Functions of the Administrator
16. Appointment of other staff
17. Internal Audit Unit
18. Secretariat of the Fund

#### *Financial Provisions*

19. Expenses of the Fund
20. Exemption from tax
21. Accounts and audit
22. Annual report and other reports

#### *Miscellaneous Provisions*

23. Winding up of the Fund
24. Regulations
25. Interpretation
26. Transitional provision

## **COVID-19 NATIONAL TRUST FUND ACT, 2020**

**AN ACT** to establish the COVID-19 National Trust Fund to complement the efforts of Government in the fight against COVID-19 and to assist in the welfare of the needy and the vulnerable who have been afflicted or impacted by the COVID-19 pandemic; to provide for the management of the Fund and for related matters.

**PASSED** by Parliament and assented to by the President:

### *COVID-19 National Trust Fund*

#### **Establishment of the COVID-19 National Trust Fund**

1. (1) There is established by this Act a body corporate to be known as the COVID-19 National Trust Fund.

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

#### **Objects of the Fund**

2. The objects of the Fund are

(1) to complement the efforts of Government to combat the COVID-19 pandemic, by providing an avenue for all well-meaning individuals and corporate bodies to contribute and donate funds and resources that may be required for the fight against the virus;

(2) to manage funds and resources contributed and donated for the satisfaction of subsection (1); and

(3) to receive any funds and resources contributed and donated for the fight against COVID-19.

#### **Sources of moneys for the Fund**

3. The sources of money for the Fund are

(a) donations, gifts and any other voluntary contribution to the Fund;

(b) moneys that may become lawfully payable to the Fund; and

(c) any other moneys that the Board of Trustees in consultation with the Minister responsible for Finance may determine.

#### **Bank account of the Fund**

4. The moneys for the Fund shall vest in the Board of Trustees and shall be paid into bank accounts opened by the Fund, with the approval of the Controller and Accountant-General.

#### **Application of moneys of the Fund**

5. (1) For the purpose of achieving the objects of the Fund, moneys from the Fund shall be applied to

(a) support persons engaged in the combat of the COVID-19 pandemic;

(b) support the needy and the vulnerable infected with or affected by the COVID-19 pandemic; and

(c) any other matter necessary to achieve the objects of the Fund.

(2) The moneys of the Fund shall be distributed in accordance with a formula to be determined by the Board and subject to the approval of the Minister.

- (3) Where the exigencies require, the Board may review the formula under subsection (2).

### *Governance of the Fund*

#### **Board of Trustees**

6. (1) The governing body of the Fund is a Board of Trustees appointed by the President consisting of

- (a) a Chairperson; and
- (b) six other persons at least one of whom is a woman.

(2) The President shall, in appointing the chairperson and the other members of the Board of Trustees under *subsection (1)*, take into consideration the integrity, knowledge, expertise and experience of the person.

(3) The chairperson and members of the Board of Trustees shall hold office until their appointment is otherwise revoked by the President.

#### **Functions of the Board of Trustees**

7. (1) The Board of Trustees is responsible for the management of the Fund.

(2) For purposes of subsection (1), the Board of Trustees shall

- (a) monitor and evaluate the operations and performance of the Fund;
- (b) ensure accountability of the Fund by defining appropriate procedures for the management of the Fund;
- (c) subject to the Public Financial Management Act, 2016 (Act 921), invest moneys of the Fund that are not required for immediate use in safe securities that are financially beneficial to the Fund;
- (d) prepare guidelines, with the approval of the Minister, for the disbursement of moneys from the Fund; and
- (e) perform any other functions assigned under this Act and incidental to the achievement of the object of the Fund.

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

8. (1) A member of the Board of Trustees may at any time resign from office in writing addressed to the President.

(2) A member of the Board of Trustees, who is absent from three consecutive meetings of the Board of Trustees without sufficient cause, ceases to be a member of the Board of Trustees.

(3) Where a member of the Board of Trustees is, for a sufficient reason, unable to act as a member, the Minister shall determine whether the inability may result in the declaration of a vacancy.

(4) Where there is a vacancy

- (a) under subsection (1) or (2) or subsection (2) of section 10;
- (b) as a result of a declaration under subsection (3), or
- (c) by reason of the death of a member,

the Minister shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy.

#### **Meetings of members of the Board of Trustees**

9. (1) The Board of Trustees shall meet regularly for the despatch of business at the 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 Trustees, convene an extraordinary meeting of the Board of Trustees at the place and time determined by the chairperson.

(3) The quorum at a meeting of the Board of Trustees is four members.

(4) The chairperson shall preside at meetings of the Board of Trustees and in the absence of the chairperson, a member of the Board of Trustees elected by the members present from among their number shall preside.

(5) Matters before the Board of Trustees 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 Trustees may co-opt a person to attend a meeting of the Board of Trustees but that person shall not vote on a matter for decision at the meeting.

(7) The validity of proceedings of the Board of Trustees shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

#### **Disclosure of interest**

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

(a) disclose in writing the nature of the interest and the disclosure shall form part of the record of the consideration of the matter; and

(b) not participate in the deliberations of the Board of Trustees in respect of that matter.

(c) is answerable to the Board of Trustees for the performance of the functions under this Act; and

(d) shall perform any other functions assigned by the Board of Trustees.

(2) The Administrator is the secretary to the Board of Trustees.

(3) The Administrator may delegate a function to an officer of the Fund but shall not be relieved of the ultimate responsibility for the performance of the delegated function.

#### **Appointment of other staff**

16. (1) The President shall appoint other staff of the Fund that are necessary for the proper and effective performance of the functions of the Fund.

(2) The President may, in writing, delegate the power of appointment in subsection (1) to the Board of Trustees.

(3) Other public officers may be transferred or seconded to the Fund.

(4) The Board of Trustees may, on the recommendations of the Administrator, engage the services of advisors and consultants.

#### **Internal Audit Unit**

17. (1) The Fund 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 Fund.

(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 Trustees 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 which appear to the Internal Auditor as necessary for the conduct of the affairs of the Fund.

(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

(a) the Minister;

(b) the Auditor-General; and

(c) the chairperson of the Board of Trustees.

### **Secretariat of the Fund**

18. The Fund shall have a secretariat headed by the Administrator.

### *Financial Provisions*

### **Expenses of the Fund**

19. The expenses of the Fund shall be paid from moneys provided for the Fund, with the approval of the Minister.

### **Exemption from tax**

20. The Fund is exempt from tax.

### **Accounts and audit**

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

(2) The Board of Trustees shall submit the accounts of the Fund to the Auditor-General for audit not later than two months after the end of the financial year in accordance with the Public Financial Management Act, 2016 (Act 921).

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

(4) The financial year of the Fund is the same as the financial year of the Government.

**Annual report and other reports**

22. (1) The Board of Trustees 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 Fund for the year to which the annual report relates.
- (2) The annual report shall include the report of the Auditor-General.
- (3) 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.
- (4) The Board of Trustees shall submit to the Minister any other report which the Minister may require in writing.

*Miscellaneous Provisions***Winding up of the Fund**

23. Where the President is satisfied that there is no longer a need for the Fund, the Board of Trustees shall ensure that
- (a) any moneys in the bank account of the Fund is transferred to the Consolidated Fund; and
- (b) any other asset acquired for and on behalf of the Fund is transferred to the appropriate State agency as determined by the Minister.

**Regulations**

24. The Minister may, by legislative instrument, make Regulations for the effective implementation of this Act.

**Interpretation**

25. In this Act, unless the context otherwise requires,
- “Administrator” means the person appointed under section 14;
- “Board of Trustees” means the governing body of the Fund established under section 6;
- “COVID-19” means an infectious disease caused by the coronavirus discovered in 2019;
- “Fund” means the COVID-19 National Trust Fund established under section 1; and
- “Minister” means the Minister designated in writing by the President as the Minister responsible for the Fund.

**Transitional provisions**

26. Any moneys or resources donated to Government to combat the COVID-19 pandemic before the establishment of the Fund shall within fourteen days of the coming into force of this Act be transferred or deposited into the bank account established under section 4.