
REVISED BUSINESS REGULATORY REFORMS COMMISSION BILL, 2023

EXPLANATORY MEMORANDUM

BUSINESS REGULATORY REFORM COMMISSION BILL, 2023

The development of this legislative framework falls in line with government's initiative to enhance the doing of business and speed up its economic and industrial transformation agenda through a reform of the business regulatory sector. This project aligns with the strategic objective of the Business Regulatory Reform programme of the Ministry of Trade and Industry to make Ghana the most business-friendly nation in Africa by the end of the year 2024 through a sustained scheme of improvement of the business regulatory environment.

The purpose is to establish a business regulatory framework providing procedures and mechanisms for analysis, validation and evaluation of business-related regulations aimed at eliminating regulatory bottlenecks in doing business and reducing the risks and costs to business development, particularly in the private sector. This intervention in turn is expected to lead to increased investment, enhanced market entry and an overall higher economic growth.

It is an obvious fact that clarity of the business regulatory framework as well as transparency in the delivery of the business-related services by ministries, state departments and government agencies reduce risks and uncertainties in business and minimize opportunities for corruption. It is also true that a strong regime of business regulations promotes long term investment in the productive sectors of the economy with measurable economic gains, including a major boost to GDP growth, attraction of new business entrants into the formal business sector and additional foreign direct investment into the country's growing economy.

The relevance of this bill is to establish acceptable standards of transparency to protect the integrity of regulatory practices through the coordination and tracking of reforms of key government institutions in establishing, commencing and operating a business in Ghana.

In effect, the establishment of a business regulatory reform entity shall act as a link between the various business regulations of Ghana and the private sector by assessing and evaluating the impact business regulations have on investors' business operations and arrangements generally, in Ghana.

In order to achieve this, the Business Regulatory Reform Commission has developed the Ghana Business Regulatory Reform Portal (GBRRP) which comprises a Consultation Platform and Business Regulations E-registry.

In addition, there are the reform tracking tool, the rolling review and the regulatory impact assessment. The Consultation's Platform is an interactive web portal for centralized public consultation with government institutions on policies, legal and regulatory reforms. The platform is designed to enable wider and sustained public-private engagements in a transparent and timely way, and at considerable cost savings.

Further, the platform will help to inject greater speed, transparency, and inclusiveness in making regulatory decisions, including timely use of evidence to inform decision-making and measure outcomes.

The Consultation Platform builds an online community of users to participate in consultations on business policies and regulatory reforms on a regular basis. It provides the private sector and other economic operators (individuals from labour, consumer protection, economic policy think-tanks and civil society) with a virtual opportunity to contribute publicly or directly to discussions with Government on improving specific business policies and regulations.

This platform connects businesses, individuals, industry associations and not-for-profit organisations with Government, Ministries, Departments and Agencies (MDAs), with a schedule of upcoming consultations on draft policies and business regulations announced and published on the Portal in advance by MDAs.

The functionalities of the Consultations platform are as follows:

- A Consultations calendar which provides notification on upcoming and on-going consultations
- Discussions forum which permits prudent dialogue
- A poll's function which enables e-surveys and e-polls
- Social Media function which supports Facebook, WhatsApp, Instagram, Twitter, Etc
- Announcements section which provides information on consultation events, policies and regulatory frameworks that have been uploaded on the portal
- Mobile app system that supports Android, Apple (iOS) and Windows.

The Business Regulations Electronic Registry (E-Registry) of Business Laws and Regulations is an online repository which provides open, free and easy access to business-related Administrative Notices, Directives, Processes, Procedures, Forms and Fees. This is designed to:

- Make business laws and regulations that are currently in force available in a single place, online and accessible free of charge;
- Enable business promoters to easily access legal and regulatory provisions relevant to their specific area of interest or issue;
- Provide a single platform for posting and updating administrative notices, directives, procedures, forms, and fees;

- Take stock of the country's laws and regulations that affect business competitiveness for the purpose of streamlining and review.

Other reform tools such as the reform tracking tool helps manage, monitor and track reforms across public institutions identified and initiated by the Business Regulatory Reform Commission.

The tracking instrument relies on personnel from the implementing government entity to notify and update the Commission on the progress of reforms, which is assented to through validation by the Commission.

The rolling review refers to the exercise designed to systematically carry out reviews of regulations to eliminate, revise and simplify business regulations so as to ensure that those regulations promote the ease of doing business without unnecessary red tapes thereby reducing the cost of compliance at the point of establishing and conducting a business.

The regulatory impact assessment is a tool used by the Commission to ensure and ascertain the impact of business regulations on the private sector businesses. The assessment can vary depending on the extent of funds committed by a requesting entity. The desired effect of any assessment enables an entity to consider the options of the promulgation of business regulations in Ghana.

In the context of the above, it is recognized that the present regulatory landscape is far from perfect. There are a number of factors that have necessitated the adoption of this instrument for the purpose of advancing the government's objective of easing the doing of business and promoting private sector interest in business development. There has been an unprecedented growth in the number of business regulations in recent years. For example, as at the end of 2020 there were in excess of 278 statutes, 185 legislative instruments and 250 by laws and 461 administrative notices and directives. The language of a good number of these regulations is not always clear and devoid of complexity. It is often confusing to the business community who must comply with such regulations.

Furthermore, substantial time is spent in adopting business regulations, without the consideration for factors, which enhances the ease of doing business. No central agency as far as the procedure for enactment and adoption of business-related regulations are concerned, which is vested with power or authority to review regulations to ensure that they are written in a comprehensible manner, compliant with all legalities, and are consistent with other laws. It is therefore in the public interest to enhance the business regulatory framework, and more particularly to create a governance structure through the statutory establishment of a **Business Regulatory Reform Commission** which shall be charged with the responsibility to coordinate, review and manage the

processes for issuance, of business-related regulations, and to periodically evaluate and assess existing business regulations through a rolling review exercise.

First of all, and in terms of objectives, the **Business Regulatory Reform Commission** shall facilitate the ideals and objectives of the Business Regulatory Reform programme by promoting an improved business regulatory environment in Ghana with simpler, transparent, and predictable rules and processes. It shall assume the responsibility to minimize the impact of the multitude of business regulations affecting businesses and harmonize their contents with the direct involvement of various stakeholders, including but not limited to the Office of the Attorney General and Ministry of Justice, the Law Reform Commission, and the Ministry of Trade and Industry.

Secondly, and as far as proposals of the issuance of business regulations, administrative directives and regulatory notices are concerned, it is the purpose of the present law to ensure that the **Business Regulatory Reform Commission** shall play a leading role by drawing public involvement into the consultation stage of the process through the use of the business consultation portal of the Ministry of Trade and Industry. It shall also establish a validation process to vet the relevance, convenience and impact of laws and regulations affecting businesses conducted by both private and public entities.

Third, the law contemplates the implementation of a review process of business-related regulations which shall serve as a pruning procedure for the purpose of regularizing and adapting the existing business and administrative regulations to modern developments and improve the quality of the applicable law in general. In that regard, ministries, government departments and states agencies are expected to actively engage a process of elimination, update or amendment of all unsuitable regulations and adapt the rulemaking process to policies adopted in furtherance of government's overarching objective of business promotion and industrial transformation. This exercise shall be undertaken at the back of a configuration of a system of regulatory impact assessment for the purpose of achieving optimally efficient business regulations.

Finally, it is expected that the **Business Regulatory Reform Commission** shall act as a central point for the harmonization and coordination of efforts towards the issuance, of business laws and regulations in Ghana. Provision is made to ensure that in the deployment of its powers and authority towards business rulemaking, the Commission shall guard against substituting its judgment for that of the proposing ministry, department or agency as shall be expressed in the substantive content of adopted regulations. While the **Business Regulatory Reform Commission** falls under the executive branch of government, and particularly subsumes under its mandate, the operations of the Business Regulatory Reform unit of the Ministry of Trade and Industry, it shall work closely with state agencies, departments and offices originators of business and business-related laws and regulations, and coordinate the harmonization, review and validation of their contents as part of the parliamentary procedures for the enactment of laws.

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A

BILL

ENTITLED

Business Regulatory Reform Commission Bill, 2023

A BILL for the establishment of the **Business Regulatory Reform Commission**; to provide for the implementation of business regulatory governance tools, which are the regulatory impact assessment, rolling review, tracking tool, consultation portal, and e-registry of business regulations to provide for a public consultative system in the making of business and business-related regulations, and to provide for related matters.

PART I

Establishment, Objects and Functions of the Business Regulatory Reform Commission

1. Establishment of the Business Regulatory Reform Commission

- (1) There is established by this Act the Business Regulatory Reform Commission.
- (2) The Commission shall have perpetual succession, a common seal, and may sue and be sued in its own name.
- (3) The Commission may for the discharge of its functions acquire and hold movable and immovable property and may enter into any contract or other transaction.
- (4) Where there is a hindrance to the acquisition of property, the property may be acquired by the Commission under the Lands Act, 2020 (Act 1036) and the costs shall be borne by the Commission.

2. Objects of the Commission

The objects of the Commission are to:

- (a) Provide a consultative system through the Ghana Business Regulatory Reform Portal.
- (b) Promote the use of an electronic registry of business regulations.
- (c) Oversee and coordinate the conduct of regulatory impact assessment of business regulations.
- (d) Collaborate with the Law Reform Commission to organize, coordinate, and conduct periodic rolling reviews of business regulations.
- (e) To improve Ghana's performance in the business environment through monitoring and evaluation.

3. Functions of the Commission

To achieve the objects specified in section (2), the Commission shall

- (a) Provide requirements for ministries, government departments, and agencies, as well as assemblies on the initiation of business regulations.
- (b) Review draft business regulations submitted by ministries, government departments, and agencies as well as district assemblies.
- (c) Operate the Ghana Business Regulatory Reforms Portal for public consultations on business regulations
- (d) Provide access to the business regulations e-registry.
- (e) Promote dialogue between government and the private sector on improving the business environment.
- (f) Engage public participation in the process of developing draft business regulations.
- (g) Provide training and capacity building for public institutions and the private sector on the use of the Ghana Business Regulatory Reform Portal and areas of regulatory services.
- (h) Submit recommendations and proposals on draft business regulations to the Law Reform Commission.
- (i) Conduct regulatory impact assessments of the various business regulations.
- (j) conduct and, where applicable, coordinate the review of business regulations.
- (k) Collaborate with ministries, departments, and agencies, as well as the assemblies on matters relating to the efficiency and convenience of business regulations.
- (l) Monitor, assess and generate quarterly report of ministries, departments, and agencies as well as assemblies on improving the business environment by annual rankings.
- (m) Perform any other function necessary to implement the object of the commission.
- (n) Coordinate targeted reforms in selected ministries, departments, and agencies

4. Governing body of the Commission

(1) The Governing board of the Commission is a Board consisting of

- (a) A chairperson;
- (b) The Executive Secretary;
- (c) Two representatives from Ministry of Trade and Industry not below the rank of a director;
- (d) One representative each from
 - (i) Office of the Attorney-General and Ministry of Justice not below the rank of a Principal State Attorney;
 - (ii) Ministry of Local Government not below the rank of a director;

- (iii) Law Reform Commission not below the rank of a Principal State Attorney; and
- (iv) Parliamentary Select Committee on Trade, Industry and Tourism.
- (2) Three representatives from the private sector two of whom shall be women, with expertise in business development, trade and industrialization nominated by the Minister of Trade and Industry.
- (3) The President shall, in accordance with article 70 of the Constitution, appoint members of the Board.
- (4) The Board shall formulate and ensure the implementation of policies necessary for the achievement of the objects of the Commission.
- (5) The Board shall ensure the proper and effective performance of the functions of the Commission.

5. Tenure of office of members

- (1) A member of the Board shall hold office for a period of four years and is eligible for re-appointment, but a member shall be appointed 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 Minister.
- (3) A member of the Board who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.
- (4) The President may, by a letter addressed to a member, revoke the appointment of that member.
- (5) Where the member of the Board is, for a sufficient reason, unable to act as a member, the Minister shall determine whether the inability would result in the declaration of a vacancy.
- (6) Where there is a vacancy
 - (a) under subsection (2) of section 5; or
 - (b) by reason of the death of a member
- (7) The Minister shall notify the President of the vacancy and the President shall appoint a person to fill the vacancy.

6. Meetings of the Board

- (1) The Board shall meet at least once every three months for the dispatch of business at a time and a 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, within thirty-six hours after the receipt of the request, convene an extraordinary meeting of the Board at a place and time determined by the chairperson.

- (3) The quorum at a meeting of the Board is five members of the Board.
- (4) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, a member of the board elected by the members present from among their number shall preside.
- (5) Matters before the Board shall be decided by a majority of the members present and voting and in the event of equality of votes, the person presiding shall have a casting vote.
- (6) The Board may co-opt a person to attend a meeting of the Board, but that person is not entitled to vote on a matter for decision at the meeting.
- (7) The proceedings of the Board shall not be invalidated because of a vacancy among the members 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 the meetings of the Board.

7. Disclosure of interest

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

(3) Without limiting any further cause of action that may be instituted against the member, the Board shall recover the benefit derived by a member who contravenes this section in addition to the revocation of the appointment of the member.

8. Committees of the Board

(1) The Board may constitute committees consisting of members of the Board or non-members or both, to perform a function of the Board.

(2) A committee of the Board shall be chaired by a member of the Board.

(3) The Board may assign to a committee, a function determined by the Board, but a committee composed of non-members is advisory only.

(4) The provisions of section 7 shall apply to all members of the Committee of the Board.

9. Allowances

Members of the Board and members of a committee of the Board shall be paid allowances approved by the Minister in consultation with the Minister responsible for Finance.

10. Board Directives

The board may give directives on matters of the Commission and the Commission shall comply.

PART II

Administrative and financial matters

11. Secretariat of the Commission

(1) The Commission shall have a secretariat with departments and divisions determined by the Board as necessary for the effective performance of the functions of the Commission.

(2) The Executive Secretary appointed under section 12 is the head of the secretariat.

12. Executive Secretary

(1) The Commission shall have an Executive Secretary.

(2) The President shall, in accordance with article 195 of the Constitution appoint the Executive Secretary of the Commission.

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

13. Functions of the Executive Secretary

(1) The Executive Secretary

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

(b) shall perform any other function as may be determined by the Board.

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

14. Appointment of other staff

- (1) The President may in consultation with the public services commission, appoint officers and other employees that are necessary for the proper and effective implementation of the functions of the Commission.
- (2) The President may, in writing, delegate the power of appointment in subsection (1) to the Board.
- (3) Other public officers may be transferred or seconded to the Commission or may otherwise give assistance to the Commission.

15. Engagement of Expert

The Commission may engage the services of an expert(s) for the purpose of exercising a power, duty or function under this Act.

16. Funds of the Commission

The funds for the Commission shall include:

- (1) moneys approved by Parliament.
- (2) donations and grants.
- (3) any other monies that are approved by the Minister responsible for Finance.
- (4) internally generated funds.

17. Bank account of the Commission

The moneys for the Secretariat of the Commission shall be paid into a bank account opened for that purpose with the approval of the Controller and Accountant-General.

18. Accounts and audit

- (1) The Secretariat of the Commission shall keep books, records, returns and any other documents relevant to the accounts in the form approved by the Auditor-General.
- (2) The Secretariat of the Commission shall submit the accounts of the Secretariat of the Commission to the Auditor-General for audit 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 and forward a copy of the audit report to the Minister and the Secretariat of the Commission.
- (4) The financial year of the Secretariat of the Commission is the same as the financial year of Government.

19. Internal Audit Unit

- (1) The Secretariat of the Commission 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 Commission.
- (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 Commission, 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 Commission.
- (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 Executive Secretary and the chairperson of the Commission.

20. Annual report and other reports

- (1) The Secretariat of the Commission 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 Secretariat of the Commission for the year to which the annual report relates.
- (2) The annual report shall include a copy of the audited accounts and the report of the Auditor-General.
- (3) The Minister shall, within one month after the receipt of the annual report, submit the report to Parliament with a statement that the Minister considers necessary.
- (4) The Secretariat of the Commission shall submit to the Minister any other report which the Minister may require in writing.

PART III

Compliance, Records, and Information

21. Government Institutions

- (1) Notwithstanding any other law and for the purposes of this Act, all Government Institutions required to initiate the process for the issuance of a business regulation shall comply with the provisions of this Act.
- (2) Every business regulation proposed for adoption by a Government Institution either for direct internal implementation or for onward submission to Parliament for issuance shall first be reviewed by the Commission for compliance with the provisions of Parts IV and V of this Act.

22. Register of Government Institutions

- (1) Every ministry of government shall within two months of the coming into force of this Act furnish the Commission with a list of institutions under its authority.
- (2) The Commission shall allocate to each registered Government institution a reference number for identification purposes.
- (3) The Commission shall maintain a register of Government institutions to ascertain the number and core functions of Government institutions in existence.

23. Register of Business Regulations

- (1) Every ministry of government shall within six months of the coming into force of this Act furnish the Commission with a list of business regulations under its authority.
- (2) The Commission shall allocate to each business regulation a reference number for identification purposes.
- (3) The Commission shall maintain a register of Government institutions to ascertain the number of business regulations in existence.

24. Request for information

- (1) The Commission may request a government institution to disclose whether
 - (a) it intends to make a business regulation for adoption and direct implementation, or for submission to Parliament for issuance.
 - (b) it has informed the Commission of any pending business regulations intended for adoption and direct implementation, or for issuance by Parliament; or
 - (c) it has complied with the provisions of this Act.
- (2) A report by a government institution providing information to the Commission pursuant to subsection (1) shall be made in a manner prescribed by the Commission.
- (3) The Commission may request a government institution to furnish the Commission with additional information where the Commission is of the opinion that the information provided by the Government institution is not adequate.

PART IV

Adoption of Business Regulations

25. Submission of notice of business regulation

- (1) A Government institution shall, prior to the commencement of the process for the issuance of a business regulation submit a notice of the proposed business regulation, intended for issuance with the Commission.
- (2) The notice of the issuance of the business regulation shall be submitted in a manner prescribed by the Commission together with:
 - (a) An official proposed business regulation

- (b) a citation of the authority pursuant to which the proposed business regulation is made; and
 - (c) an explanatory note which shall include the following:
 - (i) where it relates to an amendment, a concise and clear summary of existing business regulation, and the effect of such amendment
 - (ii) a policy statement explaining the broad objectives of the business regulation and the specific benefits anticipated by the proposed issuance.
 - (iii) An evaluation of whether the proposed business regulation is inconsistent or incompatible with existing regulations.
 - (iv) Statement of regulatory impact directly affecting the doing of business in the manner and form as the Commission shall prescribe.
- (3) Notwithstanding subsection (2), the statement of regulatory impact shall include:
- (a) Identification of types of businesses that would be affected.
 - (b) Compliance requirements resulting from the issuance of the proposed business regulation
 - (c) Description of all fees and/or cost impact requirements known to the proposing Government institution that a business will necessarily incur with the issuance of the proposed business regulation.
 - (d) New administrative procedures introduced by the proposed business regulation.
 - (e) The results of the regulatory impact assessment of the issuance of the proposed business regulation,
- (4) All notices of proposed business regulations submitted to the Commission shall conform to the prescribed standard of the Commission.
- (5) The official proposed business regulation for the purpose of subsection (2) shall be made by the head of the Government institution issuing that business regulation or a person duly authorized to carry out that duty.
- (6) Where the notice has been duly submitted in the manner prescribed by this section, the Commission shall assign a reference number to it.
- (7) The Commission shall, within seven (7) days of receipt of a notice made in compliance with subsection (2), file it together with the proposed business regulation on **the Register of Business Regulatory Notices** on the Ghana Business Regulatory Reforms Platform.

26. Call to Submit Notice

- (1) Where the Commission is notified of a proposed or intended issuance of a business regulation but that has not been submitted to the Commission in the manner prescribed in this Act, the Commission may write to the relevant government institution and request a copy of the proposed regulation.

- (2) The Commission shall upon receipt of the notice make a determination whether the proposed regulation is a business regulation within the meaning of this Act.
- (3) The Commission shall, in furtherance of subsection (2) make its determination known to the Government institution within a period of seven (7) days.
- (4) Where the Commission finds that the regulation is business-related, it shall call upon the Government institution to submit a notice in the manner prescribed under section 25.
- (5) The Commission shall endorse on the official copy of each proposed business regulation and notice submitted with it, the date and time of submission and shall maintain a permanent file of the official copies.
- (6) Subject to subsection 5, the Commission shall publish the proposed business regulations for public consultations within seven (7) days.

27. Petitions of Business Regulations

- (1) Except where the petition for adoption of a business regulation is restricted by statute or where the form of procedure for such a petition is otherwise prescribed by statute, any interested person may petition a government institution through the Commission to request the issuance of a business regulation.
- (2) The Commission shall receive all petitions under subsection (1) through the *Have your Say* platform on the Ghana Business Regulatory Reforms portal.
- (3) The petition shall state clearly and concisely
 - (a) the substance and nature of the business regulation, sought to be issued;
 - (b) the reason for the request; and
 - (c) a reference to the government institution to take the action requested.
- (4) Upon receipt of a petition requesting the issuance of a business regulation, the government institution shall notify the petitioner in writing of the receipt thereof and shall within 60 days of receipt of the petition communicate its decision on the merits of the petition, either denying the petition and indicating its reasons thereof or approving the petition.
- (5) The government institution under subsection 4 may grant or deny the petition in part and may grant any other relief or take any other action as it may deem to be warranted by the petition and shall notify the petitioner in writing of this action within the same timelines.
- (6) Where a government institution approves the petition, it may proceed to initiate the process of submitting notice of the proposed business regulation in the manner provided for in section 25 of this Act.

28. Register of Business Regulatory Notices

- (1) The Commission shall provide for the official compilation and publication of proposed and existing business regulations, including proposed issuance of business regulations which shall be known as the **Register of Business Regulatory Notices**.
- (2) The Register of Business Regulatory Notices shall be the official publication of all proposed and existing business regulations and shall contain:
 - (a) copies of the proposed issuance business regulations submitted to the Commission.
 - (b) copies of proposed and existing business regulations approved by the Commission.
 - (c) a reference to the legal authority, which the issuance of proposed business regulation is made.
 - (d) in the case of an amendment or repeal, the specific statute or provision which the proposed and existing business regulation is seeking to amend or repeal; and
 - (e) summary of the proposed and existing business regulation
- (3) The Commission shall establish the publication dates, and the manner and form in which the Register shall be prepared and published and ensure that it is published on the Ghana Business Regulatory Reform Portal.

29. Public Participation and Consultations

- (1) The Commission shall make available and publish on the Ghana Business Regulatory Reforms portal for access to the public and provide a link to the full text of each proposed business regulation or issuance.
- (2) For the purpose of subsection (1) and subject to section 25, every proposed business regulation shall be uploaded by the relevant government institution unto the portal within seven (7) days of submission of the notice to the Commission, inviting the general public for comments.
- (3) The general public may provide comments and opinions on a proposed business regulation.
- (4) The Commission shall:
 - (a) specify the date by which comments in writing on the Portal relating to the proposed business regulation must be received in order to be considered by the government institution before it initiates the process for the issuance of the proposed business regulation, which period shall not be less than thirty (30) days.
 - (b) State the fact that the government institution proposing the business regulation has prepared a statement of the reasons and regulatory impact for the proposed business regulation and has made available all the information upon which the business regulation is based, including a copy of the proposed business regulation.

- (c) issue a statement indicating that the final full text of the business regulation after the public consultation will be available for at least thirty (30) days prior to the date on which the government institution issues, adopts, amends, or proceeds with the process of issuance of the proposed business regulation.
- (5) A person providing comments and/or making enquiries on a proposed business regulation on the Business Consultations Platform shall, subject to all data protection requirements, provide
 - (a) his or her name, address and telephone number.
 - (b) any designated person to whom inquiries concerning the proposed subject matter of the business regulation may be directed; and
 - (c) name and address of his or her institutions where necessary.
- (6) Notwithstanding subsection (5), a person may opt to make anonymous comments or enquiries.
- (7) Where the Commission receives an inquiry regarding the proposed business regulation, the Commission shall refer the inquiry to the proposing government institution within seven (7) days for a prompt response.
- (8) The Government Institution shall also make available to the Commission upon request, the location of public records, including reports, documentation, and other materials, related to the proposed business regulation.

30. Request for hearing

- (1) An interested person or his authorized representative may request in writing, no later than twenty-one (21) days prior to the close of the written comment period, a hearing on the proposed business regulation.
- (2) The Commission shall, to the extent practicable, provide notice of the time, date, and place of the hearing by sending notice to every person who has filed a request for hearing.
- (3) The Commission may before any hearing engage the relevant stakeholders to ascertain the concerns in respect of a proposed business regulation
- (4) Where a hearing is held, both oral and written statements, arguments, or contentions, shall be permitted.
- (5) Where a hearing is impracticable due to the exigencies of any particular case, the Commission shall, consistent with section 29, afford the interested person or his or her duly authorized representative, the opportunity to present statements, arguments, or contentions in writing.

31. Procedure after comment period or public hearing

- (1) The Commission shall at the end of the period of consultation present a summary of each comment and recommendation made regarding the specific issuance of a business regulation to the government institution.
- (2) Written comments or information received by the Commission during the consultation period shall be reviewed within thirty (30) days and responded to by the government institution in the final statement of reasons.
- (3) The government institution shall aggregate all comments and provide explanations setting forth the reasons for adopting or rejecting any comments or proposed alternatives through the business consultation portal.
- (4) The government institution may consider all relevant matters presented to it by way of comments or otherwise from the public consultation before issuing a business regulation, or before forwarding the draft business regulation to undergo the parliamentary process of issuance of proposed business regulation.
- (5) Before the proposed business regulation is adopted by the government institution, it shall provide an explanation of how the proposed business regulation, or the existing business regulation has been modified or varied to accommodate objections or recommendations made thereto, or the reasons for disregarding them.
- (6) The government institution shall send a notice indicating the added information and modifications made, and on advice of the Commission state the place and business hours when the document would be available on the portal.
- (7) The final document shall be available on the portal within thirty (30) days.

32. Adoption of proposed business regulations

- (1) The Commission shall after close of the period of consultation and upon receiving responses to comments from the government institution of all notices and proposed business regulations, proceed to evaluate and assess the proposed business regulations based on the following indices:
 - (a) Necessity
 - (b) Authority
 - (c) Clarity
 - (d) Consistency
 - (e) Reference
 - (f) Non-duplication
- (2) In reviewing regulations pursuant to this section, the Commission shall restrict its review to the notice, the proposed business regulation or the amendment or repeal sought by the government institution, together with all statements and supporting

information and within the context the comments, suggestions and opinions validly received through the process of public consultation.

- (3) The Commission shall conduct a systematic review using the indices specified under subsection (1).
- (4) For the purpose of this section, the following definitions are adopted:
 - (a) “Necessity” means that the provisions of the business regulation achieves the business need for which it was issued and supports the doing of business in Ghana.
 - (b) “Authority” means the business regulation is one which is permitted or obligated by law and that law further permits or obligates the government institution to adopt, amend, or repeal a regulation
 - (c) “Clarity” means the provisions of the business regulation are written or displayed in a manner that the meaning of business regulation will be easily understood by those persons directly affected by them.
 - (d) “Consistency” means being in harmony with, and not in conflict with or contradictory to, existing statutes, international legal obligations, court decisions, or other provisions of law.
 - (e) “Reference” means the statute, court decision, or other provision of law which the government institution implements, interprets, or makes specific by adopting, amending, or repealing a regulation is clearly provided for.
 - (f) “Non-duplication” means that a regulation does not serve the same purpose as another regulation. This standard requires that a government institution proposing to amend or adopt a regulation must identify any regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication.
- (5) The Commission may within thirty (30) days after completion of public consultation to make recommendations for further review of the proposed business regulation.
- (6) A government institution may resubmit a disapproved business regulation to the Commission and in doing so, it shall identify the disapproved business regulation by date of submission to the Commission, and specify the amendments and reviews made.
- (7) Where the Commission fails to act within 30 days after close of public consultations, the business regulation shall be deemed to have been approved.

33. Acceptance of business regulations, amendments or repeals

- (1) Proposed business regulations accepted by the Commission and adopted by the government institution shall bear an endorsement by the Commission affixed to the official copy.
- (2) The Commission shall open a **Register of Adopted Business Regulations** which shall contain a statement confirming that the government institution complied with the requirements of this Act and shall state the date on which the notice was sent to the Commission and the date when the proposed business regulation was endorsed by the Commission.
- (3) The Commission shall assign a reference number to each accepted regulatory document and publish the document on the **Register of Adopted Business Regulations**.
- (4) The government institution which is seeking to proceed with a business regulation by way of issuance shall use the reference number given by the Commission.
- (5) The reference number shall be sufficient information for a member of the public to identify and track a regulatory action both with the Commission and the government institution seeking to adopt the business regulation or to have it issued.

34. Withdrawal of Notice

Where, after publication of a notice of a proposed business regulation, in accordance with Section 25 of this Act, but before the process of consultation is completed, the government institution decides not to proceed with the proposed business regulation, it shall serve a notice of its decision to the Commission for publication on the portal.

35. Electronic Communication

Any communication under this Act implies the use of electronic communication in the manner provided for under the Electronic Communications Act, 2008 (Act 772).

36. Use of the Ghana Business Regulatory Reform Portal

- (1) The Ghana Business Regulatory Reform Portal shall be the official compilation website for all valid and relevant business-related regulations in Ghana.
- (2) The Commission shall regularly update the portal with business regulations issued.
- (3) A government institution may not issue and/or implement any business regulation unless it is duly published on the Ghana Business Regulatory Reform Portal.

37. Review of existing business regulations

- (1) *The Commission shall, at the request of any standing, select, or joint committee of Parliament or a ministry, government, or agency, metropolitan, municipal and district assemblies initiate a review of any business regulation, group of business regulations, or series of business regulations that the committee, ministry,*

department, agency, or assembly believes does not meet the standards set forth in this Act.

- (2) The Commission shall notify interested persons and publish a notice on the business consultation portal, the review that has been requested, the information contained in the request, and shall invite written comments from interested persons.*
- (3) The Commission shall complete a review made pursuant to this section within 90 calendar days of the receipt of the written request.*
- (4) During the period of any review made pursuant to this section, all information available to the Commission relating to the review shall be made available to the public.*
- (5) If the Commission determines that a business regulation does not meet the standards set forth in this Act, it shall request the government institution responsible to show cause why the business regulation should not be repealed, reviewed or amended.*
- (6) In issuing the order to show cause, the Commission shall specify in writing the reasons for its determination that the business regulation does not meet the standards in this Act. The reasons for its determination shall be made available to the public through the business consultation portal.*
- (7) In the case of a business regulation for which no or inadequate information relating to its necessity can be furnished by the government institution, the order to show cause shall specify the information which the Commission requires to make its determination.*
- (8) No later than 30 days following receipt of an order to show cause why a business regulation should not be repealed, reviewed, or amended, the government institution shall provide a response in writing to the Commission.*
- (9) The Commission shall review and consider all information submitted by the government institution in a timely response to the order to show cause and determine whether the business regulation meets the standards under this Act.*
- (10) In making this determination, the Commission shall also review written comments submitted to it by the public.*
- (11) The Commission shall file its report to the body or institution requesting the review.*

Miscellaneous Provisions

38. Regulations

The Minister may within twelve months after the coming into force on this Act and by the advice of the board, by Legislative Instrument make regulations

- 1) To prescribe the content of the Ghana Business Regulatory Reform Portal
- 2) To prescribe the procedure to be adopted for a regulatory impact assessment.
- 3) To prescribe the manner for ranking and assessing government institutions.
- 4) To prescribe the procedure for the withdrawal of notice of business regulation.
- 5) To prescribe the manner of register of business regulatory notices.
- 6) To prescribe the guidelines for the submission of notices under section 25 of this Act
- 7) To prescribe the acceptable standards for business regulations.

39. Offences by body of persons

- 1) Where an offence is committed by a Government Institution under this Act, the Chief Director or the spending officer of that institution shall be liable to pay a penalty not exceeding five thousand penalty units.
- 2) A person shall not be deemed to be liable for an offense committed under subsection (1), if that person proves that the act in respect of which that person is charged was committed by some other person without the consent or connivance of that person and that person exercised all due diligence to prevent the commission of the offense that that person ought to have exercised having regard to all the circumstances.

40. Interpretation

In this Act, unless the context otherwise requires

“**Assembly**” means the various Metropolitan, Municipal and District Assemblies within the Republic of Ghana.

“**Business regulation**” means a business-related regulation in the nature of an enactment, amendment or repeal of Act of Parliament, Legislative Instrument, bylaws, administrative directives, regulatory notices, forms and procedures, fixing of fees, costs, rates, tariffs and guidelines relating to the doing of business adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure. `

“**Commission**” means Business Regulatory Reform Commission

“**Cost impact**” means the amount of reasonable range of direct costs, or a description of the type and extent of direct costs, that a business necessarily incurs in reasonable compliance with the proposed action.

“**Cost or savings**” means additional costs or savings, both direct and indirect, that a public agency necessarily incurs in reasonable compliance with regulations.

“**Day**” means Monday - Friday and when a day falls on a weekend or a holiday, that day shall be considered at the next business day.

“**Doing of business**” means the regulatory ease of conducting and/or carrying out business operations in Ghana.

“**Ghana Business Regulatory Reform Portal**” means the Public Consultations Portal and the online e-registry

“**Government Institutions**” means a ministry, government department, state agencies and any public authority referred to in **Schedule 1** that is vested with authority to make or initiate the process of making a business-related regulation.

“**Issuance**” includes adoption, enactment, amendment, or repeal of a business regulation

“**Minister**” means Minister responsible for Trade and Industry.

“**Online electronic system (E-Registry)**” means the platform which provides open and free access to business-related Laws, Regulations, Administrative Notices and Directives, forms, procedures, and fees that are in force in Ghana.

“**Offences**” mean a disregard, refusal, neglect, failure and adherence to the provisions of this Act.

“**Public Consultations Portal**” means the platform where the government and its stakeholders regularly engage in policy and regulatory reforms, as well as promote dialogue and feedback to enhance the quality of government programmes and service delivery

“**Register of Business Regulatory Notices**” has the meaning assigned to it under section 28 of this Act.

“**Regulation**” means business or business-related regulation.

“**Rolling Regulatory Review**” means an exercise designed to systematically carry out the reviews of regulations to eliminate, revise and simplify business regulations and reduce the cost of compliance.

41. Transitional Provisions

- 1) The Commission shall be established within two years of the coming into force of this Act.
- 2) After the commencement of this Act, The President shall, on advice of the Board and in consultation with the Public Services Commission within a period the President shall determine transfer personnel seconded to or employed to the Commission.
- 3) The President may delegate the power of appointment under subsection (2) in accordance with clause (2) of article 195 of the Constitution.
- 4) Before the establishment of the Commission in accordance with this Act, the BRR unit of the Ministry of Trade shall perform the functions of the Commission before or upon the coming into force of the Act.