
ON POINT

Ghana Investment Promotion Centre (GIPC) Act, 2013 (Act 865)

28 January 2014

In brief

In this edition of On Point, we focus our discussion on the provisions of the new Ghana Investment Promotion Centre Act, 2013 (Act 865) which was gazetted on 30 October 2013.

The new Act has a broader coverage in terms of entities required to register compared to the repealed GIPC Act 478. That is, under the new Act 865, all entities regardless of their capital, ownership structure or sector of operation are required to register with the GIPC.

Further, Act 865 extends the activities that are reserved solely for Ghanaians and increases the minimum capital requirements for entities with foreign participation. The increase in foreign capital requirement is reflected in a corresponding increase in the Automatic Expatriate Quotas available for entities with foreign participation.

In detail

<i>New Act Provisions (Act 865)</i>	<i>Old Act Provisions (Act 478)</i>	<i>Comments</i>
Scope of application of the Act Section 1 provides that the new Act applies to enterprises in Ghana.	In Section 17 of the old Act ((Ghana Investment Promotion Centre Act, 1994 (Act 478)), mining and petroleum enterprises were not covered.	<p>It is expected that entities in all sectors will have to comply with the new GIPC Act.</p> <p>The main rational behind the increased coverage of the GIPC Act is to have a one-stop-shop for all investments into the country with the aim of ensuring:</p> <ul style="list-style-type: none">• increased efficiency in the coordination of investments;

		<ul style="list-style-type: none"> improved investment promotion strategies; and the comprehensive dissemination of information on investments in Ghana.
<p>Registration of enterprises with the GIPC</p> <p>(a) Section 24 of the Act states that enterprise in which foreign participation is permitted shall after incorporation or registration and before commencement of operations be registered with the GIPC.</p> <p>(b) Section 25 of the Act states that an enterprise which is wholly owned by a Ghanaian may after its incorporation or registration be registered with the GIPC</p>	<p>There is similar provision in Section 22 of Act 478 , however it is not explicit that registration should be completed before commencement of operations in Ghana</p> <p>There is no such provision in Act 478 as registration of enterprises with the GIPC is limited to enterprises in which there is foreign participation.</p>	<p>The Act makes it clear that an enterprise in which there is foreign participation cannot start operations after registration with the Registration Generals Department unless it is registered with the GIPC.</p> <p>Registration of Ghanaian enterprises with the GIPC will allow these enterprises to take advantage of the benefits and incentives being provided by the GIPC.</p>
<p>Activities reserved for Ghanaians and Ghanaian owned enterprises</p> <p>Section 27 of the Act lists activities reserved for Ghanaians and Ghanaian owned enterprises has been extended to include the following:</p> <ul style="list-style-type: none"> printing of recharge scratch cards for the use of subscribers of telecommunication services; production of exercise books and other basic stationery; retail of finished pharmaceutical products; production, supply and retail of sachet water. <p>Further, the minimum number of cars required by foreigners wanting to engage in operation of taxi or car hire is twenty-five (25).</p>	<p>Section 18 of Act 478 outlines activities reserved for Ghanaians and these have been maintained in the Bill with extended scope.</p>	<p>This is a measure aimed at continuing to empower Ghanaian-owned enterprises.</p>

<p>Enterprises eligible for foreign participation and minimum foreign capital requirement</p> <p>According to Section 28 of the Act a person who is not a citizen may participate in an enterprise other than an enterprise reserved for Ghanaians and Ghanaian owned Enterprises. required is detailed as follows:</p> <p>a) <i>Joint enterprise with a Ghanaian partner</i></p> <p>The Non-Ghanaian shall invest foreign capital of not less than two hundred thousand United States Dollars (US\$200,000) in cash or capital goods relevant to the investment or a combination of both by way of equity participation and the partner who is a citizen shall not have less than thirty percent (10%) equity participation in the joint enterprise.</p> <p>b) <i>Wholly owned by a Non – Ghanaian</i></p> <p>Where the enterprise is wholly owned a Non-Ghanaian foreign capital investment shall not be less than five hundred thousand United States Dollars (US\$500,000) in cash or capital goods relevant to the investment or a combination of both by way of equity capital in the enterprise.</p> <p>c) <i>Trading Enterprises</i></p> <p>A person who is not a citizen but who engages in the purchase and sale of goods shall invest in that enterprise, not less than one million United States Dollars (US\$1,000,000) in cash or goods relevant to the investment or combination of both by way of equity capital.</p> <p>Further, a trading enterprise is required to employ at least twenty (20) skilled Ghanaians.</p>	<p>The Non-Ghanaian shall invest foreign capital of ten thousand United States Dollars (US\$10,000) or its equivalent worth in capital goods by way of equity participation.</p> <p>Where the enterprise is wholly owned by a non-Ghanaian there shall be an investment of foreign capital of not less than fifty thousand United States Dollars (US\$50,000) or its equivalent worth in capital goods by way of equity capital.</p> <p>A trading entity either wholly or partly owned by a Non-Ghanaian, there shall be foreign capital investment of not less than three hundred thousand United States Dollars (US\$300,000) in cash or capital goods relevant to the investment or a combination of both by way of equity capital in the enterprise.</p>	<p>The Act seeks to increase the minimum foreign capital investment by Non-Ghanaians in a bid to place more emphasis on the need for strategic investments by foreigners and not business activities which could be easily undertaken by Ghanaians.</p> <p>Equity participation by Ghanaians is aimed at promoting and maintaining local content in enterprises owned by Non-Ghanaians.</p>
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Trading is defined to include purchasing and selling of imported goods and services.		
<p>Automatic Expatriate Quotas (AEQ)</p> <p>According to Section 35 of the Act, the following AEQ are available:</p> <ul style="list-style-type: none"> • 1 AEQ - where the minimum paid up capital is between US\$50,000 to US\$250,000; • 2 AEQ – where the minimum paid up capital is between US\$250,000 to US\$500,000; • 3 AEQ – where the minimum paid up capital is US\$500,000 between US\$700,000; • 4 AEQ where the minimum paid up capital is above US\$700,000. <p>An enterprise that intends to employ an expatriate shall apply to GIPC for facilitation of the employment and the application shall specify the number of expatriates to be employed.</p>	<p>It is provided in Section 30 of Act 478 that:</p> <ul style="list-style-type: none"> • 1 AEQ – where the minimum paid up capital is between US\$10,000 to US\$100,000; • 2 AEQ - where the minimum paid up capital is between US\$100,000 -US\$500,000; • 4 AEQ – where the minimum paid up capital is above US\$500,000. 	<p>Under the Act AEQs are tied to higher and expanded foreign capital brackets and more monitoring and control of employment of expatriates should be expected .</p>

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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