

Ghana's Corporate Commercial 2024 Outlook

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The year 2023 saw policies, legislation and judicial decisions that affected businesses and individuals. This report provides insight into some of these developments in 2023 and the outlook for 2024 for some sectors or areas.

2023 Under Review – Policy and Legislative Developments

Manufacturing

Notable developments in 2023 include the inauguration of the Ghana Automotive Development Centre (“GADC”) by the Ministry of Trade and Industry and the launch of the Ghana Automotive Code. GADC is the secretariat that provides institutional support for and has direct oversight of the automotive industry for the implementation of the Ghana Automotive Development Policy, 2019. The Ghana Automotive Code is a collection of standards compiled by the Ghana Standards Authority for the assembly of vehicles in the country and the importation of new and used vehicles.

The Ghana Standards Authority (Manufacture of Cement) Regulations, 2023 (LI 2480) (“Manufacture of Cement Regulations”) became law in December 2023 to regulate the cement industry. The law applies to manufacture, production of raw materials for cement as well as the distribution and sale of cement in Ghana. The Manufacture of Cement Regulations has established the Cement Manufacturing Development Committee (“CMDC”) as the committee responsible for overseeing the development and growth of local manufacture of cement as well as coordinating and monitoring activities in the manufacture of cement in Ghana. The CMDC must ensure that cement manufactured in Ghana conforms to standards developed by the Ghana Standards Authority. Furthermore, the Manufacture of Cement Regulations provides the registration and licensing requirements for manufacturers of cement in Ghana.

Media

The National Media Commission (“NMC”) launched the operations of a Broadcast Content Complaints Centre with a toll-free complaints hotline for the public to report instances of offensive media content. The NMC collaborated with the National Communications Authority (“NCA”), Ghana’s communications services regulator for this initiative. The initiative appears to be an attempt to regulate media content by the NMC. Subsequently, the NMC’s attempt to rely on the NCA’s power to revoke or suspend licences and/or authorisations for broadcasting media has faced opposition, given that the NMC has limited enforcement powers.

Healthcare

The Ministry of Health launched a National Medical Oxygen Policy to establish a framework for a national strategy to improve the production, distribution, access, storage and use of medical oxygen in the country. The COVID-19 pandemic exposed the inadequacies of the production and supply of medical oxygen across the continuum of care in the country. The policy when implemented will put in measures to meet the high demand for oxygen and reduce related morbidity and mortality.

Telecommunications

The regulator indicated in November 2023 that 5G spectrum was available and policy decisions needed to be made on its accessibility. Earlier in August 2023, the Ministry of Communications and Digitalisation announced that Ghana would not auction the 5G spectrum but would establish a neutral shared infrastructure company to deliver nationwide 4G and 5G services. The reason was to foster competition and prevent dominance by a single entity which had the capability of acquiring the spectrum.

Travel

The governments of Ghana and South Africa entered into an agreement for a visa waiver scheme for business and tourism purposes for ordinary passport holders in November 2023. Under the agreement, travellers between the two countries would be permitted to stay for a cumulative period of 90 days in a calendar year without recourse to work. In January 2024, the government of Ghana announced its commitment to implement a policy of visa-free travel to Ghana for all Africans to promote the free movement of persons.



Logistics

The Ministry of Communications and Digitalisation directed all courier and delivery service operators to register with the Postal and Courier Services Regulatory Commission (“PCSRC”) by 24 January 2024. The directive also applies to e-commerce entities that provide delivery of goods. The directive is to ensure compliance with section 10 of the Postal and Courier Services Regulatory Services Commission Act, 2003 (Act 649) which requires an operator of courier services to obtain a licence from the PCSRC. With the registration, the operators will obtain a PCSRC e-certificate and AfCFTA registration. The Government has a focus on the use of digital platforms for cross-border and internal trade and the importance of having the necessary oversight of courier and delivery service operators.

Conformity Assessment

Ghana now has dedicated legislation. The Ghana Accreditation Service Act, 2023 (Act 1102) (“Accreditation Service Act”) provides a regulatory framework for conformity assessment in the country. The law establishes the Ghana Accreditation Service as the institution with direct oversight of accrediting conformity assessment bodies and monitoring conformity assessment activities in Ghana.

The Accreditation Service Act applies to conformity assessment bodies established in Ghana such as calibration laboratories, testing laboratories, validation bodies, verification bodies, certification bodies, inspection bodies and rating agencies. A conformity assessment body must have accreditation and a licence from the Ghana Accreditation Service to use an accreditation symbol. Where a conformity assessment body is accredited by a foreign accreditation body, the Ghana Accreditation Service must approve the accreditation system used by the foreign accreditation body. The Accreditation Service Act has repealed the provisions of the Ghana Standards Authority Act, 2022 (Act 1078) which gave the Ghana Standards Authority the power to establish and administer the procedure and criteria for registration of conformity assessment activities and keep a register of all conformity assessment bodies operating in Ghana.

Cultivation of Narcotics

Parliament passed the Narcotics Control Commission (Amendment) Act, 2023 (Act 1100) under a certificate of urgency in July 2023. The law re-enacts section 43 of the Narcotics Control Commission Act, 2020 (Act 1019) after the Supreme Court's decision to strike it down because of the unconstitutional procedure for introducing the section in the law in the case of *Ezuame Mannan v Attorney-General and Speaker of Parliament* [unreported; Writ No. J1/11/2021; dated 27 July 2022]. The provision empowers the Minister of Interior, on the recommendation of the Narcotics Control Commission, to grant licences for the cultivation of cannabis which has not more than 0.3% tetrahydrocannabinol (THC) content, the primary psychoactive cannabinoid found in the cannabis plant, on a dry weight basis. This licence is limited to the cultivation of the plant for its seed or fibre for industrial or medicinal purposes. The cultivation and use of cannabis for recreational purposes remains prohibited, even for licence holders. In December 2023, the Narcotics Control Commission (Cultivation and Regulation of Cannabis) Regulations, 2023 (LI 2475) became law. It prohibits the cultivation of cannabis which has not more than 0.3% THC content on a dry weight basis without a licence. The regulations also provide the procedures and requirements for the licensing, exportation and importation of the cannabis. The law applies to a person who wishes to engage in a business related to the permitted type of cannabis.

Intellectual Property

The Copyright (Amendment) Regulations, 2023 (LI 2469) (“Copyright Regulations”) became law in July 2023 and extensively amended the Copyright Regulations, 2010 (LI 1962). The Copyright Regulations has replaced references to the defunct Internal Revenue Service and Customs Excise and Preventive Service with the Domestic Tax Revenue Division of the Ghana Revenue Authority and Ghana Revenue Authority respectively. Furthermore, the Copyright Regulations expands the information requirements for a copyright application and provides separate application forms for the different categories of protected works. The Copyright Regulations also expands on the types of devices that are subject to the special levy on devices capable of reproducing copyright works and reduces the rate of the levy. The levy expressly covers devices that help record, exhibit and/or produce audio-visual information such as external hard drives, decoders, smart televisions, digital cameras, tablets, personal computers and smartphones. However, tablets imported or assembled in Ghana for supply to educational institutions are now excluded from the levy. The Copyright Regulations has removed the fee on reprographic reproduction and introduced a fee on reproduction of literary works. The Copyright Regulations has also established the Cultural and Development Committee with functions that extend to the management of the special levy on devices capable of reproducing copyright works. Finally, the copyright monitoring team established under the Copyright Act, 2005 (Act 690) is placed under the supervision of the Copyright Office.



2024 Outlook and Projections

With many regulatory and policy reforms in the past year and the focus on digitalisation, it is expected that these developments will significantly improve the ease of doing business. The Government has acknowledged the need to strengthen its business-enabling environment to attract foreign direct investment. Since 2024 is an election year, public expenditure will likely increase due to potential Government expenditure on the election campaign and uncompleted projects.

Our sector specific outlook and projections are as follows:

Foreign Direct Investment

The Government intends to amend the Ghana Investment Promotion Centre Act, 2013 (Act 865) (“GIPC Act”) to make the country more competitive and to align with international best practices. The Government intends to attract more foreign direct investments by leveraging existing relationships and building new strategic relationships. The Ghana Investment Promotion Centre (“Centre”) will offer sector-specific incentives and ensure an enabling regulatory environment, particularly in agriculture, manufacturing, tourism, financial inclusion and health. When the Ghana Investment Promotion Centre (Amendment) Bill, 2023 becomes law in its current form, it will convert the Centre to the Ghana Investment Promotion Authority. It will also repeal section 27 of the GIPC Act which reserved certain activities for Ghanaians and Ghanaian enterprises. In addition, the minimum capital requirements non-citizens are currently required to meet to invest in non-trading enterprises in Ghana will be removed.

International Trade

The Government amended the Customs Act, 2015 (Act 891) to adopt and implement the 2022 Economic Community of West African States Common External Tariff popularly known as the “Harmonised Code”. The amendment adds 431 tariff lines to the Custom Tariff and aligns the Value Added Tax and Excise Duty rates with the respective lines. The Customs Amendment Act, 2023 (Act 1106) also provides an import duty exemption on raw materials not available in Ghana for the manufacture of sanitary towels. The amendment became effective in December 2023.

The Government through the Ministry of Trade and Industry laid the Export and Import (Restrictions on Importation of Selected Strategic Products) Regulations, 2023 before Parliament in November 2023. The proposed regulations seek to establish a special import management regime for the commercial importation of certain goods, including rice, ceramic tiles, mineral water, motor cars and clothing. With the proposed law, the Government intends to streamline and rationalise the import bill of Ghana as well as to provide measures to conserve foreign exchange, safeguard critical imports and contribute to sustainable consumption. The proposed law would require importers of these selected strategic products to obtain an import permit from the Ministry of Trade and Industry.

There was strong opposition from various stakeholder groups and in December 2023, the Government suspended the laying of the regulations before Parliament. The Ministry of Trade and Industry has indicated that the aim of this regulation is to protect local manufacturers from competition from subsidised imported products and create a market opportunity to support their growth and sustainability. In February 2024, the Ministry of Trade and Industry announced the plan of the Government to lay the proposed regulations before Parliament in the future.

Increase in National Daily Minimum Wage

With effect from 1 January 2024, there has been an upward adjustment of the National Daily Minimum Wage from GHS 14.88 to GHS 18.15 following negotiations by the National Tripartite Committee. Additionally, after persistent demands for pay increase, the Minister of Finance in his presentation on the budget statement for 2024 announced that the minimum wage for public sector workers who earn the base pay on the Single Spine Salary Structure will have their monthly salaries increased by 23% from January to June and readjusted to 25% from July to December.

Review of Labour Act, 2003 (Act 651)

The Ministry of Employment and Labour Relations is likely to continue the consultative processes for the review of the Labour Act. It is expected that the stakeholders' meeting of industry players will be held soon. After two decades of the Labour Act being in force, stakeholders have called for its review to conform with international best practices and the new work climate especially following the COVID-19 pandemic.

Proposed amendments to the Labour Act include the regulation of agency workers, an extension of maternity leave and an introduction of paternity leave, compassionate leave, employment of persons with disabilities and child labour practices. It is hoped that a new Labour Act would be passed before the end of the year to address its gaps and adopt new standards that fit emerging trends in the international space.

A bill to amend the Labour Act to extend maternity leave and introduce paternity leave was laid before Parliament by a private Member of Parliament in October 2023. The Labour Amendment Bill, 2023 proposes to extend the period of maternity leave from 3 months to 4 months with an additional 14 days in the case of caesarean, stillbirths or multiple deliveries.

The bill also proposes to introduce paid paternity leave for a minimum of 7 days and a maximum of 4 weeks with the option of 2 additional weeks for caesarean, stillbirths or multiple deliveries. We will be monitoring developments to see if this bill will be passed in 2024 or if the recommendations in the bill will be adopted in the review of the Labour Act that is ongoing currently.

Intellectual Property

The Government recognises that innovation is important in a knowledge-based economy. Consequently, the country needs to modernise and strengthen its intellectual property system for industry and businesses as well as have a modern intellectual property office to meet the evolving needs of clients in that space. The Government has developed and sent the Ghana Industrial Property Office Bill, 2023 to Parliament. The bill when it becomes law will establish the Ghana Industrial Property Office to protect and promote intellectual property rights in the country and have oversight of industrial property rights such as patents, trademarks, industrial designs, geographical indications and plant varieties in Ghana.



Enforcement of Licensing of Private Schools

The National Schools Inspectorate Authority (“NaSIA”) announced in October 2023 that it would begin to enforce penalties for non-compliance with licensing requirements of pre-tertiary private schools under the Education Regulatory Bodies Act, 2020 (Act 1023) (“ERB Act”) from January 2024. NaSIA explained that the grace period for operators of these schools to be licensed was over. The operators who have not acquired a licence to operate legally would face measures including legal action or closure of the school. Under the ERB Act, a pre-tertiary school must register with NaSIA within 6 months after the coming into force of the ERB Act. Schools established after the ERB Act must register with NaSIA within 6 months after the establishment of the school. NaSIA is mandated to inspect schools and enforce the highest quality standards and guidelines for quality education in private pre-tertiary education institutions.

Non-Profit Organisations Bill

A bill to regulate the licensing regime and operation of non-profit organisations (“NPOs”) is currently being drafted. This bill will consolidate legislation related to the non-profit sector. Previously, these rules were contained in the National Non-Profit Organisation Policy and the Directives for the Management of Non-Profit Organisations Operations in Ghana launched in 2020 by the Ministry of Gender, Children and Social Protection. The bill proposes to set up a Non-Profit Organisation Secretariat (“NPO Secretariat”) as the central authority responsible for the sector. The NPO Secretariat will be responsible for the registration, monitoring, evaluation and administration of non-profit organisations. The bill will also provide the nature and privileges of NPOs, conditions for the grant of benefits and tax waivers. We expect the bill to be laid before Parliament and passed into law in 2024.

Anti-LGBTQ+ Bill

The Human Sexual Rights and Family Values Act, 2024 (Anti-LGBTQ Act) passed by parliament on 28 February, 2024, which is yet to receive presidential assent to enter into force, has garnered widespread public attention and debate with growing concerns that it could negatively impact the economy through loss of foreign aid, much needed for the Government’s economic recovery programme. It is not clear whether the President will assent to it before the elections in December this year.

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