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REPUBLIC OF THE GAMBIA

**GAMBIA INFORMATION AND
COMMUNICATION TECHNOLOGY
AGENCY ACT, 2019**

**GAMBIA INFORMATION AND COMMUNICATION
TECHNOLOGY AGENCY ACT, 2019**

ARRANGEMENT OF SECTIONS

Section

PART I – PRELIMINARY

1. Short title and commencement
2. Interpretation

**PART II - ESTABLISHMENT, OBJECTS, POWERS AND FUNCTIONS OF THE
GAMBIA INFORMATION AND COMMUNICATION TECHNOLOGY AGENCY**

3. Establishment of The Gambia Information and Communication Technology Agency
4. Objects of the Agency
5. Powers of the Agency
6. Functions of the Agency
7. Supervision of The Agency
8. Board of the Agency
9. Qualifications of Board Members
10. Co-Opted Board Members
11. Terms of Office for Board Members
12. Removal from Office of Board Members
13. Functions of the Board
14. Meetings of the Board
15. Secretary of the Board
16. Disclosure of interest by Board Members
17. Transaction of business without a meeting of the Board
18. Allowance to Members

PART III- MANAGEMENT AND ADMINISTRATION

19. Secretariat of The Agency
20. Director general of the Agency
21. Other staff of the Agency
22. Disclosure of pecuniary interest by employees

PART IV – FINANCIAL PROVISIONS

23. Funds of the Agency
24. Expenses of the Agency
25. Estimates, accounts and audit

26. Annual Report

PART VI- MISCELLANEOUS

27. Regulations

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Gambia Information and Communication Agency Act, 2019




THE GAMBIA

No. 03 OF 2019

Presented to by The President,
this 29 day of October, 2019




Adama Barrow.
President

**GAMBIA INFORMATION AND COMMUNICATION
TECHNOLOGY AGENCY ACT, 2019**

AN ACT to provide for the establishment of The Gambia Information and Communication Technology Agency and to provide for its objects, functions, composition, management, finances and for connected matters.

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ENACTED by the President and the National Assembly.

PART I – PRELIMINARY

1. Short title and commencement

This Act may be cited as The Gambia Information and Communication Technology Agency Act, 2019 and shall come into force on such date as the Minister may designate by Order in the gazette.

2. Interpretation

For the purpose of this Act, unless the context otherwise requires–

“**Agency**” means The Gambia Information and Communication Technology Agency;

“**Board**” means the Board of The Gambia Information and Communication Technology Agency;

“**Chairperson**” means the presiding officer of the board of the Agency;

“**common seal**” means a rubber stamp carrying the words ‘Common Seal’ and the name of the Agency;

“**computer data**” means any representation of facts, information or concepts in a form suitable for processing in a computer system, including a program suitable to cause a computer system to perform a function;

“**computer system**” means any device or a group of interconnected or related devices, one or more of which, pursuant to a program, performs automatic processing of data;

“digital economy” means an economy that focuses and is based on digital and computing technologies and covers all business, economic, social, cultural etc. activities that are supported by the web and other digital communication technologies;

“Director General” means the Director General of The Gambia Information and Communication Technology Agency;

“e-government” means the application of Information and Communication Technologies to government systems, functions and procedures with the purpose of increasing efficiency, transparency and citizen participation;

“electronic seal” means a piece of data attached to an electronic document or other data, which ensures data origin and integrity;

“financial year” means the period from 1st January to 31st December;

“government” means government as provided by the constitution;

“government service” is synonymous to the public service;

“ICT” means Information, Communication and Technology;

“intercept” in relation to a function of a computer, includes listening to, or recording a function of a computer, or acquiring the substance, its meaning or purport of that function;

“infrastructure” means a set of information technology components that are the foundation of an information technology service, ranging from physical components, to various software and network components;

“local content” means locally generated, owned and adapted information, knowledge and experience that is relevant to the community's situation;

“Local Information Technology Business” means a business registered in The Gambia delivering Information Technology goods and services with at least 70% of its shares owned by Gambian nationals;

“Minister” means Minister responsible for Information and Communication Technologies;

"Ministry" means the Ministry responsible for Information and Communication Technologies;

"Public Service" means the public service provided by the constitution; and

"service provider" means: any public or private entity that provides to users of its service the ability to communicate by means of a computer system, and any other entity that processes or stores computer data on behalf of such communication service or users of such service.

PART II - ESTABLISHMENT, OBJECTS, POWERS AND FUNCTIONS OF THE GAMBIA INFORMATION AND COMMUNICATION TECHNOLOGY AGENCY

3. Establishment of The Gambia Information and Communication Technology Agency.

(1) There is established by this Act, The Gambia Information and Communication Technology Agency.

(2) The Agency is a body corporate with perpetual successions and a common seal and may—

- (a) sue and be sued in its corporate name;
- (b) enter into contracts and acquire, hold and dispose of property; and
- (c) so far as possible for a body corporate, exercise the rights, powers and privileges and incur the liabilities and obligations of a natural person of full age and capacity.

(3) The application of the common seal of the Agency shall be authenticated by the Chairperson or Director General of the Agency.

(4) A document bearing the imprint of the common seal or an electronic seal of the Agency is deemed to be properly sealed, unless the contrary is proved.

4. Objects of the Agency

The objects of the Agency shall be—

- (a) to encourage the optimum use of Information and Communication Technologies, the introduction of new technologies and the investment in infrastructure and services;
- (b) to promote the efficiency and international competitiveness of The Gambia in the Information and Communication Technology Sector;
- (c) to further the advancement of technology, research and development relating to Information Technology through modern and effective infrastructure taking into account the convergence of Information Technology, media, telecommunication and consumer electronics;
- (d) to develop and provide guidance in the implementation of the e-government Plan for a connected government through improved efficiency and effectiveness of government service delivery;
- (e) to accelerate The Gambia's transition into a sustainable e-government environment and ensure the swift realization of government's objective to make the Information and Communication Technology sector a key super bedrock of the economy;
- (f) to empower people, businesses and the public sector in their active participation and utilization of various government services;
- (g) to provide high quality information and communication technology services to government through the promotion of standardization in the planning, acquisition, implementation, delivery, support and maintenance of information technology equipment and services in governance process and in government;
- (h) to ensure uniformity in quality, adequacy and reliability of government information technology usage for the citizens, people and businesses throughout The Gambia;
- (i) to promote cooperation, coordination and rationalization among users and providers of information technology at national and local level so as to avoid duplication of efforts and ensure optimal utilization of scarce resources without limiting the creating and growth of digital economy;

- (j) to further the conduct, promotion and advancement of research relating to Information and communications technologies for a cost effective and sustainable government service delivery;
- (k) to promote and encourage local content and application development;
- (l) to ensure the maximum participation of local Information Technology Businesses in the provision of information technology goods and services;
- (m) to facilitate and encourage innovation and entrepreneurship in Information Technology for transformation and digitization of business processes for enhanced service delivery both in the public and private sectors; and
- (n) to facilitate the realization of a digital economy;

5. Powers of The Agency

The Agency shall have the following powers—

- (a) commission expert evaluations, conduct studies, collect data related to the e-government service delivery;
- (b) authorize any person to conduct such technical tests or evaluations relating to Information Technology as it deems fit;
- (c) to issue guidelines, and do such acts and things, as are incidental or conducive to the attainment of its objectives and the discharge of its functions;
- (d) to coordinate and ensure proper cyber security measures within government;
- (e) to conduct or cause to conduct regular e-Readiness surveys to ascertain the effectiveness of the e-government Plan and the status of the utilization of information technology in government service delivery;
- (f) to establish a repository of effective and workable standards in relation to information technology utilization for government service delivery channels, and for the registration and classification of

- documentation related to locally developed and imported information technology solutions in government service delivery directly or indirectly;
- (g) to monitor and assess all Information Technology related projects of the government including Ministries, Departments and Agencies for compliance with the approved e-Government Plan;
 - (h) to establish a mechanism for collaboration and promotion of partnerships between various categories of users of government service within the information technology sector;
 - (i) to plan, coordinate, promote and cause the implementation of general education and awareness in relation to information and communication technologies in The Gambia in consultation with the Ministries responsible for Education and their agencies;
 - (j) to ensure and coordinate the implementation of Information Technology related projects of the government;
 - (k) no Ministry, Department or Agency shall implement any Information Technology related project without the approval of the Agency;
 - (l) to stop or cause to stop any Information Technology related project within government that it proves to be against provisions of this Act or the public good;
 - (m) to collaborate with corporate bodies, licensed network and service providers and or relevant institutions through partnerships or beneficial arrangements for the delivery of related goods and services for the facilitation and enhancement of government service delivery and or for strengthening the Agency; and
 - (n) to charge fees for the services provided by the Agency.

6. Functions of the Agency

The Agency shall perform the following functions—

- (a) take leadership in the application of information technology by rationalizing and streamlining the management of information technology functions of The Gambia government;
- (b) provide first level technical support and advice for critical government infrastructure and systems and e-government Plan including managing the utilization of the resources and infrastructure for centralized data centre facilities for large systems through the provision of specialized technical skills;
- (c) identify and advise government on all matters of transformations and changes for information technology development, utilization, usability, accessibility and deployment including networking, systems development, information technology security, training and support;
- (d) cause a review of the government's e-government Plan;
- (e) prepare and propose an e-government plan including e-readiness strategies;
- (f) advise the Minister on all matters relating to information and communication technologies and on matters relating to the Agency generally;
- (g) advise government on matters related to Information and Communication Technologies;
- (h) promote and facilitate capacity building and entrepreneurship in the Information Technology industry for maximum job creation;
- (i) ensure that at least forty percent of each Information Technology related project is delivered by local Information Technology businesses;
- (j) enforce standards for information technology hardware and software equipment procurement in government including web content, web application, office applications and databases, etc;
- (k) enforce standards for information technology planning, acquisition, implementation, delivery, support,

- disposal, data security, organisation, sustenance, risk management, security, and contingency planning;
- (l) facilitate, coordinate and be in charge of the implementation of government Information Technology related projects;
- (m) create and manage the national data bank, its inputs and outputs;
- (n) advice on and coordinate activities relating to government's use of electronic signature infrastructure as used in electronic transactions for government services in The Gambia;
- (o) provide advice on information and communication technology project management services to government;
- (p) through collaboration with relevant authorities, provide and implement information and records management services and facilities, optimal electronic communications and electronic equipment use and their disposal in government;
- (q) provide guidance on information technology audit services to government and the establishment of an infrastructure for data and information sharing by government and related stakeholders;
- (r) undertake and commission research as may be necessary to promote the objects of the Agency;
- (s) push and advocate for ICT projects that serves the public interest;
- (t) promote and lead the development of education tools and applications and government e-Payment solutions across all sectors of government;
- (u) work with social media content providers and relevant authorities to check misinformation, abusive content, defamation, fake identities;
- (v) implement policies that would guide Cloud Service Providers for Cloud Computing in the public sector especially where data on its citizens and government are kept;

- (w) design, deploy and manage infrastructure, processes, systems, connectivity and technology including the establishment of Data Centers, manages and operates them and promote their use for government, subject to regulatory guidelines and approval;
- (x) responsible for the establishment and management of the computer incidence response team and related activities and ensure secure cyberspace through the implementation of effective cyber security measures and collaborate with local and international stakeholders;
- (y) manage government ICT employees;
- (z) provide monitoring and evaluation of the following—
 - (i) information and communication technology industry performance,
 - (ii) trends in the utilization of information technology in both public and private sectors,
 - (iii) Information Technology related projects of the government for compliance with the approved e-government Plan, and
 - (iv) implementation of government ICT policies;
- (aa) approve specifications, facilitate, guide and participate in the evaluation of procurement of information technology goods and service in government;
- (bb) to manage and resolve all issues relating to the “dot gm” domain and all other domain names associated with The Gambia; and
- (cc) undertake any other activity necessary for the implementation of the objects of the Agency including the promotion of efficient and effective use of resources and staff of the agency.

7. Supervision of The Agency

The Agency shall be under the purview of the Ministry subject to this Act.

8. Board of the Agency

(1) The Agency shall be governed by a Board comprising of the following—

- (a) a Chairperson appointed by the President after consultation with the Public Service Commission;
- (b) three representatives from the private sector to be appointed by the President after consultation with the Public Service Commission;
- (c) the Director of Information and Communication Technology at the Ministry;
- (d) the Permanent Secretary responsible for Finance and Economic Affairs; and
- (e) the Director General of the Agency.

(2) A Vice Chairperson of the Board shall be elected by the members of the Board from their number.

9. Qualifications of Board Members

Other than those by virtue of their offices, a person must fulfil the following to be appointed a board member—

- (a) possess relevant qualifications, proven working knowledge and at least fifteen (15) years of experience in Information and Communication Technology or e-government service delivery; and
- (b) be an Information and Communication Technology economist, legal practitioner, policy expert, engineer.

10. Co-Opted Board Members

The board may co-opt a person during a board meeting but the majority of the board members must agree that co-opted persons may not —

- (a) vote on any matter under discussion;
- (b) take an oath of secrecy on each attendance of board meetings; or

- (c) have any interest in any matter to be discussed.

11. Terms of Office for Board Members

- (1) Members shall be chosen from persons who have knowledge and experience relevant to the Agency's functions.
- (2) Other than those by virtue of their office, a member shall hold office for a term of three years and may be re-appointed for another term of three years.
- (3) A member of the Board other than those by virtue of their office may resign from office by giving not less than one month's written notice of his or her resignation to the President.

12. Removal from Office of Board Members

Other than those by virtue of their office, a member may be removed from office by the President on the recommendation of the Board through the Minister if he or she is -

- (a) absent from three consecutive meetings of which he or she has had notice, without reasonable excuse;
- (b) involved in corruption;
- (c) declared bankrupt or to be of unsound mind;
- (d) convicted of an offence involving dishonesty or moral turpitude, abuse of office; or
- (e) subject to a certified advice of a qualified medical practitioner, incapacitated by reason of illness from performing its duties as a member for more than six months.

13. Functions of the Board

The Board shall perform the following functions –

- (a) to direct and oversee the management of the Agency and the effective and efficient performance of its functions;
- (b) to Monitor the implementation of the plans and programs of the Agency;

- (c) to approve the annual budget and action plan of the Agency;
- (d) to appoint the staff of the Agency;
- (e) to determine the structure and staffing levels of the Agency and the terms of service of the staff;
- (f) to determine and administer a performance contract with the Director General;
- (g) to determine the terms and conditions of service of the Director General;
- (h) to appoint from time to time authorized officers for the purposes of carrying out Information Technology surveys and data collection with determined terms of service;
- (i) to establish rules and procedures for the appointment, career development, disciplining and removal of staff, the management of the finances and assets of the Agency;
- (j) to make regulations establishing schemes for pensions, gratuities, retirement and other benefits in respect of employees of the Agency; and
- (k) for the purpose of achieving maximum efficiency in the discharge of its functions under this Act, it shall institute schemes for the training of the Agency's employees in networking, databases, applications development, system administration, management and other skills necessary for effective and efficient delivery of its services; and building up capacity specialization in information technology related.

14. Meetings of the Board

- (1) The Board shall meet at such times and places as the Board may deem appropriate, but it shall meet at least once in every quarter.
- (2) A quorum for meetings of the Board shall be four members.
- (3) Decisions of the Board shall be taken on the basis of a simple majority vote of those present.

(4) The Board shall determine its own procedures.

15. Secretary to the Board

(1) The Board shall appoint a Secretary to the Board from amongst the staff of the Agency.

(2) The Secretary shall –

- (a) keep the books and records and conduct the correspondence of the Board;
- (b) prepare the agenda for Board meetings after consultation with the Director General and the Chairperson;
- (c) record the minutes of meetings of the Board; and
- (d) perform such other functions as the Board or Director General may assign.

16. Disclosure of interest by Board members

(1) A member of the Board shall not vote or take part in the deliberations on any matter on which he or she has a direct or indirect personal interest;

(2) If a member of the Board has a direct or indirect personal interest in the outcome of the deliberations on the matter considered at a meeting, he or she shall-

- (a) disclose the nature of the interest at the meeting and the disclosure shall be recorded in the minutes of the meeting; and
- (b) withdraw from deliberations in respect of that matter.

(3) A member of the Board who contravenes sub-section (1) may be removed from office by the President on the recommendations of the Board through the Minister.

17. Transaction of business without a meeting of the Board

(1) A resolution is a valid resolution of the Board even though it was not passed at a meeting of the Board if–

- (a) it is signed or ratified by a simple majority of the members; and

- (b) notice of the proposed resolution was previously given to each member of the Board.

18. Allowance to members

A member of the Board shall be paid such allowances as the Minister may approve.

PART III – MANAGEMENT AND ADMINISTRATION

19. Secretariat of The Agency

The Agency shall have a secretariat headed by the Director General and with directorates to run the affairs of the Agency.

(1) The Secretariat shall–

- (a) be the source of official information and data relating to government information systems;
- (b) implement government and national e-government plans with related information technology policies, strategies and action plans; and
- (c) be the custodian of documentation in relation to e-government policies, strategies and action plans.

(2) The Secretariat may–

- (a) in performing its functions, consult and cooperate with institutions with related functions, or those having related aims or objectives similar to those of the Agency; and
- (b) delegate any of its functions, where considered necessary for its efficiency to any other institutions on clear terms and conditions subject to the approval of the Board.

(3) In discharging their functions, the secretariat shall take into account–

- (a) the needs of persons who are physically challenged, the elderly and low-income earners;
- (b) the protection and the interest of consumers in relation to pricing, choice, quality of service, and value for money; and

- (c) the opinion of consumers and members of the public.

20. Director General of the Agency

(1) The President shall appoint a Director General for the Agency after consultation with the Board and the Public Service Commission.

(2) The conditions of service of the Director General shall be specified in the instruments of his or her appointment.

(3) The Director General shall—

- (a) have management experience and technical expertise in a field directly related to the Agency with a minimum of 10 years' experience in a senior management position;
- (b) hold office for five years subject to his or her performance contract and can be eligible for re-appointment for one more term;
- (c) be responsible for the funds, property and business of the Agency;
- (d) enter into a performance contract with the Board within sixty days of his or her appointment; and
- (e) upon appointment, take and subscribe to, before the Board, the oath of office and secrecy.

(4) Under the general direction of the Board, the Director General shall be responsible for—

- (a) the day to day management and administration of the affairs of the Agency;
- (b) submitting regular reports to the Board on the implementation of the Agency's policies, strategies, plans and financial performance;
- (c) implementing decisions of the Board; and
- (d) performing such other functions assigned or delegated to him or her by the Board.

21. Other staff of the Agency

(1) The Board may appoint for the Agency—

- (a) such professional and support staff as are required for the efficient performance of the functions of the Agency; and
- (b) part time officers and consultants when necessary to augment the capacity of the Agency.

(2) The emoluments, terms and conditions of service of the staff of the Agency or any person whose services are engaged by the Agency shall be determined by the Board in accordance with the guidelines provided by the Public Service Commission.

(3) Upon appointment, a staff, takes and subscribe to, before the Director General, the oath of office and secrecy.

22. Disclosure of pecuniary interest by employees

(1) The Director General or another employee of the Agency shall not—

- (a) hold any other office of employment outside the Agency during his or her tenure; or
- (b) have a direct or indirect pecuniary or non-pecuniary interest in any contract entered or to be entered into by the Agency without first disclosing that interest—
 - i. to the Board for the Director General; and
 - ii. to the Director General for other employees.

PART IV- FINANCIAL PROVISIONS

23. Funds of the Agency

(1) The funds of the Agency shall include—

- (a) funds appropriated to it by the National Assembly;
- (b) loans granted to the Agency;
- (c) monies accruing by way of fees and charges; and

- (d) any grants and gifts to the Agency, provided that the terms and conditions attached to a grant or gift are not inconsistent with the functions of the Agency.

(2) The Agency may, with the approval of the Minister of Finance and Economic Affairs—

- (a) source for funding and accept grants and donations from any source within or outside The Gambia, and
- (b) borrow money for the discharge of its functions on such terms as shall be approved.

24. Expenses of the Agency

(1) The following expenses may be defrayed from the funds of the Agency—

- (a) the cost of administration of the Agency;
- (b) reimbursement of expenses incurred by members of the Board or staff authorized by the Board, in accordance with the rates approved;
- (c) allowances to Board members, salaries, fees and other remuneration of staff and other persons appointed by the Agency; and
- (d) expenses approved by the Board for the purposes of this Act.

25. Estimates, accounts and audit

(1) The Agency shall, not later than 31st December of each year; submit to the Minister, an estimate of the income and expenditure of the Agency for the succeeding year.

(2) The Agency shall keep proper records and accounts of its financial year, submit to relevant authorities its statement of accounts for each financial year.

(3) The Board shall, within two months after the end of its financial year, submit its statement of accounts to the Auditor General for audit.

(4) The audited accounts of the Agency and the Auditor General's report of those accounts shall form part of the Auditor General's overall report to the National Assembly.

(5) The Agency shall, within three months of the end of its financial year submit an annual report to the National Assembly on its business and operations during the preceding year.

25. Annual Report

The Board shall, not later than two months after the end of each financial year, submit to the Minister, in respect of the financial year, an annual report of the activities of the Agency.

PART V – MISCELLANEOUS

27. Regulations

The Minister may make regulations for the proper execution and efficient management for the attainment of the objects of the Agency for the purpose of this Act.

PASSED in the National Assembly this 26th day of September, in the year of Our Lord Two Thousand and Nineteen.



M. A. Sise
Clerk of the National Assembly.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed in the National Assembly, and found by me to be a true and correct copy of the said Bill.



M. A. Sise
Clerk of the National Assembly.

