

**IN THE THIRD MEETING OF THE SECOND
SESSION OF THE SEVENTH PARLIAMENT OF
THE FOURTH REPUBLIC**

REPORT OF THE

COMMITTEE ON SUBSIDIARY LEGISLATION

ON THE

**OFFICE OF THE SPECIAL PROSECUTOR
REGULATIONS, 2018 (L.I. 2373)**

DECEMBER 2018.

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1.0 INTRODUCTION

The Office of the Special Prosecutor Regulations, 2018, (L.I. 2373) was laid before Parliament on Monday 26th November, 2018 in accordance with Article 11(7) of the Constitution. Pursuant to Orders 77 and 166 of the Standing Orders of Parliament, the Rt. Hon. Speaker referred the Instrument to the Committee on Subsidiary Legislation for consideration and report.

2.0 REFERENCE DOCUMENTS

The Committee referred to the following documents during its deliberations:

- i. The Constitution
- ii. The Standing Orders of Parliament
- iii. Office of the Special Prosecutor Act, 2017, (Act 959)
- iv. Security and Intelligence Agencies Act, 1996 (Act 526)
- v. Bureau of National Investigations Regulations, 2015 (L.I. 2227)

3.0 DELIBERATIONS

The Committee met with the Hon. Dep. Attorney-General and Deputy Minister for Justice, Mr. Joseph Dindiok Kpemka. The Special Prosecutor, Mr. Martin A.B.K. Amidu and his Deputy, Ms. Cynthia Lamptey were in attendance at the invitation of the Committee. Officials of the Drafting Division of the Attorney-General's Department were present to assist in the deliberations.

4.0 **BACKGROUND**

- 4.1 On 3rd January 2018, the Office of the Special Prosecutor Act, 2017, (Act 959) came into force. The Office seeks to investigate and prosecute alleged corruption or suspected corruption and corruption-related offences; to recover the proceeds of corruption and corruption-related offences, and to take steps to prevent corruption to the end that it promotes good governance, transparency, accountability and probity in Ghana's constitutional governance towards the attainment of the aspirations of the 1992 Constitution.
- 4.2 In order to achieve the objective of the Act, it is important that the Office of the Special Prosecutor (OSP) employs and train skilled personnel to constantly stay abreast with corruption and its related offences. Hence, the introduction of L.I. 2373 in Parliament. The Office of the Special Prosecutor Regulations, 2018, (L.I. 2373) seeks to regulate the Management of Human Capital and Discipline of employees at the OSP.

5.0 **OBSERVATIONS**

- 5.1 The Committee observed that, the Regulations was drafted alongside that of the Bureau of National Investigations Regulations, 2015 (L.I. 2227). As a result, the provisions are in tandem with the Bureau of National Investigations (BNI) conditions. Therefore, as with the BNI, a spouse or prospective spouse of an employee of the OSP must be subjected to vetting. An employee who intends to get married shall notify the Special Prosecutor not later than three months before the intended marriage. The marriage would be approved when security clearance is given by the OSP.
- 5.2 Similarly, where the employee intends to marry a foreigner, the marriage shall be approved when security clearance is given by the OSP. Where in the opinion of the OSP, the marriage poses a security risk, the Special Prosecutor may disapprove of the marriage. If the employee insists on proceeding with the marriage irrespective, of the disapproval of the Special Prosecutor, the Special Prosecutor may direct the employee

to resign or be dismissed. An employee involved in any matrimonial suit must also notify the Office of the facts of the case. Where the suit has the potential to discredit the employee, the OSP or the Government, that employee is expected to take steps to resolve that matter amicably, failing which the employee would be called upon to resign.

5.3 Members raised issues with the provisions that appear to vest power in the Special Prosecutor to vet and approve of marriages and possible divorce by staff. There was also an extensive debate on provisions dealing with property distribution of staff who die intestate. However, the Deputy Attorney-General informed the Committee that such provisions are peculiar to the Security Agencies and are virtually the same with the Bureau of National Investigations Regulations, 2015 (L.I. 2227).

5.4 The Committee also observed that a National Disciplinary Committee is established to make rules for the conduct of disciplinary proceedings against an employee. The Committee would deal with both major and minor breaches of discipline. It is a major breach of discipline for an employee to contravene the terms of the Oath. It is also a major breach of discipline for an employee to engage in any activity outside official duty which is likely to compromise the political neutrality of the employee or lead to the employee taking an improper advantage of his official position. Minor breaches of discipline includes insubordination to superior authority, sleeping on duty and being drunk on duty among others.

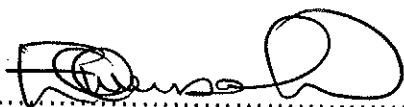
5.5 In terms of allowances, the Committee noted that employees of the OSP are entitled to allowances such as, Duty Allowance, Detective Allowance, Risk allowance and others which are calculated on percentages of the basic salaries of employees determined in accordance with Government pay policy. A senior employee is entitled to Batman Allowance which is also a percentage of the basic salary of the employee determined in accordance with the pay policy of Government. A Batman Allowance is the allowance paid to an employee in respect of the person's domestic servant.

5.6 The Committee finally observed that Officers of the OSP are entitled to both monthly and commuted pensions. An employee of the rank of Principal Staff Officer or above shall retire on the consolidated monthly salary. However an employee of the rank of Senior Staff Officer or below shall be paid a monthly pension equivalent to sixty per cent of the consolidated monthly salary of that employee. Where an Officer who has proceeded on retirement lives for less than twenty years after retirement, the Office shall pay to the estate of the deceased, the commuted pension which shall be calculated as the product of the unexpired period of the twenty years multiplied by the monthly pension of the employee at the time of death. The commuted pension shall be paid to the nominated beneficiaries of the deceased or where beneficiaries have not been nominated, to the legal representatives.

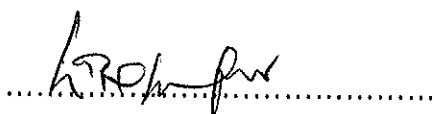
6.0 RECOMMENDATION AND CONCLUSION

The Committee has critically examined the Instrument and is satisfied that its provisions do not conflict with the Constitution, the Office of the Special Prosecutor Act, 2017 (Act 959) and any other enactment in force. The Committee recommends to the House to adopt its Report and allow the Office of the Special Prosecutor Regulations, 2018, (L.I. 2373) to come into force in accordance with Article 11(7) of the Constitution.

Respectfully submitted.



ERIC OWUSU-MENSAH
CLERK TO THE COMMITTEE



HON. BERNARD AHIAFOR
VICE-CHAIRMAN

DECEMBER 2018.