

IN THE FOURTH SESSION OF THE SEVENTH PARLIAMENT OF THE
FOURTH REPUBLIC OF GHANA

REPORT OF THE COMMITTEE ON CONSTITUTIONAL, LEGAL AND
PARLIAMENTARY AFFAIRS

ON THE

THE IMPOSITION OF RESTRICTIONS BILL, 2020
AMENDMENT

PARLIAMENT OF GHANA LIBRARY

20TH MARCH, 2020

**REPORT OF THE COMMITTEE ON CONSTITUTIONAL, LEGAL AND
PARLIAMENTARY AFFAIRS ON THE IMPOSITION OF RESTRICTIONS
BILL, 2020**

1.0 INTRODUCTION

- 1.1 The Imposition of Restrictions Bill, 2020 was laid in Parliament by the Hon. Attorney-General and Minister for Justice, Ms. Gloria Afua Akuffo on Wednesday, 18th March, 2020 in accordance with Article 106 of the 1992 Constitution.
- 1.2 Consequently, the Bill was referred to the Committee on Constitutional, Legal and Parliamentary Affairs to determine the urgency of the Bill in accordance with Article 106(13) of the Constitution and Order 199 of the Standing Orders of the House.
- 1.3 In its Report dated 19th March, 2020, the Committee submitted its determination to the House, submitting that the Bill was of an urgent nature and could be introduced without publication and same was adopted by the House.
- 1.4 The Speaker thereafter referred the Bill to the Committee for consideration and report pursuant to Order 179 of the Standing Orders of Parliament.

2.0 DELIBERATIONS

The Committee met with the Hon. Attorney-General and Minister for Justice, Miss Gloria Afua Akuffo and Officials of the Ministry to consider the Bill.

The Committee is grateful to the Hon. Attorney-General and Minister for Justice and the Officials for attending the meeting and for assisting the Committee in the deliberations.

3.0 REFERENCE DOCUMENTS

The Committee referred to the following documents during the deliberations:

- i. The Constitution, 1992;

- ii. The Standing Orders of Parliament;
- iii. The Public Health Act, 2012 (Act 851);
- iv. The Emergency Powers Act, 1994 (Act, 472)
- v. The Letter dated 18th March, 2020 containing the Executive Approval for the Laying in Parliament of the Imposition of Restrictions Bill, 2020;
- vi. The Directives announced by the President, including that of 15th March, 2020, imposing certain temporary measures to combat the COVID-19 pandemic; and
- vii. The Report of the Committee dated 19th March, 2020 on the determination of the urgency of the Imposition of Restrictions Bill, 2020.

4.0 BACKGROUND INFORMATION

- 4.1 The COVID-19 pandemic was first reported in Wuhan, China in December 2019 and subsequently spread to scores of other countries including Ghana.
- 4.2 Ghana recorded its first two cases of the COVID-19 on 12th March, 2020. The number of confirmed cases has since increased to 16 as at 20th March, 2020 according to a publication by the Ghana Health Service.
- 4.3 As part of Government's responses to deal with the pandemic, the President announced a number of Directives on 15th March, 2020, which among others imposed certain temporary measures towards combating the pandemic. The President further directed the Hon. Attorney-General to introduce a legislation in Parliament to give effect to those Directives.
- 4.4 By a letter dated 18th March, 2020, the Hon. Attorney-General secured Executive Approval authorising the laying in Parliament of the Imposition of Restrictions Bill, 2020. The Hon. Attorney-General accordingly laid the Bill in Parliament on Wednesday, 18th March, 2020 for its passage.

5.0 PURPOSE OF THE BILL

The purpose of the Bill is to provide for powers for the imposition of restrictions in the event of a disaster, emergency and similar circumstance, to ensure public safety and protection. The Bill is therefore intended to deal with both present and future emergencies.

6.0 SUMMARY OF PROVISIONS OF THE BILL

- 6.1 The Bill consist of five (5) Clauses as follows:
- 6.2 Clause 1 states the object of the Bill, while Clause 2 provides for the imposition of restrictions by the President by means of an Executive Instrument.
- 6.3 Clause 3 specifies the circumstances under which the restrictions may be imposed in accordance with paragraphs (c), (d) and (e) of clause (4) of article 21 of the Constitution.
- 6.4 The power of the President to provide for exemptions on certain persons or geographic areas is contained under Clause 4.
- 6.5 Clause 5 provides for the interpretation of the phrase "essential services" as used in the Bill.

7.0 OBSERVATIONS

The Committee made the following observations during the deliberations:

7.1 Scope of the Bill

The Committee noted that the scope of the Bill goes beyond the measures that could be taken in the event of public health crisis such as the COVID-19. The Bill covers other unforeseen circumstances that may relate to national security and the protection of the people of Ghana. The Hon. Attorney-General explained that the scope of the Bill has been comprehensively crafted to take account of both the current COVID-19 and similar unforeseen emergencies that may occur in future. She also explained that the overwhelming threat and the fluidity of the COVID-19 pandemic has prompted the need to have such a comprehensive legislation to ensure speedy and effective intervention by the President in the event of disasters, emergencies and similar circumstances.

The Committee further noted that though the Bill does not expressly capture COVID-19 epidemic, the purpose of the Bill as stated in the Memorandum to the Bill covers that pandemic. To further clarify the issue, the Committee has proposed the necessary amendments to be included in the Bill to cover matters relating to the COVID-19 pandemic under the Object and Interpretation Clauses of the Bill.

7.2 Duration of Restrictions

The Committee also observed that the Bill is silent on the duration within which restrictions could be imposed by the President. The Committee has accordingly proposed a new provision to cure the defect. The Committee has also proposed an amendment to allow for the variation of the duration of the restriction by the President where the exigencies of the circumstances so require. The Committee believes that these amendments, if accepted by the House, would provide the necessary checks to preserve and protect the fundamental freedoms of persons in the country.

7.3 Offences and Penalties

The Committee again noted that though the Bill appears to provide for the imposition of offences and penalties on persons who contravene the directives of the President, this is to be done by means of an Executive Instrument. The Committee took the view that such penal provisions could be inconsistent with Article 19(11) of the Constitution. In this regard, the Committee has proposed amendments to provide for the necessary offence and penalty regime to be captured in the Bill.

8.0 PROPOSED AMENDMENTS

The proposed amendments proffered by the Committee are attached as an Appendix.

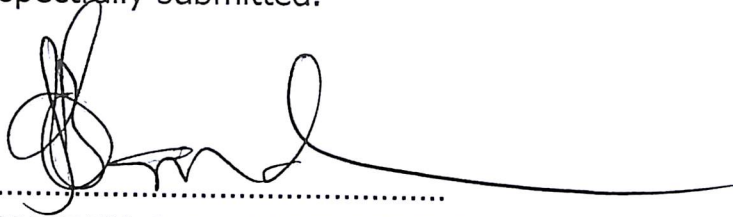
4.1 RECOMMENDATION AND CONCLUSION

The Committee has scrutinised the Bill within the parameters of the Constitution and the current threats posed by the COVID-19 pandemic as a global and national health concern.

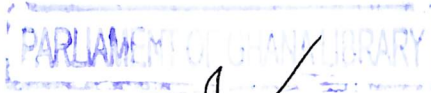
The Committee fervently believes that the passage of the Bill into law would provide for a speedy and effective intervention of the Government to deal with disasters, including the COVID-19 pandemic, emergencies and similar circumstances.

Subject to the proposed amendments, the Committee recommends to the House to adopt this Report and to pass the Imposition of Restrictions Bill, 2020 in accordance with the relevant provisions of Article 106 of the Constitution.

Respectfully submitted.



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HON. BEN ABDALLAH BANDA
(CHAIRMAN OF THE COMMITTEE)



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AKUA DUROWAA OWUSU AGYEKUM (MRS)
(CLERK TO THE COMMITTEE)