

## ARMED FORCES (AMENDMENT) BILL, 2022

### MEMORANDUM

The object of the Bill is to amend Armed Forces Act, 1962 (Act 105) to substitute the penalty of life imprisonment for the death penalty and to provide for related matters.

Article 210 of the 1992 Constitution establishes the Armed Forces of Ghana which consists of the Army, the Navy and the Air Force and such other services for which provision is made by Parliament. The Ghana Armed Forces occupies a sensitive position in the security set-up of the country. The mandate of the Ghana Armed Forces is to defend the country against foreign aggression in times of war.

The death penalty is provided for in the Armed Forces Act, 1962 (Act 105) to deter members of the Armed Forces from engaging in acts that would put the security of the state in jeopardy. That notwithstanding the history of the Ghana Armed Forces shows that there is no correlation between the imposition of the death penalty on members of the Armed Forces and the increase or decrease in crime.

Currently, the death penalty is viewed as an affront to the fundamental right to life which ought to be protected and preserved. The inviolability of the fundamental right to life is affirmed by several international conventions such Article 4 of the African Charter on Human and Peoples Rights, Article 6 of the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights.

Globally, steps have been taking towards the abolition the death penalty to protect the right to life. A major milestone in the quest to abolish the death penalty was achieved when the plenary session of the United Nations General Assembly which is the policy-making organ of the United Nations saw a record number of 123 states supporting the adoption of its biennial resolution which called for the establishment of a moratorium on executions. Another important milestone which marked efforts to globally abolish the death penalty was the adoption by several countries of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

The global advocacy for the removal of the death penalty from our Statute Books has gained traction in Ghana. In 2010, a Presidential Commission of Inquiry set up to review the 1992 Constitution, recommended the removal of the death penalty from the Statute Books. The Government, in its White paper, accepted the recommendation of the Commission. Yet no step was taken to actualise the recommendation. There have been several calls on Parliament to implement the recommendation of the Commission by removing the death penalty from the Statute Book.

The passage of the Armed Forces (Amendment) Bill, 2022 would be a major step towards the removal of the death penalty from the Statute Books.

It is worth noting that article 40 of the International Covenant on Civil and Political Rights, requires State parties to submit reports on measures that they have adopted to give effect to the rights recognised by the Covenant and progress made in the enjoyment of the rights; this includes the right to life. The passage of the Bill will propel Ghana towards the fulfillment of its obligations under the International Covenant on Civil and Political Rights.

The indication of the introduction and passage, if passed by Parliament, of the Bill in Ghana's report will serve as a key indicator of Ghana's respect for human rights. Ghana will not only join the league of countries that have initiated steps to abolish the death penalty from their Statute Book but would have its reputation improved on the international scene.

*Clause 1* seeks to amend paragraphs (a) and (b) of section 14(2) of Act 105 by substitution the death penalty with the penalty of life imprisonment for specific offences which are committed in action. The amendment is in relation to offence which are treasonable or committed in cowardice. *Clause 2* seeks to amend paragraphs (a) and (b) of section 15(2) of Act 105 by substituting the penalty of death with the penalty of life imprisonment for offences committed in the presence of the enemy which are treasonable. *Clause 2* further provides that a person convicted of an offence committed in the presence of an enemy is liable to suffer life imprisonment or to a lesser punishment provided by Act 105.

*Clause 3* also seeks to amend paragraph (a) of section 16(2) of Act 105 by substituting the death penalty with the punishment of life imprisonment for security related offences which are treasonable. *Clause 4* further seeks to amend paragraph (a) of section 17(2) of Act 105 by substituting the death penalty with the punishment of life imprisonment for offences which are treasonable.

*Clause 5* also seeks to amend section 19 of Act 105 by substituting the death penalty with the punishment of life imprisonment for persons who join a mutiny with violence. *Clause 5* also provides that such persons may be liable to suffer a lesser punishment. *Clause 6* amends section 20 (1) (2) of Act 105. It provides that a person convicted of an offence of joining a mutiny without violence is liable to life imprisonment or to a lesser punishment if that person is a member or ring leader of the mutiny.

*Clause 7* further amends the closing paragraph of section 40 by the substitution for "death" of life imprisonment. *Clause 8* also amends section 78(3) of Act 105 by the substitution for "death" of "life imprisonment". *Clause 9* also amends section 79(1) of Act 105 by the substitution for "death penalty" of life imprisonment.

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Hon. Francis-Xavier Sosu  
Member of Parliament for Madina Constituency

Date: 28<sup>TH</sup> JUNE, 2022

# ARMED FORCES (AMENDMENT) BILL, 2022

## ARRANGEMENT OF SECTIONS

### *Section*

1. Section 14 of Act 105 amended
2. Section 15 of Act 105 amended
3. Section 16 of Act 105 amended
4. Section 17 of Act 105 amended
5. Section 19 of Act 105 amended
6. Section 20 of Act 105 amended
7. Section 40 of Act 105 amended
8. Section 78 of Act 105 amended
9. Section 79 of Act 105 amended

# ARMED FORCES (AMENDMENT) BILL, 2022

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BILL

ENTITLED

## ARMED FORCES (AMENDMENT) ACT, 2022

**AN ACT** to amend Armed Forces Act, 1962 (Act 105) to substitute the penalty of life imprisonment for the death penalty and to provide for related matters.

Passed by Parliament and assented to by the President

### **Section 14 of Act 105 amended**

1. The Armed Forces Act, 1962 (Act 105), referred to in this Act as the “principal enactment” is amended in section 14 by the substitution for paragraphs (a) and (b) of subsection (2) of

“(a) shall suffer life imprisonment if that person acted treasonably,  
(b) is liable to suffer life imprisonment or to a lesser punishment provided by this Act if that person acted from cowardice, or”.

### **Section 15 of Act 105 amended**

2. The principal enactment is amended in section 15 by the substitution for paragraphs (a) and (b) of subsection (2) of

“(a) shall suffer life imprisonment if that person acted treasonably,  
(b) is liable to suffer life imprisonment or to a lesser punishment provided by this Act if the offence was committed in action; or”.

### **Section 16 of Act 105 amended**

3. The principal enactment is amended in section 16 by the substitution for paragraph (a) of subsection (2) of

“(a) shall suffer life imprisonment if that person acted treasonably; or”

### **Section 17 of Act 105 amended**

4. The principal enactment is amended in section 17 by the substitution for paragraph (a) of subsection (2) of

“(a) shall suffer life imprisonment if that person acted treasonably; or”.

### **Section 19 of Act 105 amended**

5. The principal enactment is amended by the substitution for section 19 of

#### **“Mutiny with violence**

19. A person who joins in a mutiny that is accompanied by violence commits an offence and on conviction is liable to suffer life imprisonment or to a lesser punishment provided by this Act.”.

### **Section 20 of Act 105 amended**

6. The principal enactment is amended by the substitution for section 20 of

#### **“Mutiny without violence**

20. (1) A person who joins in a mutiny that is not accompanied by violence commits an offence.

(2) A person convicted of an offence under subsection (1)

(a) is liable to life imprisonment or to a lesser punishment provided by this Act, if that person is a member of the mutiny.

(b) shall suffer life imprisonment or a lesser punishment provided by this Act, if that person is a ringleader of the mutiny.

### **Section 40 of Act 105 amended**

7. The principal enactment is amended in the closing paragraph of section 40 by the substitution for “death” of life imprisonment.

**Section 78 of Act 105 amended**

8. The principal enactment is amended in section 78 by the substitution for subsection (3) of

“(3) The provisions of the Code in respect of the punishment of life imprisonment, imprisonment for two years or more, imprisonment not exceeding two years, and a fine, apply in respect of penalties imposed under paragraph(a), or under paragraph (b)(i) of subsection (2).”.

**Section 79 of Act 105 amended**

9. The principal enactment is amended in section 79 by the substitution for paragraph(a) subsection (1) of

“(a) life imprisonment;”.