

IN THE THIRD SESSION OF THE EIGHTH PARLIAMENT OF THE FOURTH  
REPUBLIC OF GHANA

REPORT OF THE COMMITTEE ON DEFENCE AND INTERIOR

ON THE

NARCOTICS CONTROL COMMISSION (AMENDMENT) BILL, 2023

JULY, 2023

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**1.0 INTRODUCTION**

- 1.1 At the Seventeenth Sitting of the Second Meeting of the Third Session of the Eighth Parliament held on Thursday, 6th July, 2023, the Narcotics Control Commission (Amendment) Bill, 2023 was presented to the House by the Hon Minister for the Interior, Mr Ambrose Dery pursuant to article 106 (1) of the 1992 Constitution.
- 1.2 The Bill was read for the First time and referred to the Committee on Defence and Interior by the Rt Hon Speaker in accordance with article 106 (4) of the 1992 Constitution and Orders 125 and 158 of the Standing Orders of Parliament.
- 1.3 The Rt Hon Speaker, having regard to the nature of the Bill, directed the Leadership of the Committees on Health and the Constitutional, Legal and Parliamentary Affairs to join the Committee on Defence and Interior to consider of the Bill.

## **2.0 DELIBERATIONS**

- 2.1 The Committee met on Friday, 7<sup>th</sup> July 2023 and considered the Narcotics Control Commission (Amendment) Bill, 2023. In attendance to assist the Committee in its deliberations were, Dr Dominic Akuritinga Ayine, MP for Bolgatanga East Constituency, Mrs Adelaide Anno-Kumi, Chief Director, Ministry of the Interior and other officials from the Ministry of the Interior.
- 2.2 The Committee is grateful to all the participants for their invaluable input.

## **3.0 REFERENCE DOCUMENTS**

3.1 The Committee referred to the following documents during its deliberations:

- i. The 1992 Constitution of the Republic of Ghana;
- ii. The Standing Orders of the Parliament of Ghana; and
- iii. The Narcotics Control Commission Act, 2020 (Act 1019)
- iv. *Ezuame v The Attorney-General*, Writ No. JI/111/2021

## **4.0 OBJECT OF THE BILL**

4.1 The object of the Bill is to amend the Narcotics Control Commission Act, 2020 (Act 1019) to empower the Minister to grant a licence for the cultivation of cannabis which has not more than 0.3 per cent THC content on a dry weight basis for industrial purposes for obtaining fibre or seed or medicinal purposes.

## 5.0 BACKGROUND AND JUSTIFICATION FOR THE BILL

5.1 Hemp or industrial hemp is a variety of cannabis plant species explicitly grown for its industrial uses. Hemp and products derived from hemp are not subject to international drug controls under the United Nations drug treaties or supplementary protocols. The exemption of the cannabis plant from international control for industrial uses applies to fibre and seed. The 1961 Single Convention on Narcotic Drugs limits the cultivation of cannabis for industrial purposes to fibre and seed. *Cannabis indica* is distinct and has unique phytochemical compositions and uses. It can be used to make a variety of commercial and industrial products including food, rope, fabrics, paper, plastic and composite materials, building materials, jewellery, cosmetics and biofuels. One of the attributes of the cannabis plant is the ability to absorb nuclear radiation and it is noted to have been used in the cleaning up of the Chernobyl disaster.

5.2 Additionally, the global cannabis industry generates an estimated amount of US\$1 billion a year. Countries like the United States of America, Canada, Mexico, Costa Rica, Argentina, and Peru have identified the value share of cannabis to their economic growth. According to industry research group New Frontier Data, the market value of the cannabis industry in the United States of America alone is projected to reach US

\$30 billion annually by 2025, for which reason, it has gained increased legislation in other regions. Furthermore, there are numerous economic growth opportunities regarding increased tax revenues, job creation, and investment prospects.

- 5.3 Cosmetic applications of cannabidiol in hair and skin products are becoming more popular. As a result, the global market is poised to grow by US\$ 3.9 billion between 2020 and 2024.
- 5.4 Ghana should aim to change the narrative to cultivate cannabis legally for the benefit of the economy and the health sectors. The growth of cannabis could solve the problems of shortages faced by firms that require cannabis for their medical, cosmetic, and industrial needs. Ghana when positioned properly could enter the export market by initially targeting the Sub-Saharan African market and later the United States of America, Europe and the Asia Pacific markets since these markets have the biggest consumers and expenditure resources.
- 5.6 It has been projected that cannabis production could generate over US\$ 3 billion in 2023, making it one of the country's most lucrative industries. It is expected to benefit the country by creating jobs, generating taxes, encouraging foreign direct investment and a trade surplus. As demand for cannabis products surges worldwide and States look to diversify their income streams, Ghana could do same by regulating the economic uses of the plant.

- 5.7 The Sustainable Development Goals offer a critical platform to assist Ghana refocus and redesign the drug policy agenda. The operational recommendations of the Outcome Document of the United Nations General Assembly Special Session in 2016, enjoins Ghana to place people at the centre of policy efforts. The recommendations also imply that policymakers ought to critically analyse paths taken in the past, and be ready to take different alternative actions from the actions that have not achieved the expected results in the country and on the continent.
- 5.8 Redirecting part of domestic funding of drug control law enforcement towards health and development policies would provide a significant contribution to achieving the goals of the 2030 Agenda. Ghana must increase its partnership with national and international stakeholders in the fight against the trafficking of illicit drugs and ensure that best practices in respect of the cultivation of cannabis for medicinal and industrial purposes are adopted and adhered to.
- 5.9 The Bill has been necessitated due to the ruling of the Supreme Court in the case between Ezuame versus the Attorney-General and the Speaker of Parliament with Writ No. J1/1112021 dated 27th July 2022 (unreported). In the said ruling, the Apex Court of Ghana declared section 43 of the Narcotics Control Commission Act, 2020 (Act 1019) as unconstitutional and therefore null and void.

5.10 The relevant portion of the judgment reads as follows:

*"From the evidence submitted by the Plaintiff herein, there was no debate of this crucial amendment. The Defendant does not even assert that there was debate over the amendment which was introduced at about 5:50pm and short of Presidential assent, had become law by 6:02pm. Ironically, the Respondent contends that every provision of the Bill was debated. However, when the Plaintiff positively asserts that clause 43 of the Bill was not debated in any shape or form, the Respondent conveniently fails to contradict such a direct, specific and material allegation. There was also no report which was put to Parliament specifically on what the effects of such a critical change in the law regarding the cultivation of cannabis would be.*

*In particular, the lack of debate on section 43 of Act 1019 amounts to not only a direct violation of the letter of Article 106 of the Constitution but also a violation of the spirit of the law. There was conspicuously, no debate over such a critical shift in policy by Parliament. Needless to say, this conduct and mode of lawmaking defeat transparency and accountability enjoined by the Constitution. The dictates of constitutional fidelity, in our view, require that such a shift in policy, which is intended to*

*result in a novel exception, ought to be debated to satisfy the purpose of Article 106. Failing this, the process adopted by Parliament offends the letter and the spirit of the Constitution. This conclusion does not, in any way, derogate from Parliament's power and independence in the conduct of its proceedings but in accordance with our supreme Constitution.*

*In the premises, the mode on the introduction of section 43 of Act 1019 violates the letter and spirit of the Constitution. Accordingly, section 43 is hereby struck down as unconstitutional.”*

5.11 The Bill therefore seeks to amend Act 1019 to reintroduce section 43 to provide an opportunity for Parliament to debate the policy rationale of the provision in accordance with article 106 of the Constitution and the ruling of the Supreme Court.

## **6.0 HIGHLIGHTS OF THE BILL**

6.1 The Bill is composed of a single clause which empowers the Minister to grant a licence for the cultivation of cannabis which has not more than 0.3 per cent THC content on a dry weight basis for industrial purposes for obtaining fibre or seed or for medicinal purposes.

6.2 The Bill further prohibits a person who has been granted a licence under the Bill from cultivating cannabis for recreational use.



## 7.0 OBSERVATIONS

### 7.1 Urgency of the Bill

- 7.1.1 The Committee met and determined that the Bill is of an urgent nature and should therefore be taken under a certificate of urgency in accordance with article 106 (13) of the 1992 Constitution and Order 119 of the Standing Orders of Parliament.
- 7.1.2 The urgency emanates from the numerous benefits Ghana stands to gain by empowering the Minister of the Interior to regulate the cultivation of cannabis which has not more than 0.3 per cent THC content on a dry weight basis.
- 7.1.3 It came to the attention of the Committee, prior to the Ruling of the Supreme Court, the Narcotic Control Commission and the Ministry of the Interior had held pre-laying engagement with the Parliamentary Committee on Subsidiary Legislation on the Draft Regulations of Act 1019, including provisions for operationalising section 43 of the Act. The reintroduction of the said section which was struck down as unconstitutional, will therefore restore the Act to its full original provisions and accordingly pave the way for the Regulations to be laid in Parliament in accordance with article 11 (7) of the 1992

Constitution and Order 77 of the Standing Orders of Parliament.

7.1.4 Additionally, information gathered by the Committee indicates that, prior to the Supreme Court ruling, foreign investors had initiated preparations to commence investment in the cultivation of cannabis including entering into agreements with local partners and joint venture companies. Some urgency is therefore required in the passage of the Bill to minimise potential losses to these interested investors.

## **7.2 The need for the Organs of State to work together**

7.2.1 The Committee expressed concern about the inability of the Judiciary to consult Parliament before deciding to strike out section 43 of Act 1019 as unconstitutional. The Committee, without prejudice to the recognition of the essence of the doctrine of Separation of Powers in advancing democratic culture and values, is of the convention that, organs of State need to appreciate that their functions are complementary. Consequently, the three organs of the State should work towards a common convergence.

## 8.0 PROPOSED AMENDMENTS

**Amendment proposed** - Long Title, line 1, *delete* “substitute” and *insert* “insert”

The Clause – Amendment Proposed – the fourth paragraph after long title- line 1, at end *delete* “Subtitution” and *insert* “insection”.

**Rationale:** Section 43 was struck down as null and void and of no legal effect. This means that section 43 currently ceases to exist thereby creating a void or lacuna in the Narcotics Control Commission Act 2020, (Act 1910). The use of the word “substitute” is therefore inappropriate.

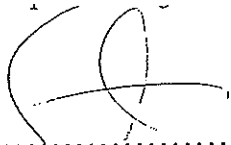
## 9.0 CONCLUSION AND RECOMMENDATIONS

9.1 The Committee, having carefully considered the submissions by the Ministry, the policy rationale as contained in the accompanying memorandum, is of the view that the promulgation of a legal framework to regulate the cultivation of cannabis which has not more than 0.3 per cent THC content on a dry weight basis for industrial purposes for obtaining fibre or seed or for medicinal purposes is in the right direction.

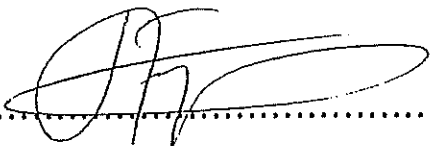
9.2 The Committee also determined that the Bill is urgent given the reasons indicated under paragraphs 7.1 above.

9.3 Accordingly, the Committee recommends to the House to adopt its report and pass the Narcotic Control Commission (Amendment) Bill, 2023 into law in accordance with article 106 (13) of the 1992 Constitution and Order 119 of the Standing Orders of Parliament.

Respectfully submitted.



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HON. OPHELIA MENSAH  
VICE CHAIRMAN,  
COMMITTEE ON DEFENCE AND INTERIOR



.....  
MS JANET FRIMPONG  
HEAD, INFRASTRUCTURE AND SECURITY CLUSTER OF  
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