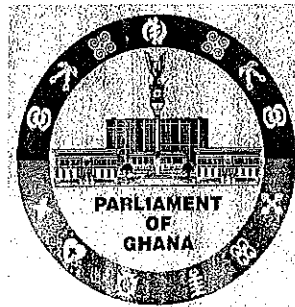


**IN THE SECOND MEETING OF THE THIRD
SESSION OF THE SIXTH PARLIAMENT OF
THE FOURTH REPUBLIC OF GHANA**



**REPORT OF THE COMMITTEE
ON DEFENCE AND INTERIOR**

**ON THE
IMMIGRATION SERVICE BILL, 2015**

JULY, 2015

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1.0 INTRODUCTION

1.1 The Immigration Service Bill, 2015 was presented to Parliament and read the first time on Thursday, 26th March, 2015 by the Hon. Deputy Minister for Interior, Mr. James Agalga. In accordance with Article 106(4) and (5) of the Constitution and Order 158 of the Standing Orders of the House, the Rt. Hon. Speaker referred the Bill to the Committee on Defence and Interior for consideration and report.

1.2 The Committee expresses gratitude to the Hon. Deputy Minister for Interior, Mr. James Agalga, and Officials from the Ghana Immigration Service, Attorney-General's Department, Fair Wages Department, the National Security Secretariat and other security agencies, who attended upon it. The Committee hereby acknowledges individuals including Hon. Members of Parliament who submitted memoranda to enhance deliberations.

2.0 REFERENCE

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

- i. The 1992 Constitution
- ii. The Standing Orders of Parliament
- iii. The Immigration Service Bill, 2015
- iv. Immigration Service Act, 1989, (PNDCL 226)
- v. Immigration Act, 2000 (Act 573)
- vi. Immigration (Amendment) Act, 2012 (Act 848)
- vii. Immigration Service Regulations, 2001 (L.I 1691)

3.0 BACKGROUND

3.1 Prior to the passing of the Immigration Service Act, 1989 (P.N.D.C Law 226), the GIS was a Department under the Ministry of the Interior. It became an autonomous Service after the promulgation of the Law. PNDC Law 226 limited itself to the structure of the Service only, excluding issues of its mandate and functions.

Its operational mandate was therefore inferred from the provisions of the Immigration Act, 2000 (Act 573) which provides for the Admission, Residence, Employment and Removal of foreign nationals and other related matters. The mandate was further given effect by the passage of the Immigration Service Regulations, 2001 (L.I 1691).

3.2 Other migration related high level decisions and laws have been passed in the course of time. Notable among them is the Cabinet decision in 2006 to entrust border patrol to the Service. This led to the establishment of the Border Patrol Unit in 2006. The Immigration (Amendment) Act, 2012 (Act 848), criminalized Migrant Smuggling and prescribed the appropriate penalty for the offence.

3.3 The Ghana Immigration Service Board which performs an advisory and supervisory role, is the highest authority of the Ghana Immigration Service. The Director of Immigration, who is responsible for the general administration of the Service, is ably assisted by three (3) Deputy Directors in-charge of Finance and Administration, Operations and Command Post, and, Legal Research and Monitoring. Together, they constitute the GIS Directorate. The Directorate and selected Senior Officers drawn from Headquarters, Greater Accra and Tema Regions, and Kotoka International Airport (KIA), form the GIS Management Team.

3.4 Presently, aside the Headquarters, there are 11 Regional Commands, 42 District Offices and 42 approved entry points as per the Immigration Act, 2000 (Act 573).

Operationally however, there are over 56 recognized entry points distributed within 14 Sector Commands, with countless unapproved routes that are constantly being monitored.

4.0 OBJECT OF THE BILL

4.1 The purpose of the Bill is to re-enact the Immigration Service Act, 1989 (PNDCL 226) to address current challenges being faced by the Immigration Service.

4.2 The Bill clearly spells out the functions of the Service, as its operations have seen some marked expansion over the years and these additional roles need to be regularized.

4.3 Furthermore, the Bill seeks to expand the operational structures of the Service by creating more Departments, Sections and Units to support the three existing directorates.

5.0 OBSERVATIONS

5.1 The Committee recognizes the evolving mandate of the GIS within the dynamics of contemporary migration which is rather complex. Hitherto classified as a sending and transiting country of migrants, Ghana is today labeled as a Sending, Transiting and a Destination country. This and many other issues have informed the continuous expansion of the scope of work and the assumption of additional responsibilities by the Service.

The Establishment of the Border Patrol Unit, Document Fraud Expertise Centre, Migration Management Bureau, Enforcement and Intelligence Bureau are but a few of the manifestations of increasing responsibilities.

5.2 The Committee observes that the Bill seeks to elevate the GIS Board to the status of a Council and to expand its membership to thirteen (13) to ensure inclusion of persons of diverse background and experience.

5.3 The elevation of the hierarchical command structure of the Service is particularly important, as the present designation of the Head of the Service as 'Director' is not consistent with other security institutions. This creates problems of 'due recognition' both locally and internationally, as, the Director of Immigration is sometimes equated to a Director within the Ministries, Departments and Agencies.

5.4 A major issue confronting the Service is the Ranking System. Compared to other Security Services, GIS has the lowest number of ranks both at the Senior and Junior Officer levels. This situation has resulted in stunted career progression and engendered huge administrative and disciplinary challenges for the Service.

5.4.1 Tab. 1 Comparative Analysis of Rank Distribution; Senior Officers(GP,GIS,PS)

GHANA POLICE SERVICE (GP)	GHANA IMMIGRATION SERVICE (GIS)	GHANA PRISON SERVICE (PS)
Inspector. General		Controller General
Dep. Inspector. General		Dept. Control General
Commissioner Of Police	Director Of Immigration	Director of Prisons
Deputy Commissioner	Deputy Director	Deputy Director
Asst. Commissioner	Asst. Director	Asst. Director
Chief Superintendent	Comptroller	Chief Superintendent
Superintendent	Asst. Comptroller	Superintendent
Deputy Superintendent	Deputy Superintendent	Deputy Superintendent
Asst. Superintendent	Asst. Superintendent	Asst. Superintendent

5.4.2 Tab. 2 Comparative Rank Analysis of Rank Distribution; Junior Officer Rank (GP, GIS, PS)

s/n	GHANA POLICE SERVICE	GHANA IMMIGRATION SERVICE	GHANA PRISON SERVICE
1	Chief Inspector		
2	Inspector		Senior Chief Officer
3	Regional Sergeant Major	Senior Inspector	Chief Officer
4	District Sergeant Major	Inspector	Assistant Chief Officer
5	Sergeant	Asst. Inspector	Sergeant
6	Corporal	Immigration Control Officer	Corporal
7	Lance Corporal	Asst. Immigration Control Officer I	Lance Corporal
8	Constable	Asst. Immigration Control officer II	Second Class Officer

5.4.3 Tab. 3 Proposed Rank Designation (Senior and Junior Officer Rank) of the Ghana Immigration Service

S/NO	SENIOR OFFICERS	S/No	JUNIOR OFFICERS
1	Comptroller General	10.	Senior Inspector
2	Deputy Comptroller General	11.	Inspector
3	Commissioner	12.	Sergeant Major I
4	Deputy Commissioner	13.	Sergeant Major II
5	Asst. Commissioner	14.	Sergeant
6	Chief Superintendent	15.	Immigration Control Officer
7	Superintendent	16.	Asst. Immigration Control Officer I
8	Deputy Superintendent	17.	Asst. Immigration Control Officer II
9	Asst. Superintendent		

There is the need to ensure uniformity, clarity of purpose and consistency with the other security agencies.

5.5 The Committee observed that the Service was not empowered to wield weapons in its operations. This situation has impeded smooth operations and exposed Officers to great harm at the borders and in-country. This Bill therefore seeks to empower the GIS to wield weapons.

6.0 PROPOSED AMENDMENTS TO THE BILL

6.1 The Committee proposes the following amendments to the Bill:

1. Clause 2 – Members of the Service

In paragraph (a) on line 1, delete after the word "Schedule" the words "in the Service immediately before commencement of this Act".

2. Clause 3 – Objects of the Service

In paragraph (b) on line 1, delete after the word "security" the words "on matters pertaining to migration".

3. Clause 4 – Functions of the Service

(a) In paragraph (a) on line 2, delete after the word "borders" the words "of the country".

(b) After paragraph (a) insert new paragraph:

"conduct searches in the performance of functions under this Act or any other enactment;"

(c) In paragraph (e) on line 1, insert the words "and residence" after the word "work".

(d) In paragraph (f) delete after the word "as" the words "may by law require" and insert the words "required by law".

4. Clause 5 – Governing body of the Council

(a) Insert "(1)" after the number "5"

(b) In paragraph (d) on line 1, delete the words "the Chief Director" and insert the words "One representative" and

(c) In paragraph (d) after the word "Interior" insert the words "not below the rank of a Director".

(d) In paragraph (e) on line 2, insert the word "a" after the word "of".

Concerns were raised that the Chief Director's tenure may go beyond eight years in view of clause 7 (1), and, he may be preoccupied with other duties under the Ministry of the Interior, and may not have sufficient time to attend Council meetings.

(e) Insert new paragraph as follows:

"(h) One representative of the Ministry of Foreign Affairs and Regional Integration not below the rank of a Director;"

(f) Insert new paragraph as follows:

"(i) one serving Junior Officer;"

(g) Subclause (3) be transposed as paragraph (f) under Clause 6.

5. Clause 6 – Functions of the Council

(a) In paragraph (b) on line 3, delete the word "and".

(b) In paragraph (d) on line 1, delete the words "draw up" and insert the words "consider and approve".

(c) In paragraph (d) on line 3, insert the words "in line with the Government policy" after the word "Service".

6. Clause 7 – Tenure of office of members of the Council

(a) In subclause (1) on line 2, insert the word "not" after the word "shall".

(b) In subclause (1) on lines 2, substitute the words "another term only" with "more than two terms".

(c) In subclause (6), Hon. Members raised concerns that if for a sufficient reason a member is unable to act as a member, then there is nothing left for the Minister to determine, hence no need for the words "for a sufficient reason" on line 1.

7. Clause 8 – Meetings of the Council

(a) In subclause (1) line 1 after the word "least" delete the words "once every month" and insert the word "quarterly"

(b) In subclause (3) line 1, after the word "is" delete the word "six" and insert "seven".

(c) In subclause (3) line 2, delete the words "or a greater number determined by the Council in respect of an important matter".

8. Clause 11 – Secretary to the Council

(a) In subclause (2) line (1) before the words "The Secretary" insert the words "Where the Secretary is appointed from within the Service,".

(b) In subclause (3) paragraph (b) on line 1, after the word "Council" delete the words "or Comptroller-General".

9. Clause 14 – The Comptroller-General

In subclause (3), substitute "(3)" with "(2)"

10. Clause 16 – Deputy Comptroller-General

The headnote is amended to read "Deputy Comptrollers- General" .

11. Clause 17 – Functions of a Deputy Comptroller-General

(a) In clause (1) paragraph (a) insert the word "or" at the end of the paragraph.

12. Clause 18 – Commissioners

The Committee proposes an amendment to subclause (1) so that the President will appoint in accordance with article 195 of the Constitution. The following redraft is proposed:

“(1) The President shall, in accordance with article 195 of the Constitution, appoint Commissioners for the Service.”

13. Clause 19 – Appointment of other Staff

(a) It was proposed that the phrase “to the Council” be inserted at the end of subclause (2). However, the Committee proposes that subclause (2) be deleted and a provision made in a new clause in respect of delegated power of appointment in view of clauses 11(1), 18(1) and 19(2) of the Bill. The following draft is proposed:

“Delegated power of appointment

The President may, in accordance with article 195 (2) of the Constitution delegate the power of appointment under sections 11(1), 18(1) and 19 to the Council.”

(b) The issue of secondment was discussed at length but no amendment proposed to that effect.

14. Clause 20 – Directorate of the Service

The Committee proposes that clause 20 be deleted.

15. Clause 21 – Funds of the Service

It was proposed that paragraph (d) be deleted.

16. Clause 22 – Expenses of the Service

It was proposed that clause 22 should be redrafted. The following redraft is proposed:

"The expenses of the Service including salaries and allowances, gratuities and pensions payable to or in respect of members of the Service and the operational costs are a charge on the Consolidated Fund."

17. Clause 24 – Internal Auditor

(a) In subclause (2) on line 3, insert the words "for onward transmission to the Council" after "Comptroller-General".

~~(b) It was proposed that subclause (4) be deleted.~~

18. Clause 25 – Annual report and other reports

It was proposed that the subclause (4) should be transposed as subclause (3).

19. Clause 26 – Establishment of Immigration Officer's Welfare Fund

The Committee proposes that clauses 26 to 29 be deleted and rather provided for within Regulations under the Act.

20. Clause 32 – Indemnity for an act done in good faith

(a) It was proposed that the headnote should be substituted with "Indemnity".

(b) In lines 2 and 3 delete the words "in good faith and" after the word "done".

21. Clause 33 – Unlawful possession of uniform and other property of the Service

In subclause (4) paragraph (b) on lines 6 and 7, delete the words "two years" after the word "than" and insert the words "twenty four months". Members were of the view that this provision could be provided for under Regulations.

22. Clause 35 – Disposal of property in the possession of the Service

The Committee proposes that clause 35 be deleted.

23. Clause 36 – Complaint by member of the public

(a) Insert "(1)" after "36"

(b) It was proposed that the clause be redrafted to cover situations where the complaint is against the Officer-In-Charge. A new subclause (2) is proposed as follows:

"(2) Where a complaint under subsection (1) is against the Officer-In-Charge, the complaint shall be made to the Comptroller-General through a superior officer."

(c) In subclause (4) on line 5, substitute "two years" with "twenty-four months".

(d) It was proposed that provision should be made for a review of the decision of the Comptroller-General. The following redrafts are proposed to be inserted after subclause 36(3):

"(4) A person dissatisfied with the action taken by the Comptroller-General under subsection (3) may petition the Minister in writing."

(5) The Minister shall

(a) within fourteen days after receipt of the petition under subsection (4) make a decision on the petition; and

(b) notify the Complainant of the decision."

24. Clause 37 – Regulations

In subclause 2,

- (a) Paragraph (b) should be deleted.
- (b) In paragraph (f) insert the words "and proceedings" after the word "matters"
- (c) In paragraph (i) delete "and" at the end of the sentence.
- (d) It was proposed that a new paragraph should be drafted to deal with disposal of property by Regulations. The following redraft is proposed

"(i) the disposal of property in the possession of the Service"

25. Clause 38 – Interpretation

- (a) The definition for "fire arms" stated in the Arms and Ammunition Act, 1972 (N.R.C.D. 9) should be reproduced under this Act. The definition is as follows:

"fire arms" includes a gun, riffle machine gun, cap gun, flint-lock gun or pistol, revolver, pistol, cannon or any other firearm and an air gun, air rifle or air pistol whether whole or in detached pieces."

- (b) Insert the following:

"Junior Officer" means an Officer below the rank of Assistant Superintendent of Immigration"

"Senior Officer" means an officer of a rank above Senior Inspector".

"Superior Officer" means an officer who is senior in rank to the officer being ordered.

26. Clause 40 - Consequential amendments

The head note is amended to read "Consequential amendment".

27. Schedule

- (a) It is proposed that "Posts" should be substituted with "Ranks"

(b) It is proposed that the following ranks should be inserted immediately after " Inspector"

12. "Sergeant Major I"
13. "Sergeant Major II"
14. "Sergeant"

7.0 CONCLUSION

7.1 Ghana has about 3,200 kilometers of land borders which stretch from the East, West and North with the Atlantic Ocean to the South. The Land borders are of varying topography, with several river bodies, lakes, streams as well as mountains, hills and mushy terrain dotted along it. This difficult topography coupled with the spongy and porous nature of border demarcations may be exploited by criminal networks within the West African Sub-Region over the years to carry out their activities.

The GIS therefore needs legislative and administrative backing to effectively manage these borders, particularly in the wake of civil and military unrest within the West African Sub-region.

7.2 The passage of the Immigration Service Act would strategically position the Service to deliver on its mandate and contribute to the maintenance of law and order in the country by ensuring that only legitimate persons are allowed entry, residence and employment, thus effecting national and international security.

7.3 The Committee therefore recommends to the House to adopt its Report and pass the Bill subject to the proposed Amendments.

Respectfully submitted.



HON. FRITZ BAFFOUR
Chairman, Committee on
Defence and Interior



GLORIA SARKU KUMAWU
Clerk, Committee on
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JULY, 2015