

**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**

**CONDUCT OF PUBLIC OFFICERS BILL, 2018**

JULY 2020

Acc No: 1888

Class No: BR/CPO/18-

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**1.0 INTRODUCTION**

The Conduct of Public Officers Bill, 2018 was laid in Parliament on Tuesday, 3<sup>rd</sup> July, 2018 by the Hon. Attorney-General and Minister for Justice, Miss Gloria Afua Akuffo in accordance with Article 106 of the Constitution.

Pursuant to Order 179 of the Standing Orders of the House, the Rt. Hon. Speaker subsequently referred the Bill to the Committee on Constitutional, Legal and Parliamentary Affairs for consideration and report.

**2.0 DELIBERATIONS**

The Committee met with the Deputy Commissioner and an Official of the Commission on Human Rights and Administrative Justice (CHRAJ) and Officials of the Office of the Attorney-General and Ministry of Justice to consider the Bill.

As part of the consultative processes, the Committee engaged Representatives of the Ghana Integrity Initiative (GII) and the Ghana Anti-Corruption Coalition.

The Committee expresses its profound gratitude to the Officials and the Representatives of the Civil Society Organizations for assisting in the deliberations.

**3.0 REFERENCE DOCUMENTS**

The Committee referred to the following documents during its deliberations:

- i. The Constitution of the Republic of Ghana, 1992;
- ii. The Standing Orders of Parliament, 2000;

- iii. The Commission on Human Rights and Administrative Justice Act, 1993 (Act 456);
- iv. The Criminal Offences Act, 1960 (Act 29);
- v. The Public Financial Management Act, 2016 (Act 921);
- vi. The Public Officers Act, 1962 (Act 114);
- vii. The Public Office Holder's (Declaration of Assets and Disqualification) Act, 1998 (Act 550);
- viii. The Internal Audit Agency Act, 2003 (Act 658);
- ix. The Audit Service Act, 2000 (Act 584);
- x. The Anti-Money Laundering Act, 2008 (Act 749);
- xi. The Economic and Organised Crime Act, 2010 (Act 804);
- xii. The United Nations Convention Against Corruption, 2003; and
- xiii. The African Union Convention on Preventing and Combating Corruption, 2003.

#### **4.0 BACKGROUND INFORMATION**

- 4.1 Corruption remains a topical issue in international development. This is evident in the number of bilateral and multilateral treaties adopted by the United Nations and the African Union.
- 4.2 Chapter 24 of the Constitution domesticates the United Nations Convention against Corruption and the African Union Convention on Preventing and Combating Corruption. These Conventions were ratified by Parliament, in December 2005.
- 4.3 In pursuance of the above legislative framework, pieces of legislation have been enacted by the Parliament of Ghana. They include the Criminal Offences Act, 1960 (Act 29), the Public Financial Management Act, 2016 (Act 921), Public Procurement Act, 2003 (Act 663), Internal Audit Agency Act, 2003 (Act 658), and the Audit Service Act, 2000 (Act 584).

- 4.4 These laws are scattered in a number of laws and the provisions thereof have been found to be inadequate to deal with public office accountability. The existing law has been found lacking of sufficient deterrence towards the agenda of zero tolerance governing public office holders.
- 4.5 The above concerns prompted the Government to commence consultative processes in 2005 towards the enactment of a law to strengthen the current legal regime. This exercise culminated in the drafting of the Conduct of Public Officers Bill, 2018 and laying of same in Parliament for passage.

## **5.0 PURPOSE OF BILL**

The purpose of the Bill is to strengthen the current legal framework governing the conduct of public officers. In furtherance of this purpose, the Bill seeks to repeal the Public Officers Act, 1962 (Act 114) and the Public Office Holders (Declaration of Assets and Disqualification) Act, 1998 (Act 550).

## **6.0 SUMMARY OF PROVISIONS**

- 6.1 The Bill contains sixty-eight (68) Clauses.
- 6.2 The first set of provisions relates to qualification for holding public offices and related matters (Clauses 1 to 3 of the Bill).
- 6.3 The next set of provisions covers declaration of assets and liabilities by public officers and they are covered under Clauses 4 to 14 of the Bill. Specific provisions include duty to declare assets and liabilities, the kinds of assets to be declared, clarifications, complaints for contravention, confidentiality and publication of names of public officers who fail to declare their assets.
- 6.4 Matters dealing with Code of Conduct of public officers are covered under Clauses 15 to 22 of the Bill. Key provisions include duty of CHRAJ to produce Code of Conduct, prohibition of use of public office for private gain, sexual harassment, solicitation and acceptance of gifts.
- 6.5 Clauses 23 to 41 of the Bill deal with conflict of interest by public officers. These provisions cover duty to avoid and report on conflict of interest situations, business interest, award of contract, self-dealing, political neutrality among others.

- 6.5 Enforcement of Code of Conduct and proceedings against public officers are provided for under Clauses 42 to 47 of the Bill.
- 6.6 The remainder of the provisions cover miscellaneous matters. Among the key provisions under this heading are administrative procedures for the implementation of the law, instructions by superior officers to subordinate officers, Regulations, repeals and savings (Clauses 48 to 58 of the Bill).

## **7.0 OBSERVATIONS**

The Committee made the following observations during its deliberations:

### **7.1 Qualification to hold a Public Office**

The Committee noted that the Bill seeks to introduce a general qualification for appointment of persons into specified public offices in the country. Per the provisions of the Bill, persons who are convicted of certain offences are disqualified from being appointed as public officers. Subject to some exceptions, persons found by commissions of inquiry to be unsuitable to hold public offices or have acquired assets unlawfully or abused their present or previous offices are also disqualified from holding public offices. Persons who have acted in a manner prejudicial to the State or are under death sentence would not be permitted to be appointed into public offices. These restrictions would deepen public confidence in our public service.

### **7.2 Reforms in Asset Declaration Regime**

The Committee also noted that the Bill introduces two main reforms into the current asset declaration regime in the country. The first relates to the power of the Auditor-General to request a person who has declared his or her assets to provide clarification. The clarification would include request for additional information that had been omitted, verification of ownership of declared asset and explanation of discrepancies and inconsistencies in the declared assets. The second entails the introduction of penal sanctions for non-compliance. It would be an offence for a public officer to refuse to declare his or her assets or makes a false or misleading declaration. Defaulters would be sanctioned to a fine or term of imprisonment or to both.

### **7.3 Code of Conduct of Public Officers**

The Committee again observed that though Article 284 of the Constitution prohibits certain conduct of public officers, the existing laws do not specify details of the intended conduct. Accordingly, the Bill has provided certain standards to govern the conduct of public officers in respect of performance of their functions including the duty of public officers to perform their duties in professional manner. The Bill also makes further provisions to prohibit the use of public office for personal gain and sexual harassment. Further provisions have been made to deal with solicitation or acceptance of certain kinds of gift by public officers. Prohibited gifts include those solicited to influence the public officer in the discharge of duties or those accepted by public officers to discharge their duties.

For the purpose of facilitating the enforcement of the code of conduct, the Bill would require CHRAJ to develop and publish a code of conduct for public officers within specified parameters. Alternatively, other public offices may develop their own code of conduct which conform to the laws and the one developed by CHRAJ.

### **7.4 Conflict of Interest**

The Committee further noted that the Bill has created possible conflict of interest scenarios with specific provisions intended to govern those situations. Among these is the duty to be imposed on public officers to avoid conflict of interest in the performance of their official functions. There would also be a duty on public officers who find themselves in conflict situations to declare same to their heads of their public institutions or appropriate institutions and comply with any directions that may be given. The Bill would also prohibit public officers from holding interests in entities if doing so would give rise to conflict of interest situations. Public officers would again be prohibited from awarding or influencing the award of contract to themselves or to related persons. They are further restrained from participating in a matter in which they have financial interests or their related persons. This would give sufficient grounds to CHRAJ to investigate alleged cases of conflict of interest under Article 284 of the Constitution.

## 7.5 Enforcement Arrangement

Finally, the Committee noted that the Bill has made sufficient provisions for its enforcement upon passage into law. Complaints for non-compliance are to be made to CHRAJ. The Commission is thereafter required to cause the matter to be investigated within a specific period of time. The investigative body would have to report on its findings to the Commission. Based on the report, the Commission would be empowered to take necessary action including the institutions of disciplinary actions or referral to appropriate body for further action. A complaint against the Commission on the other hand, shall be made to the Chief Justice, who shall cause the matter to be investigated.

## 8.0 PROPOSED AMENDMENTS

The Committee has made the attached proposed amendments to further strengthen the provisions of the Bill.

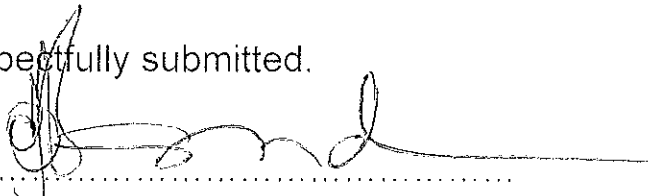
## 8.0 CONCLUSION AND RECOMMENDATION

The Committee has scrutinised the Bill within the contexts of Chapter 24 of the 1992 Constitution, the United Nations Convention Against Corruption and the African Union Convention on Preventing and Combating Corruption.

The Committee takes the considered view that the passage of this Bill into law would fill the existing gap in the country's anti-corruption legal framework.

In that regard, the Committee recommends to the House to adopt this Report and to pass the Conduct of Public Officers Bill, 2018 in accordance with Article 106 of the Constitution.

Respectfully submitted.



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**HON. BEN ABDALLAH BANDA**  
**(CHAIRMAN OF THE COMMITTEE)**



.....  
**BENJAMIN TACHIE ANTIEDU**  
**(ASSISTANT CLERK TO THE COMMITTEE)**

## ANNEXURE

### PROPOSED AMENDMENTS

#### CONDUCT OF PUBLIC OFFICERS BILL, 2018

- i. **Clause 1** - **Amendment proposed** – Subclause (1), line 1, *delete* “qualifies” and *insert* “shall not be qualified”.
- ii. **Clause 1** - **Amendment proposed** – Subclause (1), paragraphs (a), (b), (c) and (e), *delete* “not”.
- iii. **Clause 1** - **Amendment proposed** – Subclause (1), paragraph (c), subparagraph (ii), *delete* “that person’s employer” and *insert* “the employer of that person”.
- iv. **Clause 1** - **Amendment proposed** – Subclause (1), paragraph (d), line 1, *delete* “not” and *insert* “been found by a court of competent jurisdiction or commission of inquiry to have acted”.
- v. **Clause 2** - **Amendment proposed** – Line 2, *delete* “paragraphs (b) and (c)” and *insert* “paragraphs (b), (c) and (d)”.
- vi. **Clause 3** - **Amendment proposed** – Subclause (3), *delete* paragraph (a) and *insert* “(a) ten years or more have passed since the date of the publication of the report of the commission of inquiry;”.
- vii. **Clause 5** - **Amendment proposed** – Subclause (1), paragraph (i), lines 1 and 2, *delete* “the value of ten thousand Ghana cedis or more” and *insert* “a value determined by the Commission”.
- viii. **Clause 5** - **Amendment proposed** – Subclause (2), line 2, *delete* “the jewellery or object of art” and *insert* “the asset specified in paragraphs (g) and (i) of”.
- ix. **Clause 6** - **Amendment proposed** – Line 1, *delete* “property or assets” and *insert* “asset”.
- x. **Clause 13** - **Amendment proposed** – Subclause (1), line 1, after “Gazette” *insert* “, a daily newspaper of nationwide



circulation and on the website of the Auditor-General's Office".

- xi. **Clause 16** - **Amendment proposed** – Line 2, *after* "Gazette" *insert* "and on the website of the Commission".
- xii. **Clause 17** - **Amendment proposed** – Paragraph (a), lines 1 and 2, *delete* "and behave in other respects".
- xiii. **Clause 21** - **Amendment proposed** – Paragraph (f), subparagraph (ii), line 3, *delete* "its continuation" and *insert* continuation of the programme".
- xiv. **Clause 23** - **Amendment proposed** – Subclause (2), paragraph (a), lines 2 and 3, *delete* "the Commission or another appropriate body" and *insert* "or another appropriate body and the Commission".
- xv. **Clause 29** - **Amendment proposed** – Subclause (1), line 4, *delete* "sections 83, 83A and 84 of".
- xvi. **Clause 31** - **Amendment proposed** – Subclause (1), line 1, *after* "officer" *insert* "other than political office holder".
- xvii. **Clause 38** - **Amendment proposed** – Subclause (1), line 3, *delete* "a" and *insert* "that".
- xviii. **Clause 42** - **Amendment proposed** – Subclause (1), lines 2 and 3, *delete* "for Human Rights and Administrative justice" and *insert* "Commissioner".
- xix. **Clause 42** - **Amendment proposed** – Subclause (1), line 3, *after* "Justice" *insert* "unless that public officer makes a written admission of the contravention or non-compliance".
- xx. **Clause 42** - **Amendment proposed** – Subclause (3), *insert* "or the Chief Justice as the case may be".
- xxi. **Clause 44** - **Amendment proposed** – Line 1, *after* "Commission" and *insert* "or the Chief Justice as the case may be".
- xxii. **Clause 44** - **Amendment proposed** – Line 3, *after* "Commission" and *insert* "or the Chief Justice".

- xxiii. **Clause 48** - **Amendment proposed** – Subclause (2), *delete* “in”.
- xxiv. **Clause 48** - **Amendment proposed** – Subclause (2), paragraph (a) insert “in” before “the”.
- xxv. **Clause 48** - **Amendment proposed** – Subclause (2), paragraph (b) insert “in” before “the”.
- xxvi. **Clause 48** - **Amendment proposed** – Subclause (2), after paragraph (b) *insert* the following new paragraph:  
 “(...) on the website of the Commission.”
- xxvii. **Clause 49** - **Amendment proposed** – Subclause (3), lines 1 and 2, *delete* “A public officer who receives an oral instruction from a superior officer” and *insert* “A superior officer who gives an oral instruction under subsection (1)”.
- xxviii. **Clause 49** - **Amendment proposed** – Subclause (3), line 2, *delete* “seek written confirmation of” and *insert* “confirm in writing”.
- xxix. **Clause 54** - **Amendment proposed** – Headnote, before “salaries” *insert* “information on”.
- xxx. **Interpretation** - **Amendment proposed** – *Delete* the definition for “institution”.
- xxxi. **Interpretation** - **Amendment proposed** – In the definition for “spouse”, *delete* “and former wife”.
- xxxii. **Interpretation** - **Amendment proposed** – After the definition for “spouse” *insert* the following:  
 “written declaration” includes an electronic declaration.”
- xxxiii. **Second Schedule** - **Amendment proposed** – In the Table in paragraph 2(b), first column, line 3, *delete* “property”.
- xxxiv. **Second Schedule** - **Amendment proposed** – In the Table in paragraph 2(g), fifth column, line 3, *insert* “at” after “as”.