

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

PARLIAMENT OF GHANA LIBRARY

REPORT OF THE COMMITTEE ON CONSTITUTIONAL,  
LEGAL AND PARLIAMENTARY AFFAIRS

ON THE

PARLIAMENT OF GHANA LIBRARY

CRIMINAL OFFENCES (AMENDMENT) BILL, 2020

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**IN THE THIRD MEETING OF THE FOURTH SESSION OF THE SEVENTH  
PARLIAMENT OF THE FOURTH REPUBLIC**

**REPORT OF THE COMMITTEE ON CONSTITUTIONAL, LEGAL AND  
PARLIAMENTARY AFFAIRS ON THE CRIMINAL OFFENCES  
(AMENDMENT) BILL, 2020**

**1.0 INTRODUCTION**

- 1.1 The Criminal Offences (Amendment) Bill, 2020 was laid in Parliament on 15<sup>th</sup> July, 2020 by the Hon. Majority Leader and Minister for Parliamentary Affairs on behalf of the Hon. Attorney-General and Minister for Justice, Miss Gloria Afua Akuffo in accordance with Article 106 of the Constitution.
- 1.2 The Bill was subsequently referred to the Committee on Constitutional, Legal and Parliamentary Affairs for consideration and report pursuant to Order 179 of the Standing Orders of the House.

**2.0 DELIBERATIONS**

The Committee met with the Hon. Attorney-General and Minister for Justice and Officials of the Office of the Attorney-General and Ministry of Justice to discuss the Bill.

The Committee expresses its profound gratitude to the Hon. Attorney-General and the Officials for assisting in the deliberations.

**3.0 REFERENCE DOCUMENTS**

The Committee referred to the following documents during the deliberations:

- i. The Constitution, 1992;
- ii. The Criminal Offences Act, 1960 (Act 29);
- iii. The Criminal and Other Offences Act, 1960 (Act 30);
- iv. The United Nations Convention Against Corruption, 2005; and
- v. African Union Convention on Preventing and Combating Corruption, 2005.

## **4.0 BACKGROUND INFORMATION**

- 4.1 Corruption is recognised internationally as a grave offence in view of its devastating impact on development and rule of law. This is reflected in international instruments such as the United Nations Convention Against Corruption, and the African Union Convention on Preventing and Combating Corruption. Both instruments were ratified by Ghana on 14<sup>th</sup> December, 2005.
- 4.2 The Preamble to the United Nations Convention Against Corruption indicates that the Convention was developed pursuant to the concerns of State Parties regarding the seriousness and threats posed by corruption, to the stability and security of nations including jeopardizing sustainable development and rule of law.
- 4.3 Ghana's Constitution imposes an obligation on the State to take steps to eradicate corrupt practices and abuse of power (Article 35(8) of the Constitution). The Criminal Offences Act, 1960 (Act 29) creates the offences relating to corruption under Part 5 thereof (Sections 239, 248, 249, 250, 251, 253, 254 and 256 of Act 29).
- 4.4 However, in spite of the gravity of the offences, Act 29 has categorised these offences as misdemeanors. Misdemeanors carry a term of imprisonment not exceeding three years (Section 296(4) of the Criminal and Other Offences Act, 1960 (Act 30)). This penalty has been found to be inconsistent with the gravity of the offence of corruption as reflected in the United Nations Convention Against Corruption, and African Union Convention on Preventing and Combating Corruption.
- 4.5 Ghana has been experiencing a spate of corruption incidences over a period now. These corruption cases have had serious consequences on the economic development and the international image of the country. In response to this, the Government has decided that, as part of its legislative reforms to tackle corruption, the offence of corruption has been re-categorised as a felony and a stiffer or correlative penalty been provided.

## **5.0 OBJECT OF THE BILL**

The object of the Bill is to amend the Criminal Offences Act, 1960 (Act 29) to categorise the offence of corruption as felony, to provide a stiff penalty for a person who commits the offence of corruption and for related matters.

## **6.0 SUMMARY OF PROVISIONS**

- 6.1 The Bill contains ten (10) Clauses.
- 6.2 Clause 1 seeks to amend Section 239 of Act 29 to provide for an increased penalty for the offence of corruption of and by public officer or juror while clause 2 proposes to increase penalty for the offence relating to false declaration for office or voting under Section 248 of Act 29 is stipulated under Clause 2 of the Bill.
- 6.3 Clause 3 of the Bill proposes for an increase in the punishment for the offence of falsification of a certificate under Section 249 of Act 29 while the proposal to amend the current penalty for the offence of destruction of a document by a public officer under Section 250 of Act 29 is provided under Clause 4 of the Bill.
- 6.4 The proposed increase in the penalty of the offences of deceiving a public officer under Section 251 of Act 29, and accepting or giving bribe to influence a public officer or juror proposed to be increased are respectively provided under Clauses 5 and 6 of the Bill.
- 6.5 The Bill intends to amend Section 253 of Act 29 to increase the current punishment for the offence of corrupt practice by a judicial officer or juror (Clause of the Bill).
- 6.6 Clauses 8 and 9 of the Bill intends to amend the penalties in respect of the offences of corrupt selection of a juror under Section 254 of Act 29, and corruption, intimidation and personation in respect of a public election under Section 256 of Act 29.
- 6.7 The Bill intends to amend the penalties for the offence of withholding of public money by a public official under Section 260 of Act 29.

## **7.0 OBSERVATIONS**

The Committee made the following observations during consideration of the Bill:

### **7.1 Policy on Combating Corruption**

As espoused in the Memorandum to the Bill, corruption poses huge threat to the country's economic developmental agenda. This is because it reduces revenue to the State and distorts economic development by rewarding the dishonest rather than the diligent and honest ones. Furthermore, corruption impedes economic development but also stifles

infrastructural and social development, increases the cost of doing business in the country and makes the country unattractive for the purposes of foreign direct investment. Furthermore, corruption undermines state legitimacy and respect for legally constituted authority, democratic institutions, ethical values, the rule of law and the credibility of governments.

In view of the above, the Government has decided to review the penalties for the offences relating to corruption under Act 29 in accordance with Article 35(8) of the Constitution and international agreements to which Ghana is a signatory. By the Constitutional provision, the state is required to take steps to eradicate corrupt practices and the abuse of power. Officials of the Ministry of Justice further stated that the negative impacts of corruption on the international community and the country, necessitated the joint effort of the international community to take this measure to complement measures to eradicate corruption in the country.

## 7.2 Proposed Penalties under the Bill

The Committee observed that the Bill intends to re-categorise all the offences relating to corruption in Act 29 as felonies and to provide corresponding penalties for them. Details of the proposed penalties shown in the table below:

### Details of Proposed Penalties under the Bill

CLAUSE	OFFENCE	CURRENT PENALTY	PROPOSED PENALTY
1.	Corruption of and by public officer or juror (Section 239 of Act 29).	Term of imprisonment not exceeding 3 years.	Term of imprisonment between 12 and 25 years.
2.	False declaration for office or voting (Section 248 of Act 29).	Term of imprisonment not exceeding 3 years.	Term of imprisonment between 5 and 10 years.
3.	Falsification of a certificate (Section 249 of Act 29).	Term of imprisonment not exceeding 3 years.	Term of imprisonment between 5 and 10 years.
4.	Destruction of a document by a public officer.	Term of imprisonment not exceeding 3 years.	Term of imprisonment between 5 and 10 years.
5.	Deceiving a public officer.	Term of imprisonment not exceeding 3 years.	Term of imprisonment between 5 and 10 years.
6.	Accepting or giving bribe to influence a public officer or juror (Section 252 of Act 29).	Term of imprisonment not exceeding 3 years.	Term of imprisonment between 12 and 25 years.
7.	Corrupt promise by a judicial officer or juror (Section 253 of Act 29).	Term of imprisonment not exceeding 3 years.	Term of imprisonment between 12 and 25 years.

- ii. **Clause 1** - **Amendment proposed** – Subclause (1), line 2, delete “willful” and insert “wilful”.
- iii. **Clause 3** - **Amendment proposed** – Subclause (1), line 3, delete “and”.
- iv. **Clause 6** - **Amendment proposed** – *Delete* subclauses (2), and (3) and insert the following:
  - “ (1) A person shall not accept or agree or offer to accept a valuable consideration under pretence of having unduly influenced or of agreeing or being able to influence any other person in respect of functions as a public officer or juror.
  - (2) A person shall not give or agree or offer to give to a public officer a valuable consideration for the grant to that person or to any other person of a benefit or an advantage or for the exercise of influence in favour of that person or any other person.”.
- v. **Clause 7** - **Amendment proposed** – Subclause (2), line 2, delete “offencen” and insert “offence”.
- vi. **Clause 8** - **Amendment proposed** – *Delete* subclause (1), and insert the following:
  - “(1) A person shall not, with a purpose of procuring an undue advantage or disadvantage to a party to a judicial proceeding, procure for that person or for any other person to be summoned, empaneled or sworn as a juror in the proceeding or endeavour to prevent any other person from being summoned, empaneled or sworn as a juror in that proceeding.”.
- vii. **Clause 9** - **Amendment proposed** – Subclause (2), line 2, delete “fine” and insert “term of imprisonment”.
- viii. **Clause 10** - **Amendment proposed** – *Delete* lines 3 to 9 and insert the following:
  - “Where a public officer who is bound in that capacity to pay or account for money or a valuable thing or to produce or give up a

document or any other thing, fails to pay or account for or to produce or give up to any other officer or person lawfully demanding the same, commits an offence and is liable on summary conviction to a term of imprisonment of not less than twelve years and not more than twenty-five years.”.


## 9.0 CONCLUSION AND RECOMMENDATION

Indubitably, Corruption holds back the economic growth of a country as it reduces revenue to the State and distorts economic development. It also impedes economic development and stifles infrastructural and social development. Again, corruption undermines state legitimacy and respect for legally constituted authority, democratic institutions, ethical values, the rule of law and the credibility of governments.

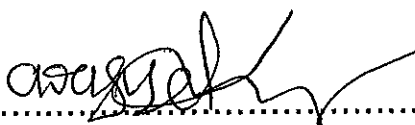
On the basis of the above, the Committee endorses the Government’s response to amend the penalties relating to re-categorise corruption under Act 29 to change it from a misdemeanor to felony with correlative penalty. This would serve as a deterrent for persons with corrupt intentions.

In that regard, the Committee recommends to the House to adopt this Report and to pass the Criminal Offences Bill, 2020 in accordance with the provisions of Article 106 of the Constitution and the Standing Orders of the House.

Respectfully submitted.



**HON. BEN ABDALLAH BANDA  
(CHAIRMAN, COMMITTEE ON  
CONSTITUTIONAL, LEGAL AND  
PARLIAMENTARY AFFAIRS)**



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