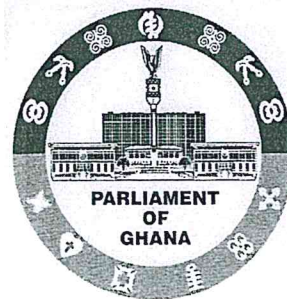


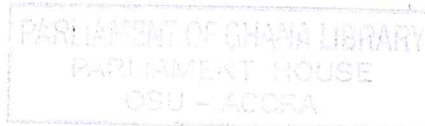
**IN THE FOURTH SESSION OF  
THE SIXTH PARLIAMENT OF  
THE FOURTH REPUBLIC OF GHANA**



**REPORT OF THE COMMITTEE ON CONSTITUTIONAL,  
LEGAL AND PARLIAMENTARY AFFAIRS**

**ON THE**

**PRESIDENTIAL (TRANSITION) (AMENDMENT) BILL,  
2016**



**JULY 2016**



## **1.0 INTRODUCTION**

1.1 The **Presidential (Transition) (Amendment) Bill, 2016** was presented to Parliament and read the first time on **Tuesday, 8<sup>th</sup> March, 2016**. In accordance with Article 106(4) and (5) of the Constitution and Order 179 of the Standing Orders of the House, the Rt. Hon. Speaker referred the Bill to the Committee on Constitutional, Legal and Parliamentary Affairs for consideration and report.

1.2 The Committee met to deliberate on the Referral. In attendance was the Honourable Minister for Justice and Attorney-General, Mrs. Marietta Brew Appiah-Oppong and Officials from the Legislative Drafting Division of her Ministry.

## **2.0 REFERENCE**

2.1 The Committee referred to the following Documents during its deliberations.

- i. 1992 Constitution
- ii. Standing Orders of Parliament
- iii. Presidential (Transition) Act, 2012 (Act 845)

## **3.0 BACKGROUND**

3.1 Until the enactment of the Presidential (Transition) Act, 2012 (Act 845), there was no legal blue print that

governed the transition of political power in the Country. Before the enactment of the Law, transitions in the Country had been characterised by administrative lapses, forced evictions and seizure of vehicles which left in their wake, acrimony, tension, ill-feeling and inter-party hostility.

3.2 The Presidential (Transition) Act, 2012 (Act 845) was enacted to establish arrangements for the political transfer of administration from an out-going democratically elected President, to an incoming democratically elected President and to provide for related matters. The Law made provision for accountability, institutional clarity and structured time for managing the transition process to avert the challenges experienced in previous transitions.

3.3 However, when Act 845 was first implemented, some challenges were experienced. Arguments were advanced to the effect that, even though Act 845 makes provision in Section 1 for the transfer of power to an incumbent President re-elected for a second term, it appears vague in some respects. In the case where an incumbent is re-elected, Act 845 simply states that the President shall designate members of the Transition Team. A limit was not set on the size of the Transition Team. Furthermore,

Act 845 did not make provisions for the tenure of Office of the Transition Team.

3.4 Sections 11 and 12 of Act 845 which deal with the issue of swearing-in of Members of Parliament and the election of the Speaker two days before the inauguration of the President, posed a challenge as to whether the inauguration of Parliament two days before dissolution, was not in conflict with Article 113 of the Constitution. Also, Act 845 provided for the appointment of an Administrator-General to be responsible for the management of the Executive estate, assets as well as the transition process. However, it does not empower the Office of the Administrator-General to deal with possible breaches, hence the introduction of the Bill to elaborate on some of the provisions of the Act.

#### **4.0 OBJECT OF THE BILL**

4.1 The Bill seeks to amend the Presidential (Transition) Act, 2012 (Act 845) to deal with the lapses identified in the Act by incorporating provisions that will ensure an effective and smooth presidential transition in the Country.



## **5.0 OBSERVATION**

- 5.1 The Committee observed that the Bill in *Clause 1* amends *Section 1* of Act 845 by providing for the constitution of a Transition Team, within twenty-four hours after the declaration of the results of the presidential election, in accordance with article 63 of the Constitution. The *Clause* also makes provision for the membership of the Transition Team in a situation where the incumbent is elected as President as well as in a situation where a new person is elected as President.
- 5.2 The Bill in *Clause 3* introduces a new *Section 3A* to provide for the tenure of office of members of the Transition Team. The tenure is limited to "within six weeks" after the election of the President in accordance with Article 63 of the Constitution. The Committee was of the opinion that the period "six weeks" is short and therefore has proposed an amendment seeking to extend the period to "eight weeks" instead.
- 5.3 The Committee also noted that *Clause 6* of the Bill amends *Section 10* of the Act on the vacation of official residence by providing the minimum and maximum period within which a person occupying official residence is to vacate the residence. The *clause* further empowers the Administrator-General to evict a person in

occupation of an official residence in a situation where the person ceases to hold office on the assumption of office of a newly elected President and that person refuses to vacate the residence within three (3) months after ceasing to hold office.

5.4 As indicated afore, Sections 11 and 12 of Act 845 which deal with the issue of swearing-in of Members of Parliament and the election of the Speaker two days before the inauguration of the President, posed a challenge because of the provision in Article 113 of the Constitution. *Clause 7* of the Bill however, proposes "within twelve hours" instead of the "two days" to abridge the time. The Committee considers the "twelve hours" more reasonable and urges Honourable Members to support it.

5.5 The Committee noted that the Minister responsible for Justice is given the power under *Clause 8* of the Bill to make Regulations for the effective implementation of the Act. The Regulations are to prescribe the form of handing over notes for effective implementation of the Act.

## **6.0 CONCLUSION**

6.1 The Presidential (Transition) Act, 2012 (Act 845) was enacted as a legal blue print to guide Presidential

transitions in the Country and forestall confrontations that may be associated with transitions. However, it has been noted that there are lapses in the Law which need to be addressed in order to have smooth transitions.


6.2 It is the expectation of the Committee that the passage of the Presidential (Transition) (Amendment) Bill, 2016 would allow for effective implementation of the Law as a way of removing the lapses experienced in the implementation of the Act.

6.3 The Committee recommends to the House to adopt the Report and pass the Bill subject to the amendments proposed in the attachment.

Respectfully submitted.



**ERIC OWUSU-MENSAH**  
Clerk, Committee on  
Constitutional, Legal and  
Parliamentary Affairs



**HON. MAGNUS KOFI AMOATEY**  
Chairman, Committee  
on Constitutional, Legal and  
Parliamentary Affairs

*JULY, 2016*



## APPENDIX

### AMENDMENTS PROPOSED TO THE PRESIDENTIAL (TRANSITION) (AMENDMENT) BILL, 2016

- i. Clause 1 – Section 1 of Act 845 – Amendment proposed - Sub-clause (1), paragraph (a), subparagraph (iii) after “Affairs” *add* “or Chief of Staff”.
- ii. Clause 1 – Section 1 of Act 845 – Amendment proposed - Sub-clause (3), line 1, *delete* “elected” and insert “re-elected”.
- iii. Clause 3 – Section 3A of Act 845 inserted – Amendment proposed – Clause 3A, line 1, after “within” *delete* “six” and *insert* “eight”.

