

**IN THE SECOND MEETING OF THE FIRST SESSION OF
THE
SEVENTH PARLIAMENT OF THE FOURTH REPUBLIC OF
GHANA**

**REPORT
OF THE COMMITTEE ON SUBSIDIARY LEGISLATION**

ON THE

**LOCAL GOVERNMENT (ATWIMA KWANWOMA
DISTRICT ASSEMBLY) (ESTABLISHMENT)
INSTRUMENT, 2017 (L. I. 2253)**



JULY 2017

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LOCAL GOVERNMENT (ATWIMA KWANWOMA DISTRICT ASSEMBLY)
(ESTABLISHMENT) INSTRUMENT, 2017 (L. I. 2253)**

1.0 INTRODUCTION

The Local Government (Atwima Kwanwoma District Assembly) (Establishment) Instrument, 2017 (L.I. 2253) was laid before Parliament on Friday 9th June 2017 in accordance with Article 11(7) of the Constitution. Pursuant to Orders 77 and 166 of the Standing Orders of Parliament, the Rt. Hon. Speaker referred the Instrument to the Committee on Subsidiary Legislation for consideration and report.

2.0 REFERENCE DOCUMENTS

The Committee referred to the under-listed documents during the deliberations:

- i. The 1992 Constitution
- ii. The Standing Orders of Parliament
- iii. Local Governance Act, 2016, Act 936
- iv. Local Government (Atwima Kwanwoma District Assembly) (Establishment) Instrument, 2007 (L.I. 1853)
- v. The unreported case of Nana Kwarteng Panin Akosa II & 3 others (Writ No J1/4/2009 and dated 22nd May 2012)

3.0 DELIBERATIONS

The Committee in considering the referral met with the Hon. Deputy Minister for Local Government and Rural Development, Mr. Osei Bonsu Amoah. In attendance was an Official from the Attorney General's Department.

4.0 BACKGROUND

- 4.1 The Local Government (Atwima Kwanwoma District Assembly) (Establishment) Instrument, 2007 (L.I. 1853) was laid before Parliament on 16th November, 2007 by the then Minister for Local Government, Rural Development and Environment. The Instrument among others sought to create a new District Assembly with its principal offices at Twedie where meetings of the Assembly would be held. At the expiration of the mandated twenty-one sitting days stipulated in article 11(7) of the Constitution, the Instrument came into force with a conspicuous change in Regulation 6 where **Foase** was substituted for **Twedie**.
- 4.2 Nana Kwarteng Panin Akosa II and 3 others aggrieved by the substitution, filed a writ at the Supreme Court seeking a declaration that the said Local Government (Atwima District Assembly) (Establishment) Instrument, 2007 (L.I. 1853) which came into force on 29th February 2008 was in contravention of Article 11(7) of the Constitution to the extent that it amended Regulation 6 in respect of the district capital or the principal offices of the Atwima District Assembly from **Twedie** to **Foase**.
- 4.3 The Supreme Court unanimously held that the Legislative Instrument which came into force on 29th February 2008 as L.I. 1853 contained an offending provision which is the substitution for **Twedie** with **Foase** as the Location of the principal offices or the District Capital of the Assembly. The Court also held that the substitution was in excess of the powers conferred on Parliament under Article 11 (7) of the Constitution. Thus, L.I. 1853 was to be expunged in accordance with Article 2(1) of the Constitution.
- 4.4 In April 2017, the Supreme Court cited the Hon. Minister for Local Government and Rural Development for contempt. In compliance with the decision of the Supreme Court, the Hon.

Minister introduced to Parliament L.I. 2253 to establish a District Assembly to be known as the Atwima Kwanwoma District Assembly with its principal offices at **Twedie** and to revoke the Local Government (Atwima Kwanwoma District Assembly) (Establishment) Instrument, 2007 (L.I. 1853).

5.0 OBSERVATIONS

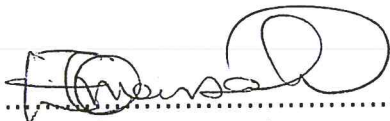
- 5.1 The Committee observed that this is not the first instance that the scope of the powers conferred on Parliament under Article 11 (7) of the Constitution has been the subject of determination by the Supreme Court. In the unreported cases of Stephen Nii Bortey Okane v The Attorney-General (J1/2/2011) and Nii Tetteh Opemeh v the Attorney-General and Others (J/3/2010), the Court held that in the course of considering any Order, Rule or Regulation, Parliament is not empowered to amend any Legislative Instrument.
- 5.2 The Committee also observed that the introduction of the Local Government (Atwima Kwanwoma District Assembly) (Establishment) Instrument, 2017 (L.I. 2253) is to correct an anomaly Parliament created and thus comply with the Supreme Court decision to expunge the Local Government (Atwima Kwanwoma District Assembly) (Establishment) Instrument, 2007 (L.I. 1853) from the laws and cite the District Capital of Atwima Kwanwoma at **Twedie** as stipulated in the Legislative Instrument laid on 16th November 2007.
- 5.3 The Committee noted that L.I. 2253 includes the new Electoral areas created by the Electoral Commission since the coming into force of L.I. 1853.



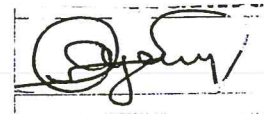
6.0 CONCLUSION

- 6.1 The Committee has carefully examined the Local Government (Atwima Kwanwoma District Assembly) (Establishment) Instrument, 2017 (L.I. 2253) and is of the considered view that the Legislative Instrument does not contravene the provisions of the Constitution and Order 166 (3) of the Standing Orders of Parliament, which served as a reference guide to the Committee.
- 6.2 The Committee accordingly recommends to the House that the Local Government (Atwima Kwanwoma District Assembly) (Establishment) Instrument, 2017 (L.I. 2253) should come into force at the expiration of twenty-one sitting days as provided for under Article 11(7) (C) of the 1992 Constitution.

Respectfully submitted.



ERIC OWUSU-MENSAH
PRINCIPAL ASSISTANT CLERK
COMMITTEE ON SUBSIDIARY LEGISLATION



HON. MAHAMA AYARIGA
CHAIRMAN, COMMITTEE ON
SUBSIDIARY LEGISLATION