

BRIEF REPORT
ON
WORKSHOP WITH MEMBERS OF SUBSIDIARY LEGISLATION COMMITTEE
OF PARLIAMENT TO DISCUSS THE PUBLIC OFFICE HOLDERS
(DECLARATION OF ASSETS AND DISQUALIFICATION) REGULATIONS 2009

VENUE: ERLKING HOTEL

DATE: MONDAY 22ND JUNE, 2009

Organizers:

Subsidiary Legislation Committee of Parliament

Ghana Audit Service

In attendance:

Ghana Integrity Initiative

Centre for Democratic Development (CDD) Ghana

1.0 INTRODUCTION

As a follow-up to the submission of Draft Legislative Instrument (LI) entitled Public Office Holders (Declaration of Assets and Disqualification) regulations 2009 to Parliament, the Subsidiary Legislation Committee of Parliament invited the Ghana Audit Service to a workshop for further discussion on the matter.

The workshop which was held on Monday 22nd June 2009 started with an opening prayer by Hon. Emmanuel Bandua, the ranking member of Subsidiary Legislation Committee of Parliament. This was immediately followed by self introduction by participants.

The chairman of the committee, Hon. Osei Kwame Prempeh, welcomed honourable members present, the Ghana Audit Service, Ghana Integrity Initiative and CDD-Ghana, to the workshop.

2.0 BRIEF REMARKS BY THE ACTING AUDITOR GENERAL

The acting Auditor General thanked the chairman of the Subsidiary Legislation Committee of Parliament for inviting him to discuss an issue that is of much concern to many Ghanaians - the subject of declaration of assets by public office holders. He made reference to the 1992 Constitution and section 13 of Act 550 which mandates the Auditor General to come up with regulations for effective implementation of the Law (Act 550).

According to him, the draft regulations before members were developed as a result of collaboration with a number of key stakeholders including: the Attorney General's Office, CHRAJ, Public Accounts Committee of Parliament, Centre for Democratic Development (CDD) Ghana, and the Ghana Integrity Initiative.

Again, he informed members about the various consultation meetings/workshops which were organised by the Ghana Audit Service to sensitized stakeholders notably the Public Service Commission, Head of the Civil Service, Parliament, the Office of the President Revenue Agencies Governing, Ministry of Foreign Affairs and various other institutions in the public service about the new dimensions in the regulations aimed at enhancing the administration of the Assets Declaration Regime.

According to acting Auditor General, all the stakeholders consulted at different forums welcomed the new draft regulations. He said the provisions in the draft regulation only seeks to restore what we believe might have been an omission on the part of those who promulgated Act 550. He noted that parliament through its discretionary powers provided under Article 296 of the Constitution can bring into fold of any law or regulation on any matter that has been omitted that can facilitate the effective implementation or enforcement of an existing law.

3.0 COMMENTS BY CIVIL SOCIETY ORGANISATION

CDD and GII pleaded with honourable members of the Subsidiary Legislation Committee of Parliament to see the draft regulations as an important development which seeks to protect the interest of members. He recounted an incident where someone who had acquired his house through a genuine means before entering politics was perceived to have acquired the said property through a corrupt means.

They also explained that a baseline study report on the Effectiveness of the Public Officers Holders (Declaration of Assets and Disqualification) Act, 1998 (Act 550) As an Anti-corruption Tool made it clear that the current Act 550 does not help in the fight against corruption and again does not meet internationally accepted best practices in terms of verification and making public the declarations. They intimated that Ghana can learn from other African countries like Tanzania, Kenya and South Africa where declarations are published.

Referring to Article 286 and 296 of the 1992 Constitution, they pushed the case that, there was nothing unconstitutional in relation to the provisions found in the draft regulations.

4.0 OPEN DISCUSSION (Regulations 2008)

Under Article 1, '**Assets Declaration Forms**', concerns raised by honourable members were that the Constitution has already stated how declaration forms can be obtained. Therefore, proposing other means like '**electronic means and other means determined by the Auditor General**', gives a lot of discretionary powers to the Auditor General which can be abused.

Under Article 2, '**Submission of Assets Declaration Forms**', the Auditor General said he is not ready now do receive declaration through the electronic means but included it as one of the means to allow flexibility for the future but members were of the opinion that if the Auditor General is not ready, he could as well remove the electronic mail from the draft regulations.

Under Article 5, '**Verification of information**', honourable members were divided on this issue, some were of the opinion that the Auditor General can at least open the declarations. But almost all of them said it is unconstitutional for the Auditor General to verify declarations by investigating declarations.

Under Article 6, '**Publication of Declaration**', honourable members were of the opinion to gazette names of public officials as by way of notification of declarations to the general public in it self is constitutional but to publish the list of assets and liabilities of public officials would be unconstitutional and requested that the Auditor General should state clearly what he intends to do.

Under Article 7, 'Interpretation', according to honourable members there is the need to reconsider the current the interpretation given to '**electronic device**' in the draft regulations.

5.0 CONCLUSION

The drafters (GAS, GII and CDD-Ghana) even though did not agree entirely with the concerns of honourable members about the unconstitutionality of Article 5 and 6 in the draft regulations however, acknowledged the need to review some of the articles in the current draft regulations taking into consideration, some of the reservations expressed by honourable members on the subject of unconstitutionality of some articles.

Closing prayer was said by Hon. Emmanuel Bandua, the ranking member of Subsidiary Legislation Committee of Parliament.