IN THE THIRD MEETING OF THE SECOND SESSION OF THE SEVENTH PARLIAMENT OF THE FOURTH REPUBLIC OF GHANA

REPORT OF THE

COMMITTEE ON SUBSIDIARY LEGISLATION

ON THE

REFERENDUM (CREATION OF NEW REGIONS) REGULATIONS, 2018, (C.I. 109)

NOVEMBER 2018.
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1.0 INTRODUCTION

The Referendum (Creation of New Regions) Regulations, 2018 (C.I. 109) was laid before Parliament on Tuesday 30th October, 2018 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 deliberations:

i. The 1992 Constitution
ii. The Standing Orders of Parliament
iii. The Referendum Act 1977 (SMCD143)
iv. Report of the Commission of Inquiry into the Creation of the New Regions

3.0 DELIBERATIONS

The Committee met with the Deputy Electoral Commissioner in charge of Operations and other Officials of the Electoral Commission. The Hon. Minister for Regional Reorganization and Development, Hon. Dan Kwaku Botwe and some Officials of his Ministry were in attendance during the consideration of the Instrument. Officials of the Drafting Division of the Office of the Attorney-General and Ministry of Justice were also in attendance to assist the Committee in its deliberations. Representatives of Political Parties were invited to attend the meeting. However, only a representative of the Convention Peoples Party (CPP) Mr. James K. Bomfah Jnr. honoured the invitation.
4.0 BACKGROUND INFORMATION

4.1 Some citizens and interest groups petitioned the President, requesting for the creation of new Regions out of some existing Regions. The President, H. E. Nana Addo Dankwa Akufo-Addo upon receipt of the petitions, forwarded them to the Council of State for its advice. The Council of State endorsed the request for the creation of the Regions. On the advice of the Council, the President in October 2017 appointed a 9-member Commission of Inquiry chaired by Justice Stephen A. Brobbey, a retired Supreme Court Judge, to further examine the petitions.

4.2 The Commission of Inquiry, in its Report submitted to the President on 26th June, 2018, affirmed that there was a substantial demand for the creation of six new Regions, namely, Western North, Bono East, Ahafo, Savannah, North East, and Oti Regions. The Report recommended areas where a Referendum should be held for the creation of the regions.

4.3 Consequently, the President referred the recommendations to the Electoral Commission to conduct a Referendum in accordance with Article 5(5) of the Constitution. The Electoral Commission in Article 51 of the Constitution is mandated to prescribe Regulations for the conduct of public elections and referenda among others. Hence, the introduction of the Referendum (Creation of New Regions) Regulations, 2018 (C.I. 109) to Parliament. The purpose of the Constitutional Instrument is to regulate the conduct of the Referendum for the creation of the proposed six regions.

5.0 OBSERVATIONS

5.1 The Committee observed that the Constitutional Instrument provides for the areas where the referendum are to be held. The specified areas are indicated in the First Schedule to the C.I. A person who intends to vote at the referendum must qualify as a registered voter in the areas where the referendum would be held. The Register of voters of all polling stations in those areas shall be the register for voting in the Referendum.

5.2 The Committee noted that prior to the conduct of the Referendum, the Electoral Commission would first issue a Writ of Referendum to each Returning Officer concerned. The Writ shall
specify the place where the referendum shall be held as well as the date, time and the issue to be determined at the Referendum. The Regional Returning Officer shall then issue a Notice of Referendum throughout the places where the Referendum is to be held in a manner determined by the Commission. The notice shall specify the place, the date and the time for the Referendum. The Commission is to assign a symbol, colour or combination of colours for the issues to be determined by the Referendum. The designated places to be used as polling stations for the Referendum shall be published in the Gazette. The Electoral Commission is empowered to appoint presiding officers and polling assistants. Prior to their appointment, the Commission shall publish the names of the proposed appointees at the District Office of the Commission not later than ten days before the Referendum.

5.3 The Committee again noted that, the Instrument makes provision for voting by proxy. Persons who are incapacitated to vote due to ill-health or who would be absent from the district on the day of voting, could apply to the District Returning Officer or the Electoral Commission by completing a Proxy Form. The proxy form shall be endorsed and distributed by the District Returning Officers. Upon being satisfied that a proxy is a qualified voter and the applicant is a registered voter, the District Returning Officer shall enter the name of the applicant and the proxy in the Proxy Voters' List.

5.4 The Committee observed further that, provisions have been made in the Constitutional Instrument for the appointment of Counting Agents to attend at the counting of votes at each polling station in the region. An interested group, not later than four days before the Referendum could submit a letter of appointment to the District Returning Officer, stating the name and address of the Counting Agent and the polling station to which the Counting Agent is to be assigned. The Counting Agent would swear an oath to abide by the laws and regulations governing the Referendum. The District Returning Officer would have to notify the Counting Agent, the time the counting of the votes would commence. The Agent will sign the declaration of results following the counting of ballots attesting to the genuineness of the counting process.
5.5 The Committee finally noted that the Instrument prescribes penalties for offences committed by officers who would be engaged for the conduct of the referendum and voters as well. Voting by an unqualified person, impersonation and bribery of an officer are also offences stipulated in the Regulations. A person convicted of an offence under the C.I. may be liable to pay a fine or to a term of imprisonment not less than two years and not more than five years or to both a fine and the term of imprisonment.

6.0 RECOMMENDATION AND CONCLUSION

6.1 The Committee examined the Constitutional Instrument within the ambit of the general objects of the Constitution and is of the view that the coming into force of the Constitutional Instrument would pave the way for the Electoral Commission to conduct the Referendum for the creation of the proposed six regions.

6.2 The Committee accordingly recommends to the House to adopt its Report and allow the Referendum (Creation of New Regions) Regulations, 2018 (C.I. 109) to come into force at the expiration of twenty-one sitting days of Parliament in accordance with Article 11(7) of the Constitution.

Respectfully submitted.

ERIC OWUSU-MENSAH
CLERK TO THE COMMITTEE

HON. MAHAMA AYARIGA
CHAIRMAN

NOVEMBER 2018.