

PARLIAMENT OF GHANA LIBRARY

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



**REPORT OF THE SELECT COMMITTEE
ON MINERALS AND MINING
(AMENDMENT) BILL, 2019**

2ND AUGUST 2019

**REPORT OF THE SELECT COMMITTEE ON MINES AND ENERGY
ON THE MINERALS AND MINING (AMENDMENT) BILL, 2019**

1.0 INTRODUCTION

- 1.1 The Minerals and Mining (Amendment) Bill, 2019 was laid in Parliament on 30th July, 2019 by the Deputy Minister for Lands and Natural Resources, Hon. Benito Owusu-Bio pursuant to Article 106 (1) of the 1992 Constitution.
- 1.2 The Bill was subsequently referred by the Rt. Hon. Speaker to the Committee on Mines and Energy for consideration and report pursuant to Article 106 (4) of the 1992 Constitution and Order 188 of the Standing Orders of Parliament.

2.0 DELIBERATIONS

- 2.1 The Committee met on 1st August, 2019 and considered the Bill. In attendance to assist the Committee were the Deputy Minister of the Lands and Natural Resources, Hon. Benito Owusu-Bio and other technical team from the Ministry of Lands and Natural Resources and Minerals Commission. The Officials of the Attorney-General's Department were also present to assist the Committee.
- 2.2 The Committee is grateful to the Hon.Minister and his Technical Team for their invaluable input.

3.0 REFERENCE DOCUMENTS

The Committee referred to the following documents during its deliberations:

- i. The 1992 Constitution of the Republic of Ghana;
- ii. The Standing Orders of Parliament;
- iii. The Minerals Commission Act, 1993 (Act 450); and
- iv. The Minerals and Mining Act, 2006 (Act 703).

4.0 BACKGROUND AND JUSTIFICATION FOR THE BILL

- 4.1 In recent times, there has been an increase in illegal mining activities especially in small scale mining which is popularly referred to as "galamsey", along with a significant influx of foreigners into the mining venture with attendant effects on farm lands and the pollution of a large number of water bodies.

- 4.2 The increasing patronage in the illegal mining operations is largely attributed to lesser sanctions against the perpetrators. There is therefore the need to review the penalties for persons who engage in illegal operations to make it unattractive to persons who may wish to engage in such activities.

5.0 OBJECT OF THE BILL

- 5.1 The object of the Bill is to amend the Minerals and Mining Act, 2006(Act 703) to increase the penalties for a person who buys or sells minerals without a licence or without a valid authority and to increase the penalties for a person who engages in illegal mining.

6.0 Highlights of the Bill

- 6.1 Clause 1 of the Bill amends section 81 of Act 703 to extend the application of section 99 to cover other forms of illegal mining in addition to illegal small scale mining.
- 6.2 Clause 2 amends section 99 of Act 703. Sub-clauses 1- 5 increase the penalty for persons, both locals and foreigners, who engage in illegal mining operations. Sub-clauses 6 and 7 criminalise activities of persons who provide various support services to illegal miners; while sub-clauses 8 – 10 provides for the seizure and disposal of equipment and product used for illegal mining operations.

7.0 OBSERVATIONS

7.1 *Stiffer Punishment for all Illegal Mining Offences*

The Committee observed that the penalty regime for offences for persons who engage in illegal mining operations is being proposed to increase from the existing three thousand penalty units to ten thousand penalty units, while the corresponding minimum term of imprisonment has been pegged at a minimum of fifteen years and not more than twenty - five years. The Committee was of the view that the new penalty regime is deterrent enough to make illegal mining unattractive to persons who plans to engage in such unlawful activities.

7.2 *Expansion on Scope of Culpable Persons in Illegal Mining Operations*

The Committee noted that the application of the offences and penalties contained in Section 99 of the principal enactment (Act 703) which is currently limited to small scale mining has been extended to cover all forms of illegal mining. Additionally, a person who fabricates, manufacture floating platforms or any other equipment for mining operations commits an offence when the equipment are used to do illegal mining operations. Similarly, a person who provides or are involved in the provision of excavators or other equipment commit an offence when the usage of such equipment contravenes a provision of this Act. The Bill also criminalises fronting for foreigners by Ghanaians.

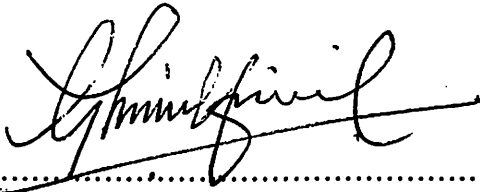
7.3 *Disposal of Confiscated Equipment and Mining Product*

It was noted that the existing law does not explicitly provide for disposal of equipment and product confiscated from illegal mining operations. As a result, confiscated items and products are often left at the police custody, normally at the mercy of bad weathers. To remedy the situation, the Minister responsible for Mining has been empowered under the Bill to allocate the confiscated equipment and products to an appropriate state institution for use and publish same in the Gazette.

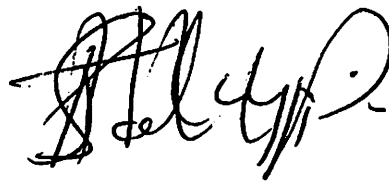
8.0 CONCLUSION AND RECOMMENDATION

- 8.1 The Committee has thoroughly deliberated on the policy objective of the proposed amendments to the principal enactment and is of the view that its promulgation into law would go a long way to address the increasing activities of illegal mining in the country and reduce its attendant repercussions.
- 8.2 The Committee, again is of the view that the lifting of the ban on small scale mining may engender recalcitrant persons to go back to their illegal operations and derail the efforts of the Inter-ministerial Committee on Mining and the Military Taskforce.
- 8.3 The Committee accordingly recommends to the House to adopt its report and pass the Minerals and Mining (Amendment) Bill, 2019 into law. The Committee further urges the House to consider the Bill as urgent in nature and take it through all the stages in a day.

Respectfully submitted.



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HON. EMMANUEL AKWASI GYAMFI
(CHAIRMAN, COMMITTEE ON MINES AND ENERGY)



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JOANA A. S. ADJEI (MRS)
(CLERK TO THE COMMITTEE)

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APPENDIX A. PROPOSED AMENDMENTS

- i. Insert the following new clause after section 96 of the principal enactment:

"Provision of mining support services
96A. A foreigner or a foreign company shall not provide mining support services for a small-scale mining operation."
- ii. Clause 2, (99) (1) opening sentence, *after* "who" add the following:

"buys or sells minerals"
- iii. Clause 2, (99) (1) (a), delete the following preceding words:

"buys or sells minerals"
- iv. Clause 2, (99) (3) delete and insert the following:

"A foreigner who undertakes any mining operation or facilitates the participation of any person in mining contrary to a provision of this Act commits an offence and is liable on a conviction to

 - (a) a fine of not less than one hundred thousand penalty units and not more than three hundred and fifty thousand penalty units;
 - (b) a term of imprisonment of not less than twenty years; or
 - (c) both the fine and the term of imprisonment
- v. Clause 2, (99) (6) *delete* lines 8 and 9 and *replace* with the following:

"or to a term of imprisonment of not less than fifteen years and not more than twenty-five years or to both".
- vi. Clause 2, (99) (7), line 2, *before* "provision", *delete* "any" and *replace* with "a"
- vii. Clause 2, (99) (7) *delete* line 5 and 6 and *replace* with the following:

"or to a term of imprisonment of not less than fifteen years and not more than twenty-five years or to both".