



**IN THE THIRD SESSION OF THE EIGHTH
PARLIAMENT OF THE FOURTH REPUBLIC OF
GHANA**

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

ON THE

PARLIAMENT OF GHANA LIBRARY
PARLIAMENT HOUSE
OSU - ACCRA

WHISTLEBLOWER (AMENDMENT) BILL, 2023

JUNE, 2023

**REPORT OF THE COMMITTEE ON CONSTITUTIONAL, LEGAL
AND PARLIAMENTARY AFFAIRS ON WHISTLEBLOWER
(AMENDMENT) BILL, 2023**

1.0 INTRODUCTION

- 1.1 The Whistleblower (Amendment) Bill 2023 was laid in Parliament on 7th March, 2023 by Hon Minister for Justice and Attorney-General, Mr Godfred Yeboah Dame, 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 Constitutional, Legal and Parliamentary Affairs for consideration and report pursuant to Article 106 (4) of the 1992 Constitution and Order 179 of the Standing Orders of Parliament.

2.0 DELIBERATIONS

- 2.1 The Committee met on 29th May, 2023 and considered the Whistleblower (Amendment) Bill, 2023. In attendance at the meeting to assist the Committee in its deliberations were Justice Dennis Adjei (Justice of the Court of Appeal), Hon Diana Asonaba Dapaah (Deputy Attorney-General and Minister of Justice), and officials from the Office of the Attorney-General's Department.

- 2.2 The Committee is grateful to all the participants for their invaluable contributions.

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; and
- iii. The Whistleblower Act, 2006 (Act 720).

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4.0 BACKGROUND AND JUSTIFICATION FOR THE BILL

- 4.1 The Whistleblower Act, 2006 (Act 720) was passed in 2006 as part of efforts at creating incentives and the proper structures to strengthen Ghana's ability to combat corruption and other forms of unlawful conduct that negatively affect sustainable development efforts.
- 4.2 Section 20 of Act 720 established the Whistleblower Reward Fund with its main sources of funding being voluntary contributions and budgetary allocations by Parliament.
- 4.3 The possibility of delay in releases of approved budget into the Fund may affect prompt payment of rewards to whistleblowers.
- 4.4 In addition, Act 720 is silent on the time period within which the Whistleblower should be rewarded for the efforts leading to successful recovery of moneys or proceeds obtained from the sale of confiscated assets
- 4.5 The amendments proposed are therefore meant to cure the shortcomings in Act 720 by reducing overreliance on budgetary allocations as the main sources of revenue into

the Whistleblower Reward Fund, and to also provide for timelines for payment of the rewards to successful whistleblowers.

5.0 OBJECT OF THE BILL

- 5.1 The object of the Bill is to amend the Whistleblower Act, 2006 (Act 720) to expand the sources of money for the Fund, to provide a ceiling for the Fund and to specify the mode of rewards for whistleblowers.

6.0 HIGHLIGHTS OF THE BILL

- 6.1 Clause 1 of the Bill introduces a new clause to provide for the utilisation of moneys recovered or proceeds obtained from the sale of a confiscated asset as a result of the disclosure by a whistleblower. Twenty per cent of the moneys recovered or proceeds obtained from the sale of a confiscated asset is to be paid into the Fund whilst the remaining eighty per cent is to be paid into the Consolidated Fund.
- 6.2 Clause 2 amends section 21 of the Act to expand the sources of money of the Fund to include twenty percent of any amount of money recovered as a result of the disclosure by a whistleblower.
- 6.3 Clause 3 amends section 24 of the Act to specify the mode of rewarding a whistleblower. Where a whistleblower makes

a disclosure and the disclosure results in the recovery of an amount of money that is paid into the Fund, the whistleblower is entitled to, within fourteen days after the payment of the money into the Fund, a reward of ten percent of the money that is recovered and paid into the Fund. Where the disclosure of the whistleblower results in a successful collaboration other than a direct recovery of money, the whistleblower is entitled to, within thirty days after the successful collaboration, a reward of an amount of money that is paid out of the Fund.

Furthermore, where there is insufficient money in the Fund for payment of a monetary reward to a whistleblower, the Minister responsible for Finance is required to pay the difference between the money available in the Fund and the amount of money required to be paid to the whistleblower, out of the Consolidated Fund and within the period indicated.

- 6.4 Clause 4 amends section 26 of the Act by introducing new provisions in respect of the management of the Fund. The clause provides that where the amount of money in the Fund is in excess of fifty million Ghana Cedis, the Minister responsible for Finance is required to, in consultation with the Attorney-General, transfer the excess money into the Consolidated Fund.



6.5 Additionally, moneys in the Fund are required to be invested only in safe short-term market instruments.

7.0 **OBSERVATIONS**

7.1 **Whistleblower protection**

The committee stressed on the critical need for the protection of the the identity of whistleblowers in order not to expose them to unnecessary recrimination by powerful and influential persons in the society. Instituting strong whistleblower protection mechanisms is essential to safeguarding the safety of the whistleblowers, encourage citizens to report wrongdoings, and promote a culture of public accountability and integrity. The Committee therefore urges persons to whom or institutions to which disclosure of impropriety is made pursuant to Section 3 of Act 720, to observe the highest form of confidentiality and put in place stringent protective measures to protect the identity of the whistleblowers

7.2 **Prompt Payment of Rewards to whistleblowers**

It was noted that one of the main reasons for this proposed amendment to Act 720 is to provide reliable and sustainable sources of funding into the Fund. The intent is to avoid any form of demotivation arising out of delays in payment of rewards to whistleblowers. The Committee therefore urges the Minister responsible for Justice and the Attorney-General to deepen collaboration with the Minister

responsible for Finance for timely releases of amount due the Fund following successful recovery of moneys or proceeds obtained from the sales of the confiscated assets as a result of disclosure by whistleblowers.

8.0 PROPOSED AMENDMENTS

i. Clause 2 – Amendment proposed

Section 21 of Act 720 amended

Delete paragraph (d) and insert a new paragraph (d) as follows:

“(d) moneys allocated by Parliament to the Fund”.

ii. Clause 3 – Amendment proposed

Section 24 of Act 720 amended

Subclause (2), ending paragraph *add* the following “to be determined by the Minister responsible for Finance in consultation with the Attorney-General” after “Fund”.

iii. Clause 3 – Amendment proposed

Section 24 of Act 720 amended

Insert new subclause (4) as follows:

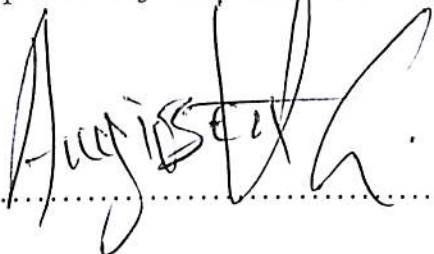
“(4) Subject to the State Proceedings Act, 1998 (Act 555), a whistleblower who is not paid contrary to subsections (1) and (2), may make an application to the court for the necessary orders”.

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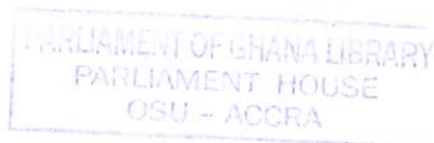
9.0 CONCLUSION

- 9.1 The motivation of persons to expose wrongdoing in both private and public sectors is a major drive towards fighting fraud, corruption and unethical behaviour. As a result, the State should continually review its policies and legal frameworks geared towards incentivising and protecting patriotic persons who volunteer information on wrongdoings in the country.
- 9.2 The Committee therefore finds the proposed amendment relevant to strengthening national efforts at combating corruption. The Committee accordingly recommends to the House to adopt its report and pass into law, the Whistleblower (Amendment) Bill 2023 in accordance with Article 106 of the 1992 Constitution.

Respectfully submitted.



**HON. KWAME ANYIMADU-ANTWI
(CHAIRMAN, COMMITTEE ON CONSTITUTIONAL, LEGAL
AND PARLIAMENTARY AFFAIRS)**



**AKUA DUROWAA OWUSU AGYEKUM (MRS)
(HEAD, LEGAL COMMITTEES CLUSTER)**

June, 2023