

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

1.0 INTRODUCTION

1.1 The Statutory Instrument (Amendment) Bill was presented and read the first time in Parliament on 8th December 2006. Mr. Speaker subsequently referred the Bill to the Committee on Constitutional, Legal and Parliamentary Affairs for consideration and report pursuant to Article 106(4) and (5) of the Constitution and Standing Order 179 of the House.

2.0 DELIBERATIONS

2.1 The Committee met on Wednesday 28th March 2007 to consider the referral. The technical team from the Attorney-Generals Department led by Mrs Estelle Appiah, Chief Legislative Draftsperson were in attendance at the invitation of the Committee. The Committee is grateful to them for their attendance and input in its deliberations.

3.0 REFERENCE DOCUMENTS

3.1 The Committee had recourse to the following documents during its deliberations:

- (1) The 1992 Constitution
- (2) The Standing Orders of Parliament
- (3) The Statutory Instruments Act, 1959 (No.52)
- (4) The Statutory Instruments (Amendment) Act, 1997 (Act 539)
- (5) The Statutory Instruments Act, 2000 (Act 572)
- (6) Fine (Penalty Units) (Amendment) Regulations 2005 (L.I. 1813)

4.0 BACKGROUND

4.1 The power to impose penalty by way of a fine or term of imprisonment for contravention of a prohibition or requirement in a statutory instrument is provided for in the Statutory Instruments Act of 1959 (No. 52). The Act No. 52 also stated the maximum limit of penalties to be imposed in the event of contravention of a subsidiary legislation. The above Act was amended by the Statutory Instruments Amendment Act, 1997 (Act 539). The Act 539 specified in pecuniary terms the maximum penalty that may be imposed in contravention of statutory instruments.

Even though the Fines (Penalty Units) Act, 2000 (Act 572) which was subsequently enacted sought to revise the position in the Act 539 by expressing the fines in penalty units, it did not repeal the Act 539. This was because the Act 572 stated 1st January 1998 as the cut of date for its implementation while the Act 539 came into force on 23rd December 1997.

In 2005 the Fine (Penalty Units) (Amendment) Regulations 2005 (L.I. 1813) came into force. The L.I. 1813 increased the base value of penalty units from ϕ 20,000 to ϕ 120,000. Notwithstanding the above increase in the value of penalty unit, the limits prescribed for penalty in section 9 of the Act No. 52 and the Act 539 have still not been repealed. Consequently the defect which the Act 572 sought to cure in Act No. 52 of 1959 and the Act 539 still continues to exist thus creating a technical problem.

The need to resolve the above technical problem and to also harmonise provisions of the Statutory Instruments Act of 1959 (No. 52) as variously amended with the object of the Fines (Penalty Units) Act, 2000 (Act 572) necessitated the introduction of the Bill.

5.0 OBJECT OF THE BILL

5.1 The Bill seeks to amend the Statutory Instruments Act (No. 52) to increase the penalty that may be imposed for contravention of provisions in subsidiary legislation and to bring the statutory instruments penalty regime in conformity with international standards.

6.0 PROVISIONS OF THE BILL

6.1 The Bill provides for two (2) sections. The first section provides for a further amendment to the No. 52 of 1959 by the repeal of section 9, while section 2 of the Bill provides for the repeal of the Statutory Instruments Act, 1997 (Act 539).

7.0 OBSERVATIONS

7.1 The Committee observed that the current state of the law on fines and penalties indicate a technical error which needs to be corrected to ensure a smooth implementation of the laws on fines and penalties.

The Committee noted that even though Act 572 has replaced pecuniary penalty with penalty units, the Act 539 which expressed the fine in pecuniary terms is still in force. Secondly, section 9 of the Act No. 52 of 1959 as amended by Act 539 also set a maximum limit of penalty to be imposed for contravention of a statutory instrument as five million cedis or to a term of imprisonment not exceeding twelve months or to both. With the introduction of the Fine (Penalty Units) (Amendment) Regulations 2005 (L.I. 1813) to increase the penalty units from ₨20,000.00 to ₨120,000.00 the above legal limitation imposed by the Act 593 is out of date and is required to be repealed.

The Committee also observed that the Bill, when passed will harmonise the Statutory Instruments Act (No. 52) with (Act 572) by replacing pecuniary penalty with penalty

units. This is necessary as it would bring our penalty regime in conformity to international standard requirements.

It was also the considered view of the Committee that the entire legal regime on fines and penalties are scattered in pieces of legislation which requires a lot of cross referencing for any effective decision to be taken on the subject matter. Such arrangement in the view of the Committee does not make the laws user-friendly and would require a review.

7.2 **Amendments Proposed**

7.2.1 The Committee proposes the following amendments for the consideration of the House

I. Long Title – amendment proposed – line 1 at end *delete /* “of 1959”

(The above phrase is a repetition and therefore redundant)

II. Clause 1, sub-clause 2 – amendment proposed – delete and substitute

“(2) A penalty prescribed for an offence by virtue of this section, shall not exceed a fine of one hundred and fifty penalty units or imprisonment for a term of twelve months or both and in the case of a continuing offence, an additional penalty not exceeding five penalty units may be prescribed by the instrument for each day on which the offence continues”

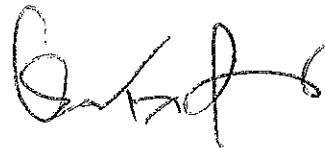
(this amendment is being proposed to reduce the maximum level of the penalty units provided for in the Bill)

8.0 **RECOMMENDATION AND CONCLUSION**

8.1 The Committee has examined the object and purpose of the Bill in the light of the provisions of the Constitution, existing Statutes on fines and penalties and the Criminal Offences Act, and considers them necessary and appropriate for the effective

administration of justice. The Committee accordingly recommends the Statutory Instrument (Amendment) Bill to this House for passage subject to the above proposed amendments. The Committee further recommends that the Attorney-General take necessary steps to consolidate the various statutes on fines and penalties in a single document in order to make it more user-friendly.

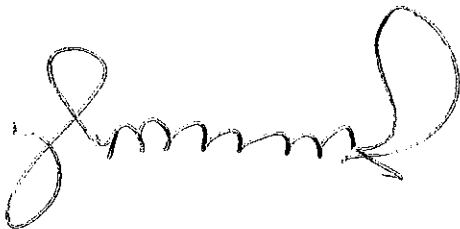
Respectfully submitted



HON KOFI OSEI-AMEYAW

CHAIRMAN

**COMMITTEE ON CONSTITUTIONAL,
LEGAL & PARLIAMENTARY AFFAIRS**



EBENEZER AHUMAH DJIETROR

CLERK

**COMMITTEE ON CONSTITUTIONAL,
LEGAL & PARLIAMENTARY AFFAIRS**

MAY 2007