



IN THE THIRD SESSION OF THE EIGHT  
PARLIAMENT OF THE FOURTH REPUBLIC OF GHANA

REPORT OF THE  
COMMITTEE ON CONSTITUTIONAL, LEGAL  
AND PARLIAMENTARY AFFAIRS

ON THE

CHARTERED INSTITUTE OF RESTRUCTURING AND  
INSOLVENCY PRACTITIONERS, GHANA BILL, 2023

20<sup>TH</sup> NOVEMBER, 2023

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**REPORT OF THE COMMITTEE ON CONSTITUTIONAL, LEGAL  
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INSTITUTE OF RESTRUCTURING AND INSOLVENCY  
PRACTITIONERS, GHANA BILL, 2023**

**1.0 INTRODUCTION**

1.1 The Chartered Institute of Restructuring and Insolvency Practitioners, Ghana Bill, 2023 was laid in Parliament by the Minister for Parliamentary Affairs and Majority Leader, Hon Osei Kyei-Mensah-Bonsu, on Tuesday, 1<sup>st</sup> August, 2023.

1.2 The Bill was subsequently referred 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 the Parliament.

**2.0 DELIBERATION**

2.1 In attendance at the meeting to assist the Committee in its deliberations were the Hon Deputy Attorney-General and Deputy Minister for Justice, Madam Diana Asonaba Dapaah, the Registrar of Companies, Mrs Jemima Oware, representatives of the Ghana Association of Restructuring and Insolvency Advisors, Prof Albert Fiadjoe and Mr Felix Addo, Mr Bryan Wontumi, Head of Legal Department of Bank of Ghana, Ms Joyce Adu, Director, Legal Department of the Institute of

Chartered Accountants Ghana, and Ms Grace Issahaque, Acting Registrar-General.

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

### **3.0 REFERENCE DOCUMENTS**

The Committee made reference to the following documents during its deliberations:

- i. The 1992 Constitution of Ghana;
- ii. The Standing Orders of the Parliament of Ghana;
- iii. Companies Act, 2019 (Act 992);
- iv. Bodies Corporate (Official Liquidations) Act, 1963 (Act 180); and
- v. The Corporate Insolvency and Restructuring Act, 2020 (Act 1015).

### **4.0 BACKGROUND**

4.1 As part of the processes of legal reform, initiated by the Ministry of Justice aimed at improving the quality of the legal regime for corporate bodies and their administration due to insolvency, the Corporate Insolvency and Restructuring Act, 2020 (Act 1015) was enacted. Act 1015 re-enacts the Bodies Corporate (Official Liquidations) Act, 1963 (Act 180) to incorporate an enhanced dimension of the liquidation of companies and provide for the regulation of insolvency

practitioners and the proper administration of insolvency proceedings, accountability and efficiency.

4.2 Subsection (2) of section 171 of the Corporate Insolvency and Restructuring Act, 2020 (Act 1015) mandates the Minister responsible for Justice to ensure, within two years after the coming into force of Act 1015, that the Ghana Association of Restructuring and Insolvency Advisors is established under an Act of Parliament.

4.3 Further, under the Corporate Insolvency and Restructuring Act, 2020 (Act 1015) the Registrar of Companies is mandated to establish the Insolvency Services Division to regulate insolvency practice under Act 1015, the Companies Act, 2019 (Act 992), and any other relevant enactment and oversee the administration, restructuring and insolvency proceedings of companies and other bodies corporate in the country.

4.4 The Ghana Association of Restructuring and Insolvency Advisors was incorporated as a company limited by guarantee under the Companies' Act 1963 (Act 179) on 8<sup>th</sup> August, 2006 with the business objective of providing recovery and insolvency advisory services in companies and body corporates.

4.5 The Bill seeks to transform the Ghana Association of Restructuring and Insolvency Advisors into the Chartered Institute of Restructuring and Insolvency Practitioners, Ghana to support the Insolvency Services Division of the Office of the Registrar of Companies in the regulation of insolvency services. This will include the promotion of the study of insolvency and ensuring that insolvency practitioners involved in the administration, restructuring and insolvency proceedings in the country have the requisite qualification and training in insolvency practice.

4.6 The Bill is also a requirement in furtherance of the Companies Act, 2019 (Act 992) and the Corporate Insolvency and Restructuring Act, 2020 (Act 1015) with the overarching aim of securing a sound legal framework for the regulation of insolvency services to guarantee a robust and efficient regime for insolvency practice in Ghana.

## **5.0 OBJECT OF THE BILL**

The object of the Bill is to establish the Chartered Institute of Restructuring and Insolvency Practitioners, Ghana, to promote the study of insolvency, to train insolvency practitioners and provide for related matters.

## **6.1 SUMMARY OF THE PROVISION OF THE BILL**

**6.1 Clauses 1 to 3** provides for the establishment of the Chartered Institute of Restructuring and Insolvency Practitioners, Ghana, Objects and the functions.

**6.2 Clauses 4 to 12** establishes the Governing Board as a Council with its functions, tenure of membership of the Council, meetings, disclosure of interests, and allowances, among others.

**6.3 Clauses 13 to 16** set out the Membership and Qualifications, the guidelines for the category of membership either as student, associate, full member, fellow or honorary firm and the qualifications for each category and the restrictions.

**6.4 Clauses 17 to 28** takes care of the Registration and goes further to explain the criteria for membership registration, the fees, suspension and the conditions for cancellation of membership.

**6.5 Clauses 29 to 40** provides for the Public Practice of Insolvency, licensing for public practice, the definition of public practice of insolvency, conditions for licensing, renewal, and appeal procedures.

6.6 **Clauses 41 to 47** provides for affiliation with the other professional bodies, the power of appointment, the composition of the various committees and their functions and the appointment of staff.

6.7 **Clauses 48 to 53** deals with financial matters, the sources of funds, management of the bank accounts, audits, accounts, borrowing powers, and annual reports.

6.8 **Clause 54 to 63** covers the miscellaneous matters relating to the registration for those offering tuition, guidelines for the custody and utilisation of the common seal, offenses and penalties, operational rules, publication of the Ghana Insolvency and Restructuring Journal, the power of the Minister to make regulations, savings and transition provisions.

## **7.0 OBSERVATION**

### **7.1 Compliance with the requirements of existing enactments**

7.1.1 The House may recall that on 1<sup>st</sup> April 2020, Parliament passed the Corporate Restructuring and Insolvency Bill into law and was subsequently assented to by the President on 30<sup>th</sup> April, 2020.

7.1.2 The Corporate Restructuring and Insolvency Act, 2020 (Act 1015), among other things, provides for the legal framework for the administration of the business, property and affairs of distressed companies in a manner that provides an opportunity for the company to as much as possible continue in existence as a going concern, the regulation of insolvency services, and the development and implementation of restructuring plans for better returns upon liquidation of distressed companies.

7.1.3 In furtherance of the object of the law, Section 171 of the Act 1015 places an obligation on the Minister to within two years after the coming into force of the Act, ensure that the Ghana Association of Restructuring and Insolvency Advisors which existed as an Association is established by an Act of Parliament as an Institute to train insolvency practitioners to assist the Registrar of Companies in the exercise of the Registrar's functions as official Liquidator pursuant to Section 7 of the Bodies Corporate (Official Liquidations) Act, 1963 (Act 180).

7.1.4 The passage of the Chartered Institute of Restructuring and Insolvency Practitioners, Ghana, Bill into law, will therefore satisfy the policy imperatives contemplated by Parliament under Section 171 of the Act 1015.

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## 7.2 The Title of the Bill

7.2.1 The Committee was informed that the change in name from Ghana Association of Restructuring and Insolvency Advisors to Chartered Institute of Restructuring and Insolvency Practitioners, Ghana as reflected in the short title of the Bill is to accord with the existing nomenclature of other comparable statutory professional bodies such as the Chartered Institute of Bankers, Ghana and the Chartered Institute of Marketing, Ghana.

7.2.2 Some Members of the Committee however expressed a strong view that the Title should read as “**Institute** of Chartered Restructuring and Insolvency Practitioners, Ghana Bill, 2023” and not “**Chartered** Institute of Restructuring and Insolvency Practitioners, Ghana Bill, 2023”. They explained that the ‘Chartered’ relates or qualifies the ‘Practitioners’ and not the Institute. In other words it is the Practitioners who will be awarded the credential of “Chartered” after going through rigorous training and passing prescribed examinations. In their view the current rendition where the Title is prefacing with “Chartered” connotes an impression or understanding that it is the Institute which is Chartered and not the Practitioners. They therefore proposed for transposition of the word “Institute” before “Chartered” as the case of Institute of Chartered Accountants, Ghana

### **7.3 Resourcing of the Institute for effective operations**

7.3.1 The Committee noted that the work of the insolvency practitioners in providing advisory services to businesses to guide them towards the best possible outcomes as well as protecting the interests of creditors in event of insolvency is vital to sustaining the industrial growth agenda of the country. The services of insolvency practitioners are more critical considering the high predisposition of the country to business risks such as stiff competition with developed economies, relatively high credit cost and unstable local currency.

7.3.2 The Committee was however informed that there are few insolvency and restructuring practitioners in the country. The need to adequately resource the Institute when established to train more people is therefore considered crucial by the Committee.

7.3.3 In search of more alternative sources of funds to adequately finance the operations of the Institute when established, it came to the attention of the Committee that under Section 74 of the Companies Act, 2019 (Act 992), the Registrar of Companies is mandated to lodge unclaimed dividends in an escrow account for seven years after which fifty percent of the unclaimed dividend is transferred into the Consolidated Fund and the rest is either donated or applied for the purpose of investor education, research, entrepreneurial development and advancement in company law.

7.3.4 Given the importance of the training of the Insolvency and Restructuring Practitioners in safeguarding ailing businesses from total collapse, the Committee proposes that ten percent (10) of the unclaimed dividends pursuant to Section 74 of the Companies Act, 2019 (Act 992) be allocated as part of the sources of Funds to the Chartered Institute of Restructuring and Insolvency Practitioners, Ghana when established.

7.3.5 The Committee noted that similar arrangements was made for the Ghana Geological Survey Authority in the process of passing into law, the Minerals Income Development Fund Act, 2016 (Act 912).

#### **7.4 Qualification to be licensed as Insolvency Practitioner**

7.4.1 It was noted that the work of an Insolvency and Restructuring Practitioner involves negotiating agreements and repayment schedules which enables financially distressed companies to meet their financial obligations while still operating as a going concern with the overall objective of restoring the business to a profitable stage. The Insolvency and Restructuring Practitioners are therefore engaged in all stages of the insolvency process including the negotiation of repayment agreement, administration, receivership and liquidation where necessary. Therefore, knowledge in disciplines such as finance, accounting and law are essential to operate as an effective Insolvency and Restructuring Practitioner.

7.4.2 The Committee was delighted to note that under clause 14 (3) of the Bill, only persons who are lawyers licensed by the General Legal Council and in good standing of the Ghana Bar Association and members in good standing in the Institute of Chartered Accountants, Ghana and Chartered Institute of Bankers, Ghana shall qualify to operate as Insolvency Practitioners. The Committee believes that the requirement to operate as an Insolvency Practitioner as provided in the Bill is satisfactory enough to guarantee effective and efficient insolvency services comparable to similar services in other parts of the world.

## **8. AMENDMENT PROPOSED**

### **i. Clause 3 – Amendment proposed**

Paragraph (f), line 1, *after* “recommend”, *delete* “to” and *insert* “for approval by”.

### **ii. Clause 3 – Amendment proposed**

Paragraph (g), line 1, *after* “recommend”, *delete* “to” and *insert* “for approval by”.

### **iii. Clause 4 – Amendment proposed**

Subclause (3), line 2, *after* “regard” *delete* “of” and *insert* “to”.

iv. **Clause 5 – Amendment proposed**

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

“(a) exercise general oversight responsibility over

(i) the Institute; and

(ii) the strategic direction of the Institute;”

v. **Clause 5 – Amendment proposed**

*Insert* a new paragraph *after* paragraph (c) as follows:

“( ) perform any other function that is ancillary to the object of the Institute.”

vi. **Clause 9 – Amendment proposed**

*Delete* subclause (2) and *insert* a new subclause (2) as follows:

“(2) Despite subsection (1), a member of the Council who provides a service to the Institute in a capacity other than a member of the Council is entitled to remuneration determined by the Council.”

vii. **Amendment proposed – New provision**

*Insert* a new provision *after* clause 12 as follows:

**“Policy directives**

( ) The Minister may give directives in writing to the Council on matters of policy and the Council shall comply.”.

viii. **Clause 14 – Amendment proposed**

Subclause (3), line 2, *delete* “and a member in good standing of the Ghana Bar Association”.

ix. **Clause 14 – Amendment proposed**

Subclause (5), line 1, *after* “licensed”, *insert* “as an insolvency practitioner”

x. **Clause 14 – Amendment proposed**

Subclause (5), line 2, *after* “subsection”, *delete* “(4)” and *insert* “(3)”.

xi. **Clause 16 – Amendment proposed**

*Delete* clause 16 and *insert* a new clause as follows:

**“Restriction on use of the title “Insolvency Practitioner”**

16. A person who is not an insolvency practitioner licensed under this Act shall not hold out as an insolvency practitioner, knowingly allow to be held out as an insolvency practitioner or accept or use the title “Insolvency Practitioner”.”

xii. **Clause 23 – Amendment proposed**

subclause (8), paragraph (a) of *after* “subsection”, *delete* “(6)” and insert “(7)”.

xiii. **Clause 23 – Amendment proposed**

Subclause (8), paragraph (c) line 6, *after* “shall” *delete* “, after providing the member of the Institute with an opportunity to be heard,”

xiv. **Clause 23 – Amendment proposed**

Subclause (8), paragraph (c) line 8, *after* “for”, *insert* “a hearing and”.

xv. **Clause 25 – Amendment proposed**

Paragraph (b), *after* “conditions”, *delete* “prescribed” and *insert* “determined”.

xvi. **Clause 27 – Amendment proposed**

Subclause (4), line 3, *after* “ethics”, *delete* “after consideration”.

xvii. **Clause 29 – Amendment proposed**

Subclause (2), line 5, *after* “more”, *insert* “than”.

xviii. **Clause 30 – Amendment proposed**

subclause (1), Paragraph (b), *after* subparagraph (vi), *insert* a new subparagraph as follows:

“( v) a liquidator under the Companies Act, 2019 (Act 992);”

xix. **Clause 32 – Amendment proposed**

Subclause (1), line 1, *after* “in”, *insert* “the”.

xx. **Clause 33 – Amendment proposed**

Line 1, *after* “in”, *insert* “the”.

xxi. **Clause 35 – Amendment proposed**

Subclause (1), line 2, *after* “in”, *insert* “the”.

xxii. **Clause 35 – Amendment proposed**

Subclause (2), line 2, *after* “in”, *insert* “the”.

xxiii. **Clause 36 – Amendment proposed**

Subclause (1), line 5, *after* “to”, *insert* “the Board of”.

xxiv. **Clause 36 – Amendment proposed**

Subclause (2), line 1, *after* “The”, *insert* “Board of the”.

xxv. **Clause 37 – Amendment proposed**

*Delete* the headnote and *insert* a new headnote as follows:

“Appeal of the review decision of the Board of the Office of the Registrar of Companies”.



xxvi. **Clause 37 – Amendment proposed**

Subclause (1), line 2, *after* “decision”, *insert* “of the Board”.

xxvii. **Clause 43 – Amendment proposed**

Subclause (2), line 2, *after* “management,” *insert* “corporate”.

xxviii. **Clause 46 – Amendment proposed**

Subclause (2), line 2, *after* “Council”, *insert* “and perform any other function assigned by the Council”.

xxix. **Clause 48 – Amendment proposed**

*After* paragraph (d) *insert* a new paragraph as follows:

“( ) ten percent of the unclaimed dividends pursuant to Section 74 of the Companies Act, 2019 (Act 992).

xxx. **Clause 56 – Amendment proposed**

Line 9, *after* “than”, *delete* “five hundred penalty units and not more than one thousand” and *insert* “one thousand penalty units and not more than five thousand”.

xxxi. **Clause 57 – Amendment proposed**

Subclause (1), line 2, *after* “the”, *delete* “functions” and *insert* “meetings”.

xxxii. **Clause 60 – Amendment proposed**

Line 10, *delete* “(f)” and *insert* “(e)”.

xxxiii. **Clause 60 – Amendment proposed**

Line 16, *delete* “(g)” and *insert* “(f)”.

xxxiv. **Clause 60 – Amendment proposed**

Line 19, *delete* “(h)” and *insert* “(g)”.

## 9.0 CONCLUSIONS AND RECOMMENDATION

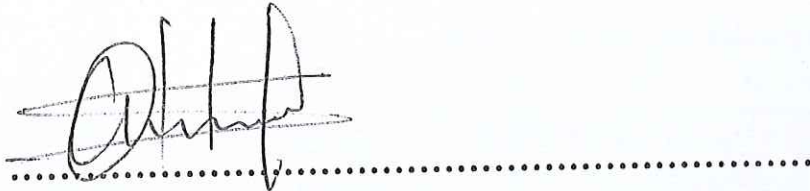
9.1 After thoroughly examining the Bill and its accompanying memorandum, the Committee noted that the Bill seeks to operationalise Section 171 of the Corporate Restructuring and Insolvency Act, 2020 (Act 1015) and also strengthen the capacity of the Registrar of Companies in the performance of the functions of Registrar as an Official Liquidator pursuant to Section 7 of the Bodies Corporate (Official Liquidations) Act, 1963 (Act 180).

9.2 The Committee accordingly recommends to the House to adopt its report and pass the Chartered Institute of Restructuring and Insolvency Practitioners, Ghana Bill, 2023, into law in accordance with Article 106 of the 1992 Constitution.

Respectfully submitted.



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



**MR. KOFI MENKAH**  
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20<sup>th</sup> November, 2023.