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

**REPORT OF THE
COMMITTEE ON SUBSIDIARY LEGISLATION**

ON THE

**NARCOTICS CONTROL COMMISSION (CULTIVATION AND
MANAGEMENT OF CANNABIS) REGULATIONS, 2023**

8TH DECEMBER, 2023

REPORT OF THE SUBSIDIARY LEGISLATION COMMITTEE ON
THE NARCOTICS CONTROL COMMISSION (CULTIVATION AND
MANAGEMENT OF CANNABIS) REGULATIONS, 2023

1.0 INTRODUCTION

The Hon. Minister for the Interior, Mr. Ambrose Dery acting in accordance with Article 11(7) (a) of the 1992 Constitution and Order 77 of the Standing Orders of Parliament laid the Narcotics Control Commission (Cultivation and Management of Cannabis) Regulations, 2023 on 9th November, 2023 in Parliament.

Pursuant to Order 166 of the Standing Orders of Parliament, the Rt. Hon. Speaker subsequently referred the Legislative Instrument to the Committee on Subsidiary Legislation for consideration and report.

2.0 DELIBERATIONS

The Committee met and considered the Narcotics Control Commission (Cultivation and Management of Cannabis) Regulations, 2022. In attendance at the meeting to assist the Committee in its deliberations were the Minister for the Interior, Honorable Ambrose Dery, technical experts and officials from Narcotics Control Commission and the Office of the Attorney-General.

The Committee expresses its profound gratitude to the Minister for Interior and other officials from the Ministry for attending upon the Committee to provide clarifications to the Regulations.

3.0 REFERENCE DOCUMENTS

The Committee referred to the following documents during the deliberations:

- i. The 1992 Constitution of the Republic of Ghana;
- ii. The Standing Orders of Parliament, 2000;
- iii. Narcotics Control Commission Act (Act 2020) Act 1019

4.0 SCOPE OF THE COMMITTEE'S MANDATE

In considering the Regulations, the Committee was guided by the provisions of Orders 77 and 166 of the Standing Orders of Parliament, and Article 11 (7) of the Constitution which enjoins the Committee to assess among other things, the following:

- a) Gazetting of the Regulations;
- b) Conformity of the Regulations to the general objects of the Constitution or that Acts pursuant to which they were made;
- c) Imposition of any tax;
- d) Directly or indirectly bars the jurisdiction of the courts;
- e) Retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power;
- f) Expenditure from the Consolidated Fund or public revenues;
- g) Arbitrariness of powers conferred by the Constitution or that Act pursuant to which the Regulations were made; and
- h) Unjustifiable delay in its publication or in laying it before Parliament.

5.0 BACKGROUND INFORMATION

Cannabis has a long history in Ghana, with evidence suggesting its cultivation and use dating back centuries. Historically, cannabis was often woven into the fabric of traditional practices. It was grown for various purposes, including medicinal, spiritual, and cultural purposes.

In the 20th century, Ghana, like many other countries, implemented restrictions on cannabis due to international pressure and changing attitudes towards the plant. The cultivation and use of cannabis became illegal, with intermittent periods of stricter enforcement under various governments. Despite the strict

regulatory measures against the cultivation and use of cannabis, its cultivation and use for various purposes, including recreational use, went underground and law enforcement became problematic.

In recent times, there has been a global shift in attitudes towards cannabis, with some countries reconsidering their policies, including discussions on medicinal and recreational legalization of the plant.

The global shift and the increasing realization of the benefits of cannabis cultivation for industrial and medicinal purposes was reflected in the passage of the Narcotics Control Commission Act 2020 (Act 1019). Parliament, after deep consideration and deliberation voted to pass the Act with a provision to legalize the cultivation and use of cannabis for industrial and medicinal purposes. The Act mandated the Minister, on the recommendation of the board, to make regulations by legislative instrument to give effect to or to enable effect to be given to the Act within 12 Twelve months after the coming into force of the Act. This regulatory milestone is expected to pave the way for the development of a well-regulated cannabis industry in Ghana, ensuring that its cultivation and usage adhere to strict guidelines and quality standards.

The smooth passage of the instrument into law was truncated as a result of declaration of the Supreme Court in the case of Ezuame Mannan vs The Attorney-General & The Speaker of Parliament Suit No. J1/11/2021 (Ezuame case) of section 43 of the law, as unconstitutional by the Supreme Court. To remedy the situation, the Narcotics Control Commission (Amendment) Bill, 2023 was passed into law by Parliament to empower the Minister grant licenses for cannabis cultivation within the country.

The Committee notes that, with the coming into effect of this legislation, Ghana takes a significant step towards harnessing the potential industrial and medicinal

benefits of cannabis cultivation, such as the production of fibre, seed and medicine in a regulated manner.

6.0 SCOPE OF THE LEGISLATIVE INSTRUMENT

According to the Ministry, the purpose of the instrument is to operationalise paragraph (b) of subsection (3) Section 112 of the Narcotics Control Commission Act, 2020 (Act 1019). Section 13 provides that the Minister shall cause to be laid in Parliament regulations to “restrict or prohibit the export or import of any goods”.

In view of the above, the purpose of the Legislative Instrument is to prohibit the activities specified in the Regulations without a licence and to provide for the procedures and requirements for licensing the cultivation, processing, distribution and sale of cultivars, grains, seeds and biomass of cannabis which have not more than 0.3% tetrahydrocannabinol (THC) content on a dry weight basis. Further, the Commission has the power to license the exportation and importation of cultivars, grains, seeds and biomass of cannabis which have not more than 0.3% THC content on a dry weight basis.

7.0 OBSERVATIONS

7.1 Necessity for the Legislative Instrument

The licensing regime of the instrument is contained in paragraph (b) of subsection (3) of section 112 of the Narcotics Control Commission Act, 2020 (Act 1019) which provides for-

- i. The class of persons to whom a license for the cultivation of cannabis may be granted;
- ii. The classification of cannabis plant;
- iii. The place where cannabis may be supplied;

- iv. The particulars to be kept by licensed producers, suppliers and distributors of cannabis; and
- v. Any other matter the Minister considers necessary for the effective implementation of this Act.

The legislative instrument is necessary for operationalizing this licensing regime contained in the main statute because it spells out in greater detail the provisions of the statute.

7.2 Conformity with Relevant Legislation

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The Committee observed that the instrument has satisfied the legal imperatives provided in Article 11 (7) of the Constitution, section 112 of the parent statute and Orders 77 and 166 of the Standing Orders of Parliament. Also, the substantive content of the instrument is conformity with the powers conferred on the Minister, and the general objectives under Section 112 of Act 1019. In other words, the regulations conform to the procedural requirements of the Constitution and are not ultra vires the powers of the Minister under the Act.

7.3 Stakeholder Engagement Report

The Committee noted that the sponsors of the Regulations produced a very comprehensive stakeholder engagement report resulting from the wide stakeholder consultation held on the content of the Regulations. The report presented to the Committee indicated engagement with twenty-five (25) institutional stakeholders including leadership of the Subsidiary Legislation and Defense and Interior Committees of Parliament. The Commission also engaged the Ministry of Interior, Ministry of Justice, Ghana Armed Forces, Ministry of

Food and Agriculture, Ministry of Finance, Foreign Affairs Ministry, Foods and Drugs Authority and the West Africa Drug Policy amongst other.

7.4 Media Engagement

The Committee however observed from the Stakeholders Report that the media was not represented during the stakeholders' engagements. Members expressed concerns that matters concerning the regulation of cannabis raise a lot of misconceptions and misunderstandings associated with it and that even Members of the Committee needed enough education and understanding so that they can engage their constituents to avert a situation where Parliament would wrongly be attacked as a result of any misunderstandings that would arise out of the passage of the draft regulations.

NACOC indicated that they had some engagements with the media as far as the Act, Act 1019 was concerned and that, the Ministry of the Interior was currently embarking on an extensive and comprehensive stakeholder engagement as far as section 39 and 43 of Act 1019 was concerned. Nonetheless the Committee urged NACOC to engage the media in an expansive manner to help the public understand what the regulations were seeking to do and what that meant for the Ghanaian people and the country at large.

The Committee was of the view that a comprehensive media and public engagement on the regulations would help people appreciate the need for the regulations and avoid any backlash from the public that would affect the image of Parliament and Members.

7.5 *The rationale behind the Regulations*

As noted above, the central purpose of the instrument is to enable the Minister grant licenses for cannabis cultivation within the country, thereby opening up avenues for the utilization of this versatile plant in various beneficial applications.

At the Committee's meeting, members raised serious concern about the legalisation of the cultivation of cannabis or hemp, popularly called "wee" or marijuana in Ghana, which is perceived to have psychoactive (mind-altering) effect on users. However, experts from the Commission explained that, although Industrial hemp and Marijuana come from the same plant species, that is *Cannabis Sativa*, both plants have different levels of tetrahydrocannabinol (THC) and cannabinoids (CBD). They submitted that THC contains the psychoactive ingredient in cannabis. It is THC in cannabis that is basically responsible for mind-altering, or the "high" effect experienced by users. This then means that any plant belonging to the cannabaceae family that contains a higher percentage of THC, that is, more than 0.3% THC, will have psychoactive effect on the mind.

They emphasised that, industrial hemp only has 0.3% or less THC (tetrahydrocannabinol) content but a much higher CBD. Whereas Marijuana otherwise known as "Wee", contains a lesser CBD value but more than 0.3% of THC content. They stressed the point that it is the percentage of THC in the plant that is responsible for the mind-altering effects. Thus, naturally, marijuana, which has a higher THC content contains the psychoactive component in cannabis.

The experts emphasised that, this legislative instrument is targeting the regulation of the cultivation and management of industrial hemp and not the Marijuana plant which has a much higher THC content and causes people to experience mind-altering effects upon ingestion, remains illegal in Ghana.

7.6.0 The Potential Benefits of the Cultivation and Management of Cannabis (Industrial Hemp) for Economic Development

The Committee independently researched into the industrial hemp industry and made some findings follows:

- i) Studies conducted by UNCTAD indicate that the industrial hemp has exponential benefit to countries that have legalised its cultivation and management. These are economic, industrial, foreign exchange, employment and medicinal benefits. Every part of the industrial hemp plant, from the roots to the flowers and seeds, have potential industrial and medicinal properties which can be a boost to the economy of Ghana. The roots of the hemp for instance has immense agricultural benefits, such as soil regeneration, soil decontamination, water depollution, reduction in the use of pesticides and herbicides and CO₂. The roots, leaves and flowers also provide organic compounds for extraction into oil, dried extracts for pharmaceuticals and herbal teas. The stalks may be extracted for fiber, tows, hurds and pulp for paper, construction and insulation materials, biofuels, animal beddings and textiles. The hemp seed can be used to produce oil, oil seed cake for sowing, foods and beverages, cosmetics and supplement for biodiesel production. Industrial Hemp can provide an alternative livelihood for many Ghanaians and provide the avenues for farmers to diversify their agricultural production.
- ii) Studies in the USA, China, Russia, The Netherlands, and other industrial hemp exporting countries also indicate that the cultivation of hemp has a value chain that will create youth employment at different stages of the value chain, thereby addressing the high unemployment challenge. The hemp value chain could include farmers, agricultural workers, researchers,

the manufacturers, exporters and retailers. The industrial hemp-derived products including CBD-infused goods could create avenues for entrepreneurs to set up businesses that use the raw material to produce finished goods for local consumption and export.

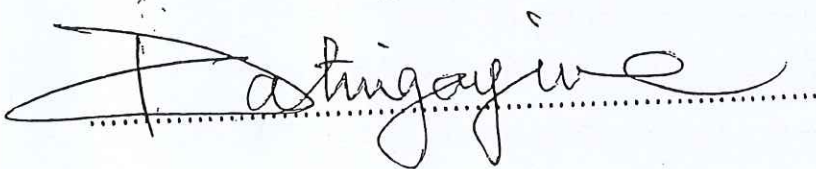
- iii) Economically, a report by the United Nations Conference on Trade and Development (UNCTAD) indicates that the global market for industrial hemp could hit USD 18.6 billion by 2027. The Brainy Institute has also indicated that, by 2032, the market size of industrial Hemp will be around USD 28.47 billion. The (UNCTAD) report emphasizes that, the growing Hemp market offers significant economic opportunities that all countries can capitalize on.
- iv) In the effort to address the balance of payment and foreign exchange challenges, industrial hemp which has a large market size and with the potential of reaching USD 28.47 billion in the next decade provides a great opportunity for Ghana to tap into the cultivation of cannabis to access the global market. This will help Ghana diversify its economy and earn the country foreign exchange and to assist the country address its Balance of Payment challenges.

8.0 CONCLUSION AND RECOMMENDATION

The Committee, having carefully scrutinized the Legislative Instrument, is of the view that, when allowed to pass into law, it will pave the way for the development of a well-regulated cannabis industry in Ghana, which has the potential of providing immense benefit to the economic development of the country. The Regulation will ensure that its cultivation and usage adhere to strict guidelines and quality standards.

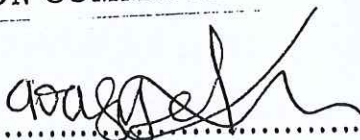
The Committee accordingly recommends to the House to fully support and adopt its Report and allow the Narcotics Control Commission (cultivation and Management of Cannabis) Regulations, 2023, pass the twenty-one (21) day mandatory Sittings of Parliament and come into force in accordance with Article 11(7) of the 1992 Constitution.

Respectfully submitted.



HON. DOMINIC AKURITINGA AYINE (DR.)

CHAIRMAN, SUBSIDIARY LEGISLATION COMMITTEE:



MRS. AKUA DUROWAA OWUSU AGYEKUM
HEAD LEGAL COMMITTEES CLUSTER



8th December 2023