

MEMORANDUM TO PARLIAMENT

BY

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**MINISTER FOR ENVIRONMENT,
SCIENCE, TECHNOLOGY & INNOVATION**

ON

**NUCLEAR REGULATORY AUTHORITY
BILL**

28TH APRIL, 2014

ACC NO: 3531

CLASS NO: CR/NRA/14

SECRET

1. ACTION REQUESTED

Parliament is respectfully invited to consider and grant approval for the Nuclear Regulatory Authority Bill.

2. BACKGROUND

The Atomic Energy Commission Act, 2000 (Act 588) established the Commission under which is the Radiation Protection Board. Its functions among others are to supervise the carrying out of all requirements designed to serve the safety and health of radiation workers and the environment and to ensure that nothing on its premises or elsewhere suffers nuclear damage.

The Radiation Protection Board is further responsible for ensuring that, safety and health of radiation workers, irradiation of nuclear material and the radioactive waste from these activities and practices are properly handled. It also carries out inspection, authorization, and enforcement of practices in compliance with the 1992 Constitution and other international legal instruments.

Ghana has been a member of the International Atomic Energy Agency (IAEA) since September 1960. She is also a party to some important International Legal Instruments of IAEA. These are:

- the Application of Safeguards in Connection with the Treaty on Non-Proliferation of Nuclear Weapons (July 1973);
- the Additional Protocol to the Agreement between the Government of the Republic of Ghana and the IAEA for the Application of Safeguards in Connection with the Treaty on Non Proliferation of Nuclear Weapons (June 1998); and
- the Convention on Physical Protection of Nuclear Material (October, 2002).

Recently, Parliament has also ratified

- (i) the Convention on Nuclear Safety (July 1995);
- (ii) the Comprehensive Nuclear Test Ban Treaty (CBTB),
- (iii) the African Nuclear Weapon Free Zone (Pelindaba) Treaty,
- (iv) Amendment to the Convention on Physical Protection of Nuclear Material (2005), and
- (v) the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (the Joint Convention).

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In addition, Cabinet has also given approval for ratification of the Convention on Assistance in the Case of Nuclear Accident or Radiological Emergency (February 1987), the Convention on Early Notification of a Nuclear Accident (February 1987) and the Convention on Supplementary Compensation for Nuclear Damage (CSC).

The Nuclear Regulatory Authority will ensure that Ghana fulfils its international obligations under these Treaties and Conventions in maintaining nuclear safety and security.

3. JUSTIFICATION FOR GOVERNMENT ACTION

The need for a viable alternative to hydrocarbons and hydroelectricity cannot be stressed enough if Ghana is to become an industrial country. This coupled with the current unreliable power supply, the need for food security, and health delivery makes nuclear power a better mix for existing sources in Ghana. Our research and educational facilities can also not do without delving into the areas of nuclear technology and ionizing radiation and their effects.

Since 11th September 2001, there has been considerable awareness of the importance of safety and security of nuclear and radioactive materials in the West African Sub-region and Africa as a continent. It is important therefore, for Ghana to implement and comply with all relevant International Atomic Energy Agency (IAEA) Legal Instruments for the protection of human health and the environment, safety and security of nuclear and radioactive materials within and across her borders.

The IAEA's Illicit Trafficking Database for Nuclear and Radioactive Materials reveals an increase in the incidence of trafficking of these materials globally. This, coupled with the general instability in our sub region requires an effective and independent body to deal with these emerging threats.

An independent regulatory authority will better provide for the protection of the present generation, posterity and the environment against the harmful effects of ionizing radiation and for the safety of radiation sources, radioactive waste and the safety and security of nuclear material. It will also ensure that radioactive sources and nuclear material (including radioactive waste) both from within and outside the country are properly controlled.

The regulatory and legal framework will enable Ghana fulfil her international obligations under international law. The proposed Nuclear Regulatory Authority will allow for the beneficial and peaceful uses of nuclear energy and its applications. It will also provide a mechanism whereby these objectives are achieved through the establishment of an adequate system of regulatory control programme. Ghana's ratification of the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management (the Joint Convention) means that Ghana could participate in the Convention's Peer Review Meetings every two years. Article 19 of the Joint Convention requires the establishment of a legislative and regulatory framework and article 20 requires establishment of an independent regulatory body in accordance with international law. Last year 2012, was the year for the Peer Review Mechanism of the Convention, Ghana received queries related compliance with Articles 19 and 20 of the Joint Convention over the establishment of an independent regulatory body in compliance with international law.

Furthermore, the establishment of the Nuclear Regulatory Authority will enable the Atomic Energy Commission focus on its current functions of promotion of the peaceful uses of nuclear technology for energy, research, commercialization, development, education and consultancy while the Nuclear Regulatory Authority takes responsibility for the current regulatory functions of the Commission.

The Nuclear Regulatory Authority will be an independent body regulating all the other institutions, including the Ghana Atomic Energy Commission, as well as individuals whose activities could lead to radiation exposure.

4. OPTIONS AND IMPACTS CONSIDERED

The option of enacting legislation to establish the Nuclear Regulatory Authority to provide for the regulation and management of activities and practices for the peaceful use of nuclear material or energy, radioactive material or radiation among others is considered as optimal. The Atomic Energy Commission Act, 2000 (Act 588) is an Act to amend and consolidate the law relating to the establishment of the Atomic Energy Commission and for related matters. The need for an independent regulatory authority to regulate all institutions including the Ghana Atomic Energy Commission necessitates the enactment of a new legislation rather than an amendment of the existing legislation.

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5. INTER-MINISTERIAL CONSULTATION

There has been an extensive consultation with the public and with various Ministries, Departments and Agencies including the Ministry of Justice and Attorney General's Department, Ministry of Finance, Ministry of Health, Ministry of Food and Agriculture, the Ministry of Trade and Industry, the Ministry of Defence, the Ministry of Energy and Petroleum, the National Security Council Secretariat, the Environmental Protection Agency, the Energy Commission, and the Customs Division of Ghana Revenue Authority. The Radiotherapy Centers at Korle-Bu and Komfo Anokye Teaching Hospitals have also been consulted. There has also been consultation with the International Atomic Energy Agency (IAEA).

6. FINANCIAL IMPACT

It is not expected that there will be substantial financial implications as there is a body already in existence, namely the Radiation Protection Board. It only needs to be separated from the Ghana Atomic Energy Commission and its role as a regulator well defined to meet international standards. Ghana Atomic Energy Commission has already given out two bungalows which are being refurbished for the use of the Nuclear Regulatory Authority till the Authority is able to acquire its own office accommodation. In addition, the transitional provisions have also made adequate provision for staff members who wish to migrate to the Nuclear Regulatory Authority. It has provided a window of six (6) months within which staff members of the Atomic Energy Commission can take a decision.

7. IMPLEMENTATION PLAN

The Radiation Protection Instrument, 1993 (LI 1559) will be revoked. Despite the revocation under subsection (1), provisions have been made for authorizations granted to persons under the Radiation Protection Instrument, 1993 (L.I. 1559) to engage in an activity or a practice to which the Bill applies shall, subject to modifications, be deemed to be an authorization granted under the Bill and shall continue to be in force until its revocation or expiration.

Since the Nuclear Regulatory Authority is being decoupled from an existing organization, that is the Ghana Atomic Energy Commission, there are provisions for the transfer and distribution of staff members and also for some of the equipment being used.

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8. LEGISLATION PLAN

The explanation memorandum of the Bill outlines reasons for the enactment of the legislation. The Bill is expected to be passed by the end of the year.

9. COMMUNICATIONS PLAN

The proposed Bill has been discussed with the relevant stakeholder institutions. The Radiation Protection Institute has regular awareness creation and educational programs to train state officials and to create awareness on the safety and security of nuclear materials. In February 2012, a two day awareness forum was held at Koforidua for some members of Parliament. With the inauguration of a new Parliament, plans are advanced to organize an awareness creation program for new members and to refresh the memory of the old members of Parliament.

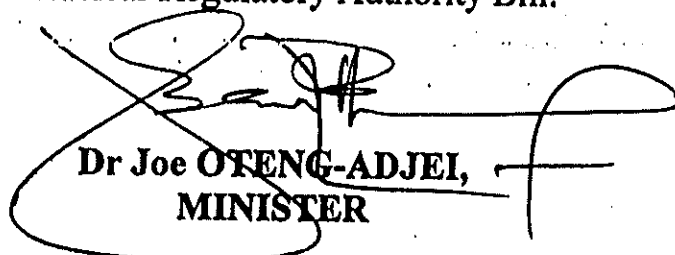
10. CABINET APPROVAL

This Convention received Cabinet approval for ratification by Parliament but it was not laid before Parliament until its last recess in 2012. A copy of the Cabinet approval letter granted at its 19th Meeting held on 14th, 19th and 20th October 2010 is attached for your information.

At its thirteen meeting, held on Thursday, 5th December 2013, Cabinet again approved the Nuclear Regulatory Authority Bill. A copy of the letter-referenced 'OP/CA.1 v 2 and dated 5th December 2013 is attached for your perusal and action.

11. RECOMMENDED ACTION

In view of the importance of regulating these activities and in compliance with international law, I respectfully invite this august House to consider and approve the Nuclear Regulatory Authority Bill.



**Dr Joe OTENG-ADJEL,
MINISTER**

28TH APRIL, 2014