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SEVENTH PARLIAMENT OF THE FOURTH
REPUBLIC OF GHANA

PARLIAMENT OF GHANA

REPORT OF THE COMMITTEE ON ROADS
AND TRANSPORT

ON THE

PARLIAMENT OF GHANA

AIRCRAFT ACCIDENT INVESTIGATION
AND PREVENTION BUREAU BILL, 2020

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**REPORT OF THE COMMITTEE ON ROADS AND TRANSPORT ON THE AIRCRAFT
ACCIDENT INVESTIGATION AND PREVENTION BUREAU BILL, 2020**

1. INTRODUCTION

The Aircraft Accident Investigation and Prevention Bureau Bill, 2020 was presented to Parliament and read the First Time on Tuesday, 14th July 2020. Mr. Speaker pursuant to Article 106(4) and (5) of the Constitution and Order 189 of the Standing Orders of the House, referred the Bill to the Committee on Roads and Transport for consideration and report.

The Committee was assisted during the consideration of the Bill by the Minister of Aviation, Hon. Joseph Kofi Adda, the Ag. Director-General of the Ghana Civil Aviation Authority, the Chief Director and Officials from the Ministry of Aviation, the Ministry of Finance and Economic Planning, the Ghana Civil Aviation Authority (GCAA) and the Office of the Attorney General and Ministry of Justice. The personalities provided extensive information on the Bill.

2. REFERENCE DOCUMENTS

The Committee made reference to the following documents:

- i. The 1992 Constitution of Ghana
- ii. The Standing Orders of Parliament of Ghana
- iii. The Ghana Civil Aviation Act, 2004 (Act 678)
- iv. The Ghana Civil Aviation (Amendment) Act, 2016 (Act 906)
- v. ICAO Annex 13 (Aircraft Accident and Incident Investigation Manual)
- vi. Aircraft Accident and Serious Incident Regulation 2019, LI 2375

3. BACKGROUND INFORMATION

Air transport is one of the modes of transport operations worldwide and plays an important role in the transportation of persons and goods.

The Ghana Aviation Industry is robust and has carved a niche for itself in the aviation industry globally. Its enviable reputation predates to Ghana's attainment of independence. That notwithstanding, Ghana's enviable status

is dotted with unfortunate air traffic accidents. Since 2012, four major aircraft accidents which have involved the death of persons and damage to property have been recorded.

If Ghana is to achieve its vision of being the aviation hub of West Africa, then its infrastructure and institutions have to be transformed and aligned with national and international obligations and best practices.

The Minister of Aviation under section 25 of the Ghana Civil Aviation Act 2004(Act 678) is mandated to investigate aircraft accidents and serious incidents arising out of or in the course of air navigation that occur in or over the Republic and the Accra Flight Information Region.

The Minister is responsible for Aviation Accident Investigations and he exercises the power conferred on him in consultation with major stakeholders. The Accident Investigation Bureau was established in 27th March 2019, as an administrative unit for the conduct of investigation into aircraft accidents.

This Bureau continues to function while research into international best practices and references to ICAO standards and recommended practices (SARPs) has called into question, its current alignment and subsequent need for the establishment of a more prudent and consolidated autonomous body.

A comprehensive report of the International Civil Aviation Organisation Validated Mission (ICVM) in Ghana, from 20th March to 3rd April, 2019 affirmed the position of establishing an independent institution to conduct investigations into aircraft accidents and serious incidents when they occur. Further, it has also been realised that Ad-Hoc Investigations into aircraft teams are not only expensive in terms of operational costs, but not sustainable as far as institutional memory for future investigations, policy

enforcements and efficiency of meeting international obligations is concerned.

The ICAO Standards and Recommended Practices (SARPs) indicate the need to establish a more prudent and consolidated autonomous body to man the Accident Investigation Bureau.

In line with this recommendation, the International Civil Aviation Organisation (ICAO) conducted a validation mission to test Ghana's level of effective implementation (EI) of ICAO and SARPs. Ghana obtained an EI score of 89.89%. Despite this great achievement, the mission recommended that the Bureau be given an autonomous status hence the consequential changes by way of legislation.

The proposed transformation of the Bureau into an independent Bureau by the Bill will empower the Bureau to function efficiently and effectively and its findings will invariably receive international credibility while promoting air safety and our national image.

Countries like Nigeria, Ethiopia, Tunisia, Singapore, Qatar, Netherlands, United States of America among others have already established autonomous aircraft accident investigation bodies and Ghana by passing its Bill would seal her position in that enviable pride of place.

Even though the Bureau as exists strives to function effectively, it is incapacitated by the International Civil Aviation Organisation provisions of which it is expected to function independently and produce results acceptable by international standards and best practices. It should be noted that generally, the findings of non-autonomous bodies which do not conform to the International Civil Aviation Organisation requirements, may be rejected by stakeholders and mostly implementation is done leisurely.

4. OBJECTIVE OF THE BILL

The objective of the Bill is to establish an autonomous Aircraft Accident Investigation and Prevention Bureau, a corporate body to investigate, prevent, regulate and enable the management of aircraft accidents that occur in the country.

5. HIGHLIGHTS OF THE AIRCRAFT ACCIDENTS INVESTIGATION AND PREVENTION BUREAU BILL, 2020

The Bill, in *clauses 1 and 2*, provide for preliminary matters. *Clause 1* provides for the scope of application of the Bill. The Bill applies to accidents or incidents that occur in or over the territorial airspace of the country and within the oceanic airspace in the Accra Flight Information Region. The Bill further applies to accidents or incidents that occur in or over any place, the particular circumstances enumerated in subparagraphs (i) to (v) of paragraph (b) of the clause; and to accidents or incidents involving a Ghanaian registered aircraft.

Clause 2 of the Bill mandates the Accident Investigation and Prevention Bureau to ensure that the investigation procedures and practices of the Bureau for investigation into accidents and incidents are in accordance with the Annex 13 of ICAO the Chicago Convention.

Matters related to the establishment of the Accident Investigation and Prevention Bureau are dealt with in *clauses 3 to 14*.

Clause 3 establishes the Accident Investigation and Prevention Bureau as a body corporate. The object of the Bureau is to investigate, prevent, regulate and oversee the management of accidents and incidents that occur in the country, *clause 4*.

Clause 6 provides for the governing body of the Bureau. The seven-member Board consists of a chairperson with experience in aviation matters who is nominated by the President, a legal practitioner and representatives of the Institute of Chartered Accountants, Ghana, the Ghana Institute of Engineers and the Ministry responsible for Aviation should be of all good standing. The Commissioner and one other person nominated by the President are also members of the Board. The members are to be appointed by the President in accordance with article 70 of the Constitution.

The standard provisions on duties and liabilities of a member of the Board, tenure of office of members of the Board, meetings of the Board, disclosure of interest, establishment of committees and allowances are provided for in *clauses 8, 9, 10, 11, 12 and 13*, respectively.

Clause 17 provides for the powers of the Commissioner. The Commissioner may for the purposes of the Bill propose and coordinate the development of Accident Investigation Regulations, Orders, Rules in respect of any matter relating to the investigation of an accident or incident, institute investigations into accidents or incidents and delegate an investigation, in whole or in part, to another State or a regional organisation responsible for the investigation of accidents and incidents. The Commissioner may also designate a person as Investigator-in-charge for an investigation.

The procedure for the investigation of an accident or incident is provided for in *clauses 21 to 31*. The appointment, functions of an Investigator-in-Charge and other persons as investigators for the purpose of carrying out an investigation into an accident or incident is provided for in *clause 21*. The Investigator-in Charge is required to record in both electronic and hard copies observations made during an investigation, findings as to the cause and contributing factor of an accident or incident and safety recommendations related to the investigation conducted.

Clause 22 deals with investigation of an accident or an incident. The *clause* prohibits a public institution from commencing an investigation under the Bill if the accident or incident has been investigated, is being investigated, or is awaiting investigation by the Bureau. However, this does not prevent a public institution from commencing an investigation into, or continuing an investigation of an accident or incident for any purpose other than that of the Bill. It also does not prevent a law enforcement agency in the country from investigating an accident or incident for a purpose for which the law enforcement agency is empowered to conduct investigations.

Clause 26 prohibits a person from disclosing information relating to an undertaking for air transport, obtained during an investigation without the written consent of the Commissioner. The only exception under this *clause* is for the purpose of the exercise of the functions of the Bureau.

Clauses 32 to 37 makes provisions for financial matters of the Bureau. The Bureau is required to have an Internal Audit Unit in accordance with section 83 of the Public Financial Management Act 2016 (Act 921), *clause 32*. The Internal Audit Unit is to be headed by an Internal Auditor who is appointed in accordance with the Internal Audit Agency Act, 2003 (Act 658).

The administrative and other expenses of the Bureau are to be charged on the funds of the Bureau, *clause 35*. *Clauses 36* and *37* provide for the standard provisions on account and audit, and annual report and other reports, respectively.

Clause 39 empowers the Minister to make Regulations to provide for the efficient and effective implementation of the Bill. The Regulations are to provide for, among others, standards and recommended practices set out in Annex 13 of the Chicago Convention; the conduct of investigations, the requirements for defining scenes for the investigation of accidents or incidents, the procedures for the protection of scenes of accidents and incidents and the procedures for the conduct of a public inquiry.

6. OBSERVATIONS

Certificate of Urgency

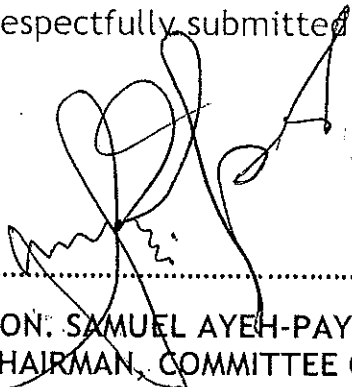
- The Committee in examining the Bill noted that the Bill has to be passed under a Certificate of Urgency. The House granted this request to enable the Aviation Sector meet the deadline of an impending Audit of the sector and other related matters for emergency passage.
- The Committee also noted that the Bureau as currently constituted, is ad-hoc and operates as an administrative unit, however to meet ICAO standards and best practices, it is necessary to transform the present bureau into an autonomous corporate body.
- The Committee noted that Ghana needs to enact the Bill to meet the deadline for the ICAO Audit Review to ensure the implementation of ICAO obligation and recommended best practices prior to the audit.
- The Committee further noted that successful enactment of the Bill would boost Ghana's quest to be in the top tier of countries upholding ICAO standards and recommended best practices.
- The proposed amendments provide for a primary Aircraft Accident Investigation and Prevention Bureau that will be in harmony with ICAO standards required of Member States and consistent with the modern aviation environment and responsive to the complexity of the aviation industry.
- The Bill incorporates all the protocols of ICAO and gives validity to the Ghana Civil Aviation Authority Act, 2004 (Act 678) the Ghana Civil Aviation (Amendment) Act 2016 (Act 906) and Annex 13 of the Chicago convention.

7. RECOMMENDATION AND CONCLUSION

The Aircraft Accident, Investigation and Prevention Bureau Bill, 2020 puts Ghana in league with national and international ICAO obligation and best practices and is compliant with international aviation standards. The passage of the Bill is expected among others, to boost Ghana's quest in being the Aviation hub of West Africa.

The Committee unanimously recommends to the House to approve its Report and pass the Aircraft Accident Investigation and Prevention Bureau Bill, 2020 subject to the attached Amendments (Appendix A) in accordance with the requirements of ICAO for Member States.

Respectfully submitted,



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HON. SAMUEL AYEH-PAYE
CHAIRMAN, COMMITTEE ON ROADS AND
TRANSPORT



.....
MR. ASANTE AMOAKO-ATTA
CLERK, COMMITTEE ON ROADS
AND TRANSPORT

APPENDIX A

AIRCRAFT ACCIDENT INVESTIGATION AND PREVENTION BUREAU BILL, 2020

AMENDMENTS PROPOSED

- i. Short Title - Amendment proposed - Insert 'Aircraft' before 'Accident'
- ii. Long Title - Amendment proposed - in line 1, insert "Aircraft" before "Accident"
- iii. Long Title - Amendment proposed - Line 2, delete "the country" and insert "Ghana"
- iv. Long Title - Amendment proposed - Line 3, delete "purposes" and insert "matters"
- v. Clause 1 - Amendment proposed - Subclause (a) paragraph (i), delete "the country" and insert "Ghana"
- vi. Clause 1 - Amendment proposed - In the opening part of Subclause (b) insert "accidents or incidents that occur"
- vii. Clause 1 - Amendment proposed - Paragraph (b), subparagraph (iv), line 2, delete 'the'
- viii. Clause 3 - Amendment proposed - In the Headnote before clause (3), insert "Aircraft" before "Accident"
- ix. Clause 3 - Amendment proposed - In the section heading, insert "Aircraft" before "Accident"
- x. Clause 3 - Amendment proposed - Subclause (3), line 1, delete 'landed property' and insert 'land' and delete 'property' and insert 'land'
- xi. Clause 4 - Amendment proposed - In line 2, delete 'the country' and insert 'Ghana'
- xii. Clause 5 - Amendment proposed - In paragraph (j), line 2, delete 'the country' and insert 'Ghana'
- xiii. Clause 6 - Amendment proposed - In paragraph (b) line 1, delete "of good standing" after 'practitioner' and insert "good" before "standing"

- xiv. **Clause 6 - Amendment proposed - Subclause (1),** paragraph (c), in line 1, insert "of not less than ten years good standing" after "Ghana" and in line 2, delete "President of the Institute" and insert "Institute of Chartered Accountants, Ghana"
- xv. **Clause 6 - Amendment proposed - Subclause (1)** paragraph (d), insert "of not less than ten years good standing" after "Engineers" and in line 2, delete "President of the Institute" and insert "Ghana Institute of Engineers"
- xvi. **Clause 7 - Amendment proposed - Subclause (1),** paragraph (b), delete "and proper" and insert "effective and efficient"
- xvii. **Clause 8 - Amendment proposed - Subclause (3),** line after 'more' insert 'than'
- xviii. **Clause 9 - Amendment proposed - Subclause (1),** line 2, delete 'but a member shall not be appointed for more than two terms' and insert 'for another term only'
- xix. **Clause 9 - Amendment proposed - Subclause (7),** paragraph (a), delete "or" after "(3)" and insert a comma
- xx. **Clause 10 - Amendment proposed - Subclause (1),** line 2, delete "time and in a place" and insert "place and time"
- xxi. **Clause 12 - Amendment proposed - Subclause (2),** delete and insert the following
 "(2) A committee made up of members of the Board and non-members of the Board shall be chaired by a member of the Board"
- xxii. **Clause 12 - Amendment proposed -** Insert a new Subclause after subclause (2) as follows:
 (#) 'A committee made up of non-members of the Board shall be advisory only'
- xxiii. **Clause 18 - Amendment proposed - Subclause (2),** line 2, delete "and effective" after "efficient"
- xxiv. **Clause 19 - Amendment proposed - Subclause (2),** line 1, insert "and effective" after "efficient"
- xxv. **Clause 22 - Amendment proposed - Subclause 1** paragraph (e) delete 'operator of the aerodrome' and insert 'aerodrome operator'

- xxvi. **Clause 24 - Amendment proposed - Subclause (7), line 1, delete comma after “control” and insert (of) before “relevant”**
- xxvii. **Clause 27 - Amendment proposed - In the opening part of paragraph (b), delete “being” and insert “including”**
- xxviii. **Clause 29 - Amendment proposed - In line 1, delete “24” and insert “26”**
- xxix. **Clause 32 - Amendment proposed - Subclause 1, line 2, delete (Managements) and insert ‘Management’**
- xxx. **Clause 32 - Amendment proposed - Subclause 2, line 1, insert ‘Audit’ before “Unit”**
- xxxi. **Clause 33 - Amendment proposed - In paragraph (a), delete ‘provided’ after “moneys” and insert ‘approved’**
- xxxii. **Clause 33 - Amendment proposed - In paragraph (c), insert “gifts” before “donations” and delete “and” after “loans”**
- xxxiii. **Clause 33 - Amendment proposed - In paragraph (d) insert “and” after “Bureau”**
- xxxiv. **Clause 33 - Amendment proposed - Add a new paragraph after paragraph (d) as follows:
“(#) moneys derived from investments”**
- xxxv. **Clause 34 - Amendment proposed - Subclause (2) delete**
- xxxvi. **Clause 35 - Amendment proposed - In line 2, insert ‘but it shall not exceed forty percent of the revenue of the Bureau’ after “Bureau”**