

**IN THE FIRST SESSION OF THE SEVENTH PARLIAMENT OF THE
FOURTH REPUBLIC OF GHANA**

REPORT OF THE JOINT COMMITTEE

ON

DEFENCE AND INTERIOR

&

FINANCE

ON THE

**MAJOR MAHAMA TRUST FUND BILL,
2017**

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**REPORT OF THE JOINT COMMITTEE ON DEFENCE AND INTERIOR &
FINANCE ON THE MAJOR MAHAMA TRUST FUND BILL, 2017**

1.0 INTRODUCTION

The Major Mahama Trust Fund Bill, 2017 was presented and read the first time in Parliament on 24th October, 2017, in accordance with Article 106 of the 1992 Constitution.

Consequently, the Rt. Hon. Speaker, Prof. Mike Oquaye, in accordance with Article 103 of the 1992 Constitution and Orders 125, 158 and 169 of the Standing Orders of the House, referred the Bill to a Joint Committee on Defence and Interior & Finance for consideration and report.

The Joint Committee met the Minister for Defence, Hon. Dominic B. A. Nitiwul, Deputy Minister for Defence, Hon. (Maj) Derek Oduro (rtd), and a technical team from the Ministry of Defence and Attorney-General's Department and examined the Bill.

2.0 REFERENCE DOCUMENTS

In examining the bill, the Committee made reference to the following documents among others:

- i. The 1992 Constitution of the Republic of Ghana
- ii. The Standing Orders of the Parliament of Ghana
- iii. The Ghana Armed Forces Act, 1962, (Act 105)
- iv. The General Kotoka Trust Act - 1969 (NLCD 339)

3.0 BACKGROUND

Major Maxwell Adams Mahama, now deceased, was an officer of the 5th Infantry Battalion at Burma Camp in Accra. He was on national assignment at Denkyira Obuasi in the Central Region. On Monday, 29th May, 2017, Major Mahama was said to have been on his daily jogging

session, when some angry mob of the town attacked and lynched him, allegedly on suspicion that he was an armed robber.

His Excellency, the President and Commander-in-Chief of the Ghana Armed Forces, subsequent to his death pledged to establish a Memorial Trust Fund with a seed money of Five Hundred Thousand Ghana cedis (GHC500, 000) in honor of the deceased officer. The Trust Fund is to cater for the welfare of the spouse and children of Major Mahama.

It is in fulfilment of this pledge that the Bill is before Parliament.

4.0 OBJECT OF THE BILL

The Object of the Bill is to establish a Trust Fund to cater adequately for the Widow of the late Major Maxwell Adams Mahama, Mrs. Barbara Mahama and his infant children namely Jaden Mahama and Jeremiah Boressah Mahama.

5.0 HIGHLIGHTS OF THE CONTENTS OF THE BILL

The Bill contains a total of twenty-four clauses.

Clauses 1-8 are on the establishment of the Major Mahama Trust Fund. Clause 1 provides that the Bill is a Private Bill. Clause 2 establishes the Trust Fund as a body Corporate with perpetual succession. Clause 3 provides for the object of the Trust Fund. Clause 4 deals with sources of money for the Trust Fund. Clause 5 deals with the Bank account of the Trust Fund. Clause 6 provides that the Trust Fund is exempt from the payment of tax. Application of the Trust Fund is dealt with in Clause 7. The residue of the Trust Fund is dealt with in Clause 8. The residue of the Fund is to revert to the Government when the object of the Trust Fund is achieved.

Clauses 9 to 16 deals with the Board of Trustees and Management of the Trust Fund. Clause 9 deals with the membership of the Board. Clause 10 deals with the functions of the Board of Trustees. The Board of Trustees would be responsible for the management of the Trust Fund. Clauses 11 to 14 contain provisions on tenure of office of members of the Board of Trustees, meetings of the Board of Trustees, disclosure of interest and establishment of committees. Clause 15 provides that it is the Minister responsible for Defence who approves the allowances of the Board of Trustees in consultation with the Minister responsible for Finance. Clause 16

provides that the Minister responsible for Defence may give directives to the Board on matters of Policy.

Administrative provisions are covered under **Clauses 17 to 19**. Clause 17 deals with the appointment of the Administrator of the Trust Fund. Clause 18 covers the functions of the Administrator and clause 19 deals with appointment of other staff.

Clauses 20 to 22 cover Financial Provisions. They deal with Expenses of the Trust Fund, Accounts and Audit as well as Annual Report and other Reports.

Clauses 23 and 24 deal with Regulations and Interpretations respectively

6.0 OBSERVATIONS AND RECOMMENDATIONS

6.1 Private Bill?

The Committee was informed that the Bill is a Private Bill. Pursuant to Section 1 of the Interpretation Act, 2009, (Act 792) a Private Act is an Act for the purpose of affecting or benefiting a particular person. Per Section 5 of the Interpretation Act, 2009 (Act 792), if an Act is not expressly provided as a Private Act, it would be deemed to be a Public Act. It was for this reason that Section 1 of the Bill provides that the Act is a Private Act.

6.2 Responsibilities of the Board of Trustees

The technical team informed the Committee that the responsibilities of the Board of trustees include a fiduciary relationship with the beneficiaries of the Fund and the people of Ghana. They are also to ensure that all moneys intended for the welfare and upkeep generally, and particularly the education of the infant children of the late officer are properly administered. The Trustees have a duty to account for the Trust Fund regularly as provided for in law. They are to keep account of the Trust property and invest monies not immediately needed in safe securities. They are also to organize fundraising activities to raise monies for the Trust Fund. The Trustees are also to provide reports regarding how the Trust property has been dealt with.

6.3 Precedent

The Committee probed whether this was the first time such a Fund was being set up and whether it did not contravene the Armed Forces Regulations.

The Minister for Defence informed the Committee that it was not the first time that a Trust Fund has been set up in memory of a fallen soldier. The Minister said that a similar Fund was set up in honor of General Emmanuel Kwasi Kotoka i.e the General Kotoka Trust Act - 1969 (NLCD 339).

The Minister explained that the Bill is in fulfillment of Government's pledge on behalf of the country to the family of the late Major Mahama. This was in pursuance of the President's pledge to the deceased soldiers family and the entire nation, having regard to the national outpouring of grief which greeted the unfortunate demise of the officer.

The Minister further indicated to the Committee that the Armed Forces Regulations provide for compensation and entitlements for serving soldiers who die in the line of duty. This Bill has however become necessary due to the peculiar circumstances of the death of Major Mahama.

6.4 Termination of the Trust Fund

The Committee noted that the Trust Fund would terminate only when the following events take place:

- In respect of the wife, if she remarries or dies
- In the case of the children, when they complete tertiary education and secure an appropriate job as determined by the Board.

The Minister indicated that the Trust Fund would only achieve its purpose when all these events occur in respect of the wife and children. The residue of the Fund would then revert to government and the Fund would cease to exist.

6.5 Administrative expenditure of the Trust Fund

The Committee was of the view that the administrative expenditure should be capped at 10% of the Fund.

The Deputy Minister agreed to the suggestion that the administrative expenditure of the Fund be capped at 10%. He said the Secretariat would not be a large one. However, its expenditure would be contingent to the revenues of the Trust Fund.

7.0 AMENDMENTS

The Committee after careful consideration of the Major Mahama Trust Fund Bill recommends the following amendments:

- Clause 7: Amendment Proposed:** sub-clause (1)(a), in line one, *delete* “an appropriate three or” and insert “a” and in the last line, after “location” *delete* all words and *insert* “in Ghana determined by the Board of Trustees”.
- Clause 7: Amendment Proposed:** sub-clause (1)(b), line 1, after “the” on first occurrence, *insert* “maintenance and education of the child”
- Clause 7: Amendment Proposed:** sub-clause (1)(c)(ii), after transportation appearing in line one, *delete* all words in the sub-paragraph.
- Clause 7: Amendment Proposed:** sub-clause (1)(c)(iii), *delete*
- Clause 7: Amendment Proposed:** sub-clause (1)(d), *delete*
- Clause 7: Amendment Proposed:** sub-clause (2), at end *add* “or dies”
- Clause 8: Amendment Proposed:** paragraph (b), line two, *delete* “tertiary education or”
- Clause 9: Amendment Proposed:** sub-clause (1)(a), after “Minister” *insert* “responsible”
- Clause 9: Amendment Proposed:** sub-clause (1)(c), at end *add* “or in the absence of the chairman, the vice chairman of that Committee”
- Clause 9: Amendment Proposed:** sub-clause (1)(d), at end *add* “or in the absence of the Ranking Member, the Deputy Ranking Member”
- Clause 9: Amendment Proposed:** sub-clause (1)(e), at end *add* “or a representative of the Tumu Kuro”

- Clause 9: Amendment Proposed:** sub-clause (1)(f), *delete* and *insert* “two persons nominated by the President at least one of whom is a woman”
- Clause 11: Amendment Proposed:** sub-clause (1), at the beginning, *insert* “With the exception of the ex-officio members,”
- Clause 11: Amendment Proposed:** sub-clause (2), *delete*
- Clause 11: Amendment Proposed:** sub-clause (4), *delete* “the Administrator of the Trust Fund” and *insert* “an ex-officio member”
- Clause 12: Amendment Proposed:** sub-clause (3), after “is” appearing in line one, *delete* all words and *insert* “four members of the Board of Trustees”
- Clause 20: Amendment Proposed:** *add* a new sub-clause as follows:
- “(2) The Administrative expenses shall not exceed 10% of the amount accrued by the fund”

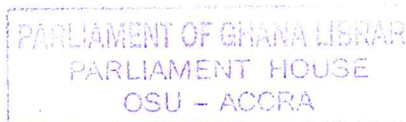
8.0 CONCLUSION

The Committee, having examined and satisfied itself with the provisions of this Bill, recommends its passage subject to the proposed amendments.

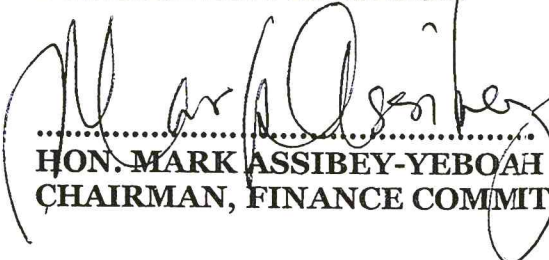
Respectfully submitted.



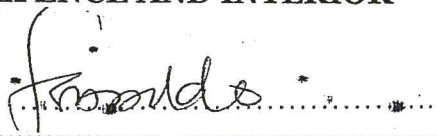
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