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# CYBERSECURITY GOVERNANCE AND THE PROTECTION OF CRITICAL INFORMATION INFRASTRUCTURE IN GHANA

## Cybersecurity Governance

Cybersecurity means the state in which a computer or computer system is protected from unauthorised access or attack, for the purpose of ensuring that it continues to be available and operational; its integrity is maintained; and the integrity and confidentiality of the information stored in, processed by or transmitted through it is maintained.<sup>1</sup>

Cybersecurity governance is a critical element for safeguarding digital assets preserving stakeholder engagement and ensuring stability in our increasingly interconnected world. It encompasses processes, policies, and organizational structures that guide an entity's approach to

managing and mitigating cyber risks. Proper policy development; regular risk assessment; board involvement, compliance; and security awareness are precursors to good cybersecurity governance.

In an era defined by digital transformation cybersecurity has emerged as a paramount concern for both corporate and governmental strategies. Cybersecurity governance is essential for effective regulatory compliance, risk mitigation, protection of business reputation, protection of data privacy, economic stability, and even national security. By establishing clear policies, evaluating risks, and fostering a culture of security, we can navigate the digital frontier with confidence

and resilience.

## Ghana's Critical Information Infrastructure

Ghana's Critical Information Infrastructure is crucial to the functioning of the nation. Critical Information Infrastructure (CII) comprises all the digital assets and systems that are operated and controlled within such cyberspace-related sectors of a country. These sectors are considered critical to the country's economy, public health, and national security.

The Cyber Security Authority (CSA) is the regulatory body established by Act 1038, mandated to regulate cybersecurity activities in Ghana and promote the

development of cybersecurity in the country. It maintains a Cybersecurity Register which contains details of the personal data of the owners of designated CII, as well as information on the CII's potential risks; and the level of impact of risks.<sup>2</sup> However, the duty to protect CII does not rest solely on the shoulders of the CSA. A concerted effort from the government and proper cyber security governance from private sector organizations, is necessary to defend against the ever-present threat to our CII.

### **The CSA's CII Directive and its Legal Implications**

The Ministry of Communications and Digitalization designated 13 sectors including finance; education and government; as part of the Critical Information Infrastructure. They include education; In response, the CSA in 2021 issued a Directive<sup>3</sup> for the Protection of CII to ensure Ghana's cybersecurity.

The Directive outlines:

- The operationalization of the provisions of Act 1038 relating to CII (specifically Sections 35 to Section 40, and Section 92), by establishing baseline

cybersecurity requirements for all designated CII sectors;

- The establishment of the requirements and procedures for incident response including reporting mechanisms of cybersecurity incidents by designated CII Owners; and
- The establishment of the procedures for audit and compliance pursuant to Section 38 of Act 1038.

CII owners must comply with these requirements, with failure to do so resulting in criminal and administrative sanctions. To ensure compliance, the CSA will establish reporting mechanisms for cyber security incidents and procedures for audit and compliance. The legal implications of the aforementioned baseline security requirements shall be examined in detail below.

#### **Policy Measures:**

1. The CSA has issued a directive that requires owners of CII to develop and implement policies that adequately address CII risks, and are consistent with international best practices,

relevant to the CII owner's sector.

2. The cybersecurity policies that a CII owner adopts should be approved by its Board of Directors and reviewed at least once every year, paying particular attention to any risks and threats identified in that designated sector.
3. A CII owner must endeavour to incorporate in its policies, any applicable policy directives that are issued or approved by the CSA.
4. The policies of the CII owner should address data protection concerns in a manner consistent with the Data Protection Act, 2012 (Act 843).
5. A CII owner must appoint an accountable officer of a senior management level rank who shall take proactive steps towards Cybersecurity Governance.

## **Technical and Organizational Measures:**

### **CII owners must:**

1. Control and manage access to CII systems and services.
2. Implement the necessary security measures to mitigate the cyber risk posed by employees, customers, suppliers, service providers, and other third-party affiliate.
3. Conduct appropriate level of information and regular cybersecurity awareness and training for its employees.
4. Conduct quarterly cybersecurity risk assessments each year to identify existing vulnerabilities to which the designated CII is exposed.
5. Regularly conduct and participate in cybersecurity activities in collaboration with the CSA and other CII sectors, to test how effectively it can respond to cybersecurity incidents.
6. Ensure that the source code of its systems is kept in a source code escrow. (A Source Code Escrow provides a

secure environment for preventing unauthorized access and ensuring that the intellectual property rights of both the developer of the CII system and the CII owner are protected.)

### **Incident Reporting:**

1. Generally, a CII owner is under a statutory duty to report a cybersecurity incident within twenty-four hours after the incident is detected, to the relevant Sectoral or National Computer Emergency Response Team (CERT).<sup>4</sup> This duty has been reemphasized by the CII Directive.
2. Additionally, the CII owner must also establish a Point of Contact for reporting cybersecurity incidents and receiving cybersecurity information.
3. The CII owner must also disclose and report any vulnerabilities identified or discovered through internal or external security audits and assessments, within 72 hours of identifying or discovering the vulnerability.

### **Audit and Compliance:**

1. Under Act 1038, a CI owner is to cause an audit to be performed on a critical information infrastructure and submit a copy of the report to the CSA.<sup>5</sup> This requirement is reechoed in the CII Directive.
2. Additionally, a CII owner must submit copies of reports covering audits, risk registers, and any cybersecurity activities that have been conducted. The CSA may by itself or an authorised auditor, establish or confirm such audit activities.
3. A designated CII must communicate to, and seek clearance from the CSA within one month prior to any major organizational change in operation, personnel, and infrastructure.

It is necessary to add that beyond CII owners, the Directive has legal connotations for the CSA itself because Act 1038 confers on the CSA the overall oversight responsibility to ensure that the CII Directive is fully implemented.

Accordingly, it is pertinent that the CSA's board members are adequately informed, regarding the baseline security requirements for the protection of CII. In addition to this, the CSA has the following duties:

- Effective collaboration with the designated CII owners.
- Engaging with designated CII owners and coordinating with the relevant Sectoral CERTs to produce coherent directives and reports.
- Providing support and guidance directly to the designated CIIs or through the relevant Sectoral CERTs.
- Intentional sensitization of the general public, through lawyers and cybersecurity experts.

## Conclusion

As cyber threats become more advanced, it is critical that we adopt our strategies for safeguarding CII must adapt accordingly. Protecting CII is not only vital for national security but also for the well-being of citizens. The CSA's CII Directive builds upon Act 1038's provisions for protecting Ghana's

critical information infrastructure. All CII owners are to prioritize good cybersecurity governance by strictly complying with the CII Directives and the relevant provisions of Act 1038. As the regulatory body, the CSA is responsible for implementing and overseeing the implementation of the CII Directives, as well as collaborating with the CII owners to achieve a safe cyberspace in Ghana.

1. Section 97, Cybersecurity Act, 2020 (Act 1038)
2. Section 85, Act 1038
3. Directive for the Protection of Critical Information Infrastructure, 2021, published by the Cyber Security Authority, available at: <https://www.csa.gov.gh/cii>
4. Section 39, Act 1038
5. Section 38(2) of Act 1038





# LEGISLATIVE UPDATE

## The Stamp Duty (Amendment) Act 2023 (Act 1109)

This Act, which is an amendment of the Stamp Duty Act 2005 (Act 689), was passed to review the stamp duty rates to align with the present economic conditions. It came into effect on the 1st of January 2024.

The Amendment has increased the stamp duty payable as follows;

ITEM	OLD STAMP DUTY	NEW STAMP DUTY
Mineral Lease	25.00	896.30
Offshore Lease	25.00	896.30
Timber Lease	12.50	896.30
Timber Licence	5.00	437.40
Prospecting Licence	2.50	180.00
Exclusive Prospecting Licence	5.00	180.00
Quarrying Licence	2.50	90.00
Diamond Digging Licence	2.50	90.00

Additionally, provision has been made for the stamp duty exemption of the following transfers and documents:

1. Transfer of shares in Government stocks or funds of a foreign country.
2. Transfers made as part of a divorce settlement or arrangement.
3. Transfers made upon gift inter-vivos from one spouse to another or from a parent to a child or child to parent.
4. Transfers to charities.
5. Bankruptcy or insolvency documents.
6. Probates, Letters of Administration and Vesting Assent.
7. Transfer of Property under a will or other instruments related to testamentary-dispositions.

### **Value Added Tax (Amendment) Act, 2023 (Act 1107)**

This Act came into force on 1st January 2024. It modifies the Value Added Tax Act, 2013 (Act 870) to introduce a fixed 5% (five percent) flat rate on rental commercial

premises other than commercial rental establishments. Taxable individuals earning income from the supply of immovable property for rental purposes other than for accommodation will be subject to this flat fixed rate based on the property's value.

A taxable person who is an estate developer is also subject to pay a tax rate of 5% (five percent) of the property's value. The amendment also extends the zero tax rate for locally manufactured textiles and locally manufactured vehicles, introducing a zero tax rate for locally manufactured sanitary towels and waiving the tax on electronic vehicles for public transport.

### **Excise Duty (Amendment) Act, 2023 (Act 1093)**

The Excise Duty (Amendment) Act, 2023 (Act 1093) has been passed by parliament to amend the existing Excise Duty Act 2014 (Act 878), increasing the excise duty in respect of cigarettes and tobacco products, wine, malt drinks and spirits. The amendment also imposes excise duty on sweetened beverages, including fruit juice, and electronic cigarette liquids, electronic cigarettes, and electronic smoking devices.



### **Income Tax (Amendment) (No.2) Act, 2023 (1111)**

The Income Tax Amendment Act which took effect from January 2024, has amended the chargeable employment income (PAYE) of a resident individual for a year of assessment. The income tax rates applicable to individuals have been revised as follows:

CHARGEABLE INCOME	RATE OF TAX
First GH¢ 5,880	Nil
Next GH¢ 1,320	5%
Next GH¢ 1,560	10%
Next GH¢ 38,000	17.5%
Next GH¢192,000	25%
Next GH¢336,240	30%
Exceeding GH¢ 6000,000	35%



**Ghana Interbank Payment and Settlement Systems (GhIPSS) Announces Domestic Processing Partnership with Visa.**

GhIPSS in partnership with Visa will soon start switching, clearing, and settling domestic Visa transactions between acquirers and issuers in Ghana. As a result of this partnership, GhIPSS will process domestic transactions denominated in

Ghana Cedi with Visa cards issued in Ghana.<sup>6</sup>

The landmark collaboration is set to launch in May 2024, combining the strengths of GhIPSS's expertise and Visa's global reach. It promises to revolutionise domestic payments with enhanced efficiency, reduced costs, and a smoother dispute resolution process.<sup>7</sup>



GhIPSS operates with a strong public good mandate, ensuring that transaction costs remain accessible for both individuals and businesses.<sup>8</sup>

### Withholding Tax Applicable to Total Lottery Winnings

In 2023, the Income Tax Amendment Act, 2023 (Act 1094) introduced a 10% withholding tax on All Lottery Gross Winnings including Lotto, Betting, Gaming and other Games of Chance. Though implementation was to commence in 2023, the National Lottery Authority (NLA) and the Private Lotto Operators (PLOs) were granted a 6-month extension to enable NLA/PLOs to prepare and implement the 10% withholding tax, resulting in a delayed implementation date; January 2024. Failure to comply with the tax law is an offence and will attract sanctions provided by law.

### Mandatory Change of Suffixes of Company Names Registered Prior to 2019

In accordance with Section 21 of the Companies Act, 2019 (Act 992) all companies registered prior to 2019 are

required to change their Company name endings by adding the appropriate suffixes or endings. The table below indicates the specific suffixes that companies must incorporate into their names, based on the type of company registered.

COMPANY TYPE	ENDINGS	ABBREVIATIONS
Private Company Limited by Shares	Limited Company	LTD
Public Company Limited by Shares	Public Limited Company	PLC
Private Company Limited by Guarantee	Limited by Guarantee	LBG
Private Companies Unlimited by Shares	Private Unlimited Company	PRUC
Public Companies Unlimited by Shares	Public Unlimited Company	PUC

6. Ghana Interbank Payment and Settlement Systems Press release :

<https://www.ghipss.net/index.php/media/press-releases>

7. BFT Online, Domestic payments ecosystem to soar on GhIPSS, Visa partnership: available at < [8. Ibid](https://thebftonline.com/2024/01/17/domestic-payments-ecosystem-to-soar-on-ghipss-visa-partnership/#:~:text=The%20landmark%20collaboration%2C%20formalised%20at,and%20a%20smoother%20dispute%20resolution></a></p>
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# JUDICIAL CORNER



## President Swears in Three New Supreme Court Judges

On Wednesday, 3rd January 2024, His Excellency the President, Nana Addo Dankwa Akufo-Addo, swore in three individuals as Justices of the Supreme Court.

The appointed Justices are His Lordship Justice Henry Anthony Kwofie, His Lordship Justice Yaw Darko Asare, and His Lordship Justice Richard Adjei Frimpong. All three had previously served on the Court of Appeal before their elevation to the Supreme Court Bench.

The appointments filled vacancies on the Supreme Court Bench created by the retirements of former Chief Justice Anin Yeboah, Justice Jones V. M. Dotse, and Justice Nene Amegatcher.

## CJ Inaugurates a New Circuit Court and District Court in Atebubu



Chief Justice Gertrude Torkornoo inaugurated a new circuit and district court complex in Atebubu, located in the Bono-East Region. This development has been widely welcomed, as it addresses the needs of community members. Residents had hitherto traveled considerable distances to places such as Wenchi or Sunyani, to access a circuit court.

At the inauguration, the Chief Justice emphasized the importance of maintaining ethical standards within the judicial system. She specifically warned against bribery and unprofessional conduct by some court officials, highlighting that authorities would not hesitate to apply sanctions in such cases.

# WHO'S WHO?

Three Justices were recently appointed to the Supreme Court of Ghana. Below is a summary of their biographies.

## **Justice Henry Anthony Kwofie**

Justice Henry Anthony Kwofie is a Justice of the Supreme Court of Ghana as of 3rd January, 2024.

He earned his Bachelor of Laws at the University of Ghana and his Qualifying Certificate from the Ghana School of Law. He was called to the Bar on 3rd October, 1986.

His rich work experience includes teaching at Nungua Senior High School, private practice at Adansiman Chambers and Co Legal Practitioners in Kumasi and a role as legal officer/ Director at the Office of Revenue Commissioners. He also worked at the

Commission of Human Rights and Administrative Justice (CHRAJ). He commenced his judicial career as a Circuit Court Judge in 1998.

## **Justice Yaw Darko Asare**

Justice Yaw Darko-Asare received his Bachelor of Arts in Law from the University of Ghana.

He also has a certificate of Training in Legislative Drafting from Tulane University as well as a Certificate of Training in Port Management, Operations, and Administration from Galilee College, Israel. As a trainer for the Centre for Maritime Law and Security Africa, he facilitated a seminar for the Judicial Service, Navy and Ghana Bar Association.

He has actively engaged in prominent seminars on Public Land Protection and International Trade Law, as well as served as a resource person for the Judicial Training Institute for the 14th Maritime Law Seminar for Judges of Superior Courts of Ghana.

He was appointed Justice of the Court of Appeal in 2019 following his nomination by President Akufo-Addo. He is now a Justice of the Supreme Court of Ghana as of 3rd

January, 2024.

## **Justice Richard Adjei-Frimpong**

Justice Richard Adjei-Frimpong obtained his Bachelor of Law degree from University of Ghana, was called to the Ghana bar in 1998 with a Master of Laws in International Maritime Law from the International Maritime Law Institute in Malta.

He worked with the District court in Bekwai and later on as Justice of Tema and Sekondi High Courts.

He has been a resource person at the Judicial Training Institute as well as served on committees and in units of the Judicial service namely the E-Justice Committee, Performance Assessment Committee and the Complaints Unit among others with a lectureship at the University of Ghana Law School, teaching Admiralty Law, Following President Akufo-Addo's nomination, he is now a Justice of the Supreme Court of Ghana as of 3rd January, 2024.

# PERSONALITY SPOTLIGHT

## **Mr. Carruthers Tetteh, Esq**

In 2002, eleven-year-old Carruthers Tetteh lost his eyesight leading to a dramatic change to life as he knew it. He pursued his education nevertheless, successfully progressing to the University of Cape Coast (UCC) for a Bachelor's Degree in Education, English and History; graduating not only with First Class Honours but also as the Best Graduating Visually Impaired Student in 2015.

In 2019 he further graduated with a First Class in Law, entering the Ghana Law School in 2020. Mr. Tetteh, Esq was called to the Ghana Bar and holds a Master of Laws in Alternative Dispute Resolution from the University of Ghana.

He has recently been appointed a lecturer at UCC Law faculty and is notably the first visually impaired Lecturer at the Law Faculty, teaching Criminal Law and the Ghana Legal System.

# FIRM NEWS

## **B&P Associates: A Decade of Excellence in Upholding Global Legal Standards**

“This year marks a significant milestone for us as we celebrate a decade of exceptional legal service delivery. Our commitment to upholding global standards and making a generational impact through responsive, engaging, and efficient legal services remains unwavering.

Over the years, we have initiated pioneering projects such as the BPA Community First Podcast, showcasing our innovative approach to meeting the wider needs of our community. We are equally passionate about nurturing the next generation of legal professionals through our internship and training programs, available to both local and foreign students.

Our Team is our greatest asset, and the collegiality within our Firm has contributed to our overall success. We remain committed to continuous professional development, and this anniversary is a celebration of the entire Team and our Clients.

Thank you for being part of our journey so far. Here's to ten more years of delivering exceptional legal services!”

**Adelaide Benneh Prempeh**  
**Managing Partner**





## **BPA Community First Podcast**

In the first episode of Season 2 of the BPA Community First Podcast, our Managing Partner, Adelaide Benneh Prempeh Esq, takes us on a journey to the forefront of self-representation in our Judicial System. In a conversation with Justice Kwaku Tawiah Ackaah-Boafo, a Justice of the Court of Appeal of Ghana, they clear the fog surrounding navigation of the Ghanaian legal system without an Attorney.

From his extensive experience in Criminal and Civil Procedure Law, Administrative Law, and Human Rights Law, among

others, Justice Ackaah-Boafo expertly elucidates the reasoning behind the spate of self-representation in the Ghanaian Judicial System, as well as current and future policies geared towards access to justice, fairness, and equity.

After listening to the podcast dubbed “Bridging the Civil Justice Gap; Empowering Self-Represented Litigants,”

our distinguished audience should be able to build an informed concept of access to justice in Ghana, especially with regards to available institutions, helpful technology, and what the future holds for self-representation in the Ghanaian Legal System.

Watch the video interview with His Lordship Justice Ackaah-Boafo here:

[Season 2 Episode 1 \(Bridging the Civil Justice Gap; Self-Represented Litigants\) - YouTube](#)

Click the link below to listen to our latest Episode:

<https://podcasters.spotify.com/pod/show/community-first>

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This publication may provide a summary of legal issues but is not intended to give specific legal advice. If you require legal advice, please speak to a qualified lawyer, which may include a qualified member of our legal team at B&P Associates

# B&P

## ASSOCIATES

### **About B & P ASSOCIATES**

B&P ASSOCIATES is ranked as a Legal 500 Europe, Middle East & Africa (EMEA) and a Chambers & Partners Global Leading Law firm. We are a Corporate and Commercial legal practice and consultancy, with an excellent reputation, based in the heart of Accra.

The Team is highly regarded for its cross-border legal expertise, responsiveness, and commitment. We provide business-oriented legal advice across a range of sectors, to both local and international clients.

For more information, visit us at [https://www.bpaghana.com\\_to\\_learn\\_more\\_about\\_what\\_we\\_do](https://www.bpaghana.com_to_learn_more_about_what_we_do).

The Firm launched its Podcast at the beginning of 2023 - "Community FIRST; A

BPA Podcast - Legal and Social Conversations with the Community".

The focus of the Podcast is to have riveting legal and social conversations with team members of the Firm, various organizations, and a cross-section of experts and practitioners. Invited guests will be encouraged to share their respective views on various legal issues that matter most to our community. We are excited about building effective partnerships and collaborations to enrich the quality of our discussions. We look forward to playing a positive role in empowering individuals with the knowledge of the law as a tool for creating lasting, positive change.

You may access all previous episodes here: <https://podcasters.spotify.com/pod/show/community-first>