

CHAPTER 70

THE MEDICAL STORES DEPARTMENT ACT

[PRINCIPAL LEGISLATION]

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## CHAPTER 70

### THE MEDICAL STORES DEPARTMENT ACT

An Act to establish the Medical Stores Department for the procurement, storage and distribution of medical supplies and to provide for other matters connected or incidental to the establishment and management of the Department.

[1st December, 1993]

[G.N. No. 259 of 1993]

Act No. 13 of 1993

## PART I

### PRELIMINARY PROVISIONS

1. Short title

This Act may be cited as the Medical Stores Department Act.

## 2. Interpretation

In this Act unless the context requires otherwise—

"approved drugs" means the drugs approved by the Pharmacy Board established under any law for the time being relating to pharmaceutical;

"Board" means the Board of Trustees established under section 5;

"Department" means the Medical Stores Department established by section 3;

"Director-General" means the Director-General of the Department appointed under section 10;

"Minister" means the Minister for the time being responsible for health.

## PART II

### THE MEDICAL STORES DEPARTMENT

## 3. Establishment of the Department

(1) There is hereby established within the Ministry responsible for health an autonomous department to be known as the Medical Stores Department.

(2) The Department shall be a non profit-seeking institution which is financially self sustaining.

## 4. Functions of the Department

(1) The Department shall be the executive organ of the Board and shall be responsible to the Board for the discharge of its functions under this Act.

(2) Without prejudice to the generality of subsection (1) the Department shall—

(a) develop, maintain and manage an efficient and cost-effective system of procurement, storage and distribution of such approved drugs and other medical supplies required for use by the public health service as the Minister may from time to time approve;

(b) apply, in so far as they are applicable, sound commercial principals in the procurement, storage and distribution of pharmaceutical and other medical supplies in order to maintain a self sustaining revolving fund for the operation of the Department;

(c) take into consideration and to apply technical and professional advice and procedures relating to the management and control of pharmaceutical and other medical supplies;

(d) implement work plans and programs approved by the Board in relation to the procurement and supply of approved drugs;

(e) monitor the requirement, and the distribution of approved drugs and other medical supplies in the public health service and to take or cause to be taken any necessary remedial measures;

- (f) ensure the availability in time of approved supplies of drugs and other medical supplies within the public health system;
- (g) prepare annual work plans and the budget of the Department for consideration by the Board;
- (h) cooperate and exchange information relating to pharmaceutical and other medical supplies with other organisations at regional, national or international level;
- (i) disseminate any relevant information relating to drugs and other medical supplies;
- (j) do such other activities as the Minister may through the Board direct or as the Board may approve.

### PART III

#### THE BOARD OF TRUSTEES

##### 5. Establishment of the Board

There is hereby established a Board of Trustees of the Department.

##### 6. Composition of the Board

(1) The Board shall be composed of the Chairman appointed by the President and eight other members to be appointed by the Minister.

(2) A member of the Board shall, unless the member sooner dies, resigns or is removed by the Minister, hold office for a term of three years and shall be eligible for re-appointment.

(3) The Director-General shall be the Secretary to the Board and may take part in all the proceedings of the Board but shall not be entitled to vote.

(4) The Board may from time to time and upon such terms as it may approve invite to its meetings such persons as it may deem to be qualified or necessary to contribute to the proper and efficient discharge of the functions of the Board under this Act.

##### 7. Functions of the Board

(1) The Board shall be responsible to the Minister for the management and efficient carrying out of the functions of the Department.

(2) Without prejudice to the generality of subsection (1), it shall be the responsibility of the Board—

(a) to guide, direct, approve, control and generally oversee the management of the affairs of the Department;

(b) subject to any policy guidelines or directives of the Minister, to formulate and review policy guidelines relating to the functions of the Department;

(c) to consider and to submit for the approval of the Minister, the annual work plan and the budget of the Department;

(d) to determine the price of medical supplies which are distributed by the Department;

#### 8. Meetings of the Board

(1) Subject to subsection (2) the Board shall hold at least four meetings per annum at such times and places as the Chairman or the Board may determine.

(2) The Board may at any time upon the recommendation of the Minister or the Chairman, hold an extraordinary meeting.

(3) The Chairman shall preside at all meetings of the Board and in the absence of the Chairman, the members may elect one of their number to preside at that meeting.

(4) The decision of the Board shall be by consensus or failing, by a simple majority of the members present and voting and, in the event of an equality of votes, the Chairman of the meeting shall have a casting vote in addition to his deliberative vote.

(5) The quorum at any meeting of the Board shall be five members.

(6) Any member who has any financial or other interest, whether direct or indirect in any matter which is the subject of any decisions of the Board, shall in writing, disclose to the Board the nature of that interest and shall not participate in any discussion or decision of the Board relating to that matter.

(7) Any member who fails or refuses to disclose an interest in accordance with subsection (6) of this section shall be guilty of an offence and shall be liable upon conviction, to be removed from the Board and to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding twelve months or to both that fine and imprisonment.

(8) Subject to the preceding provisions of this section the Board shall regulate its own procedure.

### PART IV

#### ADMINISTRATION OF THE DEPARTMENT

#### 9. Director-General

(1) There shall be a Director-General of the Department who shall be appointed by the President upon the advice of the Minister after a recommendation of the Board, on such terms and conditions as the Board shall determine.

(2) The Director-General shall be the chief executive of the Department and shall be responsible to the Board for the management of the business and affairs of the Department as well as for the execution of the decision and directives of the Board

#### 10. Directors and other staff of the Department

(1) The Board may appoint such number of Directors for the Department as the Minister may approve.

(2) The Director-General may engage such number of other employees of the Department and upon such terms and conditions as the Board may approve.

(3) The Board may upon the recommendation of the Director-General, approve the engagement of such consultants or advisors as may from time to time be necessary for the proper and efficient performance of the functions of the Department and upon such terms and conditions as the Board may determine.

(4) Subject to subsection (2) of this section, persons serving in the Central Medical Stores existing before the commencement of this Act and any other employee of the Government or Parastatal Organisation, may be transferred or seconded to the Department.

#### 11. Remuneration of the Board

The members of the Board shall not be paid any salaries but may be paid such allowances as the Minister may approve.

#### 12. Discipline

Notwithstanding any provision to the contrary in the Public Service Act \* or in any other written law—

(a) the Board shall be the disciplinary authority and the Minister the final appellate authority, in relation to the Director-General and Directors of the Department;

(b) the Director-General shall be the disciplinary authority and the Board the final appellate authority, in relation to all other employees of the Department.

### PART V

#### FINANCIAL AND MISCELLANEOUS PROVISIONS

#### 13. Funds and other resources of the Department

(1) The funds and other resources of the Department shall consist of—

(a) proceeds from the sales of Department approved drugs and other medical supplies distributed by the Department;

(b) donations, gifts or grants from any source within or outside the United Republic;

(c) such monies as may be voted by Parliament.

(2) The funds and other resources of the Department shall constitute a revolving fund to be applied for the self-supplied for the self-sustaining operation of the Department.

#### 14. Financial year

The financial year of the Department shall be the same as the financial year of the Government.

15. Accounts and audit

(1) The department shall keep books of account and maintain proper records in relation to its operations in accordance with acceptable accounting principles.

(2) The books of accounts and records of the Department shall be audited by the Controller and Auditor General.

16. The Medical Tender Board

(1) There shall be a Medical Tender Board within the Ministry of Health which shall consist of the following members—

(a) the Assistant Chief Medical Officer for the time being responsible for hospital services, who shall be the Chairman;

(b) the Chief Pharmacist;

(c) the Director-General;

(d) the Officer of the Department responsible for procurement;

(e) the Treasury Registrar or his representative;

(f) two medical practitioners appointed by the Minister;

(g) one Pharmacist appointed by the Minister;

(h) one member appointed by the Minister to represent consultant hospitals;

(i) two other members appointed by the Minister.

(2) The Medical Tender Board shall be responsible for advertising, receiving and opening of all tenders for the purchase of the pharmaceutical and other supplies required by the Department and for appointing the appropriate suppliers.

(3) The provisions of section 11 shall apply in relation to the remuneration of the members of the Medical Tender Board.

17. Regulations

(1) The Minister may after consultation with the Board make regulations for the better giving effect to the provisions and the purposes of this Act.

(2) Without prejudice to the generality of subsection (1) the Minister may make regulations—

(a) prescribing the procedures which shall be complied with by the Medical Tender Board;

(b) providing for the superannuation and other terminal benefits for the employees of the Department.