

CHAPTER 70

THE MEDICAL STORES DEPARTMENT ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

Section Title

PART I

PRELIMINARY PROVISIONS

1. Short title.
2. Interpretation.

PART II

THE MEDICAL STORES DEPARTMENT

3. Establishment of Department.
4. Functions of Department.

PART III

THE BOARD OF TRUSTEES

5. Establishment of Board.
6. Composition of Board.
7. Functions of Board.
8. Meetings of Board.

PART IV

ADMINISTRATION OF THE DEPARTMENT

9. Director-General.
10. Directors and other staff of Department.
11. Remuneration of Board.
12. Discipline.

PART V

FINANCIAL AND MISCELLANEOUS PROVISIONS

13. Funds and other resources of Department.
14. Financial year.

15. Accounts and audit.
16. Procurement by Department.
17. Powers to invest.
18. Regulations.

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CHAPTER 70

THE MEDICAL STORES DEPARTMENT ACT

An Act to establish the Medical Stores Department for the production and procurement, storage and distribution of medical supplies and to provide for other matters connected or incidental to the establishment and management of the Department.¹

[1st December, 1993]
[GN. No. 259 of 1993]

Acts Nos.
13 of 1993
6 of 2021
5 of 2023

PART I

PRELIMINARY PROVISIONS

Short title 1. This Act may be cited as the Medical Stores Department Act.

Interpretation 2. In this Act, unless the context requires otherwise-
Act No. “Board” means the Board of Trustees established under
6 of 2021 s. 14 section 5;
 “Department” means the Medical Stores Department established
 under section 3;
 “Director-General” means the Director-General of the Department
 appointed under section 9;
 “health commodities” includes medicines, medical supplies,
 equipment or diagnostics approved by the regulatory
 authority for the time being responsible for approving
 health commodities; and
 “Minister” means the Minister responsible for health.

¹ Act No. 6 of 2021, s. 12.

PART II

THE MEDICAL STORES DEPARTMENT

Establishment
of Department
Act No.
6 of 2021 s. 15

3.-(1) There shall continue to be a department known as the Medical Stores Department.

(2) The Department shall be a body corporate with perpetual succession and shall have a common seal and, in its own name, be capable of-

- (a) suing and being sued;
- (b) acquiring, holding and alienating movable and immovable property;
- (c) borrowing and lending;
- (d) entering into contract or other transaction; and
- (e) doing all such other acts which a body corporate may lawfully perform.

Functions of
Department
Act No.
6 of 2021 ss. 13
and 16

4.-(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 production, procurement, storage and distribution of such health commodities required for use by the public health service as the Minister may approve;
- (b) apply, in so far as they are applicable, sound commercial principles in the production, procurement, storage and distribution of health commodities 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 health commodities;
- (d) implement work plans and programs approved by the Board in relation to the production, procurement and supply of health commodities;

- (e) monitor the requirement and the distribution of health commodities 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 health commodities 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 health commodities with other organisations at regional, national or international level;
- (i) disseminate any relevant information relating to health commodities; and
- (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

Establishment
of Board

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

Composition
of Board
Acts Nos.
6 of 2021 s. 17
5 of 2023 s.27

6.-(1) The Board shall be composed of the Chairman appointed by the President and eight other members appointed by the Minister as follows:

- (a) the Director responsible for primary health from the Ministry responsible for primary healthcare services;
- (b) the Commissioner for Budget or his representative from the Ministry responsible for finance;
- (c) the Director responsible for registration of medicine or medical devices or his representative from the authority responsible for medical devices;
- (d) the Director responsible for diagnostic services or his representative from the Ministry responsible for health;
- (e) a law officer representing the Attorney General; and
- (f) three other members with qualifications in any of the following fields:

(i) accountancy;
(ii) pharmacy;
(iii) medicine or diagnostics;
(iv) supply chain management; or
(v) information and communication technology.

(2) In appointing members under subsection (1)(f), the Minister shall ensure that at least one member is from the private sector.

(3) 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 for one further term.

(4) 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.

(5) The Board may, 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, except that such persons shall not vote.

Functions of
Board
Act No.
6 of 2021 s. 13

7.-(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-

- to guide, direct, approve, control and generally oversee the management of the affairs of the Department;
- subject to any policy guidelines or directives of the Minister, to formulate and review policy guidelines relating to the functions of the Department;
- to consider and submit for the approval of the Minister, the annual work plan and the budget of the Department; and
- to determine the price of health commodities which are distributed by the Department.

Meetings of
Board

8.—(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) A 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) A member who fails or refuses to disclose an interest in accordance with subsection (6), commits an offence and on conviction, shall be liable, 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.

(8) The Board shall regulate its own proceedings.

PART IV

ADMINISTRATION OF THE DEPARTMENT

Director-General

9.—(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.

Directors and
other staff of
Department

10.-(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, 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 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), 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.

Remuneration
of Board
Act No.
6 of 2021 s. 18
Cap. 370

11. The members of the Board shall not be paid any salaries but may be paid such allowances as may be determined pursuant to the Treasury Registrar (Powers and Functions) Act.

Discipline
Cap. 298

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

PART V

FINANCIAL AND MISCELLANEOUS PROVISIONS

Funds and other
resources of
Department
Act No.
6 of 2021 s. 13

13.-(1) The funds and other resources of the Department shall consist of-

- (a) proceeds from the sales of health commodities distributed by the Department;

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

(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-sustaining operation of the Department.

Financial year **14.** The financial year of the Department shall be the same as the financial year of the Government.

Accounts and audit **15.**-(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.

Procurement by Department Act No. 6 of 2021 s. 19 **16.** The Department shall procure health commodities in accordance with the law for the time being governing public procurement.

Powers to invest Act No. 6 of 2021 s. 20 **17.** Subject to such directives as may be issued by the Treasury Registrar or any other relevant authority, the Board shall have powers to invest the funds of the Department subject to such conditions as may be prescribed under the Trustee Investments Act, in relation to investments of funds by trustees.

[s. 16A]

Regulations Act No. 6 of 2021 s. 21 **18.** The Minister may, after consultations with the Board make regulations for the better giving effect of the provisions or purposes of the Act.

[s. 17]

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