

BILL

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THE NATIONAL MEDICAL SUPPLIES AGENCY ACT, 2017

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No.



2017

Sierra Leone

A BILL ENTITLED

The National Medical Supplies Agency Act, 2017.

Short title.

Being an Act to repeal and replace the National Pharmaceutical Procurement Unit Act, 2012 to establish the National Medical Supplies Agency as a public service agency responsible for the procurement, warehousing and distribution of drugs and medical supplies in a transparent and cost-effective manner for and on behalf of all public institutions throughout Sierra Leone.

[] Date of commencement.

ENACTED by the President and Members of Parliament in this present Parliament assembled.

PART I – PRELIMINARY

Interpretation.

1. In this Act unless the context otherwise requires–

“Agency” means the National Medical Supplies Agency established under section 2;

“Board” means the Board of the National Medical Supplies Agency referred to under section 3;

“Chairman” means the Chairman of the Board of the Agency appointed under subsection (4) of section 3;

“Managing Director” means the Managing Director of the Agency appointed under subsection (1) of section 13;

“medical supplies” mean any product or material used in the delivery of health care services, including pharmaceuticals, medical consumables, equipment, appliances; laboratory supplies and reagents or any other material or equipment as may be necessary for the delivery of health care services;

“members” means members of the Board of the National Medical Supplies Agency;

“Minister” means the Minister responsible for health and “Ministry” shall be construed accordingly;

“National Pharmaceutical Procurement Unit Act, 2012” means the National Pharmaceutical Procurement Unit Act, 2012 (Act No. 8 of 2012).

PART II – ESTABLISHMENT OF THE NATIONAL MEDICAL SUPPLIES AGENCY

2. (1) There is hereby established a body to be known as the National Medical Supplies Agency. Establishment of the National Medical Supplies Agency.

(2) The Agency shall be a body corporate having perpetual succession and capable of acquiring, holding and disposing of any property, whether movable or immovable, and of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as bodies corporate may by law perform.

(3) The Agency shall have a common seal, the use of which shall be authenticated by the signatures of–

(a) the Chairman or other member of the Board authorised either generally or specially by the Board in that behalf; and

(b) the Managing Director or some other person authorised by the Board in that behalf.

(4) Every document purporting to be an instrument executed or issued by or on behalf of the Agency and to be sealed with the common seal of the Agency authenticated in the manner stated in subsection (3), shall be deemed to be so executed or issued without further proof unless the contrary is proved.

(5) In appropriate cases the seal may be affixed to documents outside Sierra Leone.

3. (1) The governing body of the Agency shall be a Board in which shall be vested, subject to this Act, the control and supervision of the Agency. Board of the Agency.

(2) The Board shall consist of a Chairman and the following members–

- (a) the Permanent Secretary, Ministry of Health and Sanitation;
- (b) the Financial Secretary, Ministry of Finance and Economic Development;
- (c) the Permanent Secretary, Ministry of Local Government and Rural Development;
- (d) a representative of the Pharmaceutical Society of Sierra Leone;
- (e) a representative of the Sierra Leone Bar Association;
- (f) 4 other Members recommended by the Minister through a consultative selection process.
- (i) 1 procurement and supply chain specialist with a degree from a reputable university.
- (ii) 1 pharmaceutical specialist with experience in drug and medical supply management with a degree from a reputable university.
- (iii) 1 financial management and accounting expert with a degree from a reputable university and.
- (iv) A member of civil society organisation dealing with health issues.
- (3) A member recommended by the Minister under paragraph (g) (i-iv) of subsection 2, of section 3 shall–
- (a) have at least 10 years experience in his field of expertise;

- (b) be of proven integrity; and
- (c) not have been convicted of an offence involving fraud, dishonesty, or sexual offence.
- (4) The Chairman and other members of the Board referred to under paragraphs (g) (i-iv) of sub-section (2) of section 3 shall be appointed by the President on the recommendation of Minister of the subject to the approval of Parliament. Appointment of Members of the board.
- (5) The Chairman shall be appointed from among persons who–
- (a) hold a post graduate qualification from a reputable university;
- (b) have, at least, 10 years experience in matters relating to healthcare or business management;
- (c) are of proven integrity; and
- (d) have not been convicted of an offence involving fraud, dishonesty, or any sexual offence.
- (6) The Managing Director shall serve as Secretary to the Board.
- (7) The Minister in recommending suitable persons under paragraph (g) (i-iv) of subsection (2) shall take into account the aim of ensuring gender diversity on the Board and where 2 candidates are of equal merit the Minister shall recommend the candidate who will enhance the gender diversity of the Board.
4. (1) The Chairman and members referred to in paragraphs (g) (i-iv) to (f) of subsection (2) of section 3 shall hold office for a period of 3 years and shall be eligible for re-appointment for a further term of 3 years only. Tenure of members.
- (2) A person shall cease to be a member of the Board on any of the following grounds–

- (a) for his inability to perform the functions of his office by reason of infirmity of mind or body;
- (b) for proven misconduct;
- (c) if he becomes bankrupt or insolvent;
- (d) if he is convicted and sentenced for an offence involving fraud or dishonesty;
- (e) if he fails to attend three consecutive meetings of the Board without reasonable cause; or
- (f) if he resigns his office by written notice to the Minister.

Meetings of the Board .

5. (1) The Board shall meet for the dispatch of its business at least once every 2 months at the offices of the Agency and at such time as the Chairman may determine.

(2) The Chairman shall preside at every meeting of the Board and in his absence, the members present shall appoint a member from among themselves to preside at that meeting.

(3) A minimum of 3 members of the Board may, by notice in writing signed by them, request the Chairman to summon a special meeting of the Board for such purposes as may be stated in the notice.

(4) The Chairman or, in his absence, the member appointed to act in his behalf shall summon a special meeting within 5 days of his receipt of the notice referred to in subsection (3).

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

(6) A decision on any matter before the Board shall be taken by a majority of votes of the Members present and voting and the Chairman or other person presiding shall have a casting vote where there is an equality of votes.

(7) Any proposal circulated among all members and agreed to in writing by a two-thirds majority of all members shall be of the same force or effect as a decision made at a duly constituted meeting of the Board and shall be incorporated in the minutes of the next succeeding meeting of the Board Provided that, if a member requires that such proposal be placed before a meeting of the Board, this subsection shall not apply to such proposal.

(8) The Board may co-opt any person to attend and participate in its deliberations on any matter but such person shall not vote on any issue for the decision by the Board.

(9) The Board shall cause minutes of all its meetings to be taken and signed by the Chairman and kept in proper form.

(10) Subject to this Act, the Board shall regulate its own procedure.

6. (1) A member of the Board who has any interest, whether direct or indirect in any matter being considered or to be considered by the Board, shall disclose the nature of his interest in writing to the Board and the disclosure shall be recorded in the minutes of the Board and such member shall not take part in any deliberation or decision of the Board relating to that matter. Disclosure of Interest.

(2) A member of the Board who contravenes subsection (1) shall be guilty of misconduct and shall be removed from the Board.

7. (1) No action or other proceedings shall lie or be instituted against any member of the Board or member of a committee of the Board for or in respect of any act or thing done or omitted to be done in good faith in the exercise of his functions under this Act. Immunity of members.

(2) No member of the Board shall be personally liable for any debt or obligation of the Authority.

8. (1) The Board may for the discharge of its functions appoint one or more committees to perform such functions as the Board may determine. Committees of the Board.

(2) A committee shall consist of members of the Board or non-members or both as the Board may determine.

(3) Without prejudice to the generality of subsection (1), the Board shall appoint an Audit Committee which shall be responsible for the internal audit of the Agency and shall be headed by a Chairman appointed by the Board.

(4) A committee shall submit a report of its proceedings to the Board at such time as the Board may determine.

Functions and Powers of Board.

9. (1) Subject to this Act, the Board shall have the control and supervision of the Agency including overseeing the sound and proper financial management of the Agency.

(2) It shall also be the responsibility of the Board to provide such policy guidance and advice so as to secure the efficient implementation of the functions of the Agency and enhance the overall performance of the Agency.

Remuneration of members.

10. The Chairman and other members of the Board and persons co-opted by the Board under subsection (8) of section 5 shall be paid such remuneration, fees and allowances approved by the Minister and shall be reimbursed by the Agency for expenses incurred in connection with the discharge of their functions as the Board may, with the approval of the Minister, determine.

Filling of Vacancies.

11. (1) Where the Chairman or a member of the Board dies, resigns, is removed from office or is absent for a continuous period exceeding 3 months or is by reason of illness unable to perform the functions of his office for a continuous period of 3 months, in the case of—

- (a) the Chairman, members of the Board shall elect one of their number to act as Chairman until such time as the Chairman resumes his office or another is appointed in his stead; and

(b) a member, the Chairman shall arrange, subject to this Act, to have another person appointed to the Board.

(2) Where a person is appointed as Chairman or as a member to fill a vacancy, he shall hold office for the remainder of the term of the previous Chairman or member as the case may be, and shall, subject to this Act, be eligible for re-appointment.

PART III—FUNCTIONS OF THE AGENCY

12. (1) The Agency shall have exclusive responsibility for the procurement, warehousing and distribution of drugs and medical supplies in a transparent and cost-effective manner for and on behalf of all public institutions throughout Sierra Leone.

Functions of the Agency.

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

- (a) procure and where necessary sell medical supplies of requisite quality and efficacy consistent with the pharmacy act as requested by the Ministry and other public bodies.
- (b) establish and maintain strict inventory, control and security protocols within the Agency's and other storage facilities under the control and supervision of the Agency;
- (c) provide suitable storage and packaging of medical supplies procured by the Agency in accordance with the control and security protocols referred to in paragraph (b);
- (d) distribute, procure or donate medical supplies to all Government health facilities and other public bodies as requested by the Ministry;
- (e) maintain vehicles and other means of transport for the distribution of medical supplies;

- (f) engage, train and maintain the requisite number and quality of staff in order to ensure the effective and efficient operation of the Agency;
- (g) collect information and report accurately and systematically on its stock status and cost-effectiveness of its operations;
- (h) store or distribute medical supplies for the private sector or non -profit sector, for payment, subject to the approval of the Board; and
- (i) do all things as are necessary, expedient or conducive to the attainment of the objects of the Agency.

(3) The functions specified under subsection (2) shall be guided by the following principles–

- (a) transparency and accountability wherein decisions, records keeping, reports shall be transparent;
- (b) inclusiveness wherein concerns or interests of stakeholders shall be taken into account in arriving at decisions;
- (c) sustainability wherein financial sustainability shall be a major consideration in all key decisions.

PART IV–ADMINISTRATIVE PROVISIONS

Meeting
Director.

13. (1) The Agency shall have a Managing Director and Deputy Managing Director who shall, subject to subsection (2), be recruited through a competitive and transparent process, appointed by the Board upon such terms and conditions as the Board shall determine after consultation with the Minister.

(2) No person shall be appointed Managing Director or Deputy Managing Director under subsection (1), unless that person–

- (a) holds a post graduate degree from a reputable university;
- (b) has at least 10 years experience in matters relating to healthcare, business management or medical supplies management;
- (c) is of proven integrity; and
- (d) has not been convicted of an offence involving fraud, dishonesty or any sexual offence.

14. (1) The Managing Director shall perform the following functions– Functions of the managing Director.

- (a) provide overall leadership in the conduct and management of the day-to-day business or activities of the Agency;
- (b) oversee the work and discipline of the staff of the Agency;
- (c) ensure the preparation of annual and medium term procurement plans for medical supplies;
- (d) ensure the preparation of annual and medium term supply chain management plans for medical supplies;
- (e) ensure the preparation of annual budget;
- (f) ensure the undertaking of periodic reviews of the remuneration and conditions of service of staff;
- (g) ensure that partners and stakeholders are informed about the Agency’s activities and progress;

- (h) set out and enforce performance standards for the departments;
- (i) ensure the preparation of annual financial statements;
- (j) ensure that the Board's directives are implemented;
- (k) ensure the preparation of annual performance reports; and
- (1) carry out such functions as may be assigned by the Board or are necessary for the purposes of the Agency.

(2) The Deputy Managing Director, shall be the principal assistant to the Managing Director

(3) Without prejudice to the generality of subsection (2) the Deputy Managing Director shall assist the Managing Director in the administration of the Agency and shall carry out such other functions as the Managing Director shall assign to him.

Departments of the Agency.

15. (1) The Agency shall have the following Departments
- (a) procurement;
 - (b) operations;
 - (c) finance and administration;
 - (d) internal audit; and
 - (e) any other department as the Board may deem necessary.

(2) Each Department referred to in subsection (1) shall be headed by a Director, recruited through a competitive and transparent process and appointed by the Board on such terms and conditions as the Board may prescribe.

Other Staff of Agency.

16. (1) The Agency shall have, in addition to the Managing Director, Deputy Managing Director and Directors, a secretariat consisting of a Secretary, Finance Officer, Internal Auditor, Administrative Officer and such other additional technical and administrative staff, as may be required for the efficient performance of the functions of the Agency.

(2) The other staff of the Agency shall be appointed by the Board through a competitive transparent and accountable process subject to such terms and conditions as the Board shall determine.

17. No officer or employee of the Agency or any person acting on the directions of an officer or employee of the Agency shall be liable in respect of any matter or thing done by him in good faith under this Act. Protection of officers.

PART V-FINANCIAL PROVISIONS

18. (1) The activities of the Agency shall be financed by funds consisting of- Funds of the Agency.

- (a) moneys appropriated from time to time by Parliament for the purposes of the Agency;
- (b) moneys given to the Agency by way of gifts, endowments, bequests, grants or other contributions by persons and organisations for the purposes of the Agency;
- (c) returns on investment, if any; and
- (d) any other moneys which may, from time to time, accrue to the Agency.

(2) The funds of the Agency shall be applied only for the purposes of the approved budget of the Agency.

19. (1) The Agency shall keep proper books of account and other records in relation to the activities, property and finances of the Agency in a form approved by the Auditor-General, and shall prepare in respect of each financial year of the Agency a financial statement which shall include- Accounts and audit of Agency.

- (a) balance sheet accounts;

- (b) income and expenditure accounts; and
- (c) source and application of funds,

(2) The accounts of the Agency kept under subsection (1) shall, not later than 4 months after the end of each financial year, be audited by the Auditor-General or an auditor appointed by him.

(3) For the purposes of subsection (2), the Auditor General or the auditor appointed by him shall be entitled to have access to all books of account, vouchers and other financial records of the Agency and to require such information and explanation thereon as he may think fit.

(4) The Agency shall provide the Auditor-General or the auditor appointed by him with all necessary and appropriate facilities for the examination of the accounts and records of the Agency.

(5) The Auditor-General or the auditor appointed by him shall submit to the Agency a report on the audited accounts and the financial statements referred to in subsection (1) and shall, in his report draw attention to—

- (a) irregularities in the accounts;
- (b) matters that are likely to adversely affect the operations of the Agency; and
- (c) any other matter which, in his opinion, ought to be brought to the notice of the Agency.

Financial
year of
Agency.

20. The financial year of the Agency shall be the same as the financial year of Government.

Annual
report.

21. (1) The Agency shall, within 3 months after the end of the financial year, submit to the Minister a report on the performance of its functions during that year and on its policy and programmes.

(2) The annual report shall include the accounts and annual financial statement prepared under section 19 and the report of the audit thereon.

(3) The Minister shall lay copies of the annual report before Parliament within 4 months after he has received the report.

(4) The Agency shall make copies of the report available to all stakeholders once it has been laid before Parliament.

PART VI—MISCELLANEOUS PROVISIONS

22. (1) Upon the date of coming into operation of this Act, the National Pharmaceutical Procurement Unit shall be dissolved and all assets and rights of the Unit shall be transferred and vested in the Agency with the exception of lands, buildings and fixtures which shall be transferred to the Ministry. Transfer of assets.

(2) All liabilities and obligations of the Unit shall be transferred to the Government of Sierra Leone.

(3) A reference to the Unit in any deed, contract, bond security or other document shall be deemed to be a reference to the Government of Sierra Leone and shall have full force and effect as if the Government of Sierra Leone has been named therein and has been a party thereto.

23. (1) The National Pharmaceutical Procurement Unit Act, (Act No. 8 of 2012) is hereby repealed. Repeal and savings.

(2) All regulations, orders, rules and instructions relating to pharmaceutical procurement in force immediately before the commencement of this Act and not inconsistent therewith, shall continue to be in force until such regulations, orders, rules or instructions are expressly amended, revoked or replaced under this Act.

(3) Any enactment in force immediately before the commencement of this Act to the extent that its provisions are not in conflict with this Act shall have effect and continue in force subject to such modifications as may be necessary to give effect to this Act.

Expectations. 24. This Act shall not apply to section 19 of the Pharmacy and Drugs Act.

Regulations. 25. The Minister may by statutory instrument make regulations for the implementation of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The purpose of this Bill is to repeal and replace the National Pharmaceutical Procurement Unit Act, (Act No. 8 of 20 12) and to establish the National Medical Supplies Agency as a public service agency responsible for ensuring the transparent, cost-effective provision of medical supplies on behalf of all public institutions.

The Bill is divided into 6 parts.

Part I is the interpretation section that defines words and expressions used throughout the Bill.

Part II establishes the National Medical Supplies Agency and Clause 3 vests the control and supervision of the agency in the Board which consists of ex-officio as well as-

- (a) a procurement and supply chain specialist;
- (b) a pharmaceutical specialist with experience in drug and medical supply management;
- (c) a financial management and accounting specialist; and
- (d) a member of a civil society organisation dealing with health issues;
- (e) The Managing Director will be the Secretary to the Board.

Part III deals with the functions of the Agency. Clause 12 stipulates that the object for which the Agency is established is to ensure the transparent, cost-effective provision of medical supplies on behalf of all Government held facilities and public institutions.

Sub-clause (2) of clause 12 stipulates that the Agency shall procure medical supplies, establish and maintain strict inventory, provide control and security protocols, provide suitable storage and packaging of medical supplies, distribute, maintain means of transportation, train quality staff, collect and report on stock status, store or distribute medical supplies for the private sector.

-clause (3) provides that in the performance of its functions, the Agency shall be guided by the principles of transparency and accountability, inclusiveness and sustainability.

Part IV makes the administrative provisions of the Agency. The provisions stipulate that the Agency should have a Managing-Director and Directors of respective departments. It further provides that the agency should have technical and administrative staff as may be required for the efficient performance of the functions of the Agency.

Part V deals with the financial aspect of the Agency. Clause 20 stipulates that the activities of the Agency should be financed.

Part VI contains miscellaneous provisions. Clause 22 deals with the transfer assets. It stipulates that on the date the Act comes into operation the National Pharmaceutical Procurement Unit should be dissolved and all its assets and rights should be transferred to the Agency except the lands, buildings and fixtures which should be transferred to the Ministry. It further stipulates that all liabilities and obligations of the National Pharmaceutical Procurement Unit should be transferred to the Government of Sierra Leone. Clause 23 which is the repeal provision repeals the National Pharmaceutical Procurement Act (Act No. 8 of 20 12).

MADE this *21st* day of *April*, 2017.

DR. ABU BAKARR FOFANA,
Minister of Health and Sanitation.

FREETOWN,
SIERRA LEONE