

ACT

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THE NATIONAL PHARMACEUTICAL PROCUREMENT UNIT ACT, 2012 ARRANGEMENT OF SECTIONS

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SIGNED this 19th day of July, 2012.

DR. ERNEST BAI KOROMA,
President.



No. 8

2012



Sierra Leone

The National Pharmaceutical Procurement Unit Act, 2012. Short title.

Being an Act to establish the National Pharmaceutical Procurement Unit as an autonomous body responsible for the procurement, storage, distribution and management of drugs and medical supplies, for and on behalf of all public health facilities throughout Sierra Leone, to establish a National Pharmaceutical Procurement Unit Board and to provide for other related matters.

[] 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—

“District Health Management Team” means a team comprising senior health personnel and senior local councils members, approved by the Ministry of Health and Sanitation, responsible for the management of all related matters;

“essential medicines” mean medicines that satisfy the healthcare needs of the majority of the population of Sierra Leone as defined in the National Essentials Medicines List;

“Managing Director” means the Managing Director of the Unit appointed by the Board under section 19;

“Medical Supplies” mean essential medicines and medical consumables of requisite quality and efficacy approved by the Ministry of Health and Sanitation;

“Member” means a member of the National Pharmaceutical Procurement Unit Board;

“Minister” means the Minister with responsibility for health and sanitation;

“National Essentials Medicines List” means the National Essentials Medicines List approved by the Ministry of Health and Sanitation;

“Unit” means the National Pharmaceutical Procurement Unit established under section 2.

PART II—ESTABLISHMENT OF THE NATIONAL PHARMACEUTICAL PROCUREMENT UNIT

Establishment of National Pharmaceutical Procurement Unit. 2. (1) There is hereby established a body to be known as the National Pharmaceutical Procurement Unit.

(2) The Unit shall be a body corporate having perpetual succession and capable of acquiring, holding and disposing of 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. (1) The Unit shall have a common seal, the use of which shall be authenticated by the signature of – ^{Common seal.}

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

(b) the Managing Director or some other person authorised by the Board for that purpose.

(2) Every document purporting to be an instrument executed or issued by or on behalf of the Unit and to be sealed with the common seal of the Unit authenticated in the manner stated in subsection (1), shall be deemed to be so executed or issued without further proof unless the contrary is proved.

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

PART III—FUNCTIONS AND POWERS OF UNIT

4. (1) The object for which the Unit is established is to provide an effective, efficient and transparent environment for the supply of essential medicines of requisite quality, efficacy, accessibility and affordability in public health institutions throughout Sierra Leone. ^{Functions of Unit.}

(2) Notwithstanding the generality of subsection (1), it shall be the function of the Unit to—

- (a) procure essential medicines and medical consumables of requisite quality and efficacy for and on behalf of all public health facilities throughout Sierra Leone;
- (b) receive as donation, store and distribute essential medicines and medical consumables of requisite quality and efficacy for and on behalf of all public health storage facilities throughout Sierra Leone;
- (c) establish and maintain inventory control procedures of essential medicines and medical consumables at all levels of the public healthcare system;
- (d) undertake accurate and systematic recording, monitoring and regular reporting of essential medicines and medical consumables stock levels in all public health facilities throughout Sierra Leone;
- (e) engage, train and maintain the requisite number and quality of staff that will ensure the effective and efficient operation of the Unit;
- (f) provide suitable storage and packing for drugs procured by the Unit that will ensure that drugs in storage and transit are secure and that their quality, safety and efficacy are maintained until delivery to the end-user;
- (g) monitor, inspect and ensure that storage and packing meet such standard as is required for the storage and transit of medicines and medical consumables intended for public use;

- (h) maintain vehicles and other means of transport for the distribution of drugs; and
- (i) do all such things as are necessary, expedient or conducive to the attainment of the general object of the Unit and in accordance with the Public Procurement Act, 2004 (Act No. 14 2004).

5. Subject to this Act, the Unit may carry on such activities as ^{Powers of Unit.} may be necessary or expedient to discharge its functions under this Act.

PART IV – FUNDS OF UNIT

6. (1) The activities of the Unit shall be financed by funds ^{Funds of Unit.} consisting of–

- (a) any moneys appropriated from time to time by Parliament for the purposes of the Unit;
- (b) contributions by donor agencies;
- (b) all other moneys which may, from time to time, accrue to the Unit in the course of its activities.

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

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

- (a) balance sheet accounts;

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

(2) The accounts of the Unit kept under subsection (1) shall, not later than two 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 Unit 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 Unit.

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

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

Financial year
of Unit.

8. The financial year of the Unit shall be the same as the financial year of the Government.

Annual
report.

9. (1) The Unit shall, within three 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 7 and the report of the audit thereon.

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

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

PART V – BOARD OF UNIT

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

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

- (a) One representative of the Ministry of Health and Sanitation nominated by the Minister on the recommendation of the Director of Drugs and Medical Supplies;
- (b) One representative of Ministry of Finance & Economic Development nominated by the Minister of Finance and Economic Development;
- (c) The Attorney General and Minister of Justice or his representative;
- (d) The Chief Executive, National Public Procurement Authority or his representative;
- (e) The Governor, Bank of Sierra Leone or his representative;

- (f) One member each, representing the Northern Province, the Southern Province, the Eastern Province and the Western Area respectively, nominated by the Chief Medical Officer from a District Health Management Team;
- (g) One representative appointed by international donor institutions operating in the health sector in Sierra Leone, representing Health Development Partners;
- (h) One representative of NGOs active in the health sector appointed from among their number; and
- (i) One member representing civil society organisations active in the health sector appointed from among their number.

(3) The Managing Director and Chief Executive Officer of the Unit shall be Secretary to the Board but shall have no voting right.

(4) The Chairman and other members of the Board except the Managing Director shall be appointed by the President on the recommendation of the Minister and subject to the approval of Parliament.

Board tenure.

11. (1) The Chairman and other members of the Board shall hold office for a term of three years and shall be eligible for re-appointment for one term only.

(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;
- (f) if he resigns his office by written notice to the Minister.

12. (1) The Board shall meet for the dispatch of its business at least once every three months and at such time as the Chairman may determine. ^{Meetings of Board.}

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

(3) A minimum of three 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 five days of his receipt of the notice referred to in subsection (3).

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

(6) 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.

(7) 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.

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

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

Disclosure of interest.

13. (1) No person with a personal interest in activities or practices regulated by the Unit shall be a member of the Board.

(2) A person appointed or nominated to be a Member of the Board shall disclose in writing his personal interests or otherwise in the activities of the Unit.

(3) A member of the Board who contravenes subsections (1) and (2) shall be guilty of misconduct and shall be liable to be removed from the Board.

14. (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 of Board, etc.

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

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

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

(3) Without prejudice to the generality of subsection (1), the Board shall appoint an audit committee consisting of such members of the Board, excluding the Managing-Director, and performing such functions as the Board may determine.

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

16. (1) Subject to this Act, the Board shall have the control and supervision of the Unit, including overseeing the sound and proper technical and financial management of the Unit. Functions of Board.

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

Remuneration of members.

17. The Chairman and the other members of the Board and any person co-opted by the Board shall be paid such remuneration, fees and allowances and shall be reimbursed by the Unit for expenses incurred in connection with the discharge of their functions as the Minister may determine.

Filling of vacancies.

18. (1) Where the Chairman dies, or resigns, or is removed from office or is out of Sierra Leone for a continuous period exceeding three months or is by reason of illness unable to perform the functions of his office for a continuous period of three months—

- (a) the members of the Board shall, as the case may be, elect by quorum one of their member to act as Chairman until such time as the Chairman resumes his office or another is appointed in his stead; and
- (b) in the case of 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 appointed as a member to fill a vacancy, he shall hold office for the remainder of the term of the Chairman or member, as the case may be, and shall, subject to this Act, be eligible for re-appointment.

PART VI – STAFF OF THE UNIT

Managing Director.

19. (1) There shall be a Managing Director of the Unit who shall be appointed by the Board upon such terms and conditions as the Board may determine.

(2) The Managing Director appointed under subsection (1), shall be a person of proven integrity and shall have such qualifications as may be required for the efficient and effective management of a national pharmaceutical procurement entity. Other staff of Unit.

20. (1) The Managing Director shall be responsible to the Board for the performance of the following functions—

- (a) to provide overall leadership in the conduct and management of the day-to-day business or activities of the Unit;
- (b) to initiate and maintain high-level contact with interested parties, both local and international, in relevant areas of the operations of the Unit;
- (c) to monitor and supervise the preparation of the annual budgets and reports of the Unit for the review and approval of the Board;
- (d) to oversee the work and discipline of the other staff of the Unit;
- (e) to carry out such other functions as may be assigned by the Board or necessary for the purposes of the Unit; and
- (f) to serve as Secretary to the Board.

(2) The Managing Director may, for the effective administration of the Unit and subject to the approval of the Board—

- (a) establish the necessary Directorates for the operations of the Unit, headed by a Director, performing specified functions assigned by the Managing Director;
- (b) appoint such grade or categories of staff as the Unit may require;
- (c) enter into an agreement with any independent body or agency for the purpose of carrying out any of the functions of the Unit for and on behalf of the Unit.

Functions of Managing Director. **21.** (1) The Unit shall have, in addition to the Managing Director, other staff including a Finance Officer, Administrative Officer and such other additional technical and administrative staff, as may be required for the efficient performance of the functions of the Unit.

(2) The Finance Officer and the other staff of the Unit shall be appointed by the Board subject to such terms and conditions as the Board shall determine.

Secondment of public officers. **22.** Public officers may at the instance of the Unit, be seconded or otherwise render assistance to the Unit but the Unit may request the withdrawal of any such seconded staff who is unable to carry out assigned functions in a manner satisfactory to the Unit.

Protection of staff. **23.** No officer or employee of the Unit or any person acting on the directions of an officer or employee of the Unit shall be liable in respect of any matter or thing done by him in good faith under this Act.

PART VII – MISCELLANEOUS PROVISIONS

Regulations. **24.** Without prejudice to the other provisions of this Act, the Minister with the advice of the Managing Director may, by statutory instrument, make regulations for the implementation of this Act.

Passed in Parliament this *28th* day of *June*, in the year of our Lord two thousand and twelve.

IBRAHIM S. SESAY,
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correct printed copy of the said Bill.

IBRAHIM S. SESAY,
Clerk of Parliament.