

CHAPTER 207

THE NATIONAL MEDICAL STORES ACT.

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CHAPTER 207

THE NATIONAL MEDICAL STORES ACT.

Commencement: 3 December, 1993.

An Act to provide for the establishment of the National Medical Stores and to provide for its composition, powers, object and functions, administration and finances and other matters connected therewith.

PART I—INTERPRETATION.

1. Interpretation.

In this Act, unless the context otherwise requires—

- (a) “board” means the board of directors established under section 8;
- (b) “Central Medical Stores” means the Central Medical Stores existing as a department of the Government immediately before the commencement of this Act, which shall cease to exist after all its functions, assets and liabilities have been transferred to the corporation or otherwise resolved;
- (c) “chairperson” means the chairperson of the board of directors;
- (d) “corporation” means the National Medical Stores;
- (e) “financial year” means in respect of any accounting period a period of twelve months ending on the 30th June;
- (f) “goods” means medicines and medical supplies;
- (g) “medical supplies” includes products or materials used in the practice of health care, medicine, pharmacy and hospital operation insofar as these are specific to these fields, disposable items employed in drug administration and bandaging and nursing materials; it does not extend to mechanical, electrical or electronic equipment;
- (h) “medicines” includes medicinal products as are intended for the prevention, alleviation or cure of any human illness or for the modification of human physiological function and sera or vaccines;
- (i) “Minister” means the Minister responsible for health;
- (j) “operational date” means the date at which the corporation assumes its primary functions;

- (k) “transition period” means the period between the commencement date and operational date, during which the new organisation shall become operational.

PART II—ESTABLISHMENT, OBJECT, FUNCTIONS AND POWERS OF THE CORPORATION.

2. Establishment of the corporation.

(1) There is established a corporation by the name of the National Medical Stores.

- (2) The corporation—
- (a) shall be a body corporate with perpetual succession;
 - (b) shall have a common seal; and
 - (c) may sue or be sued in its corporate name.

3. The seal of the corporation.

(1) The seal of the corporation shall be authenticated by the signatures of the general manager and the secretary to the board.

(2) In the absence of the general manager, the deputy general manager may sign in his or her place, and the person performing the functions of the secretary may sign in the absence of the secretary.

(3) A document issued by the corporation and sealed with the seal of the corporation and authenticated in the manner provided by this section shall be received and taken to be a true instrument without further proof unless the contrary is shown.

4. Object of the corporation.

The object of the corporation is to ensure for the national and public benefit—

- (a) the efficient and economical procurement of medicines and of certain other medical supplies of good quality primarily to the public health services;
- (b) the secure, safe and efficient storage, administration, distribution and supply of the goods, having regard to national needs and to the special nature of the goods in question in accordance with the

- national drug policy and the national drug authority;
- (c) the establishment and maintenance of systems to ensure the quality of goods supplied;
- (d) the estimation of current and future needs as a basis for procurement planning and for budgeting by the corporation itself and the Ministries concerned;
- (e) the proper performance of additional tasks as may be accepted by the board as complementary or necessary to the performance of its primary functions, and are entrusted to the corporation by regulation.

5. Advisory role of the corporation.

The corporation shall advise the National Drug Authority, and the National Drug Authority shall advise the Ministry responsible for health, the Ministry responsible for finance, planning and economic development and the Ministry responsible for local government either on request or at the board's own initiative on essential issues relating to the state of the corporation and its future development, as well as to related matters, including the estimation of drug needs and the distribution and use of medicines in the public health service.

6. Borrowing powers, etc.

The corporation may, for and in connection with its objects and functions under this Act, borrow money, purchase, hold, manage and dispose of any property whether movable or immovable, and enter into any contract and other transaction as may be expedient and may charge for services provided by it and may do any other act or thing as in law may be done by a body corporate.

7. Supply to private health care.

The corporation may supply medicines and medical supplies against payment for use in private health care, on condition that there will be no diversion of supplies or of donor or Government funds from public to private health care and that the corporation's service to the public sector is not impaired in any other way.

PART III—THE BOARD OF DIRECTORS.

8. Board of directors.

(1) The governing body of the corporation shall be a board of directors consisting of not less than ten and not more than sixteen persons, one of whom shall be the chairperson.

(2) All directors shall be appointed by the Minister for a period not exceeding three years on terms and conditions that may be specified in the instruments of appointment and shall be eligible for reappointment.

(3) In making appointments, the Minister shall respect proposals made by the bodies most closely concerned and, in particular, shall appoint—

- (a) two directors as proposed by the National Drug Authority;
- (b) one director each proposed severally by— (i) the Ministry responsible for finance, planning and economic development; (ii) the Ministry responsible for local government; (iii) the medical missions; and
- (c) one expert in each of the following fields—
 - (i) company law or corporate management;
 - (ii) the profession of pharmacy;
 - (iii) the profession of medicine; and
 - (iv) primary health care.

(4) The Minister shall appoint the chairperson.

(5) If a member of the board—

- (a) dies;
- (b) resigns;
- (c) has his or her appointment terminated under subsection (7); or
- (d) ceases to hold office for any other reason, the Minister may

appoint another person to take the place of that member, and the person so appointed shall hold office until the expiration of the term of office of the member in whose place he or she is appointed.

(6) The chairperson shall notify the Minister as soon as a vacancy occurs in the membership of the board, and the Minister shall fill the vacancy within three months of receiving the notice.

(7) The Minister may remove a member of the board for negligence or misbehaviour or inability to perform the functions of his or her office, whether arising from infirmity of body or mind or from any other cause.

9. Qualifications of a director.

- (1) A person may be appointed as director—
 - (a) if he or she is a citizen of Uganda; or
 - (b) if he or she is lawfully admitted into Uganda for permanent residence and is actually residing in Uganda.

(2) The Minister shall appoint to the board only persons having no substantial interests which conflict with those of the board or the corporation.

10. Functions of the board.

The functions of the board shall be—

- (a) to formulate and review the policy of the corporation having regard to its purposes as set out in this Act;
- (b) to set targets for the annual performance of the corporation both in terms of public service and financial results;
- (c) to appraise and evaluate the performance of the management of the corporation;
- (d) to make recommendations to the Minister regarding the appointment, performance and dismissal of the general manager of the corporation and the terms of his or her appointment;
- (e) to appoint, appraise and discipline senior members of the staff of the corporation;
- (f) subject to the limitations of this Act, to determine the organisational structure and staffing of the corporation;
- (g) to establish its own procedures and to approve an operations manual for the internal operation of the corporation on the basis of a draft submitted by the management committee and to approve proposals for modifications to the operations manual;
- (h) to perform any other functions relating to the above functions as the Minister may direct.

PART IV—GENERAL MANAGER, OFFICERS AND STAFF.

11. General manager.

(1) The Minister shall appoint a general manager of the corporation on the recommendation of the board and on terms and conditions that the Minister may, in consultation with the board, determine.

(2) The general manager shall be the chief executive of the corporation and shall be responsible for the day-to-day operations of the corporation.

(3) Subject to this Act and the general supervision and control of the board, the general manager shall be responsible for the management of the funds, property and business of the corporation and for the administration, organisation and control of the staff of the corporation.

(4) The general manager shall be entitled to attend and participate in all the meetings of the board and to have a voting right except in matters relating to his or her own appointment and the assessment of his or her performance.

(5) The general manager shall be assisted by a management committee, of which he or she shall be the chairperson, and which shall comprise the deputy general manager, the chief pharmacist, the chief procurement officer and the chief stores officer; and in matters relating to engineering, the chief engineer shall serve as a member of the committee.

12. Secretary to the board.

(1) There shall be a secretary to the board who shall be appointed by the Minister on the advice of the board on terms and conditions that the Minister may determine.

(2) In addition to any other functions that may be conferred upon him or her by the Minister on the advice of the board, the secretary shall—

- (a) have custody of the seal of the corporation;
- (b) be responsible for the taking of the minutes of the meetings of the board and for the keeping of the records of all transactions of the corporation.

13. Officers and employees.

There shall be heads of departments and other officers and employees of the corporation as the board may determine.

14. Protection of officers.

An employee of the corporation shall not, in his or her personal capacity, be liable in civil or criminal proceedings in respect of any act or omission done in good faith in the performance of his or her functions under this Act.

PART V—FINANCIAL PROVISIONS.

15. Income of the corporation.

(1) The income of the corporation shall consist of funds accruing from—

- (a) the supply against payment of medicines and medical supplies to the Ugandan public health services and associated institutions and to other institutions and bodies that may be designated by the Ministry as serving public need;
- (b) the supply against payment of medicines and medical supplies for use in private health care;
- (c) funding that may be made available to it by Parliament;
- (d) funding provided by donors or other financiers;
- (e) miscellaneous gainful activities that may be undertaken by the corporation to further its income.

(2) Earnings through cost recovery shall be used exclusively to create and maintain an operating reserve and to improve the corporation's services and facilities.

16. Estimates.

(1) The general manager shall, not later than three months before the end of each financial year, prepare and submit to the board for its approval, estimates of the corporation's income and expenditure for the next ensuing year and may, at any time before the end of each financial year, prepare and submit to the board for approval any estimates supplementary to the estimates of a current financial year.

(2) No expenditure shall be made out of the funds of the corporation unless that expenditure is part of the expenditure approved by the board under the estimates for the financial year in which the expenditure is to be incurred or in supplementary estimates for that year.

(3) The general manager shall, not later than three months before the end of each financial year, present advance annual estimates of the sums in foreign currency likely to be required for procurement purposes; and those estimates shall, after approval by the board, be submitted through the National Drug Authority to the Minister responsible for finance.

17. Accounts, records and audit.

(1) The corporation shall keep accounts and records of its transactions and affairs and shall ensure that all monies received are properly brought to account, all payments out of its monies are correctly made and properly authorised and that adequate control is maintained over its property and over the incurring of liabilities by the corporation.

(2) The annual accounts of the corporation shall be audited by the Auditor General.

(3) The general manager shall, within three months after the end of each financial year, submit—

- (a) to the Minister and the board an annual report in respect of that year containing—
 - (i) financial statements;
 - (ii) performance indicators and any other related information indicative of the measure in which the corporation has achieved its primary purposes in terms both of public service and successful corporate operation;
 - (iii) a report on the operations of the corporation;
 - (iv) other information as the board, before or after the completion of the annual report, may direct;
- (b) to the Auditor General—
 - (i) the accounts of the corporation for the financial year; and
 - (ii) the annual report referred to in paragraph (a).

(4) The Auditor General shall audit the accounts within two months after receipt and submit his or her opinion to the Minister and to the board.

(5) The Minister shall cause copies of each annual report, together with a copy of the opinion of the Auditor General, to be laid before Parliament within two months or at its next meeting after he or she has received them.

PART VI—TRANSITIONAL PROVISIONS.

18. Transitional provisions.

(1) Not more than three months after the commencement of this Act, the Minister shall appoint the board of directors and make financial provision for its preparatory work.

(2) The board shall progressively assume its obligation so as to ensure that the corporation can enter full operation within twelve months from the commencement of the Act, and the board shall during this period take steps to—

- (a) recommend the appointment of a general manager;
- (b) appoint senior staff;
- (c) establish operational procedures;
- (d) value the assets and obligations of the Central Medical Stores and of stocks held by them and evaluate the staff employed by that body;
- (e) determine which of these assets, obligations, stock and staff can and should be transferred to the corporation, as being necessary for the performance of its functions, and make recommendations to the Minister accordingly;
- (f) recommend to the Ministers responsible for health and finance, planning and economic development a sum required as starting capital for the corporation;
- (g) recommend to the Ministers responsible for health and finance, planning and economic development a sum required as operational budget for the corporation.

(3) The Central Medical Stores shall cease to operate and to exist after all its functions, assets and liabilities have been transferred to the corporation or otherwise disposed of.

19. Residual assets and obligations.

Disposal of the residual assets and settling of the residual obligations of the

Central Medical Stores which are not transferred to the corporation shall be at the discretion of the Minister.

History: Statute 12/1993; S.I. 8/2001.