

CHAPTER 179

THE PROCUREMENT AND SUPPLIES PROFESSIONALS AND TECHNICIANS BOARD ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

Section Title

PART I PRELIMINARY PROVISIONS

1. Short title.
2. Application.
3. Interpretation.

PART II THE PROCUREMENT AND SUPPLIES PROFESSIONALS AND TECHNICIANS BOARD

4. Establishment of Board.
5. Co-opted membership.
6. Committees of Board.
7. Functions of Board.
8. Board to prescribe fees.
9. Delegation of powers by Board.
10. Secretariat and Executive Director.
11. Other staff of Board.

PART III REGISTRATION

12. General requirements.
13. Register of Procurement and Supplies Professionals and Technicians.
14. Qualification for registration.
15. Procedure for registration.
16. Consideration of application.
17. Executive Director may call for further information.
18. Registration of person qualified outside Tanzania.
19. Registration of foreigners.
20. Provisional registration.
21. Insuance of certificate.
22. Use of certain styles and titles.



23. Publication of Procurement and Supplies Professionals and Technicians.
24. Publication as *prima facie* evidence of registration.

PART IV
CONTROL OVER CONDUCT OF REGISTERED PROCUREMENT
AND SUPPLIES PROFESSIONALS AND TECHNICIANS

25. Power to suspend registration.
26. Power to cancel registration.
27. Procedure for cancelation or suspension.
28. Restoration to Register.
29. Proceedings at inquiry.
30. Disobedience of summons and refusal to give evidence.

PART V
APPEALS

31. Establishment of Appeals Board.
32. Composition and proceedings of Appeals Board.
33. Proceedings of Appeals Board.
34. Right to appeal.

PART VI
FINANCIAL PROVISIONS

35. Funds and resources of Board.
36. Investment.
37. Power to borrow.
38. Annual and supplementary Budget.
39. Accounts and audit.
40. Annual statement on accounts and report to be submitted to Minister.
41. Annual statement of accounts and report to be tabled before National Assembly.
42. Remuneration of members of Board.

PART VII
MISCELLANEOUS PROVISIONS

43. Complaints against Procurement and Supplies Professional and Technicians.
44. Directions by Minister.
45. Liabilities of members of Board.
46. False pretence.
47. Employment of unregistered person.
48. Compulsory employment of registered Procurement and Supplies Professionals and Technicians.

49. Stock authorisation and Certification.
50. Regulations.
51. Power of exemption.
52. Repeal and savings.

SCHEDULE

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CHAPTER 179

THE PROCUREMENT AND SUPPLIES PROFESSIONALS AND TECHNICIANS BOARD ACT

An Act to make better provisions for regulating practice and conduct of Procurement and Supplies Professionals and for related matters.

Acts Nos.
23 of 2007
4 of 2014
GN. No.
22 of 2009

PART I PRELIMINARY PROVISIONS

- Short title **1.** This Act may be cited as the Procurement and Supplies Professionals and Technicians Board Act.
- Application **2.** This Act shall apply to Procurement and Supplies Professionals and Technicians, registered or recognised under this Act and to their employers.
- Interpretation **3.** In this Act, unless the context otherwise requires-
“Appeals Board” means the Appeals Board established under section 31
“Board” means the Procurement and Supplies Professional and Technicians Board established by section 4;
“candidate” means a person who intends to undertake or is undertaking the Board’s examinations and registered as such by the Board;
“clearing and forwarding agent” means anybody of persons whether corporate or unincorporate specialised in clearing and forwarding which act for another called principal in dealing with third parties in matters related to clearing and forwarding;

- “Committee” means a Committee of the Board appointed under section 6;
- “consultant” means any body of persons whether corporate or incorporate engaged in or is able to be engaged in the business of providing services in procurement, purchasing, warehousing, distribution, clearing and forwarding or any field of professional activity;
- “Executive Director” means the Executive Director appointed in accordance with the provisions of section 10;
- “Minister” means the Minister responsible for Procurement and Supplies Professionals;
- “Procurement” means buying, purchasing, renting, leasing or otherwise acquiring any goods, works or services by a procuring entity or organisation and includes all functions pertaining to obtaining of any goods, works or services, including description of requirements, selection and invitation of tenders, preparation and award of contracts;
- “Procurement agent” means any body of persons whether corporate or unincorporate specialised in procurement that acts for another called the principal in dealing with third parties in matters related to procurement;
- “Procurement Auditor” means any person who is qualified in procurement and supplies management and is registered as Procurement Auditor under this Act;
- “Procurement entity” means a public body and any other body, or unit established and mandated by government to carry out public functions;
- “Procurement management” means the process of planning, soliciting, evaluating and contracting for goods, works or services from suppliers, contractors or service providers and managing their performance throughout the project;
- “Procurement Specialist” means any person who is qualified in procurement and supplies management and is registered as a Procurement Specialist under this Act;
- “Procurement and Supplies Professional” includes Procurement Specialists, Procurement Professionals, Supplies Professionals

and Technicians, Procurement Auditors, Supplies and Stock Auditor, registered under this Act;

“Register” means the Register of Procurement and Supplies Professionals and Technicians, maintained by the Board in accordance with the Provisions of this Act;

“Secretariat” means the Secretariat of the Board;

“supplies” means the stock or materials physically existing and available for use or for disposal and includes spare parts;

“Supplies and Stock Auditor” means any person registered as a Supplies and Stock auditor under this Act;

“supplies management” means the effective and economical coordination and execution of-

- (i) warehouse organisation, storage, inventory control and preservation;
- (ii) physical distribution including transportation, handling, clearing and forwarding, customs and port clearance;
- (iii) supplies audit, stock verification and internal control, and stock certification; and
- (iv) disposal, recycling of materials, and auctioneering and preservation.

“Technician” means any person who has qualified at technical stage and is registered under this Act as Procurement or Supplies Technician.

PART II

THE PROCUREMENT AND SUPPLIES PROFESSIONALS AND TECHNICIANS BOARD

Establishment
of Board

4.–(1) There is hereby established a Board to be known as the Procurement and Supplies Professionals and Technicians Board.

- (2) The Board shall be a body corporate and shall-
 - (a) have perpetual succession and common seal;
 - (b) in its corporate name, be capable of suing and being sued;

- (c) be capable of borrowing and lending money;
 - (d) be capable of entering into contracts; and
 - (e) subject to the provisions of this Act, be capable of holding, purchasing or acquiring in any other way, any movable or immovable property, and of disposing of any of its properties.
- (3) The Board shall consist of-
- (a) a Chairman who shall be appointed by the President from amongst registered Procurement and Supplies Professionals and Technicians; and
 - (b) not less than six or more than eight other members who shall be appointed by the Minister out of whom half shall be Procurement and Supplies Professionals and Technicians.

(4) The provisions of the Schedule to this Act shall have effect as to the tenure of office of members, the proceedings of the Board and other matters relating to it.

(5) The Minister may, on the advice of the Board and by Order published in the *Gazette* amend, vary or replace all or any of the provisions of the Schedule to this Act.

Co-opted
membership

5. The Board may invite other persons who are not members of the Board to provide expertise and other assistance as may be required and any such persons so invited shall not have the right to vote during the deliberations of the Board or take part in the final decision of the Board.

Committees
of Board
Act No.
4 of 2014 s. 14

6.-(1) For the purpose of facilitation of its functions, the Board may, by writing and common seal, appoint committees to perform specific functions as may be required.

(2) Terms and size of the Committee appointed under this section shall be determined by the Board.

(3) A Chairman of a Committee shall convene a meeting of the Committee of which he is the chairman according to the schedule or directions as may be determined by the Board.

(4) Each committee shall keep minutes of its meeting, report to the Board on its activities, and conduct its proceedings in such manner as the Board may direct.

Functions
of Board
Act No.
4 of 2014 s. 15

7. The functions of the Board shall be to-

- (a) formulate and advise the Government on overall policy relating to the profession of procurement and supplies;
- (b) plan, direct, co-ordinate, monitor and control personnel requirements in procurement and supplies management profession;
- (c) provide professional advice to and recognise all training institutions within the country offering courses in procurement and supplies, consultancy services in procurement and supplies management, materials handling, clearing and forwarding, packaging, professional warehousing management, contract management and auctioneering;
- (d) formulate, establish and enforce the maintenance of standards of conduct and regulate the activities of procurement specialists, supplies professionals, procurement auditors, supplies and stock auditors, procurement technicians and supplies technicians and the practice of the profession of procurement and supplies management;
- (e) train or provide opportunities for the training of persons in the principles, procedures and techniques of procurement and supplies management;
- (f) conduct professional examinations leading to the grant of and to grant professional certificates and other awards of the Board in procurement, supplies, procurement audit, supplies and stock audit, and other subjects relating to procurement and supplies management;
- (g) effect registration of procurement and supplies professionals;
- (h) keep and maintain a Register or registers for the registration of procurement and supplies professionals in accordance with this Act;

- (i) evaluate academic and practical qualifications for the purpose of registration of persons under this Act;
- (j) sponsor, arrange and provide facilities for conferences, seminars, discussions and consultations on matters relating to procurement and supplies management;
- (k) prescribed fees payable to the Board;
- (l) assist members of the public in matter touching upon, ancillary, incidental or conducive to the practice of the profession of procurement and supplies management; and
- (m) carry out such other functions as may be conferred upon the Board by any written law or as are necessary or expedient for the proper carrying out of its functions under this Act.

Board to
prescribe fees
Act No.
4 of 2014 s. 16

8. The Board may prescribe fees payable for-

- (a) admission to any course offered by the Board;
- (b) examination to be held or conducted by the Board;
- (c) application for registration and extraction of copies;
- (d) annual subscription; and
- (e) any other service offered or anything carried out by the Board for better implementation of the provisions of this Act.

[s. 7A]

Delegation of
powers by Board
GN. No.
22 of 2009

9.-(1) The Board may subject to such terms, conditions and restrictions as it may specify, delegate to any committees, Executive Director or any employee of the Board all or any of the functions, powers or duties conferred or imposed on the Board by or under this Act and where any delegation is so made the delegated function, power or duty may be performed or exercised by the delegate.

(2) The delegation under the provisions of subsection (1) may be made to the holder of the office under the Board specifying the office but without naming the holder, and in every case where a delegation is so made each successive

holder of the office in question and any person who occupies or performs the duty of that office may, without any further authority, perform or exercise the delegated function, power or duty in accordance with the delegation made by the Board.

(3) The Board may revoke a delegation made by it under this section.

(4) A delegation made under this section shall not prevent the Board from itself performing or exercising the function, power or duty delegated.

(5) A delegation made under this section may be published in the *Gazette*, and upon its being so published shall be judicially noticed and shall be presumed to be in force unless the contrary is proved.

(6) The Board shall not have power to delegate-

- (a) its power of delegation;
- (b) the power to approve the annual budget or any supplementary budget, the annual balance sheet or any statement of accounts;
- (c) power to impose fees; or
- (d) its power in relation to registration of person under this Act.

[s. 8]

Secretariat
and Executive
Director
GN. No.
22 of 2009

10.-(1) There shall be the Executive Director of the Board who shall be the head of Secretariat and other staff of the Board.

(2) The Minister shall appoint a public officer to be the Executive Director of the Board who shall, by virtue of his position, be the Secretary to the Board.

(3) The Executive Director shall-

- (a) be responsible to the Board for implementation of the decisions of the Board;
- (b) perform the duties prescribed in relation to his office by or under this Act; and
- (c) perform such other functions as the Board may specify.

(4) The Executive Director shall hold office for four years and upon such terms and conditions as may be determined by

the Board, and he may be eligible for re-appointment for one further term subject to his satisfactory performance.

[s. 9]

Other staff
of Board
Cap. 198

11. There shall be employed by the Board in accordance with the Public Service Act, such number of staff or employees of the Board as may be necessary for the efficient performance of the functions of the Board on such terms and conditions as may be determined by the Board.

[s. 10]

PART III REGISTRATION

General
requirements

12. A person shall be recognised and entitled to practice as Procurement and Supplies Professionals and Technicians if that person is duly registered under this Act.

[s. 11]

Register of
Procurement
and Supplies
Professionals
and Technicians
GN. No.
22 of 2009

13.-(1) The Executive Director shall keep and maintain the Register of Procurement and Supplies Professionals and Technicians.

(2) The Executive Director shall enter the names of every Procurement and Supplies Professionals technicians entitled to have his names entered in the Register and such names shall be entered as soon as is practicable after being accepted by the Board for registration, showing against such name-

- (a) the date of entry;
- (b) postal and, if any, physical address;
- (c) academic qualifications;
- (d) the classification, if any under which the registration is made; and
- (e) such other particulars as the Board may direct.

(3) The Executive Director shall update the Register for purposes of changing particulars entered in the Register.

(4) A person who does not qualify for registration under this section but is engaged as a Procurement and Supplies Personnel and Technicians, as has not completed relevant studies to qualify for registration of Procurement and Supplies Professional and Technicians, shall continue to maintain a title in accordance with the prescription of titles that shall be issued by the Executive Director.

[s. 12]

Qualification for
registration
GN. No.
22 of 2009

14.—(1) A person shall be entitled to registration under this Act and to have his name entered in the Register of Procurement and Supplies Professionals and Technicians where that person is-

- (a) a person who is the holder of a degree, diploma or certificate or other award of the Board, or a university or school, which may be recognised for the time being by the Board as furnishing a sufficient guarantee of an adequate academic training in procurement or supplies management as the case may be;
- (b) a person who has sat for and passed an examination conducted by or under the authority of the Board, being an examination prescribed by the Board as qualifying examination for Procurement and Supplies Professionals and Technicians, as the case may be;
- (c) a person in respect of whom his employer for the time being has certified in writing, in the manner prescribed by the Board, that he is a person experienced in such field of procurement or supplies as may be stated in such certificate provided that he sits and passes examination conducted by the Board; or
- (d) a member of institutes of procurement and supplies management, the membership of which is recognised for the time being by the Board as furnishing a sufficient evidence of academic knowledge of procurement or supplies management as practical experience in the procurement and supplies management, as the case may be.

(2) Notwithstanding the provisions of subsection (1) (a) and (b), the Board may require any person to pass such examination as the Board may prescribe before such person can be registered.

(3) The Board shall require an applicant for registration under this section to satisfy that his professional and general conduct has been such as, in the opinion of the Board, would make him fit and proper to be registered.

(4) Where in the opinion of the Board, an applicant is not proper and fit to be registered as Procurement and Supplies Professional and Technicians, the Board may direct the Executive Director to reject the application or to register the applicant in appropriate or lower category as shall be specified by the Board.

[s. 13]

Procedure for
registration
GN. No.
22 of 2009

15.-(1) A person who wishes to obtain registration under this Act, shall submit an application in a prescribed form to the Executive Director.

(2) An application under subsection (1) shall be accompanied by-

- (a) a certified copy or copies of certificates for academic qualifications of the applicant;
- (b) an application fees as may be prescribed; and
- (c) such other documents containing information as may be required by the Board.

(3) The Executive Director shall, after receiving an application, refer the application together with his recommendations to the Board for consideration and determination.

(4) The Board may-

- (a) approve the application and direct the Executive Director to register the applicant and enter the name of the registered person in the Register; or
- (b) reject an application and direct the Executive Director to inform the applicant accordingly stating reasons for the Board's decision.

[s. 14]

Consideration
of application
GN. No.
22 of 2009

16. Notwithstanding any provisions relating to applications which may be made under this Act, the Executive Director shall process application submitted to him within thirty days from the date of receiving the application and forward to the Board for determination.

[s. 15]

Executive
Director may
call for further
information
GN No.
22 of 2009

17.—(1) The Executive Director may, on his own motion or on the instruction of the Board, require any Procurement and Supplies Professional and Technician who is applying for registration under this Act to furnish all or any information regarding-

- (a) possession of further qualifications guaranteeing eligibility for registration as applied by him;
- (b) where employed, whether he is in private practice or is in the employment of any organisation or institution;
- (c) the name of the organisation or institution by which he is employed; and
- (d) any issue which is necessary for facilitating the registration or enrollment.

(2) A Procurement and Supplies Professional and Technician who is required to furnish any such additional information under this section shall comply with such requirement within the time as may be indicated by the Executive Director.

[s. 16]

Registration of
person qualified
outside Tanzania

18.—(1) Where a person applying for registration is a citizen of Tanzania and has qualifications obtained from an institution outside Tanzania that person may be eligible for provisional registration valid for a period of one year from the date of such registration.

(2) After the expiry of the period of one year, the applicant under subsection (1) shall be required to apply for full registration under the provisions of section 15.

[s. 17]

Registration
of foreigners

19.—(1) Where a person satisfies the Board that-

- (a) he is not ordinarily resident in the United Republic;

- (b) he is or intends to be present in the United Republic in the capacity of a professionally qualified procurement specialist or supplies professional for the express purpose of carrying out a specific assignment for which he has been engaged; and
- (c) he is or immediately prior to entering the United Republic was practicing or employed as Procurement and Supplies Professional and Technicians and satisfy the Board of his fitness to serve the public as a Procurement and Supplies Professional and Technician either for a period not exceeding one year or the duration of any specific assignment,

the Board may, direct that such person be registered as a temporary Procurement and Supplies Professional and Technicians.

(2) The Board may require an applicant to appear before it for purposes of considering his application and may require an applicant to produce documentary evidence of his work or employment immediately prior to entering the United Republic.

(3) Registration of a person under this section shall continue only for the period or for the duration of the assignment as is directed by the Board and shall lapse upon the completion of the assignment.

(4) In case of doubt the decision of the Board as to the termination of the assignment shall be conclusive.

(5) A person registered under this section shall, in relation to the period or the duration of the assignment and to things done or omitted to be done in the course of such assignment, be treated as being duly registered under this Act as Procurement and Supplies Professional and Technician.

[s. 18]

Provisional
registration

20.—(1) Subject to this Act, any person who is not entitled to be registered by reason only of the fact that he has not complied with the additional requirement referred to in section 13(1)(c)

and (d) shall, if upon application in the prescribed manner, he satisfies the Board that he has secured an offer for employment or training in the public service or by a person's approved by the Board for the purpose of enabling him to comply with the additional requirements, be entitled to be provisionally registered under this section.

(2) A person registered in terms of this section shall be deemed to be registered as far as it is necessary to enable him to be employed or trained for the purposes stated in subsection (1) and, while so employed or being trained, may carry out the duties and responsibilities, exercise the rights and be entitled to enjoy the privileges of a registered Procurement and Supplies Professional and Technician.

(3) The registration of a person under this section shall cease to have effect upon being registered under section 15.

[s. 19]

Issuance
of certificate

21. A person registered under this Act shall be issued with the certificate of registration upon payment of registration fee as may be prescribed.

[s. 20]

Use of certain
styles and titles

22. A person whose name has been entered in the Register shall, so long as his name remains in the Register, be entitled to adopt and use the style and title-

- (a) in the case of a person whose name has been entered in the Register of Procurement specialist, Procurement and Supplies Professional;
- (b) in the case of a person whose name has been entered in the Register of Procurement Auditors or Register of Supplies and Stock auditors, Procurement auditor or Supplies and Stock Auditor, as the case may be;
- (c) in the case of a person whose name has been entered in the Register of Procurement Technician or Register of Supplies Technician, Procurement Technician or Supplies Technician.

[s. 21]

Publication
of Procurement
and Supplies
Professionals
and Technicians
GN. No.
22 of 2009

23.—(1) The Executive Director shall cause to be published in the *Gazette* as soon as may be practicable after registration, the names, addresses and qualifications of each Procurement and Supplies Professional and Technician and subject to the directions of the Board, may cause to be published any amendment to or deletion from the Register.

(2) The Executive Director shall cause to be published in the *Gazette*, as soon as may be practicable after the first day of January in each year, a list containing the names, addresses and qualifications of all registered Procurement and Supplies Professionals and Technicians, remaining in the Register at the close of the previous year.

[s. 22]

Publication
as *prima facie*
evidence of
registration
GN. No.
22 of 2009

24.—(1) A publication of name pursuant to section 23 shall in the absence of contrary evidence that the persons named therein are duly registered under the Act and a deletion from the Register of the name of any person notified by such publication shall be *prima facie* evidence that such person is not so registered.

(2) The Register, all copies or extracts from the Register which purport to have been certified under the hand of the Executive Director shall be receivable in all courts and tribunals or other bodies as evidence of the fact so stated.

[s. 23]

PART IV

CONTROL OVER CONDUCT OF REGISTERED PROCUREMENT AND SUPPLIES PROFESSIONALS AND TECHNICIANS

Power to suspend
registration

25. Where any Procurement and Supplies Professional and Technician, is convicted of any offence against this Act or is, after due inquiry held by the Board, found to have been guilty of any act or omission amounting to professional misconduct, the Board may-

- (a) caution or censure him;
- (b) direct that his name be relegated to a lower classification in a Register;
- (c) suspend registration of his name for such period as the board may specify; or
- (d) direct that his name be deleted from the Register.

[s. 24]

Power to cancel
registration
GN. No.
22 of 2009

26.—(1) The Board may, at any time direct that the name of a Procurement and Supplies Professional and Technician, be deleted from the Register or be relegated to a lower classification, where such person has-

- (a) failed within a period of six months from the date of an inquiry sent by the Executive Director by registered letter to the address appearing in the Register against his name, to notify the Registrar of his current address;
- (b) requested that his name be deleted from the Register, in which case such person may be required to satisfy the Board by affidavit lodged with the Executive Director that no criminal proceedings or proceedings under section 25 or 28 are being or are likely to be taken against him; or
- (c) been found by the Board to be guilty of such misconduct as is specified in section 28.

(2) The Executive Director shall-

- (a) delete from the Register the name of every deceased Procurement and Supplies Professional and Technician;
- (b) rectify or delete any entry in any Register which has been incorrectly or fraudulently made or procured.

(3) Except in the circumstances specified in subsection (1) (a) and (2), every deletion from the Register, relegation or re-classification of registration shall be notified by the Registrar to the person concerned by a registered letter to the address appearing in the Register against his name immediately prior to such deletion, relegation or re-classification.

(4) Subject to the provisions of this Act, a person whose name has been deleted from a Register under this section shall

cease from the date of such deletion to be a registered person for purposes of this Act.

[s. 25]

Procedure for
cancellation or
suspension
GN. No.
22 of 2009

27.—(1) Where a registered person is in violation of the terms and conditions of his registration, the Executive Director shall, on the direction of the Board, serve to that person a notice in writing specifying the nature of default.

(2) Upon receipt of the notice under subsection (1), the person to whom the notice is served shall make representation in writing to the Executive Director on the rectification of the default.

(3) Where the person under subsection (2) fails to rectify the default within the time specified in the notice or fails to make representation satisfactory to the Executive Director, the Executive Director shall recommend to the Board for cancellation or suspension of the certificate issued to that person.

(4) The Board shall, if it is satisfied with the recommendations made under subsection (3), direct the Executive Director to cancel or suspend the Certificate of registration and delete the name of that person from the Register.

[s. 26]

Restoration
to Register

28.—(1) A person whose name has been deleted from the Register shall not be restored in the Register except by the direction of the Board.

(2) Where the name of any person has been deleted from a Register, re-classified, relegated or where the effect of the registration of any person has been suspended in terms of section 25(c), the Board may, either on its own motion or on the application in the prescribed manner by the person concerned, and in either case after holding such inquiry as the Board may deem fit, direct that-

- (a) the deletion, relegation or re-classification be confirmed;
- (b) the name of that person be restored in the Register;
- (c) the re-classification be cancelled; or

(d) the suspension of the effect of the registration of that person be terminated.

(3) A direction given by the Board under subsection (2), may include provisions for the date upon which restoration to the Register, cancellation, re-classification or the termination or suspension of the effect of registration shall take effect and for the payment by the person concerned of such fee as the Board may determine.

[s. 27]

Proceedings
at inquiry

29.-(1) Where any inquiry is held by the Board under section 25 and 28, the person whose conduct is being inquired into shall be entitled to appear and to be heard in person.

(2) For the purpose of proceedings at any inquiry, the Board shall have power-

- (a) to administer oaths;
- (b) to summon persons to attend and give evidence; and
- (c) to order the production of documents.

(3) All summons and orders issued under the hand of the Chairman or Vice-Chairman of the Board shall be deemed to be issued by the Board.

(4) The Chairman, or in his absence the Vice-Chairman, shall record or cause to be recorded a summary of any oral evidence given at an inquiry held by the Board.

(5) Subject to the provisions of this section and of any regulations made under section 50, the Board shall have power to regulate its own procedure at an inquiry held by it.

(6) For the purpose of Chapter XI of the Penal Code, an inquiry held by the Board shall be deemed to be judicial proceedings.

[s. 28]

Cap. 16

Disobedience
of summons
and refusal to
give evidence

30.-(1) A person who, having been served with a summons or an order issued under the provisions of section 25-

- (a) refuses or omits without sufficient cause to attend at the time and place mentioned in the summons;

(b) refuses without sufficient cause to answer fully and satisfactorily to the best of his knowledge and belief all questions put to him by or with the concurrence of the Board; or

(c) refuses or omits without sufficient cause to produce any document in his possession or under his control which is specified in the order,

commits an offence and on conviction, shall be liable to a penalty to be prescribed by the Minister in the Regulations.

(2) A person giving evidence before the Board shall, in respect to any evidence given by him or any document produced by him, be entitled to all privileges to which he would be entitled as a witness before the High Court.

[s. 29]

PART V APPEALS

Establishment
of Appeals Board

31. There is hereby established a Board to be known as the Appeals Board.

[s. 30]

Composition and
proceedings of
Appeals Board

32.—(1) The Appeals Board shall consist of-

(a) a legally qualified person nominated by the Attorney General from amongst senior officers employed in the Office of the Attorney General, who shall be the Chairman;

(b) a senior officer nominated by the Permanent Secretary from the institution responsible for procurement and supplies, who shall be the Vice-Chairman;

(c) a public officer nominated by the Permanent Secretary to the Treasury who is a registered Procurement and Supplies Professional;

(d) a senior officer nominated by the Controller and Auditor-General of the National Audit Office or an

Act No.
4 of 2014 s. 17

authorised auditor in the employment of the National Audit Office;

- (e) two Procurement and Supplies Professionals and Technicians in employment of any Private Sector to be nominated by the Chairman of the Board.

(2) The Chairman or in his absence, the Vice-Chairman and three other members shall constitute a quorum at any meeting of the Appeals Board.

(3) The tenure of office of members of the Appeals Board shall be three years, renewable once.

[s. 31]

Proceedings of Appeals Board

33.—(1) A decision of the Appeals Board shall be made by a majority of the votes of the members present and voting, and in the event of an equality of votes, the Chairman or other person presiding at the proceeding shall have a casting votes in addition to his original or deliberative vote.

(2) The Minister may make rules regulating appeals to the Appeals Board under this section and providing for taking of further evidence, the fees to be paid, the procedure to be followed and the manner of notifying the Board of an appeal, and until any such rules are made and subject to any such rules when made, the provisions of the Civil Procedure Code, shall apply as if the decisions or direction of the Board were a decree of a court exercising original jurisdiction and as if the Appeals Board were the High Court.

[s. 32]

Right to appeal

34.—(1) A person aggrieved by the decision of the Board-

- (a) to refuse to register his name;
- (b) to delete his name from a Register;
- (c) to relegate;
- (d) to re-classify his registration;
- (e) to refuse to enter his name in the Register or under the classification applied for;
- (f) to refuse to enter his name to the Register;

(g) to suspend the effect of registration of his name; or
(h) on any other matter of professional nature,
may appeal to the Appeals Board against the decision of the Board and in any such appeal the Appeals Board may give such directions in the matter as it thinks proper, and every order of the Appeals Board under this section shall be final, and binding upon all parties concerned.

(2) The Board may appear as respondent and be heard on any appeal against its decision and, for purposes of enabling directions to be given as to the costs of any such appeal, the Board shall be deemed to be a party thereto, whether or not it shall appeal at the hearing of appeal.

(3) The Appeals Board shall, for purposes of an appeal under this section, have all the powers which the High Court has in the exercise of its appellate jurisdiction in civil matters.

[s. 33]

PART VI

FINANCIAL PROVISIONS

Funds and
resources
of Board

35. The Funds and resources of the Board shall consist of-

- (a) sums as may be provided for the specified purpose by Parliament;
- (b) sums which may be derived from the operations of the Board;
- (c) funds or assets as may vest in or accrue to the Board from other sources by way of grants, gifts, fees or in any other way; and
- (d) any sum which the Board may, subject to the provisions of section 37 borrow for it purposes.

[s. 34]

Investment

36. With the prior approval of the Minister, the Board may, invest any part of the monies available in any fund in

Cap. 53 investments authorised by the Trustee Investment Act, for investment of any trust fund.

[s. 35]

Power to borrow **37.** The Board may upon approval of the Minister in consultation with the Minister for Finance, borrow moneys by way of loan or overdraft, and upon such security and such terms and conditions relating to repayment of the principal and payment of interest.

[s. 36]

Annual and supplementary Budget

38.—(1) Subject to the provisions of subsection (2), “financial year” in this Act means any period not exceeding twelve consecutive months designated by the Board as the accounting period.

(2) The first financial year of the Board shall commence on the date when this Act comes into operation and may be of the period longer or shorter than twelve months.

(3) Not less than two months before the beginning of any financial year, the Board shall at its first meeting especially convened for that purpose, pass a detailed budget, in this Act called the “Annual Budget”, of the amounts respectively-

(a) expected to be received; and

(b) expected to be disbursed by the Board during the financial year.

(4) Where in any financial year the Board requires to make any disbursement not provided for in the annual budget for the year, the Board shall at a meeting, pass a supplementary budget detailing the disbursement.

(5) The Board shall upon the passing of the annual budget or any supplementary budget, submit such budget to the Minister for his approval.

(6) The Minister shall, upon the receipt of the annual budget or supplementary budget, approve or disapprove it or approve it subject to such amendment as he may consider fit.

(7) Where the Minister has approved any annual budget or supplementary budget, the budget as approved by him, whether with or without amendment, shall be binding on the Board which, subject to the provisions of subsection (8) shall confine its disbursement within the items and amounts contained in the applicable estimates as approved by the Minister.

(8) The Board may-

- (a) from the amount of expenditure provided for in any budget in respect of any item, transfer a sum from one item to any other item contained in the budget;
- (b) adjust expenditure limits to take account of circumstances not reasonable foreseeable at the time the budget was prepared subject to submitting a supplementary budget to the Minister within two months of the alteration of expenditure limits becoming necessary.

[s. 37]

Accounts
and audit
GN. No.
22 of 2009

39.-(1) The Board shall cause to be kept and maintained proper books of account and records by the Executive Director such as-

- (a) the receipt and expenditure of moneys by and other financial transactions of the Secretariat and the Board;
- (b) the assets and liabilities of the Board and shall cause to be made out for every financial year a balance sheet and a statement showing details of income and expenditure of the Board.

(2) Not later than three months after the close of financial year, the accounts of the Board in respect of that financial year shall be submitted for auditing to the Controller and Auditor-General.

(3) Every audited accounts shall be placed before a meeting of the Board, if adopted by the Board shall be endorsed with the certificate that it has been adopted.

(4) As soon as the accounts have been audited and adopted by the Board and in any case not later than six months after

the audit, the Board shall submit to the Minister a copy of the audited statements made by the auditors.

[s. 38]

Annual statement on accounts and report to be submitted to Minister

40. The Board shall within six months after the close of the financial year, cause to be prepared and submitted to the Minister a report dealing generally with its activities and operations during that year and accompanied by-

- (a) a copy of the audited accounts of the Board;
- (b) a copy of the auditors report on the accounts; and
- (c) such other information as the Minister may direct.

[s. 39]

Annual statement of accounts and report to be tabled before National Assembly

41. The Minister shall as soon as practicable and in any case not later than twelve months after the close of a financial year, lay before the National Assembly the following documents in relation to that financial year:

- (a) a copy of the audited statement of accounts of the Board;
- (b) a copy of the auditors report; and
- (c) a copy of the report by Board.

[s. 40]

Remuneration of members of Board

42. The members of the Board or Committee shall be entitled to such remuneration, fees or allowances for expenses as the Minister may, upon the recommendation of the Board, prescribe.

[s. 41]

PART VII

MISCELLANEOUS PROVISIONS

Complaints against Procurement and Supplies Professional and Technicians

43.-(1) All complaints against any Procurement and Supplies Professional and Technician in relation to performance or misconduct, shall be lodged in writing to the Executive Director.

(2) A complainant shall be required to give all necessary information in relation to the complaint in question.

[s. 42]

Directions
by Minister

44. The Minister may, in relation to the carrying out of its function in a proper and reputable manner, give such directions in writing to the Board and the Board shall give effect to such directions of the Minister.

[s. 43]

Liabilities
of members
of Board

45. An act or thing done or omitted to be done, by a person who is a member of the Board or Committee or employee or agent of the Board shall not, if done or omitted bona fide in the execution or purported execution of his duties as the member of the Board or Committee or employee or its agent, subject to that person to any action, liability or demand of any kind.

[s. 44]

False pretence

46. A person who-

(a) not being a Procurement and Supplies Professional and Technicians, falsely pretends to be such; or

(b) not being a person entitled to use any style or title referred to under this Act, uses such style or title or uses any other name, style, title or description, implying, whether in itself or in the circumstances in which it is used, that such person is entitled to use such style or title,

commits an offence and on conviction, shall be liable to a fine of not less than five hundred thousand shillings and not exceeding one million or to imprisonment for a term not exceeding two years or to both.

[s. 45]

Employment
of unregistered
person

47.-(1) A person shall not employ or continue to employ, in procurement or supplies activities, a person who is not a registered as Procurement and Supplies Professional and Technician.

(2) A person shall not take up or continue in any employment in procurement or supplies activities, unless he has been registered as Procurement and Supplies Professional and Technician.

(3) A person who contravenes any of the provisions of this section commits an offence and on conviction, shall be liable to a fine of not less than one million shillings and not exceeding three million shillings or to imprisonment for a term not exceeding two years or to both.

(4) Where an employer employs any person as a trainee Procurement and Supplies Professional and Technician for the purpose of according such employee an opportunity of being trained and later registered as a Procurement and Supplies Professional and Technician, this section shall not apply to such employer or such employee in relation to the employees following the employment or appointment of such employee in or to the office of a trainee in Procurement or Supplies function:

Provided that, a person who, having been employed by one employer as a trainee under this subsection shall not be employed by or take up employment with another or subsequent employer as a trainee in Procurement or Supplies save for a period representing the difference between eighteen months and the period or the aggregate of periods during which he was employed as such by his previous employer or employers, and any contravention of the provisions of this proviso shall be an offence against this section and be punishable in accordance with the provisions of subsection (3).

(5) In this section “employ” means employ under a contract of service or under a contract for services and “employment” shall be construed accordingly.

[s. 46]

48.-(1) A person engaged in a trade, business or profession which has-

- (a) assets worth two hundred million shillings; or
- (b) the turnover worth one hundred million shillings, shall employ at least one Procurement and Supplies Professional and Technician in each of its core procurement or supplies activities.

(2) A person who contravenes the provisions of this section, commits an offence and on conviction, shall be liable to a fine of not less than two million shillings and not exceeding three million shilling or to imprisonment for a term not exceeding two years or to both.

(3) A procurement or supplies management functions shall be headed by a registered Procurement Specialist and Supplies Professional as the case may be.

(4) A person referred to under subsection (1), shall cause to be kept stock record which shall be maintained by Procurement Specialist and Supplies Professional and Technician.

[s. 47]

Stock
authorisation
and Certification

49.-(1) The following documents and records shall be authorised or approved by a Procurement and Supplies Professional and Technician:

- (a) purchase or procurement records;
- (b) stock control;
- (c) documents relating to receipts and issues of goods or materials; and
- (d) documents relating to clearing and forwarding of goods.

(2) The following records maintained by any person shall be verified and certified by external registered Procurement Auditor or Supplies and Stock Auditor:

- (a) annual stocktaking sheets or stocks compiled by the company for the purpose of being incorporated into the financial statements, tax declaration, reflection of firms performance or reporting to shareholders;
- (b) investigation reports in cases of theft, misappropriation, fraud, fire or unforeseen natural disasters; and
- (c) stocks or inventory issued or mortgaged to financial institutions as a security against credit facility.

[s. 48]

Regulations
Act No.
4 of 2014 s. 18

50.-(1) The Minister may make regulations for the better carrying out of the purposes and provisions of this Act and any such regulations may-

- (a) provide for the procedure to be followed by the Board in any inquiry under this Act;
- (b) prescribe professional certificates and other awards which may be conferred or granted by the Board;
- (c) provide for accreditation of professional degrees, diplomas, certificates award and other qualifications which shall be recognised as entitling the holder to registration under this Act;
- (d) prescribe the conditions which must be satisfied before any degree, diploma, certificates or other award may be granted;
- (e) regulate the conduct of examinations;
- (f) provide for and regulate disciplinary proceedings against the officers of the Board, the students and candidates;
- (g) prescribe rules for professional conduct and ethics of professionals in Procurement and Supplies Management;
- (h) prescribe classification within the registers for different levels or types of qualifications and competence;
- (i) prescribe asset values and turnover, requirements for compulsory engagement of professionals and technicians in procurement and supplies functions; and
- (j) prescribe anything which may, or is required to be prescribed under this Act.

(2) Regulations made under this section shall be published in the *Gazette*.

[s. 49]

Power of
exemption

51. The Minister may upon recommendation of the Board and by Order published in the *Gazette*, exempt any person or class of person from application of any provisions of this Act.

[s. 50]

Repeal and
savings
Act No.
9 of 1981

52.-(1) [Repeals the National Board for Materials Management Act].

(2) Notwithstanding the provisions of subsection (1), every order, regulation, direction or appointment which was issued, given or made pursuant to the provisions of the National Board for Materials Management Act and every office which was created in pursuance thereof, shall remain valid until otherwise cancelled, revoked or varied under the provisions of this Act.

[s. 51]

SCHEDULE

(Made under section 4(4))

PROVISION RELATING TO THE BOARD

Vice-Chairman	<p>1. Members of the Board shall elect one of their members to be the Vice-Chairman who shall, subject to his continuing to be a member for a term of one year from the date of his election and shall be eligible for re-election.</p>
Tenure of appointment	<p>2.-(1) A member of the Board shall hold office for a term not exceeding three years from the date of his appointment, and shall be eligible for re-appointment for one further term.</p> <p>(2) In the case of a member who is a member by virtue of his holding some other office, he shall cease to be a member upon his ceasing to hold that other office.</p> <p>(3) A member appointed may at any time resign his office by notice in writing to the appointing Authority.</p> <p>(4) Notwithstanding the foregoing provisions, the appointing authority may at any time revoke an appointment of a member.</p> <p>(5) Where a member of the Board who is a member by virtue of holding some other office is unable for any reason to attend any meeting of the Board, he may nominate in writing another person from his institution to attend the meeting in his place.</p> <p>(6) Where any vacancy occurs in the membership of the Board by reason of death, resignation or permanent in-capacity of any member thereof or otherwise, the appointing authority may appoint another person to fill that vacancy, and the person so appointed shall hold office for the unexpired period of office of the member in whose place he is appointed.</p>
Meetings and procedure of Board	<p>3.-(1) The Board shall ordinarily meet for the transaction of its business at the times and meet places determined by it, but shall meet at least once every three months.</p>

- (2) The Chairman, or in his absence, the Vice-Chairman, shall preside at every meeting of the Board. In the absence of both the Chairman and the Vice-Chairman, the members present shall appoint one of their numbers to preside over the meeting.
- (3) The Secretary to the Board shall give each member adequate notice of the time and place of every meeting and shall keep record of the proceeding of every meeting of the Board.
- (4) The Chairman or with his consent, the secretary, may invite any person who is not a member of the Board and, where there is an uneven number of members, shall be the whole next number above half.
- Quorum** 4. At any meeting of the Board, not less than one half of the members of the time being in office shall constitute the quorum.
- Decision of Board** 5.—(1) Matters proposed at the meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes the person presiding over shall have a casting vote in addition to his normal or deliberative vote.
- (2) Notwithstanding the provisions of subparagraph (1), a decision may be made by the Board without a meeting by circulation of the relevant papers among the members, and the expression in writing of the views of the majority of members.
- Board to confirm minutes of its meetings** 6.—(1) The Board shall cause to be recorded and kept minutes of all business conducted or transacted at its meetings, and the minutes of each meeting of the Board shall be read and confirmed, or amended and confirmed, at the next meeting of the Board and signed by the person presiding at the meeting.
- (2) Any minutes signed or purporting to have been signed, by the person presiding at the meeting of the Board shall, in absence of proof of error, be deemed to be a correct record of the meeting whose minutes they purport to be.
- Vacancies etc. not to invalidate proceedings** 7. An act or proceeding of the Board shall not be invalid by reason of any vacancy among its members or defect in the appointment of any of them.
- Orders, directions etc. by Chairman or Executive Director** 8. All orders, directions, notices or other documents made or issued on behalf of the Board shall be signed by—
- (a) the Chairman of the Board; or
 - (b) the Executive Director or any other officer of the Board appointed in writing in that behalf by the Executive Director.
- Seal of Board** 9. The seal of the Board shall not be fixed on any instrument except in the presence of any of the following person:
- (a) the Chairman;
 - (b) the Vice-Chairman;
 - (c) the Executive Director;

(d) any other employee of the Board appointed in writing in that behalf by the Executive Director.

Board may regulate its proceedings

10. Subject to the provisions of this Schedule, the Board may regulate its own proceedings.

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