

CHAPTER 94

THE MUHIMBILI ORTHOPAEDIC INSTITUTE ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 94

THE MUHIMBILI ORTHOPAEDIC INSTITUTE ACT

An Act to establish the Muhimbili Orthopaedic Institute and to provide for related matters.

[1st September, 1996]

[GN. No. 191 of 1996]

Act No.
7 of 1996

PART I

PRELIMINARY PROVISIONS

Short title **1.** This Act may be cited as the Muhimbili Orthopaedic Institute Act.

Interpretation **2.** In this Act, unless the context requires otherwise-
“Act” means the Muhimbili Orthopaedic Institute Act;
“Board” means the Board of Trustees established under section 5(1) of the Act;
“collaborating agent” means a person or body of persons cooperating with the Institute in carrying out the objects and functions of the Institute;
“Division” means a Division established under section 7(3) of the Act;
“Executive Director” means the Executive Director of the Institute appointed under section 7 of the Act;
“Institute” means the Muhimbili Orthopaedic Institute established under section 3 of the Act;
“Management Committee” means a Committee established under section 8 of the Act;
“member” means a member of the Board and includes a Chairman and Vice-Chairman of the Board;

“Minister” means the Minister responsible for health;
 “Permanent Secretary” means the Permanent Secretary in
 the Ministry responsible for health.

PART II

THE MUHIMBILI ORTHOPAEDIC INSTITUTE

Establishment of
 Institute

3.–(1) There is hereby established an Institute to be known as the Muhimbili Orthopaedic Institute.

(2) The Institute shall be a body corporate and-

- (a) have perpetual succession and a common seal;
- (b) in its corporate name, be capable of suing and being sued;
- (c) be capable of purchasing and otherwise acquiring, and of alienating, any movable or immovable property; and
- (d) have power to borrow sums as it may require for its purposes.

Objects and
 functions of
 Institute

4. The objects and functions of the Institute shall be to-

- (a) provide for hospital management conducive to self sustainability on autonomous basis;
- (b) improve the basic service for the diseases of the musculoskeletal system, accident and neurosurgical cases, providing cure and reduction of the rate of invalids in the country;
- (c) improve orthopaedic or trauma services in the periphery through adequate training facilities;
- (d) produce the required personnel for the country in the field of Orthopaedics and Neurosurgery through appropriate training;
- (e) facilitate research activities in the field of Orthopaedics and Neurosurgery at a university institution standard;
- (f) reduce the number of referral patients outside the country; and
- (g) provide for consultancy, publication and general dissemination of materials produced in connection with the work and activities of the Institute.

PART III

ADMINISTRATION

Board of Trustees **5.**–(1) There shall be a Board of Trustees of the Institute which shall consist of-

- (a) a Chairman who shall be appointed by the President; and
- (b) not more than ten other members who shall be appointed by the Minister.

(2) The Minister shall appoint members of the Board from amongst persons having qualifications set out in the Schedule.

(3) The Minister by notice published in the *Gazette* may amend the Schedule.

(4) The provisions of the Schedule shall have effect as to the qualifications and tenure of office of its members, termination of their appointments, the proceedings of the Board and other matters in relation to the Board and its members.

Functions of Board

6.–(1) The functions of the Board shall be to-

- (a) supervise the implementation of policies, objectives and the overall management of the Institute in a way that ensures its proper performance;
- (b) manage and administer on behalf of the Institute assets and properties movable and immovable of the Institute in a manner and for purposes, as in the opinion of the Board would promote the best interests of the Institute;
- (c) control the budget of the Institute and administer its funds and other assets;
- (d) signify the acts of the Institute by use of the common seal;
- (e) appoint employees of the Institute as it may consider necessary;
- (f) receive gifts, donations, grants or other moneys on behalf of the Institute;
- (g) grant gratuities, other retirement allowances or benefits to the employees of the Institute;

(h) establish and contribute to a superannuation fund for the employees of the Institute and require employees of the Institute to contribute to any superannuation fund established and fix the amount and methods of payment of the contribution; and

(i) do any act for the purpose of achieving any of the above stated objects and functions of the Institute.

(2) In the performance of the functions under subsection (1), the Board shall take into account the need to promote, establish and maintain a system of collaboration, consultation and co-operation with the Muhimbili National Hospital, the Muhimbili University of Health and Allied Sciences and any other person or body of persons established by or under any written law and having functions related to those of the Institute.

Executive
Director and staff
of Institute

7.–(1) There shall be an Executive Director of the Institute who shall be appointed by the Minister on terms and conditions as may be specified in the instrument of the appointment and who shall be the Chief Executive Officer of the Institute.

(2) The Institute, subject to any directions given by the Minister in that behalf, may appoint on terms and conditions, other employees of the Institute as the Board may consider necessary for the proper and efficient conduct of the business and functions of the Institute.

(3) There shall be a number of divisions or departments of the Institute as the Board may determine.

Management
Committee

8.–(1) There shall be a Management Committee of the Institute, which shall constitute of persons as the Board may determine.

PART IV

FINANCIAL PROVISIONS

Funds of Institute

9. The funds and resources of the Institute shall consist of sums-

(a) as may be appropriated by Parliament for purposes of the Institute;

- (b) as the Board may after consultation with the Minister for Finance, borrow for purposes of the Institute;
- (c) as may be payable to the Institute by way of donations, gifts, grants, loans or bequests; and
- (d) as may in any manner become payable to or vested in the Institute as a result of or in the course of discharging its functions under this Act.

Annual budget estimates

10.—(1) The Institute shall prepare or cause to be prepared for approval of the Minister annual estimates of the revenue and expenditure of the Institute for the ensuing financial year at least three months before the commencement of any financial year.

(2) The Board shall consider and approve subject to modifications and amendments as it may consider appropriate, the estimates prepared in accordance with subsection (1) of this section.

(3) The annual budget estimates shall contain provisions for the estimated expenditure during the ensuing financial year and in particular for-

- (a) the payment of salaries, allowances and other charges in respect of the staff, Board and committees;
- (b) the payment of construction, improvement, maintenance and replacement of any building or other immovable property of the Institute;
- (c) the proper maintenance and replacement of the furniture, equipment, drugs and supplies of the Institute; and
- (d) the creation of reserve funds to meet future contingent liabilities as the Board may think fit.

(4) Expenditure shall not be incurred for purposes of the Institute except in accordance with the provisions of the annual budget estimates, or any supplementary estimates approved by the Board.

(5) A copy of the annual estimates and supplementary estimate, if any, shall immediately after approval be forwarded to the Minister.

Investments of
Institutes' funds

11. The Board with the approval of the Minister shall have power to invest the funds of the Institute in investments and subject to conditions as are prescribed by the Trustees Investment Act in relation to investments of funds by a trustee.

Cap. 53

Accounts and
audit

12.—(1) The Board shall cause to be provided and kept proper books of accounts and records with respect to the receipt and expenditure of money by, and other financial transactions of the Institute and assets and liabilities of the Institute and shall cause to be made out for every financial year a balance sheet and statement of income and expenditure.

(2) Within no more than three months after the close of each financial year, the accounts, including the balance sheet of the Institute in respect of that financial year, shall be submitted to and audited by the Controller and Auditor- General.

(3) As soon as the accounts of the Institute have been audited, and in any case not later than six months after the close of the financial year, the Board shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report made by the auditor on the statement of accounts.

Annual report
to be laid
before National
Assembly

13. The Minister shall, as soon as practicable, after receiving the report lay before the National Assembly a report containing-

- (a) a copy of the audited accounts of the Institute;
- (b) a copy of the auditor's report on the accounts; and
- (c) a report on the activities of the Institute in the preceding financial year.

PART V

MISCELLANEOUS PROVISIONS

Fees and
allowances

14. The Institute with the consent of the Minister, may issue directions prescribing fees and allowances payable to the members of the Board.

Management
Committee to
regulate its own
proceedings

15. The Management Committee shall regulate the conduct of its proceedings.

- Indemnity for *bona fide* acts
- 16.** An act or thing done by a member of the Board or Management Committee shall not render a member personally liable for a matter or Act, if done *bona fide* in the execution of the functions of the Board or Management Committee.
- Validity of acts of Board or Management Committee
- 17.** An act or proceeding of the Board or Management Committee shall not be invalid by reason only of any vacancy in the membership thereof, any defect in the appointment of any member or the fact that any member was at the time in question disqualified or disentitled to act as such.
- Directives
- 18.** The Minister may give to the Board directives of a general or specific character which shall be consistent with purposes and provisions of this Act, as to the performance by the Board of any of its functions under this Act, and the Board shall give effect to the directives given by the Minister.
- Regulations
- 19.**—(1) The Board with the approval of the Minister may make regulations for the better carrying out of purposes and provisions of this Act.
- (2) Without prejudice to the generality of subsection (1), the Board may make regulations—
- (a) prescribing conditions and terms upon which any specified facility or service within the scope of the functions of the Institute shall be provided to the public and other persons;
 - (b) setting fees, rates and other charges for or in connection with the provision by the Institute of any facilities or services;
 - (c) providing for the proper management, control and administration of the Institute;
 - (d) providing for and regulating discipline amongst staff and other members of the Institute and disciplinary proceedings against them;
 - (e) providing for any matter which may be prescribed under this Act.
- (3) Regulations made under this section shall be published in the *Gazette*.

SCHEDULE

(Made under section 5(4))

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| Tenure of appointment and qualifications | <p>1.—(1) Subject to subparagraph (2), a member shall hold office for a period of three years and be eligible for re-appointment.</p> <p>(2) Members of the Board shall be appointed from amongst-</p> <ul style="list-style-type: none"> (a) persons who have acceptable academic qualifications or practical experience in medicine or orthopaedics; (b) persons engaged in the management or treatment of orthopaedic patients and institutions; (c) persons working in sister or collaborating institutions or institutions carrying on functions similar or allied to those of the Institute; (d) officers or employees of the Ministry of Health engaged in activities as the Minister may determine; and (e) persons in respect of whom the Minister is satisfied that, they have the necessary qualifications or experience to enable them to contribute to the effective discharge of the functions of the Board; <p>(3) A person who is a member by virtue of holding some other office, shall cease to be a member upon his ceasing to hold the office by virtue of which he is a member.</p> <p>(4) A member may resign at any time by giving notice in writing to the appointing authority and from the date specified in the notice or, where a date is not specified, from the date of the receipt of the notice by the appointing authority.</p> <p>(5) The members shall elect one of their number to be the Vice-Chairman, who shall hold office for a period of one year, but may be re-elected.</p> |
| Temporary member | <p>2. Where a member other than the Chairman is by reason of illness, absence from the United Republic or for any other sufficient cause, unable to perform his duties as a member, the appointing authority may appoint a temporary member in his place and the temporary member shall cease to hold office upon the resumption of office of the substantive member.</p> |
| Meetings | <p>3.—(1) Subject to any general or specific direction by the Minister, the Board shall meet not less than four times during every financial year and at additional times as may be fixed by the Chairman or, where he is absent from the United Republic or unable for any sufficient cause to act, after consulting the members, the Executive Director.</p> <p>(2) An ordinary meeting of the Board shall be convened by the Executive Director after consultation with the Chairman and the notice specifying the place, date and time of the meeting shall be sent to each</p> |

member at his usual place of business or residence not less than ten days before the date of the meeting.

(3) The Chairman or, in his absence, the Vice-Chairman shall be bound to convene a special meeting of the Board upon receipt of a request in writing in that behalf signed by two-thirds of the members and notice of not less than ten days shall be given to all members in the manner prescribed in subparagraph (2).

(4) The Chairman, or in his absence the Vice-Chairman presiding at the meeting of the Board may invite any person who is not a member to participate in the deliberations of the Board, but any person invited shall not be entitled to vote.

(5) The Chairman shall preside at the meeting of the Board and in the absence of the Chairman from a meeting the Vice-Chairman shall preside at that meeting.

(6) At the meeting of the Board, a decision of the majority of the members present and voting shall be deemed to be a decision of the Board and in the event of an equality of votes the person presiding over the meeting shall have a casting vote in addition to his deliberative vote.

(7) The Board may act notwithstanding any vacancy in its membership.

Quorum	4. One half of the total number of members shall form a quorum for a meeting of the Board.
Decision by circulation of papers	5. Notwithstanding the provisions of paragraph 3(5), where the Chairman or, in his absence, the Vice-Chairman so directs, 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 the members, but any member shall be entitled to require that the decision be deferred and the subject matter be considered at a meeting of the Board.
Minutes of meetings	6. Minutes in proper form of each meeting of the Board shall be kept and confirmed by the Board at the next meeting and signed by the Chairman of the meeting.
Official seal of Institute	7. —(1) The official seal of the Institute shall be of the shape, size and form as the Board may determine. (2) The official seal of the Institute shall not be affixed to any instrument or document except in the presence of the Executive Director or such other employee of the Institute as the Executive Director may appoint in that behalf.
Execution of documents	8. The regulations, appointments, instruments or documents made, issued or executed by or on behalf of the Institute or the Board, shall be sealed with the official seal of the Institute and shall be signed by- (a) the Chairman of the Board; (b) the Executive Director; or

(c) any other member of the Board or employee of the Institute authorised in writing in that behalf by the Board.

Proceedings not
invalidated by
irregularity

9. An act or proceeding of the Board shall not be invalid by reason of any defect or irregularity in the appointment of any member or by reason that, a person who purported to act *bona fide* as a member at the time of the act or proceeding was in fact disqualified or not entitled to act as a member.

Absence from
three consecutive
meetings

10. Where a member other than a member by virtue of his office absents himself from three consecutive meetings of the Board without sufficient cause, the Board shall advise the appointing authority of the fact and the appointing authority may terminate the appointment of the member and appoint another member in his place.

Board may
regulate its own
proceedings

11. Subject to the provisions of this Schedule, the Board shall have power to regulate its own proceedings.
