

No. 16 of 2003.

*Public Finances (Management) (Amendment No. 2) Act 2003.*

Certified on: 26.01.04



INDEPENDENT STATE OF PAPUA NEW GUINEA

No. of 2003.

*Public Finances (Management) (Amendment No. 2) Act 2003.*

ARRANGEMENT OF SECTIONS.

1. Repeal and replacement of Section 39.  
"39. **CENTRAL SUPPLY AND TENDERS BOARD.**"
2. New Sections 39A and 39B.  
"39A. **OTHER SPECIALIZED NATIONAL SUPPLY AND TENDERS BOARDS.**"  
"39B. **PROVINCIAL SUPPLY AND TENDERS BOARDS.**"
3. Saving and transitional, etc.,



INDEPENDENT STATE OF PAPUA NEW GUINEA.

AN ACT

entitled

*Public Finances (Management) (Amendment No. 2) Act 2003,*

BEING an Act to amend the *Public Finances (Management) Act 1995,*

MADE by the National Parliament.

1. **REPEAL AND REPLACEMENT OF SECTION 39.**

Section 39 of the Principal Act is repealed and is replaced with the following:-

**"39. CENTRAL SUPPLY AND TENDERS BOARD.**

(1) The Central Supply and Tenders Board is hereby established to control and regulate –

- (a) the purchase and disposal of property and stores; and
- (b) the supply of works and services,

other than those in relation to which specialized Supply and Tenders Boards have been established under Section 39A, for and on behalf of the State.

"(2) In the exercise of its powers under Subsection (1), the Central Supply and Tenders Board may –

- (a) invite a tender for any amount; and
- (b) enter into a contract for any amount up to K10,000,000.00,

for and on behalf of the State.

"(3) The Central Supply and Tenders Board shall consist of six members comprising:-

- (a) the Departmental Head of the Department responsible for finance matters (the Deputy Departmental Head to be his alternate), *ex officio*; and

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- (b) the Departmental Head of the Department responsible for works matters (the Deputy Departmental Head (Policy) to be his alternate), *ex officio*; and
- (c) the Departmental Head of the Department responsible for trade and industry matters (the Deputy Departmental Head (Policy) to be his alternate), *ex officio*; and
- (d) the State Solicitor (the Deputy State Solicitor to be his alternate), *ex officio*; and
- (e) two persons (and their alternates) who have unimpeachable and impeccable reputations and have relevant experiences or demonstrated understanding of commercial and/or actual procurement/contracting practices nominated by the Universities; and
- (f) a person (and his alternate) who has an unimpeachable and impeccable reputation and has relevant experience or demonstrated understanding of commercial and/or actual procurement/contracting practices nominated by the Papua New Guinea Chamber of Commerce and Industry.

"(4) Where the Minister agrees with a nomination for membership of the Central Supply and Tenders Board under Subsection (2)(e) or (f) from a list of three nominees submitted by each of the organizations concerned, the nominee approved by the Minister –

- (a) shall be appointed as a member of the Central Supply and Tenders Board by the Minister by notice in the National Gazette; and
- (b) shall be appointed for a period of three years; and
- (c) holds office upon such terms and conditions as are determined by the Minister by notice in the National Gazette; and
- (d) is eligible for re-appointment.

"(5) The Head of State, acting on advice, may, by notice in the National Gazette, appoint a member of the Central Supply and Tenders Board to be the Chairman of the Board, and, where the member so appointed as Chairman is not an *ex officio* member, he–

- (a) shall be appointed for a period of three years; and
- (b) shall be on full-time employment upon such terms and conditions as are determined by the Head of State, acting on advice.

"(6) At a meeting of the Central Supply and Tenders Board –

- (a) the Chairman or, in his absence, a person appointed by the members from their number as chairman for that meeting, shall preside; and
- (b) matters arising shall be decided by a majority of the votes of the members present; and
- (c) the person presiding has a deliberative, and in the event of an equality of votes on any matter, also a casting vote; and

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- (d) the quorum shall be four members of whom at least one shall be a non-public office holder and no more than two are alternates; and
- (e) the procedures of the meeting are as determined by the Board.

"(7) The –

- (a) Head of State, acting on advice, in the case of the Chairman; or
- (b) the Minister, in the case of a member other than an *ex officio* member,

may terminate the appointment of that Chairman or that member, as the case may be –

- (c) for ill health, incompetence or impropriety; and
- (d) only after the receipt by him of a report on the reason for the proposed termination.

"(8) The Minister may make Rules, not inconsistent with this Act or the Financial Instructions, prescribing –

- (a) the manner of inviting tenders publicly; and
- (b) the method of dealing with tenders; and
- (c) the criteria to be applied in the evaluation of tenders; and
- (d) the appointment by the Board of advisers in technical matters; and
- (e) the keeping by the Boards of records of the performance of each successful tenderer; and
- (f) the manner of regulating the disposal of property no longer required by the State; and
- (g) the method of obtaining and dealing with quotations for –
  - (i) the purchase and disposal of property and stores; and
  - (ii) the supply of goods and services; and
- (h) the manner in which the Board shall supervise the operations of other Tender Boards established under Sections 39A and 39B."

**2. NEW SECTIONS 39A AND 39B.**

Part VII of the Principal Act is amended by inserting after Section 39 the following new sections:-

**"39A. OTHER SPECIALIZED NATIONAL SUPPLY AND TENDERS BOARDS.**

(1) The Minister may, by notice in the National Gazette, establish such number of other national Supply and Tenders Boards for specific –

- (a) technical or specialized purposes; or

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- (b) purposes related to natural or man-made disasters that warrant the establishment of special Supply and Tenders Boards,

as he, on the advice of the Departmental Head of the Department responsible for financial management, thinks necessary to control and regulate, in respect of such technical or specialized purposes or disasters –

- (c) the purchase and disposal of property and stores; and  
(d) the supply of works and services,

for any amount up to K1,000,000.00 or such lesser amount as the Minister may determine by notice in the National Gazette, for and on behalf of the State.

"(2) The Minister may make Rules, not inconsistent with this Act or the Financial Instructions, prescribing, in relation to a Board established under Subsection (1) –

- (a) the procedures for meetings of the Board including fixing of quorum; and  
(b) the manner of inviting tenders publicly; and  
(c) the method of dealing with tenders; and  
(d) the criteria to be applied in the evaluation of tenders; and  
(e) the appointment by the Board of advisers in technical matters; and  
(f) the keeping by the Board of records of the performance of each successful tenderer; and  
(g) the method of obtaining and dealing with quotations for –  
(i) the purchase and disposal of property and stores; and  
(ii) the supply of works and services; and  
(h) the manner of regulating the disposal of property and stores no longer required by the State.

"(3) The Minister may, from time to time, issue to Boards established under Subsection (1) policy directions as to the giving of preference to national tenderers and local manufacturers, and such directions shall be binding on Boards.

"(4) In the event of the absence of a member of a Board from a meeting of the Board or his inability for any reason to act in relation to a matter, his alternate has and may exercise and perform all his powers and functions for the purpose of that meeting or in relation to that matter.

"(5) The Minister may, at any time, by written notice to a member or the alternate of a member, remove the member or alternate, as the case may be, and appoint another in his place."

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**"39B. PROVINCIAL SUPPLY AND TENDERS BOARDS.**

(1) The Minister may, by notice in the National Gazette, establish such number of Provincial Supply and Tenders Boards as he, on the advice of the Departmental Head of the Department responsible for financial management, thinks necessary to control and regulate --

- (a) the purchase and disposal of property and stores; and
- (b) the supply of works and services,

for any amount up to K3,000,000.00 or such lesser amount as the Minister, on the advice of the Central Supply and Tenders Board, may determine by notice in the National Gazette, for and on behalf of the State in the provinces.

"(2) A Provincial Supply and Tenders Board shall comprise the following:-

- (a) the Provincial Administrator (the Deputy Provincial Administrator to be his alternate), *ex officio*, who shall be the Chairman; and
- (b) the Provincial Works Manager (the Advisor Technical Services to be his alternate), *ex officio*; and
- (c) the Advisor Planning and Budgeting (the Deputy Advisor Planning and Budgeting to be his alternate), *ex officio*, and
- (d) the Provincial Treasurer (the Provincial Expenditure Accountant to be his alternate), *ex officio*; and
- (e) a member (and his alternate) who has an unimpeachable and impeccable reputation and has relevant experience or demonstrated understanding of commercial and/or actual procurement/contracting practices nominated by the Provincial Chamber of Commerce or, where there is no such body, the Papua New Guinea Business Council.

"(3) Where the Minister agrees with a nomination for membership of a Provincial Supply and Tenders Board under Subsection (2)(e) from a list of three nominees submitted by the organization concerned, the nominee approved by the Minister --

- (a) shall be appointed as a member of the Provincial Supply and Tenders Board by the Minister by notice in the National Gazette; and
- (e) shall be appointed for a period of three years; and
- (f) holds office upon such terms and conditions as are determined by the Minister by notice in the National Gazette; and
- (g) is eligible for re-appointment.

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- "(4) At a meeting of a Provincial Supply and Tenders Board –
- (a) the Chairman or, in his absence, a person appointed by the members from their number as chairman for that meeting, shall preside; and
  - (b) matters arising shall be decided by a majority of the votes of the members present; and
  - (f) the person presiding has a deliberative, and in the event of an equality of votes on any matter, also a casting vote; and
  - (g) the quorum shall be three members; and
  - (h) the procedures of the meeting are as determined by the Board.

"(5) The Minister may at any time terminate the appointment of a member of a Provincial Supply and Tenders Board, other than an *ex officio* member, for ill health, corruption, incompetence or impropriety and may appoint another person in his place.

"(6) In respect of Provincial Supply and Tenders Boards established under Subsection (1), the Minister may make Rules, not inconsistent with this Act or the Financial Instructions, prescribing –

- (a) the manner of inviting tenders publicly; and
- (b) the method of dealing with tenders; and
- (c) the criteria to be applied in the evaluation of tenders; and
- (d) the appointment by the Boards of advisers in technical matters; and
- (e) the keeping by the Boards of records of the performance of each successful tenderer; and
- (f) the manner of regulating the disposal of property no longer required by the State; and
- (g) the method of obtaining and dealing with quotations for –
  - (i) the purchase and disposal of property and stores; and
  - (ii) the supply of goods and services."

**3. SAVING AND TRANSITIONAL, ETC.,**

- (1) For the purposes of this section –  
"repealed provision" means Section 39 of the Principal Act repealed by Section 1;  
"former Board" means a Supply and Tenders Board established under the repealed provision other than the Boards specified in Subsection (2).
- (2) Nothing in this Act affects the existence, and the continuity, of –  
(a) the Pharmaceutical Supply and Tenders Board; and



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- (b) the Gazelle Restoration Authority Supply and Tenders Board;  
and
- (c) the Bouganiville Infrastructure Restoration Supply and Tenders Board,

established under the repealed provision,

- (d) for a period of two years from the date of coming into operation of this Act or such other period as determined by the Minister by notice in the National Gazette; or
- (e) until such time as a similar or corresponding body is established under the Principal Act,

whichever occurs first.

(3) All contracts and agreements made with or addressed to a former Board are, to the extent that they were immediately before the coming into operation of this Act binding on and enforceable against the State, binding on and of full force and effect against or in favour of the State as fully and effectually as if the State had been a party to them or bound by them or entitled to the benefit of them.

(4) Where, immediately before the coming into operation of this Act, any arbitration, action or proceeding was pending or existing by, against or in favour of the State in relation to a former Board, it does not, on that coming into operation, abate or discontinue, but it may be prosecuted, continued or enforced by, against or in favour of the State.

(5) The person for the time being who was, before the coming into operation of this Act, validly appointed as Chairman of the Central Supply and Tenders Board shall, on that coming into operation, be deemed to be validly appointed under this Act, and shall continue to hold that office until the expiry of the term of his appointment or until the cessation of his appointment otherwise according to law, whichever shall first happen.

***Public Finances (Management) (Amendment No. 2)***

I hereby certify that the above is a fair print of the ***Public Finances (Management) (Amendment No. 2) Act 2003*** which has been made by the National Parliament.

*Clerk of the National Parliament.*

I hereby certify that the ***Public Finances (Management) (Amendment No. 2) Act 2003*** was made by the National Parliament on 3 December 2003.

*Acting Speaker of the National Parliament.*