

CHAPTER 11:03

DEFENCE PROCUREMENT ACT

Acts 8/1972, 39/1973 (s. 42), 2/1996, 19/1988.

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AN ACT to provide for the supply of equipment to, or the construction or erection of buildings or structures for, the Defence Forces; to establish a Defence Procurement Board and a Defence Procurement Fund; and to provide for matters incidental to or connected with the foregoing.

[Date of commencement: 18th August, 1972.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Defence Procurement Act [*Chapter 11:03*].

2 Interpretation

In this Act—

“Board” means the Defence Procurement Board established by section *three*;

“equipment” means—

- (a) any item or category of equipment which— (i) is required by the Defence Forces; and (ii) the Minister, with the concurrence of the Minister responsible for finance, has authorized the Board to acquire, sell or have manufactured or;

- (b) any building or structure—
 - (i) which is required by the Defence Forces; and
 - (ii) the construction or erection of which the Minister, with the concurrence of the Minister responsible for finance, has authorized the Board to finance;
- “Fund” means the Defence Procurement Fund established by subsection (1) of section *seven*;
- “Minister” means the Minister of Defence or any other Minister to whom the President may, from time to time, assign the administration of this Act.

PART II

DEFENCEPROCUREMENT BOARD

3 Establishment of Board

There is hereby established a board, to be known as the Defence Procurement Board, which shall be a body corporate and shall be capable of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as bodies corporate may by law perform.

4 Composition of Board

- (1) The Board shall consist of—
 - (a) a chairman, who shall be the person who is for the time being the Secretary of the Ministry for which the Minister is responsible; and
 - (b) subject to any law relating to the Public Service, three other members, who shall be appointed by the Minister.
- (2) Subject to any law relating to the Public Service, the chairman of the Board shall appoint a secretary and such other persons as he may think necessary to assist the Board in the proper exercise of its functions.

5 Functions of Board

The functions of the Board shall, subject to the directions of the Minister, be—

- (a) to provide for the manufacture and sale of equipment and the supply of equipment to the Defence Forces; and
- (b) to manage the Fund.

6 Powers of Board

For the better exercise of its functions, the Board shall, subject to this Act, have power to do or cause to be done, either by itself or through its agents, all or any of the things specified in the Schedule, either absolutely or conditionally, and either solely or jointly with others.

PART III

DEFENCE PROCUREMENT FUND

7 Establishment of Fund

(1) Notwithstanding anything to the contrary in the Audit and Exchequer Act [*Chapter 22:03*], there is hereby established a fund, to be known as the Defence Procurement Fund, which shall be vested in the Board.

(2) The Fund shall consist of—

- (a) moneys appropriated for the purpose by Act of Parliament; and
- (b) such loans, grants or donations to the Fund from any source as may be approved by the Minister, with the concurrence of the Minister responsible for finance; and
- (c) any other moneys to which the Fund may become entitled;
- (d) and with the concurrence of the Minister responsible for finance, such moneys as may be payable to the State from the United Nations Organisation or any other source in respect of the involvement of the Defence Forces in any operations outside Zimbabwe; and

[Paragraph inserted by section 2 of Act 2 of 1996]

- (e) with the concurrence of the Minister responsible for finance, such proceeds as may be realised from the disposal of redundant and obsolete equipment and scrap belonging to the Defence Forces.

[Paragraph inserted by section 2 of Act 2 of 1996]

8 Application of Fund

- (1) The moneys of the Fund may be applied in the exercise of any of the powers referred to in section *six*.
- (2) Any expenditure, loss or liability lawfully appertaining to the Fund shall be charged to or discharged from the Fund.

PART IV

GENERAL

9 Holding of Fund

All moneys received by the Board on behalf of the Fund shall be paid into the banking account of the Fund and no moneys shall be withdrawn from such account except by means of bankers' drafts or cheques signed by any two persons specially authorized thereto by the Minister.

10 Accounts and audit

- (1) The Board shall, in respect of the Fund, cause to be kept proper books of account and other books and records in relation thereto, in which shall be recorded all the financial transactions of the Fund.
- (2) The Comptroller and Auditor-General shall—
 - (a) examine, inquire into and audit the accounts of the Fund; and (b) satisfy himself as to the safeguarding of the moneys in the Fund.
- (3) Subject to subsection (4), the Minister shall—
 - (a) before the 30th September in each year, cause copies of the balance sheets and statements of the financial transactions of the Fund to be forwarded to the Controller and Auditor-General; and
 - (b) as soon as possible after the completion and audit of the balance sheets and statements referred to in paragraph (a), lay copies thereof before Parliament.
- (4) If it appears to the Minister that the disclosure of any information concerning the financial transactions of the Fund would be prejudicial to the public interest, he may, notwithstanding anything to the contrary in the Audit and Exchequer Act [*Chapter 22:03*], withhold the whole or any part of the balance sheets and statements referred to in subsection (3) from Parliament.

11 Regulations

The Minister may make such regulations as to him seem necessary or expedient for the carrying out of the objects and purposes of this Act or for its proper administration.

12 Financial year

The financial year of the Fund shall end on the 30th June in each year.

SCHEDULE (Section 6)

POWERS OF BOARD

1. To procure equipment required by the Defence Forces.
2. To promote or assist in the promotion of companies and other bodies to manufacture equipment and additionally, or alternatively—
 - (a) to supply equipment to the Defence Forces;
 - (b) to sell equipment to the Defence Forces or, with the approval of the Minister, to any other person.
3. To enter into agreements with persons inside or outside Zimbabwe for the manufacture, supply, construction or erection of equipment.
4. With the approval of the Minister, given with the concurrence of the Minister responsible for finance, to lend money or advance money to or acquire an interest in or in any manner to provide or assist in the provision of capital or finance for, any company or other person engaged in or proposing to establish or to expand or modernize any undertaking for the manufacture of equipment and additionally, or alternatively, the sale or supply of equipment, whether to the Defence Forces or to any other person.
5. To appoint any person to act as a director of or in any other capacity in relation to any company or other person such as is referred to in paragraph 4.
6. To act as the agent or representative of any company or other person such as is referred to in paragraph 4.
7. With the approval of the Minister, given with the concurrence of the Minister responsible for finance, to guarantee any undertaking given by any company or other person such as is referred to in paragraph 4, and to guarantee the performance of any contract by any such company or person.
8. To provide for the payment for equipment by direct payment, deferred payment, suppliers' credits, lease hire, lease purchase or any other method approved by the Minister, with the concurrence of the Minister responsible for finance.
9. To execute promissory notes, acknowledgements of debt, bonds or other negotiable instruments approved by the Minister, with the concurrence of the Minister responsible for finance.
10. To borrow moneys from such sources, and to repay such loans, as may be approved by the Minister, with concurrence of the Minister responsible for finance.
11. With the approval of the Minister, with the concurrence of the Minister responsible for finance, to invest moneys of the Fund not immediately required for the purposes of this Act.
12. To do all things necessary or incidental to the functions of the Board.