

THE NATIONAL HEALTH SERVICES (REPEAL) ACT, 2005

ARRANGEMENT OF SECTIONS

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GOVERNMENT OF ZAMBIA

ACT

No. 17 of 2005

Date of Assent: 28th September, 2005

An Act to provide for the winding up and dissolution of the Central Board of Health and of management boards; to vest the undertaking of the Central Board of Health and of management boards in the Government; to repeal the National Health Services Act, 1995; and to provide for matters connected with or incidental to the foregoing.

[7th October, 2005

ENACTED by the Parliament of Zambia.

1. This Act may be cited as the National Health Services (Repeal) Act, 2005, and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

2. In this Act unless the context otherwise requires—

“appointed date” means such date as the Minister shall appoint under section *three*;

“Board” means the Central Board of Health established under section *three* of the National Health Services Act;

“management board” means a management board established under section *eleven* of the National Health Services Act;

“repealed Act” means the National Health Services Act; and

“Secretary to the Treasury” means the Secretary to the Treasury appointed under section *six* of the Public Finance Act.

3. (1) From the commencement of this Act, the Board shall exist only for the purpose of winding up its affairs and for no other purpose.

(2) After the commencement of this Act, the Secretary to the Treasury shall, pursuant to section *forty-three* of the Public Finance Act, constitute a committee consisting of not less than three members two of whom shall be Government officers to wind up the affairs of the Board.

Enactment

Short title and commencement

Interpretation

Cap. 315

Cap. 315

Cap. 315

Act No. 15 of 2004

Winding up of affairs of Board

Act No. 15 of 2004

(3) The Committee appointed under subsection (2) shall ensure that—

- (a) the assets of the Board are properly inventorised, valued and disposed of subject to the instructions of the Secretary to the Treasury;
- (b) ensure that all debts due to the Board are promptly recovered;
- (c) ensure that the claims of all creditors including employees and tax liabilities, if any, are proved and settled in full;
- (d) any balance remaining after the conclusion of transactions referred to in paragraphs (b) and (c) is credited to Government revenue; and
- (e) any asset considered strategic by Government in the public interest reverts to the ownership of the Government at no cost to Government.

(4) Notwithstanding anything to the contrary contained in the repealed Act, or in any other written law, the Board shall, subject to the instructions of the Secretary to the Treasury have, for the purpose of winding up its affairs, power to do anything which is necessary or expedient for that purpose or which is incidental thereto, including in particular, without prejudice to the generality of that power, power to enter into and carry out agreements and arrangements for the transfer of its property, rights, liabilities and obligations to the Government.

(5) When the Minister is satisfied, on the advice of the Secretary of the Treasury, that all necessary agreements and arrangements have been made for the winding up of the affairs of the Board, the Minister shall, by statutory instrument, order that the Board be dissolved on such date as may be appointed in the statutory instrument.

Vesting of
assets and
transfer of
liabilities

4. (1) On the appointed date, there shall be transferred to, and vest in, or subsist against, the Government by virtue of this Act without further assurance the affairs of the Board and subject to this Act, all property, rights and obligations which immediately before the appointed date were the property, rights and obligations of the Board.

(2) Subject to the provisions of this Act, every deed, bond and agreement (other than an agreement of personal service) which was subsisting immediately prior to the appointed date and was vested in the Board or to which the Board was a party, whether in writing

or not, and whether or not of such a nature that rights, liabilities and obligations there under could be assigned, shall, unless its terms and subject matter make it impossible that it should have effect as modified in the manner provided by this subsection, have effect from the appointed date, as if—

- (a) the Government had been a party to any such deed, bond or agreement instead of the Board and in the same manner as if the Government had at all times been entitled to the benefit of any such deed, bond or agreement instead of the Board;
- (b) for any reference to the Board there were substituted, as respects anything falling to be done on or after the appointed date, a reference to the Government ; and
- (c) for any reference to an officer of the Board not being a party thereto and beneficially interested therein there were substituted, as respects anything falling to be done on or after the appointed date, a reference for such officer of the Government as the Government shall designate.

(3) Subject to the provisions of subsection (2), documents, other than those referred to therein, which refer specifically or generally to the Board shall be construed in accordance with subsection (2) as far as applicable.

5. (1) Whenever in pursuance of this Act, any property, rights, liabilities or obligations of the Board are transferred by the Board to the Government in respect of which transfer any written law provides for registration, the Government shall make an application in writing to the appropriate registration authority for the registration of such transfer.

Registration
of property
to be
transferred
by Board

(2) The registration authority referred to in subsection (1) shall make such entries in the appropriate register as shall give effect to such transfer and, where applicable, issue the Government with a certificate of title in respect of the property or make necessary amendments to the register, as the case may be, and shall make endorsement on the deeds relating to the title, right or obligation concerned and no registration or other fees shall be payable in respect thereof.

6. (1) On or after the appointed date any person who was employed by the Board shall be transferred to the Government:

Transfer of
staff of
Board

Provided that an employee of the Board—

- (a) who is employed on contract and does not wish to be transferred to the Government shall have their employment terminated according to the terms and conditions of the contract; or
- (b) who is not employed on contract and does not wish to be transferred to the Government shall be deemed to have retired under the terms and conditions of the Board.

(2) On or after the appointed date any employee of the Government—

- (a) who was seconded to the Board from the Government; or
- (b) who served with the Board but was not seconded to the Board; shall—
 - (i) be retained by the Government and shall be redeployed in the service of the Government; or
 - (ii) be retired under section *thirty-nine* of the Public Service Pensions Act.

Act No. 35 of
1996

(3) Where an employee of the Board is transferred to the Government—

- (a) the salary with the Government shall not be less favourable than that enjoyed by the person in the service of the Board and for purposes of determining any right to gratuity or any pension benefit the service of the employee with the Government shall be regarded as continuous with the service of the employee with the Board; and
- (b) the employee shall be deemed to have retired under the terms and conditions of service of the Board.

(4) Any person who is deemed to have retired under paragraph (b) of the proviso to subsection (1) shall be entitled to be paid all retirement benefits which the person would have been paid if the person had voluntarily retired in accordance with the terms and conditions of service of the Board.

Legal
proceedings

(5) The provisions of this section shall not apply to a person who is employed by the Board as a daily paid employee.

7. (1) Without prejudice to the other provisions of this Act, where any right, liability or obligation vests in the Government by virtue of this Act, the Government and all other persons shall, as from the appointed date, have the same right, powers and remedies (and in particular the same rights as to the instituting or defending of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting that right, liability or obligation as they would have if it had at all times been a right, liability or obligation of the Government.

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(2) Any legal proceedings or application of any authority pending immediately before the appointed date by or against the Board may be continued by or against the Government .

(3) After the appointed date, proceedings in respect of any right, liability or obligations which was vested in, held, enjoyed, incurred or suffered by the Board may be instituted by or against the Government .

8. (1) The Minister shall in consultation with the Secretary to the Treasury, by statutory instrument—

Winding up
of
management
boards

- (a) provide for the winding up and dissolution of management boards;
- (b) provide for the transfer of any property, rights, liabilities or obligations of a management board to the Government without further assurance on such terms and conditions as may be specified in the statutory instrument;
- (c) approve arrangements for the transfer, or otherwise, of the staff of management boards to the Government; and
- (d) provide for such other matters as are connected with or incidental to the winding up of the affairs and dissolution of a management board.

(2) The property, rights, liabilities or obligations specified in the statutory instrument made under subsection (1) shall, on the coming into force of the statutory instrument, vest in, or as the case may be, subsist against the Government.

(3) The provisions of sections *three, four, five and six* shall apply, with the necessary modifications to the winding up of management boards on the coming into force of the statutory instrument.

9. The National Health Services Act, 1995, is hereby repealed.

Repeal of
Act
No. 22 of
1995

