

THIRD SCHEDULE
TRANSITIONAL PROVISIONS

s. 142

Interim Director-General.

1.(1) The person who, immediately before this Act comes into operation, was the Director of the Public Procurement Directorate shall become the interim Director-General of the Authority upon the establishment of the Authority.

(2) The interim Director-General shall cease to be the interim Director-General upon the appointment of a Director-General under section 10.

(3) For greater certainty, the interim Director-General shall have and may exercise and perform all the powers and functions of the Director-General until the Director-General is appointed, including being a member of the Advisory Board.

(4) For greater certainty, service as the interim Director-General shall not constitute service for a term for the purpose of section 11(2).

Interim members of Advisory Board.

2. (1) Before members of the Advisory Board are nominated and appointed under section 22(1)(a), the Minister shall appoint nine interim members.

(2) The Minister shall designate one of the interim members as the Chairman.

(3) The interim members shall cease to hold office upon sufficient members of the Advisory Board being appointed, under section 22(1)(a), to constitute a quorum.

(4) While the interim members hold office the Advisory Board shall not recommend the appointment of the Director-General under section 23(c).

(5) For greater certainty, service as an interim member shall not constitute service for a term for the purpose of paragraph 2(2) of the First Schedule.

Existing procurement proceedings continued under old law.

3. (1) Procurement proceedings commenced before this Act comes into operation shall be continued in accordance with the law applicable before this Act comes into operation.

(2) A procurement proceeding commences for the purpose of subparagraph (1) when the first advertisement relating to the procurement proceeding is published or, if there is no advertisement, when the first documents are given to persons who wish to participate in the procurement

proceeding.

Existing exemptions continued.

4. If, before this Act comes into operation, the Minister made a decision under Regulation 3(2) of the Exchequer and Audit (Public Procurement) Regulations, 2001 with respect to the use of a different procedure for a procurement, that procurement shall be exempt from this Act.

Confidentiality in relation to past proceedings.

5. Section 44 shall apply with respect to procurement proceedings completed before this Act comes into operation.

Records of past procurements.

6.(1) Section 45 shall apply with respect to —

- (a) a procurement that took place before this Act comes into operation; or
- (b) a procurement, the procurement proceeding for which was terminated before this Act comes into operation.

(2) Section 45(2), as it applies under subparagraph (1), does not require the record of a procurement to include anything that was not required before this Act comes into operation.

Publication of existing contracts.

7. Section 46 shall not apply with respect to a contract formed before this Act comes into operation.

Amendments to existing contracts.

8. Section 47 shall apply with respect to a contract formed before this Act comes into operation but not to an amendment to such a contract made before this Act comes into operation.

Interest on overdue amounts under existing contracts.

9. Section 48 shall apply to contracts formed before this Act comes into operation and to amounts under such contracts that became overdue before this Act comes into operation.

Inspections and audits relating to prior contracts.

10. Section 49 shall apply to contracts formed before this Act comes into operation including contracts that are no longer in force when this Act comes into operation.

Administrative review, etc. for existing proceedings.

11. Parts VII and VIII apply, with necessary modifications, with respect to procurement proceedings commenced before this Act comes into operation.

Continuation of existing administrative review proceedings.

12. Proceedings before the Public Procurement Review, Complaints and Appeal Board established under the Exchequer and Audit (Public Procurement) Regulations, 2001 shall be continued before the Review Board under Part VII and the provisions of that Part shall apply, with necessary

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modifications.

Continuation of existing investigations.

13. An investigation of procurement proceedings by the Public Procurement Directorate shall be continued under Part VIII and the provisions of that Part shall apply, with necessary modifications.

Grounds for debarment include previous actions.

14. The grounds for debarring a person from participating in procurement proceedings under section 115 extend to anything done before this Act comes into operation that would constitute a ground under that section.

Transfer of staff.

15.(1) Upon the establishment of the Authority each member of the staff of the Public Procurement Directorate, including the Director, shall remain a member of the public service but shall be seconded to the Authority for a one year period.

(2) If, within the first year after the Authority is established, a person seconded to the Authority under subparagraph (1) enters into a written contract of service with the Authority the person shall cease to be a member of the public service without right to severance pay but without prejudice to any right to other remuneration or benefits payable on termination or in respect of their public service.

(3) A person seconded to the Authority under subparagraph (1) shall cease to be so seconded and shall be re-deployed as a member of the public service if —

- (a) the one year period of secondment under subparagraph (1) expires without the person having entered into a written contract under subparagraph (2); or
- (b) the person opts, within the one year period of secondment under subparagraph (1), to end his secondment.

(4) This paragraph does not apply with respect to staff whose duties are, in the opinion of the Director of the Public Procurement Directorate, primarily concerned with procurement operations rather than with the oversight of public procurement.

Transfer of authorized expenditures for

16. Expenditures that were authorized for the 2005/2006 financial year to be used in relation to the Public Procurement

2005/2006.

Directorate and that, upon the commencement of this Act, have not been expended, shall be deemed to be authorized for that financial year to be used in relation to the Authority.

Financing of Authority.

17. The Minister shall facilitate an adequate budget for the Authority upon the commencement of this Act

Transfer of assets.

18. The assets of the Directorate of Public Procurement existing before the commencement of this Act shall be transferred to the Authority upon commencement of this Act.