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GOVERNMENT GAZETTE

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CAPE TOWN, 30TH JUNE, 1971.

[No. 3176.

KAAPSTAD, 30 JUNIE 1971.

DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 1122. 30th June, 1971.

No. 1122. 30 Junie 1971.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 74 of 1971: State Tender Board and State Procurement Board Amendment Act, 1971.

No. 74 van 1971:—Wysigingswet op die Staatstenderraad en die Staatsverkrygingsraad, 1971.

Act No. 74, 1971

STATE TENDER BOARD AND STATE PROCUREMENT BOARD
AMENDMENT ACT, 1971.

ACT

To amend the provisions of the State Tender Board and State Procurement Board Act, 1968, relating to the definitions; the powers of the State Tender Board; and the delegation of its powers by the State Tender Board; to provide for the abolition of the State Procurement Board; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)
(Assented to 15th June, 1971.)*

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 86 of 1968.

1. Section 1 of the State Tender Board and State Procurement Board Act, 1968 (hereinafter referred to as the principal Act), is hereby amended by the deletion of the definitions of "State Procurement Board" and "the Services".

Amendment of section 4 of Act 86 of 1968, as amended by section 11 of Act 102 of 1969.

2. Section 4 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) Subject to the provisions of section 4 (1) (a) of the Armaments Act, 1964 (Act No. 87 of 1964), the board shall have power to procure supplies and services for the State, and to dispose of movable State property, and may for that purpose—

(a) on behalf of the State, conclude an agreement with a person within or outside the Republic for the furnishing of supplies and services to the State or the disposal of movable State property;

(b) with a view to concluding an agreement referred to in paragraph (a), in any manner it may deem fit, invite offers and determine the manner in which and the conditions subject to which such offers shall be made;

(c) inspect and test or cause to be inspected and tested supplies and services which are offered;

(d) without giving reasons therefor, accept or reject any offer for the conclusion of an agreement referred to in paragraph (a);

(e) take steps or cause steps to be taken to enforce an agreement concluded under this section;

(f) subject to the provisions of subsection (2), on such conditions as it may determine, exempt any person with whom such an agreement has been concluded from compliance with such agreement or condone the failure of such person to comply with such agreement;

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AMENDMENT ACT, 1971.

- (g) subject to the provisions of subsection (2), negotiate a settlement with a person referred to in paragraph (f), or amend the agreement concerned with the approval of such person;
- (h) exercise such other powers as may be conferred upon it by the Minister by regulation.”; and
- (b) by the substitution for paragraph (a) of subsection (2) of the following paragraph:

“(a) the Postal Administration, in the case of an agreement concluded on behalf of the State for the procurement of supplies or services for the State for use and utilization in the Department of Posts and Telegraphs or for the disposal of movable State property, used or utilized in the said Department or which has been procured for use and utilization in that Department but is no longer required there; and”.

Amendment of
section 5 of Act
86 of 1968.

3. (1) Section 5 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsections:

“(2) The board may from time to time delegate any of its powers to any of its committees, any person (including any member of the board), any body of persons or the holder of any post designated by the board.

(3) Where the board has delegated any power under subsection (2), it may authorize the committee, person, body of persons or holder of the post concerned to delegate that power to any person, body of persons or the holder of a post.

(4) Any delegation under subsection (2) or (3) may be made subject to such conditions and restrictions (if any) as may be determined by the board or the committee, person, body of persons or holder of the post concerned.

(5) The board shall not be divested of any power delegated by it or under its authority and may amend or withdraw any decision made in the exercise of such power, including any decision of any committee, person, body of persons or holder of any post amending or withdrawing any decision referred to in subsection (6).

(6) Any committee, person, body of persons or holder of a post shall not be divested of any power delegated by it or him and may amend or withdraw any decision made in the exercise of that power.

(7) Where any power has been delegated to the holder of a post, that power may be exercised by the person who for the time being performs the functions attached to such post.”.

(2) The provisions of subsection (1) shall be deemed to have come into operation on the first day of October, 1968.

Repeal of sections
7, 8, 9 and 10 of
Act 86 of 1968,
and savings.

4. (1) Subject to the provisions of subsections (2), (3) and (4), sections 7, 8, 9 and 10 of the principal Act are repealed with effect from the first day of July, 1971, and the State Procurement Board established by section 7 of the principal Act shall cease to exist on that date.

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(2) All rights and duties of the State Procurement Board conferred or imposed upon such board in terms of any agreement concluded by such board or by or under any provision of the principal Act in respect of any such agreement, and any right of such board to accept or reject any offer for the conclusion of any agreement shall, on the date referred to in subsection (1), pass to the State Tender Board or, if the Minister so determines, to the Armaments Board established by section 2 of the Armaments Act, 1964 (Act No. 87 of 1964).

(3) Before making a determination under subsection (2), the Minister shall consult with the Minister of the Department for whose benefit the agreement concerned was concluded or is to be concluded, and with the Minister of Defence.

(4) A determination under subsection (2) may be made with reference to the nature of the supplies and services for the procurement of which the agreement concerned was concluded or is to be concluded.

Substitution of section 11 of Act 86 of 1968.

5. The following section is hereby substituted for section 11 of the principal Act:

11. Subject to the provisions of this Act, or an agreement concluded under this Act, all expenditure in connection with the performance of the functions and the exercise of the powers of the board shall be defrayed from moneys appropriated by Parliament for the purpose."

Amendment of section 12 of Act 86 of 1968.

6. Section 12 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) All administrative work, including the payment and receipt of moneys, in connection with the performance of the functions and the exercise of the powers of the board shall be performed by officers and employees designated by the Secretary to the Treasury."; and

(b) by the deletion of subsection (3).

Substitution of section 13 of Act 86 of 1968.

7. The following section is hereby substituted for section 13 of the principal Act:

13. (1) The Minister may make regulations—

(a) with regard to the calling of and procedure and quorum at meetings of the board or any committee thereof, including the manner of voting and the number of votes required for a decision of the board;

(b) providing that, subject to the provisions of any Act of Parliament, supplies and services shall not be procured for and on behalf of the State and that movable State property shall not be disposed of except through the board or in such other manner as may be prescribed in or determined in accordance with such regulations;

(c) with regard to all matters for which he deems it necessary or expedient to make regulations in order to achieve the objects of this Act.

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(2) Notwithstanding anything to the contrary in any law contained, any regulations made in terms of subsection (1) may, in addition to any other remedies prescribed therein, provide for the imposition by the board of a monetary penalty, calculated on such basis or bases as may be prescribed therein, on any person with whom the board concluded an agreement on behalf of the State on the strength of information furnished by such person which, subsequent to the conclusion of such agreement, is shown to have been incorrect information, and may prescribe the manner in which any such monetary penalty may be recovered.”.

Substitution of section 15 of Act 86 of 1968.

8. The following section is hereby substituted for section 15 of the principal Act:

“Short title. 15. This Act shall be called the State Tender Board Act, 1968.”.

Substitution of long title of Act 86 of 1968.

9. The following long title is hereby substituted for the long title of the principal Act:

“ACT

To provide for the regulation of the procurement of supplies and services for, and the disposal of movable property of, the State and to that end to establish a State Tender Board and to define its functions; and to provide for incidental matters.”.

Commencement.

10. Subject to the provisions of section 3 (2), the provisions of this Act shall come into operation on the first day of July, 1971.

Short title.

11. This Act shall be called the State Tender Board and State Procurement Board Amendment Act, 1971.