

No. 13 of 2023.

Provincial Health Authorities (Amendment) Act 2023.

Certified on : 26 OCT 2023



No. 13 of 2023.

Provincial Health Authorities (Amendment) Act 2023.

ARRANGEMENT OF SECTIONS.

1. Functions of provincial health authorities (Amendment of Section 12).
2. New Section 12A.

“12A. COMPLIANCE BY THE PROVINCIAL HEALTH AUTHORITIES.”.

3. New Section 13A.

“13A. POWER OF THE BOARD TO ESTABLISH COMMITTEES.”.

4. Constitution of Boards (Amendment of Section 17).
5. New Section 17A.

“17A. REQUIREMENTS OF NON *EX-OFFICIO* MEMBERS.”.

6. Annual report (Amendment of Section 28).
7. Functions of Chief Executive Officer (Amendment of Section 30).
8. New Section 30A.

“30A. QUARTERLY REPORT BY THE CHIEF EXECUTIVE OFFICER.”.

9. Appointment of Officers (Amendment of Section 33).
10. New Part IIIA.

“PART IIIA. - COMPLAINT AND INVESTIGATION.

- 35A. COMPLAINT TO PROVINCIAL HEALTH AUTHORITY BOARD.**
- 35B. PROCESS OF COMPLAINT AND INVESTIGATION.”.**

11. Repeal of Sections 59, 60, 61, 62 and 63.
12. Regulations (Amendment of Section 56).
13. Model policy functions of provincial health authorities (Amendment of Schedule Six).



No. 13 of 2023.

AN ACT

entitled

Provincial Health Authorities (Amendment) Act 2023,

Being an Act to amend the ***Provincial Health Authorities Act 2007*** to provide for accountability and compliance by the Provincial Health Authorities, and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

1. FUNCTIONS OF PROVINCIAL HEALTH AUTHORITIES (AMENDMENT OF SECTION 12).

Section 12 of the Principal Act is amended in Subsection (3) by deleting the figure “9” and replacing it with figure “7”.

2. NEW SECTION 12A.

The Principal Act is amended by inserting immediately after Section 12, the following new section:

“12A. COMPLIANCE BY THE PROVINCIAL HEALTH AUTHORITIES.

(1) Notwithstanding Schedules 5 and 6, any -

- (a) delivery of health service and programmes; or
- (b) management of equipment and facilities; or
- (c) provision of staff; or
- (d) procedures for planning, budgeting and reporting; or
- (e) preparation of Provincial Health and District Health Plan; or
- (f) management of information,

shall comply with the National Health Plan and the National Health Service Standard established under the ***National Health Administration Act 1997***.

(2) In cases of any national health emergencies in the province, where the National Health Policy and National Health Services Standard is absent, the provincial health authority or any other health care service provider must comply with -

- (a) the national health emergency directives issued at that time by the Department responsible for health matters; or
- (b) other relevant authority,

for purposes of implementing the health emergency.

(3) A person or partner who wishes to support the provincial health authority in relation to -

- (a) any of the services in Section 12A(1); or

Provincial Health Authorities (Amendment)

(b) establishment of a health facility; or
(c) in entering into partnership arrangements,
shall adhere to the the National Health Policy and National Health Services Standard.

(4) Each provincial health authority shall implement the National Health Plan and National Health Services Standard.”.

3. NEW SECTION 13A.

The Principal Act is amended by inserting immediately after Section 13, the following new section:

“13A. POWER OF THE BOARD TO ESTABLISH COMMITTEES.

The Board has the power to establish committees that are responsible for -

- (a) health partnership and projects; or
- (b) finance and budgets; or
- (c) public and curative health services; or
- (d) workforce; or
- (e) management and leadership; or
- (f) any other matters where necessary.”.

4. CONSTITUTION OF BOARDS (AMENDMENT OF SECTION 17).

Section 17 of the Principal Act is amended -

(a) in Subsection (2) by repealing Paragraph (d) and replacing it with the following:

“(d) one is a member of a local run or a Christian organisation with the largest presence in the province in which the provincial health authority is located and is nominated -

- (i) by the Church Medical Council or like organisation; or
- (ii) by the Minister in the event that any dispute between two or more church organisations or the Church Medical Council as to who should be nominated.”.

(b) in Subsection (6) by deleting the words “but shall not vote on any matter” and replacing them with the following:

“and shall vote on any matter”.

5. NEW SECTION 17A.

The Principal Act is amended by inserting immediately after Section 17, the following new section:

“17A. REQUIREMENTS OF NON *EX-OFFICIO* MEMBERS.

The non *ex-officio* members shall meet the following requirements:

- (a) be no more than 70 years of age; and

Provincial Health Authorities (Amendment)

- (b) be a fit and proper person to hold office; and
- (c) not have been convicted of a serious criminal offence; and
- (d) not have a criminal case pending before the National Court; and
- (e) not have a leadership case before the Ombudsman Commission or Leadership Tribunal; and
- (f) not be an officer or employee of the public service or a statutory authority or agency; and
- (g) not be an office-holder, or candidate for election as an office-holder, in a registered political party; and
- (h) not be disbarred by virtue of any constitutional or statutory restrictions under the leadership code; and
- (i) be medically fit.”.

6. ANNUAL REPORT (AMENDMENT OF SECTION 28).

Section 28 of the Principal Act is amended -

- (a) in Subsection (1) by deleting the words “Minister and the Governor” and replacing them with the following:

“National Health Board, Minister and the Governor”; and

- (b) in Subsection (2) by inserting immediately after the word “relates” the following words:

“and such other reports in relation to the function of the Board as requested”.

7. FUNCTIONS OF CHIEF EXECUTIVE OFFICER (AMENDMENT OF SECTION 30).

Section 30 of the Principal Act is amended in Subsection (1) by repealing Paragraph (c) and replacing it with the following:

- “(c) in relation to the management of that provincial health authority and direction of its affairs, the Chief Executive Officer shall act in accordance with the policies pre-determined by the Board of that provincial health authority and the obligations of the provincial health authority and Chief Executive Officer as set out under relevant laws, and the National or Provincial Health Plan and the National Health Standards.”.

8. NEW SECTION 30A.

The Principal Act is amended by inserting immediately after Section 30, the following new section:

“30A. QUARTERLY REPORT BY THE CHIEF EXECUTIVE OFFICER.

The Chief Executive Officer shall provide, in a prescribed form, quarterly reports to the departmental head responsible for health matters, by the end of the first full week of the month immediately following the quarter to which the report relates, and such other reports in relation to the function of the Chief Executive Officer as requested.”.

Provincial Health Authorities (Amendment)

9. APPOINTMENT OF OFFICERS (AMENDMENT OF SECTION 33).

Section 33 of the Principal Act is amended -

(a) in Subsection (1) by deleting the word "may" and replacing it with the word "shall"; and

(b) by repealing Subsection (2) and replacing it with the following new subsection:

“(2) An officer appointed under Subsection (1)(d) does not refer to appointing of directors other than directors appointed under Subsections (1)(a), (b) and (c).”.

(c) by inserting immediately after Subsection (2), the following new Subsections (3), (4), (5), (6), (7) and (8).

“(3) Notwithstanding Subsection (7), the Chief Executive Officer may appoint other officers under Subsection (1) in accordance with the conditions in Subsections (4), (5) and (6).

(4) No provincial health authority shall appoint directors, unless clearance is first obtained from the National Department of Health.

(5) The Department of Personnel Management shall not endorse directors other than the directors referred to in Subsection (1) unless such positions are first cleared by the National Department of Health.

(6) The Department of Health and the Department of Personnel Management in making clearances and approval on Subsections (5) and (6) shall be made consistent with the approved National Health Plan, National Health Services Standard and National Health Workforce Policy.

(7) An officer appointed under Subsection (1) shall hold office for such period and on such terms and conditions as are determined under this Division.

(8) An officer appointed under Subsection (1) must be a fit and proper person who shall be -

- (a) qualified at a recognised institution; and
- (b) possess an accepted educational qualification; and
- (c) possess relevant skills and experiences; and
- (d) be certified by the respective professional body if applicable; and
- (e) have no ongoing investigation; and
- (f) have no criminal record nor any past records of questionable characters; and
- (g) have not been terminated from the public service; and
- (h) has a good social and team work attitude; and
- (i) is medically fit.”.

Provincial Health Authorities (Amendment)

10. NEW PART IIIA.

The Principal Act is amended by inserting immediately after Part III, the following new part:

“PART IIIA. - COMPLAINT AND INVESTIGATION.

35A. COMPLAINT TO PROVINCIAL HEALTH AUTHORITY BOARD.

(1) A person shall lay a complaint to the Provincial Health Authority Board within a location or health facility of which the provincial health authority is located in matters relating to -

- (a) failure to provide an efficient and basic health services; and
- (b) non-compliance of Section 12A; and
- (c) failure to produce reports under Sections 28 and 30A; and
- (d) a grieved person directly or indirectly affected by the health service received; and
- (e) any other non-compliances under this Act.

(2) The complaints received against the provincial health authority may not be limited to the conduct of the Chief Executive Officer or an officer of the provincial health authority and any person engaged by the provincial health authority and such complaints relating to Subsection (1) received must be from credible sources and are able to support with evidences available.

(3) The Provincial Health Authority Board must take steps to address the complaint within 21 days of receipt of the complaint.

35B. PROCESS OF COMPLAINT AND INVESTIGATION.

(1) A complainant may, after 21 days, if concerns raised have not been addressed, raise the issue with the Minister in the following manner:

- (a) the Minister on his own or the complainant may submit the complaint to the Minister; and
- (b) the Minister shall take action in line with -
 - (i) the same process triggered under Section 40(1); or
 - (ii) may direct the National Health Board to conduct an investigation immediately into the complaints and submit report and recommendation to the Minister.

(2) Upon receipt of the reports and recommendation, the Minister may refer the report to the respective Provincial Health Authority Board to deal with the Chief Executive Officer or officers responsible in accordance with the manner under Subsections (3), (4) and (5).

(3) If the Minister is of the view that through investigation, there is credible evidence by the administration, then the Minister may direct the Board to immediately suspend the Chief Executive Officer.

(4) If a Provincial Health Authority Board is implicated in the investigation conducted in Subsection (5), the Minister may suspend the Board under this Act.

Provincial Health Authorities (Amendment)

(5) If an officer of the provincial health authority or any other person engaged by the provincial health authority is implicated, the Chief Executive Officer may deal with them accordingly under the relevant laws.

(6) The Minister shall deal with the board accordingly for non-performances or non-compliances under this Part in the following manner:

- (a) the Minister may direct the Board to show cause of not dealing with the referred matter; and
- (b) the Board, in receipt of the show cause notice shall within 21 days respond to the direction; and
- (c) the Minister, in receipt of the Board's response shall deal with the Board accordingly.

(7) If the Minister is of the view that the Chief Executive Officer has not been dealt with by the Board, he shall refer the matter to the departmental head who shall then consult with the departmental head of the department responsible for personnel management matters to apply disciplinary measures against the Chief Executive Officer.”.

11. REPEAL OF SECTIONS 59, 60, 61, 62 AND 63.

Sections 59, 60, 61, 62 and 63 are repealed.

12. REGULATIONS (AMENDMENT OF SECTION 56).

Section 56 of the Principal Act is amended by inserting immediately after Paragraph (h), the following new paragraph:

“(ha) terms of reference of Board members and Board committees; and”.

13. MODEL POLICY FUNCTIONS OF PROVINCIAL HEALTH AUTHORITIES (AMENDMENT OF SCHEDULE SIX).

Schedule 6 of the Principal Act is amended in Paragraph (a) by inserting immediately after Subparagraph (iv), the following new subparagraph:

“(v) implementation of National Health Service Standard; and”.

I hereby certify that the above is a fair print of the *Provincial Health Authorities (Amendment) Act 2023*, which has been made by the National Parliament.

Clerk of the National Parliament.

28 OCT 2023

I hereby certify that the *Provincial Health Authorities (Amendment) Act 2023*, was made by the National Parliament on 9 August 2023.

Speaker of the National Parliament.

26 OCT 2023