

No. 14 of 2023.

Public Private Partnership (Amendment) Act 2023.

Certified on : 26 OCT 2023



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ARRANGEMENT OF SECTIONS.

1. Compliance with constitutional requirements (Amendment of Section 1).
2. Interpretation (Amendment of Section 2).
3. Appointment of Chief Executive Officer (Amendment of Section 20).
4. PPP Centre Tenders and Contracts (Repeal and replacement of Section 27).

“27. PUBLIC PRIVATE PARTNERSHIP CENTRE TENDERS AND CONTRACTS.”.

5. PPP Centre six monthly report (Amendment of Section 28).
6. Establishment of Public Private Partnership Steering Group (Amendment of Section 41).
7. Meetings of PPP Steering Group (Amendment of Section 42).
8. Convening of Proceedings at PPP Forum (Amendment of Section 48).
9. Relevant Public Body (Amendment of Schedule 1).
10. Infrastructure (Amendment of Schedule 2).
11. Public Private Partnership Arrangement (Amendment of Schedule 3).



No. 14 of 2023.

AN ACT

entitled

Public Private Partnership (Amendment) Act 2023,

Being an Act to amend the *Public Private Partnership Act 2014*,

MADE by the National Parliament.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS (AMENDMENT OF SECTION 1).

Section 1 of the Principal Act is amended by deleting in Subsection (3) “and each of the activities described in Subsection (3)”.

2. INTERPRETATION (AMENDMENT OF SECTION 2).

Section 2 of the Principal Act is amended in Subsection (1) -

(a) in the definition of “project” by inserting immediately after the word “originates” the following:

“as”; and

(b) by repealing the definition of “solicited proposal” and replacing it with the following:

““solicited proposal” means a proposal made by a partner to undertake a public private partnership arrangement that is submitted in response to a request solicited by a Relevant Public Body or Public Private Partnership Centre or some other manner determined by the Public Private Partnership Centre;”; and

(c) by inserting after the definition of “the regulations” the following:

““unsolicited proposal” means a proposal made by a partner to undertake a public private partnership arrangement that is submitted at the initiative of the partner rather than in response to a request solicited by a Relevant Public Body.”.

3. APPOINTMENT OF CHIEF EXECUTIVE OFFICER (AMENDMENT OF SECTION 20).

Section 20 of the Principal Act is amended in Subsection (5) by deleting the word “appointment” and replacing it with the word “appointments”.

4. PPP CENTRE TENDERS AND CONTRACTS (REPEAL AND REPLACEMENT OF SECTION 27).

Section 27 of the Principal Act is repealed and replaced with the following new section:

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“27. PUBLIC PRIVATE PARTNERSHIP CENTRE TENDERS AND CONTRACTS.

(1) The procurement of goods, works and services by the PPP Centre for its operations is excluded from the *National Procurement Act 2018*.

(2) The PPP Centre shall have the authority to procure goods, works and services for its operation in accordance with procurement procedures established by the PPP Steering Group.”.

5. PPP CENTRE SIX MONTHLY REPORT (AMENDMENT OF SECTION 28).

Section 28 of the Principal Act is amended by repealing Subsection (1) and replacing it with following new subsection:

“(1) Subject to this section, the PPP Centre shall, within 3 months after the end of each six monthly period, furnish to the responsible Minister a report of the affairs of the PPP Centre during that six monthly period, and a copy of that report shall be furnished to the departmental head of the department of the responsible Minister.”.

6. ESTABLISHMENT OF PUBLIC PRIVATE PARTNERSHIP STEERING GROUP (AMENDMENT OF SECTION 41).

Section 41 of the Principal Act is amended -

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

“(2) The PPP Steering Group shall comprise of only one representative of each department of the following *ex-officio* members:

- (a) the departmental head, acting head, or any person nominated or delegated from the department under the portfolio of the responsible Minister, as Chairman; and
- (b) the departmental head, acting head, or any other person nominated or delegated from the department responsible for treasury matters; and
- (c) the departmental head, acting head, or any other person nominated or delegated from the department responsible for national planning matters; and
- (d) the departmental head, acting head, or any person nominated or delegated from the department responsible for finance matters; and
- (e) the State Solicitor or Acting State Solicitor, or any person from Office of the State Solicitor nominated or delegated in writing by the State Solicitor.”.

(b) by repealing Subsection (4) and replacing it with the following new subsection:

“(4) The Public Private Partnership Steering Group may -

- (a) co-opt to be a member of the PPP Steering Group, the head of a Relevant Public Body or any person nominated or delegated from that Relevant Public Body, during such period and on such terms and conditions as the PPP Steering Group is considering a project within a Relevant Public Body’s area of responsibility; or

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- (b) invite any person to attend a meeting of the PPP Steering Group for the purpose of presenting information or advice.”.

7. MEETINGS OF PPP STEERING GROUP (AMENDMENT OF SECTION 42).

Section 42 of the Principal Act is amended in Subsection (2) Paragraph (a) by deleting the word “two” and substituting it with the word “three”.

8. CONVENING OF PROCEEDINGS AT PUBLIC PRIVATE PARTNERSHIP FORUM (AMENDMENT OF SECTION 48).

Section 48 of the Principal Act is amended -

- (a) in Subsection (6) by deleting the word “after” where it first occurs; and
- (b) in Subsection (6A) by deleting the word “request” and replacing it with the word “requests”.

9. RELEVANT PUBLIC BODY (AMENDMENT OF SCHEDULE 1).

Schedule 1 of the Principal Act is amended by deleting the word “carried” and replacing it with the words “carries no”.

10. INFRASTRUCTURE (AMENDMENT OF SCHEDULE 2).

Schedule 2 of the Principal Act is amended -

- (a) in Paragraph (a) by repealing the words “including dams for hydro power” and replacing it with the following words:
 - “including renewable energy and associated renewable energy facilities”; and
- (b) by repealing Paragraph (d) and replacing it with the following new paragraph:
 - “(d) for telecommunications and information technology networks including fixed or mobile local telephony, domestic long-distance telephony, internet and broadband and facilities related to the launching operation or use of satellites, broadcasting facilities, database or geo-spatial infrastructure and other space infrastructure; and”.

11. PUBLIC PRIVATE PARTNERSHIP ARRANGEMENT (AMENDMENT OF SCHEDULE 3).

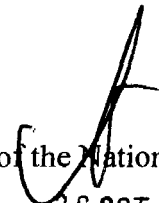
Schedule 3 of the Principal Act is amended by repealing the definition of “public private partnership arrangement” and replacing it with the following:

- “public private partnership arrangement” means an arrangement with a person, other than a Relevant Public Body, who is referred to as a partner in this Act, to perform the functions specified in the arrangement in relation to -
- (a) the design and construction of infrastructure including -
 - (i) the operation of services relating to the design and construction of infrastructure; and
 - (ii) the provision of finance, if required -
 - (A) for design; and
 - (B) construction; and
 - (C) operation; or

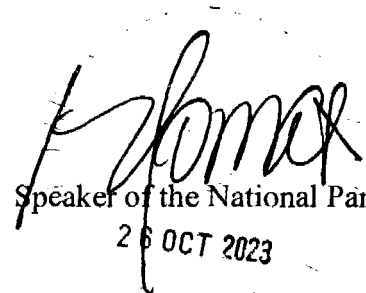
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- (b) the construction of infrastructure, including the provision of finance, for design and construction and operation; or
- (c) the provision of services, including maintenance, relating to infrastructure for not less than five years and the provision of finance, if required, for services, but a public private partnership arrangement does not include -
 - (i) arrangement to procure a project with a size or value of less than the referral threshold in Section 2; or
 - (ii) mining projects under the ***Mining Act 1992*** and associated development agreements; or
 - (iii) gas projects and petroleum projects under the ***Oil and Gas Act 1998*** and associated development agreements; or
 - (iv) unconventional hydrocarbon projects under the ***Unconventional Hydrocarbons Act 2015*** and associated development agreements; or
 - (v) an infrastructure project in relation to which the expenditure is predominantly comprised of expenditure deemed under Section 219C of the ***Income Tax Act 1959*** to be income tax in any tax year.”.

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


Clerk of the National Parliament.
26 OCT 2023

I hereby certify that the ***Public Private Partnership (Amendment) Act 2023***, was made by the National Parliament on 9 August 2023, by an absolute majority in accordance with the ***Constitution***.


Speaker of the National Parliament.
26 OCT 2023