

CHAPTER K17 - KWARA STATE ESSENTIAL DRUGS PROGRAMME LAW

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- (d) to provide training programme for its personnel and health workers whose functions have direct bearing on the success of the programme to meet the objectives set for the Programme; and
- (e) to introduce cost recovery mechanism that shall lead to self financing at the end of the World Bank participation.

[No. 4 of 2006.]

5. Functions of the Programme

(1) Without prejudice to the general effect of section 4, it shall be the responsibility of the Programme—

- (a) to make essential drugs available to the entire population of the State; and
- (b) to ensure that available drugs are safe effective, accessible and affordable to all levels of primary, secondary and tertiary health care systems.

(2) The Programme may also do all such acts set out in section 4 and implement the functions specified in subsection (1) of this section.

[No. 4 of 2006.]

6. The Programme may delegate its functions

The Programme may with the approval of the Governor and subject to such condition as it may think fit, by writing, delegate any of its function under this Law to any person and may at any time in like manner revoke such delegation.

[No. 4 of 2006.]

PART III

The State Steering Committee

7. Establishment of Committee

The Programme shall have a governing body to be known as the State Steering Committee (in this Law referred to as "Committee") which shall be responsible for overseeing the business and functions of the Programme.

8. Membership of the Committee

The Committee shall consist of the following members—

- (a) the Commissioner for Health who shall be the Chairman;

- (b) a representative of the Permanent Secretary to the Governor's Office;
- (c) the Attorney-General and Commissioner for Justice (or his representative);
- (d) the Commissioner for Finance (or his representative);
- (e) the Commissioner for Works (or his representative);
- (f) the Permanent Secretary Ministry of Health;
- (g) the Permanent Secretary Ministry of Local Government (or his representative);
- (h) the Programme Manager;
- (i) the Assistant Programme Manager (Technical);
- (j) the Assistant Programme Manager (Finance) or the Finance Controller;
- (k) the Director Pharmaceutical Services;
- (l) the Director Medical Service and Training.

[No. 4 of 2006.]

9. Functions of the Committee

Subject to this Law the Committee shall be charged with the formulation of policy for monitoring and performance evaluation of the Programme.

10. Permanent Secretary

(1) The Programme shall have an officer to be designated as "the Permanent Secretary".

(2) The Permanent Secretary to the Steering Committee shall be the Programme Manager.

(3) The Permanent Secretary shall—

(a) act as permanent secretary to the Committee; and

(b) in consultation with the Chairman of the Committee arrange the business for and cause to be recorded and kept minutes of all meeting of the Committee.

(4) The Permanent Secretary shall also perform such functions as the Committee may by writing direct.

[No. 4 of 2006.]

11. Procedure of Committee meeting

(a) the Chairman of the Committee shall preside at any meeting of the Committee at which he is present and in his absence, any member of the Committee elected by voting members present shall preside at that meeting;

(b) the quorum at any meeting of the Committee shall be six with at least three members being representatives of other ministries;

(c) the Committee may co-opt any person into its meeting. The person so co-opted shall not have a voting right nor count towards a quorum;

- (d) the validity of any proceeding of the Committee shall not be affected by the vacancy among its members or by any defect in the appointment of any of them;
- (e) a member who is in any way directly or indirectly interested in any company or firm with which the Programme propose to enter into a contract, shall disclose the nature of his interest in such contracts, at a meeting of the Committee;
- (f) a disclosure under paragraph (e) shall be recorded in the Minutes of the Committee and the member—
 - (i) shall not take part after the disclosure in any deliberation or decision of the Committee with respect to the company or firm, the contract or the transaction or project referred to in paragraph (e); and
 - (ii) shall be disregarded for the purpose of forming a quorum of the Committee for any such deliberation or decision.
- (g) for the purpose of paragraph (e), a general notice given at a meeting of the Committee by a member to the effect that he is a member of specified company or firm and is to be regarded as interested in any contact or transaction or project of the Committee concerning the company or firm, shall be regarded as a sufficient disclosure of the interest in relation to that contract or transaction or project;
- (h) a member need not attend in person at any meeting of the Committee in order to make any disclosure which he is require to make under paragraph (e) if he takes reasonable steps to secure

that the disclosure is made by notice which is brought up and read at the meeting;

- (I) any member who infringes paragraph (e) shall be liable to be removed from the Committee;
- (j) except as otherwise expressly provided under this section, the Committee shall prescribe the procedure for its meetings.

[No. 4 of 2006.]

12. Sub-committees

(1) For the effective discharge of its functions under this Law, the Committee shall appoint such sub-committees comprising members of the Committee or non-members or both as may be necessary.

[No. 4 of 2006.]

- (2) A sub-committee shall perform such functions as the Committee may delegate to it.
- (3) Where the Committee has delegated any function to a sub-committee under this section, then except where the context otherwise requires, any reference in this Law to the Committee shall, in relation to that function, include a reference to the sub-committee.
- (4) The Committee may in particular cause to be established in any department of Ministry of Health whose functions relate to the functions of the Programme a Technical Committee designated as "the Essential Drugs Service" to facilitate the implementation of Statewide Essential Drugs Programme and to advise the Programme Manager thereon.

13. Emoluments for members of the Committee

There shall be paid to the members of the Committee in respect of their membership such subsistence, traveling and other allowances as the Governor may approve in relation to the performance of their statutory duties on the Programme.

PART IV

Management and Staff of the Programme

14. Programme Manager

(1) There shall be an officer designated as "the Programme Manager" who shall be the Chief Executive and shall be responsible for the day to day administration of the Programme and also carry out other functions such as execution of policies as the Committee may from time to time direct.

[No. 4 of 2006.]

(2) The person to be appointed the Programme Manager shall be a pharmacist with not less than fifteen years working experience and shown capacity in commercial matters.

(3) The Programme Manager shall be appointed on the recommendation of the Steering Committee by the Governor and shall hold office upon such terms and conditions as may be specified in his instrument of appointment.

15. Departments of the Programme and their functions

(1) The departments, of the Programme and their functions shall be—

(a) Administrative and Logistic Department which shall—

- (i) perform the administrative duties of the Programme, organising periodic on the job training for all levels of personnel on drug utilisation and related matters and organising in-service formal training;
 - (ii) ensure quality assurance of drugs to be distributed for the use of the populace;
- (b) Technical Department charged with control of the central medical stores and procurement unit and shall—
 - (i) deal with national and international drugs tender;
 - (ii) be responsible for monitoring order status, port clearance and other drug procurement matters; and
 - (iii) ensure the delivery of drugs procured by the Programme to the State C.M.S. and the distribution and the use of such drugs;

[No. 4 of 2006.]
- (c) Finance Department charged with the duty of—
 - (i) overseeing all financial management aspects of the Programme;
 - (ii) rendering financial advice to the Management; and
 - (iii) responsible for overseeing the Computer Unit of the Programme;

- (d) Audit and Monitoring Department with which is—
 - (i) to carry out prepayment audit on all finance and non-financial transactions towards the safeguard of the assets and properties of the Programme;
 - (ii) to carry out such function towards the safeguard of the assets and properties of the Programme;
 - (iii) to develop, implement and co-ordinate any supervision, monitoring and evaluation activity;
 - (iv) ensure that drugs supply management and Financial accounting are properly conducted in all State health institutions and Local Government Area Medical Stores.

16. Establishment of units

(1) The Programme Manager may establish such units and appoint officers to man the units as he may deem fit for the successful implementation of the Programme.

(2) The units shall perform such other functions as may be assigned to them by the Programme Manager.

17. Appointment of Heads of Departments and others

- (1) A person shall be appointed Head of Department if—
 - (a) such person has applied to the Committee;
 - (b) such a person has attended an interview conducted by the

Committee; and

- (c) such a person holds a bachelor's degree, or its equivalent, in relevant field plus required number of years of post qualification experience as prescribed by the committee.

(2) A Head of Programme shall be on a special salary grade level or a grade level not lower than 16.

(3) The Assistant Project Manager (Finance and Technical) shall be on commensurate special salary grade level or grade level not lower than 15 or as may be prescribed by the Committee.

(4) The Medical Store Manager, Procurement Officer and Quality Control Officer shall be pharmacists and shall be on commensurate salary grade levels, or salary grade levels commensurate to the their status, as may be prescribed by the Committee.

(5) The Education Officer shall be on salary grade level as may be prescribed by the Committee.

(6) The Programme Auditor and Programme Accountant shall be on applicable salary grade levels as may be prescribed by the Committee.

18. Staff of the Programme

(1) Without prejudice to section 16, subsections (1)–(6) the staff of the Programme may comprise of staff seconded, deployed or transferred from the Ministry of Health or any other relevant Ministry or Department and direct recruitment as may be approved by the Committee where the required staff cannot be sourced from government establishment.

[No. 4 of 2006.]

(2) The Programme may, from time to time, engage such supporting

staff as may be necessary for the proper and efficient conduct of the business and functions of the Programme.

(3) The Committee shall, on the recommendation of the Management, be responsible for the appointment, promotion, discipline, or removal of a person in respect of any other office in the Programme.

19. Consultant to the Programme

The Programme may engage the services of such consultants and advisers as the Programme may, upon the recommendation of the Management, determine.

20. Internal auditors

(1) The Programme shall have an Internal Auditor to be assisted by other auditors, to be in charge of Drug Revolving Fund monitoring and prepayment auditing.

(2) Subject to this Law, the Internal Auditor shall be responsible to the Programme Manager in the performance of his functions.

(3) As part of his functions under this Law, the Internal Auditor shall, at intervals of three months, prepare a report on the internal work carried out by him during the period of three months immediately preceding the preparation of the report, and submit the report to the Programme Manager who shall convene a meeting of the Management, as soon as possible, to discuss the Internal Auditor's report.

(4) Without prejudice to the general effect of subsection (3), the Internal Auditor shall make in each report such observations as appear to him necessary as to the conduct of the financial affairs of the Programme during the period to which the report relates.

(5) The Internal Auditor shall send a copy of each report prepared by him under this section to the Governor and also to each of the following—

- (a) the Chairman of the Committee; and
- (b) the State Commissioner responsible for Finance and Economic Development.

PART V

Financial Provisions

21. Funds

The funds of the programme shall consist of—

- (a) sums provided by the Government, which shall make regular annual budgetary provision and releases;
- (b) sums as may from time to time be advanced by way of loans or grants to the Programme by the Federal, State and Local Governments or international Organisations as may be approved by the Committee;
- (c) sales of drugs and revenue generated from other operations of the Programme.

[No. 4 of 2006.]

22. Estimates of income and expenditure

(1) The Programme shall submit to the Governor at such times and in such form as the Governor may, in consultation with the Committee, direct, detailed estimates of the Programme's income and expenditure for the

following financial year.

(2) The expenditure of the Programme shall be in accordance with the estimates as approved by the Committee.

23. Bank account

The Programme shall have bank accounts in such bank as the Committee may determine for the running of the Programme.

24. Account status and audit

(1) The Programme shall be self accounting by status.

(2) The Programme shall have an External Statutory Independent Auditor to be appointed by the Committee and such auditor should only be responsible to the Committee.

(3) The books and account of the Programme shall be prepared by the management, and within six months after the end of each financial year, be audited in accordance with section 125 of the Constitution of the Federal Republic of Nigeria.

[No. 4 of 2006.]

(4) It shall be the duty of the Committee as soon as possible upon receiving the report of the External Auditor under this section to forward a copy of such report to the Governor.

(5) The Governor shall, as soon as practicable, upon receipt thereof cause to be laid before the State Executive Council a copy of the External Auditor's report forwarded to him under this section together with the State Auditor-General's comments (if any).

25. Surcharge

(1) Where after receiving a copy of the Auditor's Report the Commissioner for Health or the Steering Committee is satisfied that—

- (a) any sum due to the Programme has not been duly brought to account by any person by whom such sums ought to have been brought into account; or
- (b) a deficiency in the monies or destruction of the property of the Programme occurred by reason of the negligence, breach of official duty or other misconduct of any persons, the Committee may surcharge the amount of such loss or destruction of the property upon that person.

(2) Before exercising his powers under subsection (1), the Commissioner for Health may by writing, appoint a person to conduct an inquiry for the purpose of determining the cause or extent or value of deficiency, loss or destruction referred to in subsection (1).

(3) If the Commissioner for Health decides to surcharge any amount upon any person under subsection (1), he shall cause a notice to be served on that person or his legal representative to pay the amount surcharged within such period as may be specified in the notice.

(4) Notwithstanding subsections (1) and (3), no liability to surcharge shall be incurred by any person who can prove to the satisfaction of the Commissioner for Health that he acted in pursuance of, or in accordance with the terms of a resolution of the Programme, or any Committee duly appointed under this Law.

26. Recovery of surcharge

Any amount notified as a surcharge under subsection (3) of section 25 may be sued for and recovered in any Court of competent jurisdiction.

27. Appeal against surcharge and compensation

Any person who is—

- (a) aggrieved by the decision of the Commissioner for Health to surcharge any amount upon him; or
- (b) dissatisfied as to the amount of compensation payable under this Law, may appeal to the High Court within thirty days from the date of the decision or the award of the compensation.

PART VI

General

28. Direction by Governor

The Governor may, after consultation with the Committee or the Management, give to the Programme in writing direction of a general character, not being inconsistent with this Law or with contractual or other legal obligations of the Programme, relating to the performance by the Programme of its functions under this Law and the Programme shall give effect to such direction.

29. Annual report

- (1) The Committee shall, as soon as possible after the expiration of each

financial year but within six months after the termination of that year, cause to be submitted to the Governor an annual report of the Programme dealing generally with the activities and operations of the Programme within that year which shall, without prejudice to the generality of the foregoing, include—

- (a) a copy of the audited account of the Programme;
- (b) a statement of all directions given to the Programme under section 27 and details of execution of such directions;
- (c) each report submitted by the Auditor under Section 18 in relation to that financial year; and
- (d) such other information as the Governor may request.

[No. 4 of 2006.]

(2) A copy of the annual accounts and financial report shall be forwarded by the Committee to the State Commissioner responsible for Finance and Economic Development and the Auditor-General for the State.

(3) The Committee shall also submit to the Governor such other report on the Programme's financial affairs as the Governor may, by writing, reasonably request from time to time.

30. Regulations

(1) The Committee may make such regulations as it may think fit for the purpose of giving effect to this Law.

(2) Without prejudice to the general effect of subsection (1), regulations made hereunder may provide for the enforcement of drug revolving fund management procedures and State Essential Drug Policy.

CHAPTER K17

KWARA STATE ESSENTIAL DRUGS PROGRAMME LAW

SUBSIDIARY LEGISLATION

No Subsidiary Legislation