

2023-03-22

### **OBJECTS AND REASONS**

This Bill would amend the *Public Procurement Act, 2021* (Act 2021-30) to clarify the circumstances in which certain procurement arrangements entered into by Barbados will prevail over the Act, make it clear that procurement proceedings may be conducted electronically and simplify the process for registration of suppliers.

*Arrangement of Sections*

1. Short title
2. Amendment of section 3 of Act 2021-30
3. Amendment of section 12 of Act 2021-30
4. Repeal and replacement of section 85 of Act 2021-30
5. Repeal and replacement of section 86 of Act 2021-30
6. Repeal and replacement of section 87 of Act 2021-30
7. Amendment of section 90 of Act 2021-30
8. Commencement

## **BARBADOS**

A Bill entitled

An Act to amend the *Public Procurement Act, 2021*.

ENACTED by the Parliament of Barbados as follows:

### **Short title**

- 1.** This Act may be cited as the *Public Procurement (Amendment) Act, 2023*.

**Amendment of section 3 of Act 2021-30**

**2. Section 3(2) of the Public Procurement Act, 2021 (Act 2021-30), in this Act referred to as the principal Act, is deleted and the following substituted:**

“(2) Notwithstanding subsection (1), to the extent that

- (a) any other provision of this Act conflicts with the Protocol; or
- (b) this Act conflicts with an obligation of the State under or arising out of a treaty or other form of agreement between Barbados and
  - (i) another state, including an agreement for technical or other cooperation;
  - (ii) an authority or agent of another state including a statutory body or other enterprise owned or controlled by the state and a private enterprise acting as an agent of the state; or
  - (iii) an international or regional organization including an international financial institution,

the requirements of the Protocol, treaty or other agreement shall prevail.

(3) For the avoidance of doubt, public procurement proceedings may be conducted wholly or partially by electronic means.”.

**Amendment of section 12 of Act 2021-30**

**3. Section 12(c) and (d) of the principal Act are deleted and the following substituted:**

- “(c) maximizes economy and efficiency and promotes best value for money;
- (d) promotes sustainable development; and

- (e) promotes the socio-economic policies of Government.”.

**Repeal and replacement of section 85 of Act 2021-30**

**4.** *Section 85 of the principal Act is deleted and the following substituted:*

**“Suppliers Register**

**85.(1)** The Chief Procurement Officer shall establish and maintain a register to be called the Suppliers Register.

(2) The Suppliers Register

(a) shall include in respect of every supplier registered pursuant to section 86

- (i) the name, address and other contact information of the supplier;
- (ii) evidence regarding the legal capacity of the supplier to enter into a procurement contract;
- (iii) a statement as to whether the supplier is registered as a supplier of goods, services or works or a combination of the three;
- (iv) the unique registration number assigned to the supplier pursuant to section 86(4); and
- (v) the date of registration; and

(b) may include, where available

- (i) the taxpayer identification number and national insurance number of the supplier;
- (ii) the bank account information of the supplier;

- (iii) any information available as to the eligibility of the supplier to participate in public procurement;
  - (iv) any information available as to the qualifications of the supplier to supply the goods, services or works he proposes to supply;
  - (v) a record of the current and past procurement contracts of the supplier, if any, and of his performance under the contracts; and
  - (vi) such other information as the Chief Procurement Officer may consider appropriate.
- (3) The Chief Procurement Officer shall, twice annually, publicize the existence of the Suppliers Register and the requirement and procedure for suppliers to be registered.
- (4) The entry of the name of a supplier in the Suppliers Register shall not be construed as an indication that the supplier is suitable to participate in any particular procurement.”.

**Repeal and replacement of section 86 of Act 2021-30**

**5.** *Section 86 of the principal Act is deleted and the following substituted:*

**“Suppliers to be registered**

**86.(1)** A procuring entity shall not enter into a procurement contract with a supplier unless the supplier is registered under this section.

(2) The Chief Procurement Officer shall, as soon as practicable after the commencement of this Act, enter in the Suppliers Register, the name of any supplier who

(a) immediately before the commencement of this Act was registered with the Chief Procurement Officer; and

(b) consents to such entry,

and such a supplier shall be taken to be registered for the purposes of this section.

(3) A person other than a supplier described in subsection (2) may apply to the Chief Procurement Officer, in such form as the Chief Procurement Officer may specify, to be registered as a supplier; and the Chief Procurement Officer may register the person upon receipt of the information specified in section 85(2)(a)(i) to (iii).

(4) The Chief Procurement Officer shall issue a unique registration number to every registered supplier.

(5) Registration under this section is valid for one year and may be renewed annually by such date as the Chief Procurement Officer may specify.”.

### **Repeal and replacement of section 87 of Act 2021-30**

**6.** *Section 87 of the principal Act is deleted and the following substituted:*

#### **“Changes affecting registration**

**87.(1)** Where a material change in the circumstances of a supplier renders information submitted to the Chief Procurement Officer for the purposes of registration under section 86 misleading, inaccurate or

incomplete, the supplier shall, as soon as practicable, notify the Chief Procurement Officer in writing of the change.

(2) In subsection (1), “material change” includes a change of the name under which, or the address at which, the supplier conducts business and a change that renders a supplier ineligible to participate in public procurement.

(3) The Chief Procurement Officer shall, where he is satisfied that any information in the Suppliers Register is misleading, inaccurate or incomplete

(a) alter the register to rectify the matter; and

(b) where the alteration was made otherwise than at the request of a supplier but substantially affects the supplier, notify the supplier in writing of the fact of the alteration and the nature of it.”.

**Amendment of section 90 of Act 2021-30**

**7.** *Section 90(1) of the principal Act is amended by inserting after the word “who”, the words “is or”.*

**Commencement**

**8.** *This Act shall come into operation on a day to be fixed by Proclamation.*



Read three times and passed the House of Assembly this  
day of \_\_\_\_\_, 2023.

**Speaker**

Read three times and passed the Senate this \_\_\_\_\_ day of  
, 2023.

**President**