

Zambia

Nurses and Midwives Act, 1970

Chapter 300

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Nurses and Midwives Act, 1970

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Zambia

Nurses and Midwives Act, 1970

Chapter 300

Commenced on 1 December 1970

[This is the version of this document at 31 December 1996.]

[55 of 1970; 10 of 1971; 13 of 1994]

An Act to make further and better provision for the registration, enrolment, control and training of nurses and midwives; to provide for purposes relating to the practice of nursing and midwifery; to establish the General Nursing Council of Zambia; and to provide for matters incidental to or connected with the foregoing.

Part I – Preliminary

1. Short title

This Act may be cited as the Nurses and Midwives Act.

2. Interpretation

(1) In this Act, unless the context otherwise requires—

"Council" means the General Nursing Council of Zambia established by section three;

"Disciplinary Committee" means the Disciplinary Committee of the Council established by section twenty-four;

"Examinations Committee" and **"Executive Committee"** mean respectively the Examinations Committee and the Executive Committee of the Council;

"president" means the president of the Council;

"profession" includes calling;

"register" means the register maintained under this Act, and **"registered"** and **"registration"** shall be construed accordingly;

"Registrar" means the Registrar of the Council;

"roll" means the roll maintained under this Act, and **"enrolled"** and **"enrolment"** shall be construed accordingly.

(2) The following provisions shall have effect in relation to nurses and midwives registered or enrolled under this Act for the purpose of indicating their respective qualifications as nurses or midwives, that is to say:

(a) a nurse whose name is contained in that part of the register containing the names of Registered Nurses shall be entitled to use the description "Registered Nurse" or any abbreviated form of that description approved by the Council;

(b) a midwife whose name is contained in that part of the register containing the names of Registered Midwives shall be entitled to use the description "Registered Midwife" or any abbreviated form of that description approved by the Council;

- (c) a nurse whose name is contained in that part of the roll containing the names of Enrolled Nurses shall be entitled to use the description "Enrolled Nurse" or any abbreviated form of that description approved by the Council;
- (d) a midwife whose name is contained in that part of the roll containing the names of Enrolled Midwives shall be entitled to use the description "Enrolled Midwife" or any abbreviated form of that description approved by the Council.

Part II – General Nursing Council of Zambia

3. Establishment of General Nursing Council of Zambia

- (1) There is hereby established the General Nursing Council of Zambia which shall by that name be a body corporate with perpetual succession and a common seal and shall be capable of suing and being sued and, subject to the provisions of this Act, of doing all such acts as a body corporate may be law perform.
- (2) The Council shall be constituted and shall act in accordance with the provisions of the Schedule.
- (3) The application of the seal of the Council shall be authenticated by the signature of the president or some other member of the Council authorised by the Council to authenticate the application of the seal thereof, and of the Registrar or some other person authorised by the Council to act in his stead in that behalf.

4. Establishment and proceedings of committees of Council

Subject to the provisions of this Act, the Council may appoint from among its members an Executive Committee and an Examinations Committee and such other committees as it may deem expedient and may delegate to a committee such of its powers as it may from time to time determine, and make rules for regulating the proceedings of those committees.

5. Registrar and staff, of Council

- (1) There shall be a Registrar of the Council who shall be appointed by the Council.
- (2) The Registrar shall, in addition to his other functions under this Act, be the secretary of the Council and of all committees thereof and shall, on the instructions of the president or of the chairman of any committee, convene and keep minutes of the proceedings at all meetings of the Council and of any such committee.
- (3) The Council may, whenever the Registrar is absent or is from any other cause prevented from or incapable of discharging the functions of his office, appoint an acting Registrar to discharge those functions and may appoint such other employees of the Council as it thinks fit.
- (4) The Registrar, acting Registrar or other employee of the Council shall hold office on such conditions as the Council may, with the approval of the Minister, determine.

6. Office of Council

The office of the Council shall be at Lusaka, but this provision shall not prevent the holding of meetings of the Council or of any committee thereof at any other place.

7. Funds of Council

- (1) The funds of the Council shall consist of—
 - (a) all fees and other moneys payable to the Council in pursuance of this Act; and

- (b) such moneys as may be payable to the Council out of moneys appropriated by Parliament; and
 - (c) such other moneys and assets as may vest in or accrue to the Council whether in the course of the discharge of its functions or otherwise.
- (2) There shall be paid from the funds of the Council—
 - (a) the remuneration and allowances of the Registrar and of other employees of the Council; and
 - (b) such reasonable travelling, transport and subsistence expenses of members of the Council when engaged on the business of the Council as the Council may, with the approval of the Minister, determine; and
 - (c) any other expenses incurred by the Council in the discharge of its functions.

8. Accounts and audit

- (1) The financial year of the Council shall be the period of twelve months ending on the 31st December in each year:

Provided that the first financial year of the Council shall be the period commencing on the date of establishment of the Council and ending on the 31st December next following.
- (2) The Council shall keep proper books of account and other records relating thereto.
- (3) The Council shall prepare in respect of each financial year a statement of account and a balance sheet showing, in all necessary detail, the income and expenditure and the assets and liabilities of the Council.
- (4) The accounts of the Council for each financial year of the Council shall be audited by the Auditor-General and, for that purpose, the Auditor-General and any person authorised by him shall have access to all books and other records relating to such accounts.
- (5) The Auditor-General shall, not later than twelve months after the end of each financial year of the Council, submit a report on the accounts of the Council for that financial year to the Council and to the Minister, and the Minister shall, not later than seven days after the first sitting of the National Assembly next after the receipt by him of such report, lay the report before the National Assembly.
- (6) In the exercise of his functions under this section, the Auditor-General shall not be subject to the direction or control of any other person or authority.

Part III – Registration and enrolment

9. Establishment of register and roll

- (1) The Council shall cause to be prepared and maintained a register of nurses and midwives which shall consist of—
 - (a) a general part containing the names of all nurses and midwives who satisfy the conditions of admission thereto;
 - (b) a part containing the names of Registered Nurses;
 - (c) a part containing the names of Registered Midwives;
 - (d) a part containing the names of Registered Nurses trained in the nursing and care of persons suffering from mental diseases;
 - (e) a part containing the names of Registered Nurses trained in the nursing of sick children;

- (f) a part containing the names of persons qualified as tutors for the training of nurses and midwives; and
 - (g) such other parts as may be prescribed.
- (2) The Council shall cause to be prepared and maintained a roll of nurses and midwives which shall consist of—
 - (a) a general part containing the names of all nurses and midwives who satisfy the conditions of admission thereto;
 - (b) a part containing the names of Enrolled Nurses;
 - (c) a part containing the names of Enrolled Midwives; and
 - (d) such other parts as may be prescribed.
- (3) Where a person satisfies the conditions of admission to a part of the register or of the roll other than the general part thereof, his name may be included in that other part notwithstanding that it is also included in the general part.
- (4) A registered person shall not be entitled to be admitted to, nor shall his name be entered in, the roll, and, where any enrolled person is admitted to the register under this Act, his name shall be deleted from the roll and he shall cease to be an enrolled person.

10. General provisions as to admission to register and roll

- (1) The Council shall, after consultation with the Minister, make rules for regulating the conditions of admission to the register and to the roll respectively, and for the conduct of any examinations which may be prescribed as a condition of admission thereto and any matters ancillary to or connected with such examinations, and any such rules shall contain provisions—
 - (a) requiring, as a condition of the admission of any person to the register or to the roll, that that person shall have undergone the prescribed training and shall possess the prescribed experience in nursing; and
 - (b) requiring that the prescribed training shall be carried out in an institution approved by the Council.
- (2) There shall be paid to the Council in respect of every application to be examined or to be registered or enrolled such fees as the Council may, with the approval of the Minister, from time to time determine.

11. Appeal against refusal of registration or enrolment

- (1) If a person seeking registration or enrolment is refused such registration or enrolment, the Registrar shall, if required to do so, state in writing the reason for the refusal and the person refused may appeal to the High Court.
- (2) On any appeal under this section, the Council shall be the respondent.
- (3) The High Court may on any appeal under this section—
 - (a) dismiss the appeal;
 - (b) direct that the appellant is to be treated as having proved or shown any of the matters in question;
 - (c) remit the case to the Council for further consideration;
 - (d) make such other order as to costs or otherwise as may to it seem just.
- (4) The Chief Justice may make rules regulating appeals to the High Court under this section.

12. Removal from and restoration to register or roll

- (1) The Council shall make rules prescribing—
 - (a) the circumstances and the manner in which persons may be removed by the Council from the register and from the roll respectively; and
 - (b) the circumstances and the manner in which persons who have been removed from the register or the roll may be restored thereto, and the fee payable in respect of any such restoration.
- (2) Any person removed by the Council from the register in accordance with rules made under this section in that behalf shall cease to be a registered person, and any person removed by the Council from the roll in accordance with rules made under this section in that behalf shall cease to be an enrolled person:

Provided that nothing in this subsection shall prejudice the restoration of any person to the register or the roll in accordance with rules made under this section in that behalf.

13. Custody and keeping of register and roll

- (1) The register and the roll shall be kept in the custody of the Registrar at the office of the Council and shall be open to inspection by any person without charge during usual business hours.
- (2) It shall be the duty of the Registrar to prepare and maintain the register and the roll correctly and in accordance with this Act and any directions given under this Act, to delete therefrom the names of persons who have died, and from time to time to make the necessary alterations in the register or the roll in respect of the particulars entered therein relating to registered persons or enrolled persons, as the case may be.
- (3) For the purposes of subsection (2), it shall be the duty of every registered or enrolled person who changes his address to notify the fact to the Registrar within one month after the change.

14. Publication of copies of register and roll

- (1) The Registrar shall from time to time, under the authority of the Council, cause copies of the register and of the roll, or of supplementary lists relating thereto showing all alterations, additions and deletions made since the last publication of the complete register or roll, as the case may be, to be printed and published.
- (2) Copies of the register and of the roll shall be printed and published in such form as the Council may direct.

15. Published copies of register and roll to be evidence

- (1) Subject to the provisions of this section, a copy of the last published issue of a copy of the register or of the roll, or of any supplementary list relating thereto, purporting to have been printed and published under the authority of the Council, shall be *prima facie* evidence admissible in all legal proceedings in proof of the facts stated therein, and the absence of the name of any person from such copy shall be *prima facie* evidence that such person is not registered or enrolled, as the case may be.
- (2) Where a person is registered or enrolled, as the case may be, after the date of the last published issue of a copy of the register or of the roll, a copy of the entries in the register or the roll relating to that person certified under the hand of the Registrar shall be evidence that such person is registered or enrolled, as the case may be.
- (3) Where the name of a person has been deleted from the register or from the roll after the date of the last published issue of a copy thereof, a certificate under the hand of the Registrar stating that the

name has been deleted therefrom shall be evidence that such person is not registered or, as the case may be, is not enrolled.

Part IV – Training

16. Power of Council to consider matters relating to training

- (1) The Council may consider and, if it thinks fit, report to the Minister upon all matters relating to professional and technical training and other qualifications required for admission to the register or to the roll and the conditions of practice after registration or enrolment.
- (2) The Minister may require the Council to advise him on any matter referred to in subsection (1).

17. Diplomas and certificates of competency

- (1) The Council may institute diplomas and certificates of competency for nurses and midwives and may issue diplomas or certificates so instituted to persons who have qualified therefor in accordance with rules made under section eighteen.
- (2) The Registrar shall keep lists of all persons to whom a diploma or certificate instituted under this section has been issued.
- (3) A diploma or certificate instituted under this section may be prescribed under section ten as a primary qualification for the purpose of registration or enrolment.

18. Rules relating to training

The Council may, by statutory instrument, make rules as to—

- (a) the form of diplomas or certificates of competency instituted by the Council;
- (b) the issue of duplicates and certified copies of diplomas and certificates of competency issued by the Council and the fees payable to the Council therefor;
- (c) the requirements to be fulfilled by persons as a condition of the issue of a diploma or certificate of competency to them, including the training and courses of instruction to be undergone and the examinations to be passed, and exemptions from the fulfilment of such requirements;
- (d) the institutions and other places at which the training and courses of instruction referred to in paragraph (c) shall be undergone, the age and standard of education and character required to qualify persons to undergo such training and courses of instruction and the supervision of persons undergoing such training and courses of instruction;
- (e) the holding of examinations referred to in paragraph (c) including—
 - (i) the appointment and remuneration of examiners, moderators and invigilators;
 - (ii) the entry and disqualification of candidates for examination;
 - (iii) the fees payable to the Council by candidates for examination; and
 - (iv) the publication of the results of examinations;
- (f) the functions of the Examinations Committee in relation to any of the foregoing matters.

Part V – Prohibitions and restrictions

19. Prohibition of falsely professing to be registered or enrolled

Any person, not being registered or enrolled, who by any means whatsoever holds himself out to be a registered or enrolled nurse or a registered or enrolled midwife, or uses any name, title, description or symbol indicating or calculated to lead persons to infer that he is such a nurse or midwife shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand five hundred penalty units.

[As amended by Act [No. 13 of 1994](#)]

20. Prohibition of false assumption or use of title, uniform, badge, etc., relating to registered or enrolled persons

(1) Any person who—

- (a) not being registered, takes or uses the name or title of registered nurse or registered midwife, either alone or in combination with any other words or letters, or any name, title, addition, description, uniform or badge implying that he is registered or recognised by law as registered; or
- (b) not being enrolled, takes or uses the name or title of enrolled nurse or enrolled midwife, either alone or in combination with any other words or letters, or any name, title, addition, description, uniform or badge implying that he is enrolled or recognised by law as enrolled; or
- (c) being a person whose name is included in any part of the register or of the roll, takes or uses any name, title, addition, description, uniform or badge, or otherwise does any act of any kind, implying that his name is included in some other part of the register or of the roll, as the case may be; or
- (d) at any time, with intent to deceive, makes use of any certificate of registration or of enrolment issued to him or to any other person;

shall be guilty of an offence and liable on conviction to a fine not exceeding, in the case of a first offence, three hundred penalty units or, in the case of a second or any subsequent offence, one thousand five hundred penalty units.

- (2) Any person who, knowing that some other person is not registered or enrolled, makes any statement or does any act calculated to suggest that that person is registered or enrolled, shall be guilty of an offence and liable on conviction to a fine not exceeding, in the case of a first offence, three hundred penalty units or, in the case of a second or any subsequent offence, one thousand five hundred penalty units.

[As amended by Act [No. 13 of 1994](#)]

21. Falsification of register or roll

Any person who wilfully makes, or causes to be made, a falsification in a matter relating to the register or the roll shall be guilty of an offence and liable on conviction to a fine not exceeding three thousand penalty units.

[As amended by Act [No. 13 of 1994](#)]

22. Fees for prohibited acts not recoverable

No remuneration or reward shall be recoverable by legal proceedings in respect of any act pertaining to the profession of a registered or enrolled person where such act is performed by a person who is prohibited by this Act from performing such act for gain.

23. Uniforms and badges

- (1) The Minister may, after considering the recommendations of the Council in that behalf, by statutory instrument, make regulations specifying distinctive uniforms, badges or tokens which may be worn or used by registered persons and enrolled persons respectively, and prohibiting the wearing or use of such uniforms, badges or tokens or any imitation thereof by any person not qualified to wear or use them.
- (2) Any person who contravenes the provisions of any regulations made under this section shall be guilty of an offence and liable on conviction to a fine not exceeding seven hundred and fifty penalty units.

[As amended by Act [No. 13 of 1994](#)]

Part VI – Discipline

24. Disciplinary Committee of Council

- (1) There shall be a committee of the Council styled the Disciplinary Committee which shall consist of –
 - (a) the president, who shall be member *ex officio*; and
 - (b) six appointed members who shall be registered persons nominated by the Council and appointed by the Minister.
- (2) An appointed member of the Disciplinary Committee shall hold office for twelve months and shall, on ceasing to be a member, be eligible for re-appointment.
- (3) An appointed member of the Disciplinary Committee may at any time, by notice in writing to the Minister, resign his office.
- (4) The president shall be the chairman of the Disciplinary Committee and shall preside at all meetings of the Disciplinary Committee at which he is present, and, in the absence of the president from any meeting thereof, the members present shall elect one of their number to preside at that meeting.
- (5) A registered person may be appointed by the Council to fill a causal vacancy in the appointed membership of the Disciplinary Committee occurring by reason of resignation, death or otherwise, but he shall hold office only so long as the member in whose stead he is so appointed would have held office.
- (6) During the absence from Zambia of any appointed member of the Disciplinary Committee, the Council may appoint any registered person to be a temporary member in place of the absent member for the period of his absence or until the expiration of his term of office, whichever first occurs, and a temporary member so appointed shall be deemed for all purposes to be a member of the Disciplinary Committee during that period.

25. Proceedings of Disciplinary Committee

- (1) At any meeting of the Disciplinary Committee three members shall form a quorum.
- (2) Any question proposed for decision by the Disciplinary Committee shall be determined by a majority of votes of the members present at a meeting of the Committee at which a quorum is present, and every member so present shall record a vote.
- (3) Each member present at a meeting of the Disciplinary Committee shall have one vote on a question proposed for decision by the Committee, and, in the event of any equality of votes, the president, or the member presiding in the absence of the president, shall have a casting vote in addition to a deliberative vote.

26. Powers of Disciplinary Committee and inquiries

- (1) The Disciplinary Committee may exercise such functions as are conferred upon it by or under this Part and may conduct an inquiry into any matter referred to it for inquiry for the purposes of this Part.
- (2) For the purposes of any inquiry by it, the Disciplinary Committee may hear and receive evidence and may, under the hand of the president or of the Registrar, subpoena witnesses and require the production of any book, record, document or thing, and may, through the president, administer an oath to any witness.
- (3) Any person summoned to attend before the Disciplinary Committee who, without sufficient cause—
 - (a) refuses or fails to attend at the time and place specified in the summons; or
 - (b) having attended, refuses to be sworn; or
 - (c) having been sworn—
 - (i) refuses to answer, or to answer fully and satisfactorily to the best of his knowledge and belief, any question lawfully put to him; or
 - (ii) refuses to produce any book, record, document or thing which he has been required by summons to produce; or
 - (iii) gives false evidence, knowing it to be false or not believing it to be true;

shall be guilty of an offence and liable on conviction, for every such refusal or failure, to a fine not exceeding one thousand five hundred penalty units:

Provided that no person shall be compelled to answer any question or produce any book, record, document or thing which he could not be compelled to answer or produce if he were an accused person or a witness, as the case may be, in criminal proceedings in the High Court.

[As amended by Act [No. 13 of 1994](#)]

27. Disciplinary powers

- (1) If any registered or enrolled person is, after due inquiry, judged by the Disciplinary Committee to have been guilty of infamous conduct in any professional respect, the Disciplinary Committee may, if it thinks fit, impose one or more of the following penalties, that is to say:
 - (a) direct the deletion of his name from the register or the roll;
 - (b) censure him;
 - (c) caution him and postpone for a period not exceeding one year any further action against him on one or more conditions as to his conduct during that period;
 - (d) order him to pay to the Council any costs of and incidental to the proceedings incurred by the Council.
- (2) If any registered or enrolled person is, after due inquiry, judged by the Disciplinary Committee to have become mentally or physically disabled to the extent that the continued practice by such person of his profession is contrary to the public welfare, the Disciplinary Committee shall direct the deletion of his name from the register or from the roll, as the case may be, and may, if it thinks fit, order him to pay to the Council any costs of and incidental to the proceedings incurred by the Council.
- (3) In any inquiry under this Part, any finding of fact which is shown to have been made in—
 - (a) any criminal proceedings in a court in Zambia; or

- (b) any matrimonial proceedings in the High Court or the Court of Appeal;
shall be conclusive evidence of the fact found.
- (4) If, after due inquiry, the Disciplinary Committee is satisfied that during the period of any postponement under paragraph (c) of subsection (1) a person has not complied with the conditions imposed thereunder, the Disciplinary Committee may, if it thinks fit, impose any one or more of the penalties mentioned in paragraphs (a), (b) or (d) of that subsection.
- (5) A certificate under the hand of the president that any costs have been ordered to be paid by a person under this section shall be conclusive evidence thereof.

28. Restoration of names to register or roll

- (1) Where the name of a person has been deleted from the register or from the roll in pursuance of a direction given under section twenty-seven, the Disciplinary Committee may, if it thinks fit, at any time direct the restoration of his name thereto:

Provided that an application for the restoration of a name as aforesaid shall not be made to the Disciplinary Committee—
 - (a) before the expiration of six months from the date of deletion; or
 - (b) within a period of six months from the consideration by the Disciplinary Committee of a previous application in that behalf.
- (2) There shall be payable to the Council by any person on the restoration of his name to the register or the roll in pursuance of a direction given under this section the like fees as would be payable by that person on first becoming registered or enrolled, as the case may be.

29. Deletions from register or roll on grounds of fraud or error

- (1) If the Disciplinary Committee is satisfied that any entry made in the register or in the roll has been fraudulently or incorrectly made, the Disciplinary Committee may direct that the entry shall be deleted therefrom.
- (2) A person may be registered or enrolled under this Act notwithstanding that his name has been deleted in pursuance of a direction under subsection (1), but if such deletion was made on the ground of fraud he shall not be registered or enrolled, as the case may be, except on an application in that behalf to the Disciplinary Committee; and, on any such application, the Disciplinary Committee may, if it thinks fit, direct that such person shall not be registered or, as the case may be, shall not be enrolled or may be so registered or enrolled after the expiration of such period as may be specified in the direction.

30. Appeals

- (1) Where the Disciplinary Committee—
 - (a) makes a finding and imposes a penalty on a registered or enrolled person under section twenty-seven; or
 - (b) rejects an application for the restoration of a name to the register or to the roll under section twenty-eight; or
 - (c) directs the deletion of an entry from the register or from the roll under section twenty-nine;the Registrar shall give notice in writing thereof to the person to whom the proceedings relate, and such person may, within ninety days of the date on which notice was given, appeal to the High Court.
- (2) On any appeal under this section, the Council shall be the respondent.

- (3) No direction for the deletion of the name of a registered or enrolled person under section twenty-seven or twenty-nine shall take effect until the expiration of the time for appealing or, if the appeal is brought, until such time as the appeal is disposed of, withdrawn or struck out for want of prosecution, as the case may be.
- (4) The High Court may, on any appeal under this section—
 - (a) confirm, vary or set aside any finding of or penalty imposed or direction given by the Disciplinary Committee;
 - (b) confirm the rejection by the Disciplinary Committee of an application for restoration of name or direct the restoration of the name to the register or to the roll, as the case requires;
 - (c) remit the matter to the Disciplinary Committee for further consideration;
 - (d) make such other order as to costs or otherwise as may to it seem just:

Provided that no proceedings of the Disciplinary Committee shall be set aside by reason only of informality in those proceedings which did not prejudice or embarrass the appellant.
- (5) The Chief Justice may make rules regulating appeals to the High Court under this section.

31. Rules relating to disciplinary proceedings

- (1) The Council may make rules as to—
 - (a) the acts or omissions on the part of a registered or enrolled person which shall constitute infamous conduct in a professional respect;
 - (b) the times and places of the meetings of the Disciplinary Committee and the mode of summoning the members;
 - (c) the form and manner of service of a summons requiring the attendance of a witness before the Disciplinary Committee, and the production of any book, record, document or thing;
 - (d) the procedure to be followed and the rules of evidence to be observed in proceedings before the Disciplinary Committee.
- (2) Rules made under this section may, in particular, provide—
 - (a) for requiring that before any matters are referred to the Disciplinary Committee they shall, in such manner as may be provided by the rules, have been brought before and investigated by the Executive Committee;
 - (b) for securing that notice of proceedings to be brought before the Disciplinary Committee shall be given, at such time and in such manner as may be specified in the rules, to the person to whom such proceedings relate;
 - (c) for securing that any party to proceedings before the Disciplinary Committee shall, if he so requires, be entitled to be heard by the Committee;
 - (d) for enabling any party to proceedings before the Disciplinary Committee to be represented at such proceedings;
 - (e) for requiring proceedings before the Disciplinary Committee to be held in public except in so far as may otherwise be provided by the rules;
 - (f) for requiring that where, in a case in which it is alleged that a person has been guilty of infamous conduct in any professional respect, the Disciplinary Committee judges that the allegation has not been proved, it shall record a finding that the said person is not guilty of such conduct in respect of the matters to which the allegation relates.
- (3) Nothing in any rules made under paragraph (a) of subsection (1) shall be construed as precluding the Disciplinary Committee from exercising its powers in relation to any person judged by it to

be guilty of infamous conduct in a professional respect notwithstanding that such conduct is not prescribed by the rules.

Part VII – Miscellaneous

32. Approval of rules

No rules made by the Council under this Act shall have the force of law until they have been approved by the Minister.

33. Protection of Council

Save as provided by this Act, no civil or criminal proceedings shall lie against the Council or any member or employee of the Council in respect of any act or duty performed in accordance with Part VI.

34. Recovery by Council of fees, etc.

The Council may by action in a competent court recover any costs ordered to be paid to the Council under section twenty-seven or any fee payable to the Council under this Act.

35. Proof of registration or enrolment

In any criminal proceedings against any person upon a charge of having performed any act which constitutes an offence if performed by a person who is not registered or enrolled, the person charged shall be deemed not to be registered or enrolled unless he proves the contrary.

36. Notification of deaths of registered or enrolled persons

If the Registrar-General of Births and Deaths receives notice of a death showing that the deceased belonged to a profession in respect of which a register or a roll is maintained under this Act, he shall forthwith notify the Registrar of such death.

37. Notification of *prima facie* evidence of infamous conduct

Whenever in the course of any proceedings before any court in Zambia it appears to the court that there is *prima facie* evidence that a registered or enrolled person has been guilty of infamous conduct in any professional respect, the court shall cause a copy of the record of such proceedings, or of such portion thereof as is material to the issue, to be transmitted to the Registrar.

38. Construction

In any written law other than this Act, unless the context otherwise requires—

- (a) a reference to a duly qualified nurse or a registered nurse or to a duly qualified midwife or a registered midwife shall be construed as a reference to a registered nurse or, as the case may be, to a registered midwife;
- (b) a reference to any other class of persons in respect of whom a part of the register is maintained under section nine shall be construed as a reference to the class of persons for the time being registered in that part.

Part VIII – Transitional

39. Persons deemed to be registered or enrolled

For the purposes of this Act, any person who, at the commencement of this Act—

- (a) is registered under the Medical and Allied Professions Act as a nurse or a midwife shall be entitled to be registered as such under this Act, and, until so registered, shall be deemed to be registered as such under this Act;
- (b) is enrolled under the Medical and Allied Professions Act as a nurse or a midwife shall be entitled to be enrolled as such under this Act, and, until so enrolled, shall be deemed to be enrolled as such under this Act:

Provided that nothing in this section shall prevent or prejudice the exercise by any authority of any power conferred upon it by or under Part VI or VII in relation to any such person.

[Cap. 297]

40. Saving

Nothing in this Act shall render invalid any diploma or certificate issued under, the Medical and Allied Professions Act, or any qualification or standard of education or instruction attained or received, including any course of instruction or examination undergone, by any person under that Act:

Provided that nothing in this section shall prevent or prejudice the exercise by the Council of the powers conferred on it by Part IV in relation to any of the foregoing matters.

[Cap. 297]

Schedule (Section 3)

Constitution of the General Nursing Council of Zambia

Composition

1. The Council shall consist of seventeen members and shall be composed of—
 - (a) the Director of Medical Services;
 - (b) the Chief Nursing Officer;
 - (c) three members appointed by the Minister, one of whom shall be a legal practitioner; and
 - (d) twelve members appointed by the Minister, of whom—
 - (i) one shall be a registered tutor engaged or qualified in the training of Registered Nurses;
 - (ii) one shall be a registered tutor engaged in or qualified in the training of midwives;
 - (iii) one shall be a registered tutor engaged in or qualified in the training of Enrolled Nurses;
 - (iv) five shall be Registered Nurses;
 - (v) two shall be Registered Midwives;
 - (vi) one shall be a Registered Nurse having special training in mental treatment; and
 - (vii) one shall be a Registered Nurse having special training in public health.

[As amended by No. 10 of 1971]

2. No person shall be appointed a member of the Council—
 - (a) while he is an undischarged bankrupt; or
 - (b) while he is, under any written law, adjudged or otherwise declared to be of unsound mind;
 - (c) while he is serving a sentence of imprisonment; or
 - (d) if he has at any time been convicted of an offence against this Act or the Medical and Allied Professions Act (Chapter 544), or any written law relating to medicine, pharmacy, poisons or dangerous drugs, or if he was at any time been convicted of an offence involving fraud or dishonesty.
3. The members of the Council shall hold office for a period of three years and shall be eligible for re-appointment.
4. The office of a member of the Council shall become vacant—
 - (a) if he resigns his office by notice in writing to the Minister;
 - (b) if he is adjudged bankrupt;
 - (c) if circumstances arise which, if he were not a member of the Council, would disqualify him for appointment as such;
 - (d) if he is absent from three consecutive meetings of the Council without the leave of the Council.
5. If the office of a member of the Council becomes vacant before the expiration of his term of office, whether by death, resignation or otherwise, the vacancy shall be filled by appointment by the Minister:

Provided that a person appointed to fill a casual vacancy as aforesaid shall hold office only so long as the member in whose stead he is so appointed would have held office.
6. If a member of the Council is granted leave of absence by the Council, the Council may, if it thinks fit, fill the vacancy during his absence by co-opting to the Council a person who is a member of the same profession as the member whose place he fills.

President and Vice-President

7. There shall be a president and a vice-president of the Council who shall be elected by the Council from amongst the members thereof who are registered nurses.
8. The president and the vice-president of the Council shall hold office until the expiration of their respective terms of office as members of the Council.
9. The offices of president and vice-president of the Council shall, respectively, become vacant—
 - (a) if the holder of the office resigns his office by notice in writing to the Registrar;
 - (b) if the holder of the office ceases to be a member of the Council;
 - (c) in the case of the office of vice-president, if the holder of the office is elected to the office of president.
10. If the office of president or vice-president of the Council becomes vacant under paragraph 9 or by reason of death, the members of the Council shall elect one of their number to fill the vacancy.

Procedure

11. Save as otherwise provided in this Schedule, the Council may determine and regulate its own procedure and may act notwithstanding a vacancy in its membership.

12. The Council shall hold its first meeting at such place and on such date as the Minister may direct, and thereafter, but subject to paragraph 14, meetings of the Council shall be held at such places and times as the Council shall determine.
13. The quorum of the Council shall be six members of whom not less than three shall be Registered Nurses.
14. The president may cause a special meeting of the Council to be convened at any time and shall cause such a meeting to be convened if not less than five members of the Council sign a request in writing for such special meeting and such written request states clearly the purposes for which the meeting is to be convened.
15. There shall preside at a meeting of the Council—
 - (a) the president; or
 - (b) in the absence of the president, the vice-president of the Council; or
 - (c) in the absence of the president and the vice-president, such one of their number as the members present at the meeting shall elect to preside at that meeting.
16. Decisions of the Council shall be made according to the majority of votes of the members present and voting at a meeting of the Council at which a quorum is present, and, in the event of an equality of votes, the member presiding at the meeting shall have a casting vote in addition to his deliberative vote.
17. A member of the Council who is in any way directly or indirectly interested in a contract made or proposed to be made by the Council shall disclose the nature of his interest at a meeting of the Council, and the member shall not take part in any deliberations or decision of the Council with respect to that contract.
18. The Council shall cause minutes to be kept recording all resolutions, proceedings and meetings of the Council and the names of the members present at each meeting of the Council.