

THE NURSES AND MIDWIVES ACT

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THE NURSES AND MIDWIVES ACT

Acts
35 of 1964,
13 of 2005.

[8th September, 1966.]

1. This Act may be cited as the Nurses and Midwives Act. Short title.

2. In this Act—

Interpre-
tation.

“the appropriate Medical Officer (Health)” means the Medical Officer (Health) for the parish or area in which any matter, thing or event required by this Act to be reported or notified to the appropriate Medical Officer (Health) exists, occurred or is intended to occur;

“assistant nurse” means a person who, having been admitted to an assistant nursing programme authorized and duly recognized by the appropriate regulatory body, has successfully completed the prescribed programme of studies, has acquired the necessary qualifications and is enrolled and licensed to practise as an assistant nurse under the supervision of a registered nurse or a registered medical practitioner; 13/2005
S. 2(a).

“continuing education” means any formally structured or supervised programme or course of study or any special learning activity which is authorized and duly recognized by the Council for— 13/2005
S. 2(a).

(a) enhancing the knowledge, skills or attitude of an enrolled assistant nurse, registered nurse or registered midwife;

- (b) assisting an enrolled assistant nurse, registered nurse or midwife, respectively, in fulfilling the job responsibilities or attaining professional competence in nursing or midwifery, as the case may be;
- (c) providing—
 - (i) a review of recent developments in the practice of nursing or midwifery; or
 - (ii) a refresher course in nursing or midwifery;

“the Council” means the Nursing Council established under section 3;

“mental nurse” means a nurse trained in the nursing care of persons suffering from mental illness;

13/2005
S. 2(a).

“midwife” means a person who having been admitted to a midwifery education programme authorized and duly recognized by the appropriate regulatory body, has successfully completed the prescribed programme of studies, has acquired the necessary qualifications and is registered and licensed to practise midwifery;

13/2005
S. 2(b).

“nurse” means a person, who having been admitted to a nursing educational programme, duly recognized in the country in which the person is qualified, has successfully completed the prescribed course of studies in nursing, has acquired the necessary qualifications and is registered and licensed to practise nursing;

“the register” means—

(a) in relation to nurses, the Register of Nurses and

(b) in relation to midwives, the Register of Midwives,

specified in section 9;

“the Registrar” means the Registrar appointed under section 5;

“the roll” means the Roll of Assistant Nurses specified in section 10.

3.—(1) There shall be established for the purposes of this Act a body to be called the Nursing Council.

Establishment of Nursing Council.

(2) The provisions of the First Schedule shall have effect as to the constitution of the Council and otherwise in relation thereto.

First Schedule.

4. The Council shall have power to control the training and practice of nurses, midwives and assistant nurses and to register nurses and midwives and enrol assistant nurses.

Functions of the Council.

5. The Council may appoint and employ at such remuneration and on such terms and conditions as it thinks fit a Registrar and such other officers, agents and servants as it thinks necessary for the proper carrying out of the provisions of this Act:

Appointment of Registrar and other officers, agents and servants.

Provided that no salary in excess of fifteen hundred dollars per annum shall be assigned to any post without the prior approval of the Minister.

Funds of the
Council.

6. The funds of the Council shall consist of such moneys as may from time to time be placed at its disposition for the purposes of this Act by Parliament, and such other moneys as may lawfully be paid to the Council.

Accounts and
audit.

7. The Council shall keep proper accounts of its receipts, payments, credits and liabilities and such accounts shall be audited annually by an auditor appointed in each year by the Council with the approval of the Minister.

Annual reports
and estimates.

8.—(1) The Council shall in each year prepare and submit to the Minister on or before the thirtieth day of June a report of its proceedings during the twelve months ending on the thirty-first day of March in such year, including a statement of its accounts audited in accordance with section 7.

(2) The Council shall, on or before the thirty-first day of October in each year, submit to the Minister for approval its estimates of revenue and expenditure in respect of the period commencing on the first day of April next following and ending on the thirty-first day of March of the subsequent year.

Registration of
nurses and
midwives

9.—(1) The Council shall cause the Registrar to keep in such form as it may from time to time determine—

- (a) a register to be known as the Register of Nurses in which shall be entered the name and other prescribed particulars of every person registered as a nurse; and
- (b) a register to be known as the Register of Midwives in which shall be entered the name and other prescribed particulars of every person registered as a midwife.

(2) The Register of Nurses and the Register of Midwives shall be open to inspection by any member of the public at all reasonable times and a copy of each register shall be published in the *Gazette* by the Registrar at such times as may be prescribed.

(3) Any person who is qualified under this Act to be registered as a nurse or a midwife may apply to the Registrar for registration. Every application under this subsection shall be made in the prescribed form and accompanied by the prescribed fee.

(4) The Registrar shall issue to every person registered under this Act the appropriate certificate of registration in the prescribed form.

10.—(1) The Council shall cause the Registrar to keep a roll to be known as the Roll of Assistant Nurses (in this Act referred to as “the roll”) in which shall be entered the name and other prescribed particulars of every person whose application for enrolment as an assistant nurse is approved by the Council.

Enrolment
of assistant
nurses.

(2) The roll shall be open to inspection by any member of the public at all reasonable times.

(3) Notwithstanding subsection (4), any person who was engaged in practical nursing before the 8th September, 1966, may at any time within six months after the 8th September, 1966, apply to the Registrar in the prescribed manner for enrolment as an assistant nurse and if the Council, after considering the application and making such other enquiries as it may think fit, is satisfied that such person—

(a) is of good character; and

(b) has gained sufficient experience in practical nursing to perform satisfactorily the duties of an assistant nurse,

the Council may approve the enrolment of such person as an assistant nurse.

(4) Any person who is qualified to be enrolled as an assistant nurse may apply to the Registrar for enrolment. Every application under this subsection shall be made in the prescribed form and accompanied by the prescribed fee.

(5) The Registrar shall issue to every person enrolled as an assistant nurse a certificate of enrolment in the prescribed form.

10A.—(1) A person who is registered or enrolled under this Act shall not practise as a nurse, midwife or an assistant nurse, as the case may be, unless that person holds a licence issued by the Registrar and pays the prescribed fee.

(2) A person referred to in subsection (1) may apply to the Registrar, in the prescribed form, for a licence.

(3) A licence issued under subsection (1) shall be—

(a) in the prescribed form; and

(b) valid for a period of two years from the date of issue thereof.

10B.—(1) The Council shall cause the Registrar to keep a register in respect of each group to be known as the Register of Licences in which shall be entered the name and other prescribed particulars of every person whose application for a licence to practise is approved by the Council and each register shall be published in the *Gazette* by the Registrar at such times as may be prescribed.

Register of
Licences to
be kept.
13/2005
S. 3.

(2) The Register of Licences shall be open to inspection by any member of the public at all reasonable times.

10C.—(1) Where, pursuant to section 11, the Council has directed the Registrar to strike the name of a person off the register or off the roll, the licence issued to that person shall be revoked forthwith.

Revocation
of licence.
13/2005
S. 3.

(2) The Council may, at any time if it thinks just, direct that a licence which has been revoked be reinstated on such conditions as it thinks fit.

(3) The Council shall, as soon as practicable after—

- (a) the licence of any person has been revoked; or
- (b) the reinstatement of any licence which has been revoked,

cause notice of the appropriate fact to be published in the *Gazette*.

(4) Where a licence issued to any person under this Act has been revoked, the Council may, in writing, require such person to return the licence to the Registrar and such person shall comply with that requirement.

Suspension
and striking
off.

11.—(1) If any person who is registered or enrolled under this Act is found, upon enquiry by the Council—

- (a) to be suffering from any illness rendering such person unfit to practise nursing or midwifery, or to perform satisfactorily the duties of an assistant nurse, as the case may be; or

- (b) to have procured any registration or enrolment under this Act as a result of any misleading, false or fraudulent representation; or
- (c) to be guilty of—
 - (i) dishonesty, negligence or incompetence, in the performance of his duties as a nurse, midwife or assistant nurse, as the case may be; or
 - (ii) conduct that is unbecoming to a nurse, midwife or assistant nurse,

the Council may, if it thinks fit, either suspend the registration or enrolment of such person for a period not exceeding one year or direct the Registrar to strike the name of such person off the appropriate register or off the roll, as the case may require.

(2) The Council may at any time, if it thinks just, direct the name of any person which has been struck off the register or off the roll to be reinstated.

(3) The Council shall, as soon as practicable after—

- (a) the registration or enrolment of any person has been suspended; or
- (b) the name of any person has been struck off the register or off the roll; or
- (c) the reinstatement of any name which was struck off the register or off the roll,

cause notice of the appropriate fact to be published in the *Gazette*.

(4) Whenever the name of any person has been struck off the register or off the roll, the Council may in writing require such person to return to the Registrar his certificate of registration or certificate of enrolment, and such person shall comply with that requirement.

Appeals to
Nursing
Appeal
Tribunal.

12.—(1) Without prejudice to the provisions of subsections (3) and (4) of section 11, any person aggrieved by any decision of the Council in respect of the registration or enrolment of such person may appeal from such decision to the Nursing Appeal Tribunal, hereinafter referred to as “the Tribunal”, which shall be constituted for the purposes of this section.

Second
Schedule.

(2) The provisions of the Second Schedule shall have effect as to the constitution of the Tribunal and otherwise in relation thereto.

(3) Upon allowing an appeal from any decision of the Council under subsection (1) of section 11, the Tribunal shall cause notice of its decision to be published in the *Gazette* and shall, in the event of the appellant’s certificate having been returned under subsection (4) of section 11, direct such certificate to be restored to him.

(4) A decision of the Tribunal shall not affect any liability incurred under subsection (1) of section 15 by the appellant prior to such decision.

Supervisors
of midwives.

13.—(1) The Council may, for the purpose of ensuring proper supervision of midwives—

- (a) divide Jamaica into such midwifery districts (in this Act referred to as “districts”) as it may think fit;
- (b) designate such persons as it may think fit to be Supervisors of Midwives; and
- (c) specify the districts for which each Supervisor of Midwives shall be responsible.

(2) The Council shall, as soon as may be after any Supervisor of Midwives has been designated, cause notice of the fact to be published in the *Gazette* and such notice

shall set out the name and address of such Supervisor of Midwives and the districts for which he is responsible.

(3) It shall be the duty of every Supervisor of Midwives—

- (a) to exercise general supervision over midwives practising in the districts for which he is responsible;
- (b) to investigate allegations, in respect of any midwife practising in any district for which he is responsible, of conduct that is unbecoming to a midwife, or of dishonesty, negligence or incompetence on the part of such midwife in the performance of her duties as a midwife, and to report to the Council the result of such investigations;
- (c) to report to the appropriate Medical Officer (Health) and the Council any matter affecting the standard and efficiency of midwifery services in any district for which he is responsible.

14.—(1) Every person who on the 8th September, 1966, is practising as a midwife shall, on or before the prescribed date, supply in writing to the appropriate Medical Officer (Health) and the Council her full name, address, and a description of the area in which she is practising.

Notices
and reports
to be
furnished
by mid-
wives.

(2) Every midwife shall—

- (a) before she begins to practise in any district, give to the appropriate Medical Officer (Health) and the Council notice in writing of her intention to practise in that district, indicating in such notice her place of residence and the date on which she proposes to begin to practise in that district;
- (b) not more than fourteen days after any change in her place of residence occurs, inform the

appropriate Medical Officer (Health) and the Council in writing of such change;

- (c) in each year, on or before the thirty-first day of January, submit to the Council a return in the prescribed form showing the districts in which she resided, and those in which she practised, during the twelve months ending on the thirty-first day of December of the previous year.

(3) Where a midwife undertakes any case of emergency outside the area described by her in compliance with subsection (1) or the district mentioned in a notice given by her under paragraph (a) of subsection (2), as the case may be, she shall, not later than three days thereafter, submit to the Supervisor of Midwives responsible for the district in which the case was undertaken and to the appropriate Medical Officer (Health) a report in the prescribed form of the circumstances and particulars of the case.

(4) If any person dies or gives birth within fourteen days after being attended by a midwife, the midwife who attended that person shall, not later than thirty-six hours after such death or birth, submit to the appropriate Medical Officer (Health) a report thereon in the prescribed form.

Offences.

15.—(1) Any person who—

- (a) not being registered under this Act as a midwife or not being qualified to practise midwifery under any other enactment for the time being in force in Jamaica, practises midwifery; or
- (b) not being registered under this Act as a nurse, practises as a nurse or takes or uses the name or title of registered nurse either alone or in combination with any other words or letters or uses

any name, title, addition, description, uniform or badge implying that she is registered under this Act as a nurse; or

- (c) not being enrolled as an assistant nurse, at any time after the expiration of six months after the 8th September, 1966, undertakes employment as an assistant nurse; or
- (d) being a nurse, midwife, or assistant nurse, whose registration or enrolment (as the case may be) is suspended under section 11, nevertheless practises as a nurse or midwife or undertakes employment as an assistant nurse; or
- (e) with intent to deceive makes use of any certificate of registration or certificate of enrolment issued under this Act to him or any other person,

shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate—

- (a) in the case of a first offence, to a fine not exceeding two hundred thousand dollars; and
- (b) in the case of a second or subsequent offence, to a fine not exceeding four hundred thousand dollars and in default of payment thereof to imprisonment with or without hard labour for a term not exceeding six months.

13/2005
S. 4(a)(i).

13/2005
S. 4(a)(ii).

(2) Any person who wilfully makes, or causes to be made, any falsification in any matter relating to the Register of Nurses or the Register of Midwives or to the roll shall be guilty of an offence and shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred thousand dollars or to imprisonment with or without hard labour for a term not exceeding six months or to both such fine and imprisonment.

13/2005
S. 4(b).

(3) Any person who is guilty of a contravention of any of the provisions of this Act for which no penalty is provided in subsection (1) or (2) shall be liable on summary conviction before a Resident Magistrate to a fine not exceeding fifty thousand dollars or to imprisonment with or without hard labour for a term not exceeding thirty days.

13/2005
S. 4(c).

Regulations.

16.—(1) The Council, with the approval of the Minister, may make regulations generally for the proper carrying out of the provisions and purposes of this Act and in particular but without prejudice to the generality of the foregoing, may make regulations—

- (a) prescribing the requirements which shall be satisfied by persons applying for training as nurses, midwives and assistant nurses;
- (b) providing for the programmes of training and the curricula of study to be followed in the training of nurses, midwives and assistant nurses;
- (c) providing for the establishment, management and control of schools for assistant nurses and regulating the instruction to be given in such schools;
- (d) prescribing the examinations to be passed and the other requirements to be satisfied, whether in addition, or as an alternative, to the passing of examinations, by persons applying for registration as nurses or midwives or enrolment as assistant nurses;
- (e) as to the functions of nurses, midwives and assistant nurses and the nature of the services which may be rendered by them;
- (f) providing for the making of corrections to the register and the roll required by this Act to be kept;

- (g) providing for the establishment of agencies to facilitate the effective utilization of the services of nurses, midwives and assistant nurses, in hospitals or otherwise;
- (h) for the procedure to be followed in respect of enquiries into matters capable of rendering persons registered under this Act liable to be struck off or to have their registration or enrolment suspended;
- (i) prescribing any other matter or thing which is required by this Act to be prescribed.

(2) Regulations made under this section may contain different provisions for nurses, midwives and assistant nurses.

(3) Notwithstanding section 29 of the Interpretation Act, regulations made under subsection (1) may provide for the imposition of penalties on summary conviction in a Resident Magistrate's Court not exceeding a fine of one million dollars or imprisonment for a term not exceeding two years or to both such fine and imprisonment.

13/2005
S. 4A.

FIRST SCHEDULE

(Section 3)

- Constitution of the Council. 1. The Council shall consist of fifteen members appointed by the Minister, and of such members—
- (a) five shall be nurses nominated by the Jamaica General Trained Nurses Association or any other body recognized by the Minister as having succeeded to the functions of that Association;
 - (b) three shall be midwives who shall be nominated by the Jamaica Midwives Association or any other body recognized by the Minister as having succeeded to the functions of that Association;
 - (c) two shall be mental nurses; and
 - (d) two shall be assistant nurses.
- Tenure of office. 2. The appointment of a member of the Council shall, subject to the provisions of this Schedule, be for a period not exceeding three years and such member shall be eligible for reappointment.
- Chairman. 3. The Minister shall appoint one of the members of the Council to be the chairman thereof.
- Acting appointments. 4. If the chairman or any other member of the Council is absent or unable to act, the Minister may appoint any person to act in the place of the chairman or such other member.
- Resignations. 5.—(1) Any member of the Council, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman and from the date of receipt by the Minister of such instrument such member shall cease to be a member of the Council.
- (2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt by the Minister of such instrument.
- Revocation of appointments. 6. The Minister may at any time revoke the appointment of any member of the Council if he thinks it expedient so to do.
- Filling of vacancies. 7. If any vacancy occurs in the membership of the Council such vacancy shall be filled by the appointment of another member who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed, so, however, that such appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous member.

8. The names of all members of the Council as first constituted and every change in the membership thereof shall be published in the *Gazette*. Gazetting of appointments.

9. (1) The Council shall be a body corporate having perpetual succession and a common seal with power to acquire, hold and dispose of land and other property of whatever kind. Incorporation.

(2) The seal of the Council shall be kept in the custody of the chairman or the Registrar and shall be affixed to instruments pursuant to a resolution of the Council in the presence of the chairman or any other member of the Council and the Registrar.

(3) The seal of the Council shall be authenticated by the signatures of the chairman or any other member authorized to act in that behalf and the Registrar, and shall be officially and judicially noticed.

(4) All documents, other than those required by law to be under seal, made by, and all decisions of, the Council may be signified under the hands of the chairman, or any other member authorized to act in that behalf, and the Registrar.

(5) The Council may sue and be sued in its corporate name and may for all purposes be described by such name.

10. (1) The Council shall meet at such times as may be necessary or expedient for the transaction of its business, and such meetings shall be held at such places and times and on such days as the Council may determine. Procedure and meetings.

(2) The chairman may at any time call a special meeting of the Council and shall call a special meeting within seven days of the receipt of a written requisition for that purpose addressed to him by any two members of the Council.

(3) The chairman shall preside at all meetings of the Council at which he is present, and in case of the chairman's absence from any meeting the members present and constituting a quorum shall elect a chairman from among their number to preside at that meeting.

(4) A quorum of the Council shall be eight.

(5) The decisions of the Council shall be by a majority of votes and, in addition to an original vote, the chairman or other person presiding at a meeting shall have a casting vote in any case in which the voting is equal.

(6) Minutes in proper form of each meeting of the Council shall be kept.

(7) The validity of the proceedings of the Council shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

(8) Subject to the provisions of this Schedule the Council may regulate its own proceedings.

Committees. 11. (1) The Council may appoint such committees as it may think fit and may delegate to any such committee the power and authority to carry out on its behalf such duties as the Council may determine, so, however, that no such committee shall have the power to make regulations.

(2) The constitution of each committee shall be determined by the Council.

Protection of members. 12. (1) No member of the Council shall be personally liable for any act or default of the Council done or omitted to be done in good faith in the course of the operations of the Council.

(2) Where any member of the Council is exempt from liability by reason only of the provisions of this paragraph the Council shall be liable to the extent that it would be if the member was a servant or agent of the Council.

Remuneration of members. 13. There shall be paid from the funds of the Council to the chairman and other members of the Council such remuneration, whether by way of honorarium, salary or fees, and such allowances as the Minister may determine.

SECOND SCHEDULE

(Section 12)

Constitution of the Tribunal. 1. The Tribunal shall consist of a chairman and two other members to be appointed by the Minister.

Tenure of office of members. 2. The members of the Tribunal shall, subject to the provisions of this Schedule, hold office for such period not exceeding two years as the Minister may determine and shall be eligible for reappointment.

Acting appointments. 3. The Minister may appoint any person to act in the place of the chairman or any other member of the Tribunal in case of the absence or inability to act of the chairman or other member.

Resignations. 4. (1) Any member of the Tribunal other than the chairman may at any time resign his office by instrument in writing addressed to the chairman, who shall forthwith cause it to be forwarded to the Minister and, from the date of the receipt by the chairman of such instrument, such member shall cease to be a member of the Tribunal.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and, from the date of the receipt by the Minister of such instrument, such chairman shall cease to be chairman or a member of the Tribunal.

5. The Minister may, if he thinks it expedient so to do, at any time revoke the appointment of the chairman or any other member of the Tribunal. Revocation of appointments.
6. If any vacancy occurs in the membership of the Tribunal, such vacancy shall be filled by the appointment of another member who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed. Filling of vacancies.
7. The names of members of the Tribunal as first constituted and every change in the membership thereof shall be published in the *Gazette*. Publication of membership.
8. The Minister may make rules— Power to make rules.
- (a) as to the manner of appealing to the Tribunal;
- (b) as to proceedings before the Tribunal and matters incidental to or consequential on such proceedings,
- and, subject to any rules so made, the Tribunal may regulate its own proceedings.