

CHAPTER 325

THE NURSES AND MIDWIVES REGISTRATION ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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CHAPTER 325

THE NURSES AND MIDWIVES REGISTRATION ACT

An Act to make provision for education, training, registration, enrolment and practice of nurses and midwives in their expanded role and scope of their practice and for connected matters.

[1st June, 1998]

[G.N. No. 239 of 1998]

Act No. 12 of 1997

G.N. No. 238 of 1998

PART I

PRELIMINARY PROVISIONS (ss 1-2)

[PCh325s1]1. Short title

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

[PCh325s2]2. Interpretation G.N. No. 238 of 1998

In this Act, unless the context otherwise requires—

"approved nursing institution" means an institution or part of an institution approved by the Council under the provisions of this Act, providing a course of training leading to acquisition of a qualifying award;

"Board" means a Board constituted in accordance with section 12 of this Act;

"Committee" means a committee established by the Council under section 5 of this Act;

"Council" means the Nurses and Midwives Council established under section 3 of this Act;

"enrolled nurse or midwife" means a nurse or midwife whose names appears in the roll kept by the Council under this Act;

"internship" means a prescribed period during which a nurse or a midwife is under test of professional competency of nursing pending full registration;

"licence" means a licence to practise as a nurse or midwife in accordance with qualifications obtained;

"midwife" means a person who has completed an approved midwifery programme duly recognised in the Tanzania or in any other country in which it is located has successfully completed the prescribed course of studies in midwifery and has acquired the qualification requisite for registration or is licensed to practise midwifery;

"midwifery" means giving care and supervision to a woman during pregnancy, labour and postpartum period and caring for the new born babies and infants;

"Minister" means the Minister for the time being responsible for health affairs;

"nurse" means a person who has completed an approved nursing course programme recognised for the time by the Council, registered and legally authorised to render services designed to promote health and prevent diseases, alleviate the suffering and rehabilitate the needy under this Act;

"nurse specialist" means the nurse specialist trained beyond the level of a nurse and authorised to practise as a specialist with expertise in a branch of the nursing field which includes clinical, teaching, administration, research and consultant roles;

"nursing" means assisting individuals or groups to maintain optimal health throughout the life process by assessing their health status. Establishing nursing diagnosis, planning and

implementing a strategy of care to accomplish defined goals and evaluating responses to care and treatment;

"private nursing homes" or "private maternity homes" means homes established by registered nurse/midwife to provide restorative, rehabilitative, curative and recuperative nursing care to an individual, a family or the community, by virtue of section 16 of this Act;

"private practice" in relation to a nurse or midwife means to practice as a nurse or midwife other than as an employee of the Government;

"qualifying award" means a professional or academic qualification by whatever name called, obtained from a school, College, University or other institution recognised by the Council which is a sufficient guarantee that the holder has an academic knowledge to practise in nursing or midwifery;

"register" means the register of nurses and midwives kept by the Council under this Act;

"registered" means registered under section 7 of this Act, and the expressions;

"Registrar" means a Registrar to the Council appointed under section 4 of this Act;

"roll" means an official document for enlisting names of nurses or midwives kept by the Council in accordance with the provisions of this Act;

"supervisory authority" means a person appointed by the Council under paragraph (e) of subsection (1) of section 5 of this Act to be a supervisory authority over any registered nurses or registered midwives, wherever practising.

PART II

THE NURSES AND MIDWIVES COUNCIL (ss 3-5)

[PCh325s3]3. Establishment and composition of the Council G.N. No. 238 of 1998

(1) There is hereby established a council to be known as the Nurses and Midwives Council which shall consist of the following Council members—

(a) a Chairperson of the Council who shall be appointed by the Minister from amongst the most senior registered nurses;

(b) other members to be appointed by the Minister as follows:

(i) the Chief Nursing Officer;

(ii) a representative from the training section of the Ministry of Health;

(iii) a representative from Nursing services;

(iv) a representative from the Diploma Nursing Training School;

(v) a representative from the National Nurses Association;

(vi) a representative from the Muhimbili University College of Health Sciences, Faculty of Nursing;

(vii) a representative from the Regional Nursing Officers;

(viii) a representative from referral Hospitals;

(ix) a Registrar of the Nurses and Midwives Council;

(x) a member from any other council allied to this Council;

(xi) a legally qualified person nominated by the Attorney General from amongst persons employed in the Attorney General's Chambers;

(xii) any other member appointed by the Minister as he may deem necessary.

(2) Members of the Council shall not exceed twelve.

(3) A member of the Council appointed under subparagraph (xi) of subsection (1) of this section shall hold office for the period of three years from the date of his appointment and each such member shall be eligible for reappointment to the Council after expiration of first term. No member shall be eligible for reappointment for the third term.

(4) On the death, inability to act, resignation or absence from the United Republic for more than six months or absence from three consecutive meetings of the Council without leave from the Chairman or any member, another person shall be appointed to fill in the vacancy and such person shall hold office for un-expired period of office and upon the same terms as the Member in whose place he is appointed, or otherwise as the Minister shall think fit and the said appointment to provide.

(5) In absence of the Chairman from any meeting of the Council, members present shall elect one of their number to be Chairman of the meeting.

(6) Half of the total number of the Council at that time shall form a quorum.

(7) The Chairman shall have a casting as well as a deliberative vote.

(8) The powers of the Council may be exercised notwithstanding any vacancy in the membership of the Council.

[PCh325s4]4. Registrar

(1) The Minister shall appoint a Registrar to the Council who shall hold office for a period of four years and shall be eligible for reappointment.

(2) The Registrar shall be the Secretary to the Council.

(3) The Registrar shall perform the duties prescribed in relation to his office under this Act, and shall perform such other functions as the Council may specify from time to time.

[PCh325s5]5. Functions of the Council G.N. No. 238 of 1998

(1) The functions of the Council shall be as follows—

(a) to scrutinise, regulate, approve, monitor and evaluate the implementation of curricular of the nursing education;

(b) to grant approval of examiners for final examinations, and fix the place where and the time at which such examinations shall be held;

(c) to moderate, approve and publish results of the final nursing or midwifery examinations;

(d) to appoint supervisory authorities;

(e) to publish annually in the official Gazette as soon as practicable in the year and on such other occasions as it may deem fit, the names and particulars of nurses and midwives contained in the register and roll;

(f) to issue and cancel licences;

(g) to make entry of and amend any particulars thereon and to replace any licence proved to have been lost or destroyed;

(h) to prescribe badges and any other distinctive multiple identities to be worn by registered or enrolled nurses and midwives;

(i) advice the Minister on matters concerning nursing and midwifery and make recommendations on policy matters and give directions and approve performance procedures;

(j) to order the removal from the register or the roll the name of any nurse or midwife who—

(i) has died;

(ii) has been absent from the United Republic for longer than 5 years;

(iii) is not practising nursing duties for a period of five years;

(iv) removal under subparagraphs (ii) and (iii) above will be eligible for re-registration upon re-application after undergoing evaluation of his competence by an approved nursing institution and upon payment of the registration fee;

(k) to caution, censure, order the suspension from practice, or order the removal from the register or roll of the name of any registered or enrolled nurse or midwife for malpractice, negligence or infamous conduct in any professional respect or for disobeying any regulation or directive made under this Act and to decide upon the termination of any period of suspension and restoration to the register of any name so removed;

Provided that where an order is made under this paragraph suspending from practice or removing from the register or roll the name of any registered or enrolled nurse or midwife shall be notified by the Council in writing by registered post of such order and his right to appeal under section 11 of this Act.

(l) to provide by means of standing orders or otherwise for regulation of its own proceeding;

(m) to prescribe the duties of the Registrar to the Council;

(n) to prescribe standards and conditions for establishing new schools of nursing or midwifery which does not maintain the prescribed standards and conditions;

(o) to caution, censure and order the suspension or closure of schools of nursing or midwifery;

(p) to keep and maintain a register of schools of nursing or midwifery;

(q) to keep and maintain a register and roll of nurses and midwives;

(r) to establish committees, approve names of proposed committee members and to prescribe their functions;

(s) to prescribe the form of professional oath/pledge to be used or administered upon all nurses on successful completion of their training;

(t) to prescribe standards and conditions for establishing nursing homes, maternity homes/maternity clinics; and

(u) to grant licences for establishing private nursing and maternity homes, and maternity clinics after inspecting the premises.

(2) Before the Council decides to caution, censure, suspend or remove a name from the register of roll, it shall make due inquiry and for the purpose of such an inquiry, it shall be deemed to have power of the Commission for Human Rights and Good Governance having power to summon witnesses and call for the production of documents in the manner provided under section 16 of the Commission for Human Rights and Good Governance Act *.

(3) At any such inquiry as in subsection (2) above the council shall give to any nurse or midwife against whom malpractice, negligence, misconduct or disobedience is alleged an opportunity to appear before the Council and be heard, and may in its discretion give audience to any other person on behalf of such a nurse or midwife.

PART III

ADMINISTRATION AND REGISTRATION (ss 6-16)

[PCh325s6]6. Register of nurses and midwives

(1) The register or roll of nurses and midwives to be kept and maintained by the Council shall contain the names, addresses, qualifications and other particulars of all nurses and midwives entitled for registration or enrolment. The Registrar shall be charged with custody of the register or roll and the making of entries therein.

[PCh325s7]7 Registration and enrolment

(1) Subject to the provisions of this Act and any conditions for admission to the register or any part thereof imposed by regulations made hereunder, and person shall be entitled to be registered or enrolled as a nurse or midwife if—

- (a) he has passed the nursing/midwifery examinations conducted by the Council; or
- (b) he has complied with such additional requirements relating to requisition of practical experience in nursing or Midwifery as the Minister by rules may prescribe; or
- (c) he produces evidence in the satisfaction of the Council that he is licensed and registered as a nurse or midwife in any country for the time being prescribed in regulations made under this Act; or
- (d) he produces evidence to the satisfaction of the Council that he is certified registered as a nurse or midwife in any country which is not for the time being prescribed in regulations made under this Act, but is a country in which there was at the material time in force of law for the certification or registration of nurses or midwives and the Council is satisfied that

the standard or training and examination required for such certification or registration in the said country is not inferior to the standard adopted by the Council; or

(e) he produces evidence to the satisfaction the Council that—

(i) he is a person of good character and;

(ii) he has successfully completed a course of training as a nurse of not less than three years or of a midwife for a duration of not less than one year in a country in which there was at the material time no law for the certification or registration of nurses, and the Council is satisfied that the standard of such training is not inferior to the standard adopted by the council:

Provided that if in either of the cases referred to in paragraph (c) and (d) of this subsection the Council is not so satisfied as therein specified, the person seeking registration may be required to pass such examinations as the Council shall direct.

(2) Any person shall be entitled to be enrolled as a nurse if—

(a) he has successfully completed a course of nursing training for a duration of not less than three years at an approved nursing institution;

(b) he produces evidence to the satisfaction of the Council that he is certified or enrolled or that he has been and is still entitled to be certified or enrolled as midwife in any country for the time being prescribed in regulation made under this Act.

[PCh325s8]8. Temporary registration

(1) Where a person ordinarily resident outside Tanzania satisfies the Council—

(a) that he is or intends to be employed in Tanzania in the capacity of registered nurse in a hospital or other institution approved by the Council for the purpose of this section; and

(b) that he is the holder of a diploma which is recognised for the time being by the Council for the purposes of this section as furnishing a sufficient guarantee of the possession of the requisite knowledge and skill for the efficient practice of nursing;

the Council may, if it thinks fit, give a direction that he shall be registered under this section.

(2) Registration of a person under this section shall continue only while he is in such employment as is mentioned in subsection (1), on its termination he shall cease to be registered under this section.

(3) In case of doubt the decision of the Council as to the termination of a person's employment, shall be conclusive for the purposes of subsection (2).

(4) Registration of a person under this section shall continue only while he is in such employment as is mentioned in subsection (1); on its termination he shall cease to be registered under this section.

(5) A person registered under this section, shall in relation to employment as mentioned in paragraph (a) of subsection (1) of this section, and to things done or omitted in the course thereof, be treated as registered under this Act as a fully registered nurse.

(1) The following provisions of this subsection shall apply for the purpose of enabling persons referred to in subsection (1) of section 7 to acquire such practical experience in nursing or midwifery as may be prescribed by rules made under paragraph (b) of subsection (1) of section 7.

(2) Any person who is not entitled to be registered as a nurse by reason only of the fact that he does not have the practical experience prescribed in any rules made under subsection (1) of section 7 shall, if he produces evidence satisfactory to the Registrar that he has been selected for employment in a hospital or hospitals approved by the Council for the purposes of this section and that such employment would provide the required practical experience, be entitled to be provisionally registered.

(3) The Registrar shall maintain a separate register in which she shall enter the names of those persons provisionally registered and on a person becoming registered other than provisionally her name shall be removed from this register.

(4) Persons provisionally registered shall be deemed to be registered as far as is necessary to enable them to be employed for the purpose stated in subsection (2) of this section in a supervised nursing capacity in such hospital or hospitals approved by the Council as may be specified in the certificate or provisional registration and to carry out under supervision in such hospital or hospitals any duties and responsibilities of a registered nurse but not otherwise.

Licences of all kinds shall be in a prescribed form and shall be subject to renewal as may be prescribed by the Council from time to time. These include the full registration licence, temporary registration licence, provisional registration licence and licence of enrolment.

[PCh325s11]11. Application for retention of name in the register

(1) Every person registered under the provisions of this Act shall, before the thirty-first December every other year, make application to the Council for the retention of his name in the register.

(2) An application made under subsection (1) above shall be accompanied by a prescribed fee.

(3) The Council may strike off from the relevant register any name of any registered person who does not comply with the provisions of subsection (1) of this section.

[PCh325s12]12. Appeal against suspension from practice or removal from the register

(1) Any person who is aggrieved by suspension from practice as a nurse or a midwife or removal of his name from the register or roll may within three calendar months from the time of notification to him of such decision appeal to a Board consisting of the Minister as Chairman and four other persons appointed by the Minister.

(2) As soon as possible after the determination of the appeal by the Board, the Minister shall serve notice of such determination and the person to whom it is served, may within three months appeal to the High Court against the decision of the Board, in any such appeal the High Court may give final direction in the matter as it thinks proper.

(3) On having any appeal under the provisions of this section, the Board shall have the power in relation to evidence, witnesses and documents as are conferred upon the Council by subsection (2) of section 5 of this Act.

(4) The Board may dismiss or allow any appeal, or alter, vary the decision of the Council or make any order which it may think just.

(5) The Board shall give to any nurse or midwife who appeals an opportunity of appearing before the Council and being heard, and may in its discretion give audience to any other person on behalf of such nurse or midwife.

[PCh325s13]13. Surrender of certificate on removal of name from the register

Any person whose name has been ordered to be removed from the register or roll under the provisions of paragraph (1) of section 5 of this Act shall within three calendar months of notification of such order, whichever is the later, surrender to the Council any certificate issued to him by the Council, and on failure to do so without reasonable cause he shall commit an offence against this Act and shall be liable on conviction to a fine of not less than one hundred thousand shillings and the Court before which he is convicted shall order that the licence be cancelled.

[PCh325s14]14. Registration not to confer rights of qualified medical practitioner

Registration under this Act shall not confer upon any person any right to be licensed or registered under the Medical Practitioners and Dentists Act * or any Act replacing or amending the same, or to assume any name, title or designation implying that she is by law authorised to

practise medicine or surgery, or to grant any medical certificate or any certificate of death or stillbirth, or undertake the charge of cases of abnormality or disease in connection with parturition:

Provided that nothing in this section which relates to undertaking the charge of cases of abnormality or disease in connection with parturition shall be construed as prohibiting any person from rendering assistance in an emergency when the services of a duly qualified medical practitioner are not available, and the Minister may from time to time make regulations prescribing other procedures which a nurse or midwife may perform.

[PCh325s15]15. Duties of supervisory authority

It shall be the duty of every supervisory authority in respect of any registered or enrolled nurse or midwife under her supervision—

- (a) to exercise general supervision in accordance with any instructions issued by the Council;
- (b) to investigate charges of malpractice, negligence, misconduct or disobedience to regulations, and make a full report to the Council of the facts and circumstances of any such charges;
- (c) temporarily to suspend from practice any registered or enrolled nurse or midwife if such suspension appears to the supervisory authority necessary and report to the Council:

Provided that in the event of such suspension the reasons for and circumstances of such action shall be immediately reported in writing to the Council for final

decision, and that such suspension shall not, in first instance, be for a period in excess of twelve weeks;

(d) to submit to the Council, at such time as may be prescribed, the names of nurses, midwives or enrolled nurses who have absconded, resigned, ceased to practise nursing or died.

[PCh325s16]16. Notice of intention to practice and change of address G.N. No. 238 of 1998

(1) Every registered nurse or registered midwife before commencing to engage in private practice shall give notice in writing of her intention to do so to the Registrar.

(2) When any registered nurse or midwife who has been engaged in private practice in one place has removed to another place for the purpose of there engaging in private practice, he shall within one month after such removal give notice in writing thereof to the Registrar.

(3) Every notice under paragraph (1) or paragraph (2) shall contain such particulars as may be prescribed by the Council.

(4) Every registered nurse or midwife as the case may be shall maintain a register as prescribed of all cases which he attends and shall make the register available for inspection by the Council or a supervisory Authority when required.

(5) Any registered nurse or midwife who fails to comply with any of the provisions of this section shall commit an offence under this Act and shall be liable on conviction to a fine not exceeding two hundred thousand shillings or closure of premises or both such fine and closure.

PART IV

GENERAL PROVISIONS (ss 17-23)

[PCh325s17]17. Penalty for illegal practice G.N. No. 238 of 1998

(1) Subject as hereinafter in this section provided any person who—

(a) not being registered as a nurse or midwife; or

(b) having been suspended from practice as a nurse or midwife by an order of the Council, habitually or for gain practises as a nurse or midwife,

commits an offence and on conviction is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

(2) When a person is convicted of an offence under this section, the court may order any drugs, poison, medicines, needles, syringes or surgical, medical, dental or diagnostic instruments or appliances used by or belonging to or found in possession of a person convicted to be forfeited, destroyed or otherwise disposed of.

[PCh325s18]18. Penalty for illegally procuring registration through false statement or document

Any person who—

(a) procures or attempts to procure registration or enrolment or a licence by making or casting to be made or produces any false or fraudulent statement or document;

(b) deliberately makes or causes to be made any falsification in any matter relating to the register or roll and;

(c) assist or aids that person therein,

shall be guilty of an offence and shall be convicted to a fine not exceeding three hundred thousand shillings or three years' imprisonment or both such fine and imprisonment.

[PCh325s19]19. Penalty for commencing new school of nursing and maternity homes without Council's approval

Any person or institution(s) commencing such new school without the approval of the Council shall commit an offence and upon conviction shall be liable to a fine of not less than one million shillings or imprisonment not exceeding five years or to both such fine and imprisonment.

[PCh325s20]20. Notification

Any notification required to be given by Council to any person shall be sufficiently given if sent by registered post to that person at her last known address or her last address as contained in the register, and the time of receipt shall be deemed unless the contrary is shown, to be the time at which such notification would have arrived in the ordinary course of post to such address.

[PCh325s21]21. Regulations G.N. No. 238 of 1998

The Minister after obtaining the advice of the Council, may make regulations, not inconsistent with this Act, for all or any of the following purposes—

(a) to prescribe the form of the register or roll of nurses and midwives, the part into which the same is to be divided and any particulars to be entered therein;

(b) to regulate the manner in which applications for registration or enrolment as a nurse or midwife shall be made;

(c) to prescribe countries having qualifications for the licensing of nurses or midwives recognised by the Council;

(d) to impose conditions with regard to the admission to the register or roll or any part thereof for nurses or midwives;

(e) to regulate the practice of registered nurses, midwives, or enrolled nurses;

(f) to prescribe the manner of which nurses or midwives may be suspended from practice and the way such names of such nurses or midwives may be removed from the register or roll and the procedure for termination or suspension and restoration to the register or roll for the names of the nurses or midwives removed therefrom;

(g) to prescribe the form of licence and any particulars to be contained therein;

(h) to impose conditions with regard to the issue of license to nurses and midwives;

(i) to prescribe modification to the titles to be used by registered nurses, midwives and enrolled nurses;

(j) to prescribe the particulars required to be given, in any notification or notice given or issued under this Act;

- (k) to prescribe the fees to be collected under this Act;
- (l) to prescribe any forms to be used under this Act;
- (m) to prescribe any further matter which is to be or may be prescribed under this Act;

and

(n) to make regulations generally for the better carrying out of the purpose and provisions of this Act.

[PCh325s22]22. Repeal of R.L. Cap. 325

[Repeals the Nurses and Midwives Ordinance.]

[PCh325s23]23. Savings

(1) Notwithstanding the repeal made under section 2 above, anything done or any action taken or purported to have been done under the repealed Ordinance shall in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

(2) All subsidiary legislation made or issued under the repealed Ordinance which are in force on the commencement of this Act shall be deemed to have been made, given or issued under or in pursuance of the provisions of this Act and shall remain in force until revoked or rescinded by subsidiary legislation made or issued under this Act.