

THE NURSES, MIDWIVES AND HEALTH VISITORS ACT, 1965

No. 21 of 1965

Date of Assent: 29th July 1965

Date of Commencement: By Order

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An Act of Parliament to make provision for the training, registration and enrolment of nurses, midwives and health visitors and to regulate their practice and conduct

ENACTED by the Parliament of Kenya, as follows:—

PART I—PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Nurses, Midwives and Health Visitors Act, 1965, and shall come into force on such date as the Minister may, by order, appoint.

Interpretation.

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

“certificate” means a certificate of registration or enrolment issued by the Council to a person entitled to be registered or enrolled in accordance with the provisions of this Act;

“Council” means the Nurses, Midwives and Health Visitors Council of Kenya established under section 3 of this Act;

“health visitor tutor” means a registered nurse who is also a registered health visitor and who holds a teaching diploma in health visiting approved by the Council;

“local supervising authority” means any local authority, body of persons or any person appointed by the Minister to supervise the practice of persons registered or enrolled under the provisions of this Act;

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“medical practitioner” has the meaning assigned to it in the Medical Practitioners and Dentists Act;

“midwifery tutor” means a registered nurse who is also a registered midwife and who holds a teaching diploma in midwifery approved by the Council;

“nurse tutor” means a registered nurse who holds a teaching diploma in general nursing approved by the Council;

“register” means and includes any of the registers required to be kept under section 12 of this Act and “registered” means entered on any of the said registers;

“registered health visitor” means a person whose name appears on the register kept by the Registrar under section 12 (1) (c) of this Act;

“registered mental nurse” means a person whose name appears in the register kept by the Registrar under section 12 (1) (d) of this Act;

“registered midwife” means a person whose name appears in the register kept by the Registrar under section 12 (1) (b) of this Act;

“registered nurse” means a person whose name appears in the register kept by the Registrar under section 12 (1) (a) of this Act;

“Registrar” means the Registrar of the Council appointed under section 11 of this Act;

“roll” means and includes any of the rolls required to be kept under section 14 of this Act and “enrolled” means entered on any of the said rolls.

(2) In this Act, unless the context otherwise requires, words and expressions importing the feminine gender include males.

PART II—ADMINISTRATION

3. There is hereby established a Council known as the Nurses, Midwives and Health Visitors Council of Kenya which shall be a body corporate having perpetual succession and a common seal with power to sue and be sued and to purchase, hold, manage and dispose of land and other property, and to enter into such contracts as it may consider necessary or expedient.

Establishment
of Council.

4. (1) The Council shall consist of—

(a) the Director of Medical Services or a person deputed by him in writing for the purposes of this Act;

(b) the Matron-in-Chief in the Ministry for the time being responsible for health;

(c) the following persons appointed by the Minister—

(i) a person nominated by the Minister for the time being responsible for education;

(ii) three medical practitioners, being members of the Medical Association of Kenya and nominated by the Association, of whom one shall be engaged in obstetrical practice and one shall be

Membership of
the Council.

a medical officer of health nominated in consultation with the Society of Medical Officers of Health;

- (iii) one person nominated by the Minister for the time being responsible for local government in consultation with the Association of Local Government Authorities of Kenya to represent local authorities;
- (iv) two persons representing the churches and missionary societies providing medical services in Kenya;
- (v) three persons, nominated, in the case of the first Council established under this Act by the members of the Council established under the Nurses and Midwives Registration Act, 1949, and in the case of a subsequent Council, nominated by the members of the outgoing Council established under this Act;

13 of 1949.

- (d) four registered nurses who are practising their profession as nurses at the time of their election, one of whom shall be a nurse tutor or actively engaged in teaching general nursing at the time of her election, to be elected by those persons whose names shall for the time being appear on the register of nurses;
- (e) four registered midwives who are also registered nurses practising their profession as midwives at the time of their election, one of whom shall be a midwifery tutor or actively engaged in teaching midwifery at the time of her election, to be elected by those persons whose names shall for the time being appear on the register of midwives;
- (f) four registered health visitors who are also registered nurses practising their profession as health visitors at the time of their election, one of whom shall be a health visitor tutor or actively engaged in teaching health visiting at the time of her election, to be elected by those persons whose names shall for the time being appear on the register of health visitors:

Provided that in the case of the first Council established under this Act, the Minister may, after consultation with the Council established under the

Nurses and Midwives Registration Act, 1949 (hereby repealed), and such other associations as to him appear to represent the interests of health visitors, appoint four health visitors to be members of the Council, who shall hold office until the register of health visitors has been compiled under section 12 (1) (c) of this Act; and

(g) one registered mental nurse who is practising her profession as a mental nurse at the time of her election, to be elected by those persons whose names shall for the time being appear on the register of mental nurses.

(2) All appointments and elections under this section shall be notified in the Gazette.

(3) The members of the Council appointed or elected, as the case may be, under paragraphs (c), (d), (e), (f) and (g) shall hold office for a period of three years and shall then retire, but shall be eligible for reappointment or re-election.

(4) If, when nominations are called for, no persons are nominated for appointment or election to the Council, as the case may be, or if none of the persons nominated are elected, the Minister may appoint such number of persons to be members of the Council as may be necessary.

5. (1) No person shall be appointed or elected as a member of the Council if she—

Disqualification
from office
and filling
of vacancies.

(a) is an undischarged bankrupt; or

(b) has been disqualified under section 22 (1) of this Act from practising or carrying on her profession or calling; or

(c) has been disqualified under any of the provisions of the Medical Practitioners and Dentists Act.

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(2) A member of the Council shall vacate her office if she—

(a) becomes subject to any of the disqualifications referred to in subsection (1) of this section; or

(b) has been absent from more than two consecutive ordinary meetings of the Council without its leave; or

(c) gives notice in writing to the Council of her desire to resign from office and her resignation is accepted.

(3) Every vacancy caused by the death of a member or by her vacation of office under subsection (2) of this section shall, in the case of a member appointed by the Minister, be filled by a person appointed by the Minister, and, in every other case, unless the Council otherwise decides, shall be filled by a person appointed by the Council, and every person so appointed shall hold office for the residue of the term for which her predecessor was appointed or elected, as the case may be.

Appointment of
chairman of
Council.

6. (1) The Council shall once in each year elect from among its members a chairman and a vice-chairman respectively who shall hold offices in the ensuing year.

(2) The vice-chairman shall act as chairman whenever the chairman is unable to act and when so acting shall have all the powers and discharge all the duties of the chairman.

(3) If the chairman and the vice-chairman are both absent from any meeting of the Council, the members present shall elect one of their number present to preside at that meeting and the person so elected shall, during the absence from that meeting of the chairman and vice-chairman, have all the powers and discharge all the duties of the chairman.

(4) If the chairman or vice-chairman vacates her office before the period thereof has expired, a new chairman or vice-chairman, as the case may be, shall be elected at the meeting of the Council next following such vacation of office for the unexpired portion of the period for which the chairman or vice-chairman whose office has become vacant was elected.

Meetings of
Council.

7. (1) The Council shall be convened by the chairman at least six times in each year.

(2) The chairman may at any time convene a special meeting of the Council and shall do so within one month of a written requisition signed by at least six members.

Quorum.

8. (1) The quorum of the Council shall be twelve, of whom at least six shall be elected members.

(2) The decision of the majority of the members present and voting at any meeting shall constitute the decision of the Council:

Provided that in the event of an equality of votes the chairman shall have a casting in addition to a deliberative vote.

9. The functions of the Council shall be—

- (a) to maintain and improve the standards of the professions of nursing, midwifery and health visiting and to safeguard the interests of nurses, midwives and health visitors;
- (b) with the approval of the Minister, to make provision for the training and instruction of persons seeking registration or enrolment under this Act;
- (c) with the approval of the Minister, to prescribe and regulate syllabuses of instruction and courses of training for persons seeking registration or enrolment under this Act;
- (d) with the approval of the Minister, to approve institutions for the training of persons seeking registration or enrolment under this Act;
- (e) with the approval of the Minister, to prescribe and conduct examinations for persons seeking registration or enrolment under this Act;
- (f) to prescribe badges, insignia or uniforms to be worn by persons registered or enrolled under this Act;
- (g) to have regard to the conduct of persons registered or enrolled under this Act and to take such disciplinary measures as may be necessary to maintain a proper standard of conduct among such persons;
- (h) to recommend to the Minister the appointment of local supervising authorities which shall have such powers and duties as may be prescribed by regulations made under section 23 of this Act;
- (i) to advise the Minister on matters concerning nursing, midwifery and health visiting;
- (j) to direct the compilation and maintenance of registers and rolls;
- (k) to do all such other things as are incidental or conducive to the attainment of all or any of the foregoing functions.

Appointment
and powers
of committees
of the Council.

10. (1) The Council shall appoint—

- (a) a Nurses Standing Committee;
- (b) a Midwives Standing Committee; and
- (c) a Health Visitors Standing Committee,

and may, with the approval of the Minister, appoint such other standing committees in respect of other categories of persons as it may deem fit :

Provided that a standing committee shall contain in addition to any other persons who may be nominated to it those members of the Council elected to represent nurses, midwives or health visitors, as the case may be, for whom such standing committee is appointed.

(2) The Council may from time to time appoint such other committees, not being standing committees, as it may deem fit for the purpose of examining and reporting upon any matter or performing any act which in the judgement of the Council would be more conveniently performed by means of a committee.

(3) Subject to the proviso to subsection (1) of this section, committees appointed by the Council under subsection (1) or subsection (2) of this section shall consist of such number of persons as the Council shall deem fit :

Provided that such committees may co-opt additional members up to a number approved by the Council, but such additional members shall not have the right to vote unless they are members of the Council.

(4) The Council may fix a quorum of any committee and may delegate to such committee such powers as it may think fit and shall, subject to the retention of such powers of control and supervision as the Council deems necessary, delegate to a standing committee powers in respect of the training, examinations and general management of matters affecting persons registered or enrolled under this Act.

(5) In no case shall any act of any committee be binding on the Council until submitted to and approved by the Council except in cases where the Council has by resolution authorized a committee to manage, regulate or conclude any matter.

(6) A committee appointed under this section shall elect its own chairman and may also elect a deputy chairman.

(7) Every committee other than a standing committee may be dissolved after notice of motion to that effect by the vote of the majority of the Council.

PART III—REGISTRATION

11. (1) The Council shall, with the approval of the Minister, appoint a Registrar who shall perform such duties as may be prescribed by this Act or directed by the Council.

Appointment of Registrar and other officers.

(2) The Council may, with the approval of the Minister, appoint such other officers as the work of the Council and the Registrar may require, and such officers shall perform such duties as the Council may direct.

12. (1) The Registrar shall, under the direction of the Council, compile and keep in her office the following registers, namely—

Registers to be kept.

- (a) a register of nurses;
- (b) a register of midwives;
- (c) a register of health visitors;
- (d) a register of mental nurses;
- (e) a register of sick children's nurses,

and such other registers as may from time to time be required by the Council with the approval of the Minister.

(2) There shall be entered in the appropriate register the name and address of every person entitled to be registered under this Act together with her professional qualifications and such other particulars as may be prescribed.

13. Except as provided in this Act or in any regulations made hereunder every person shall be entitled to registration in the appropriate register who satisfies the Council that she is of good character and has paid the prescribed fee, and—

Persons entitled to be registered.

- (a) has undergone the prescribed course of instruction and has passed the appropriate final examination conducted by the Council; or
- (b) has undergone a course of training and passed an examination (elsewhere than in Kenya) which the Council recognizes as equivalent to the training and instruction required in case of persons trained in Kenya and qualified by examination under this Act.

Rolls to be kept.

14. (1) The Registrar shall, under the direction of the Council, compile and keep in her office the following rolls, namely—

- (a) a roll of nurses;
- (b) a roll of midwives;
- (c) a roll of health visitors;
- (d) a roll of mental nurses,

and such other rolls as may from time to time be required by the Council with the approval of the Minister.

(2) There shall be entered on the appropriate roll the name and address of every person entitled to be enrolled under this Act and such other particulars as may be prescribed.

Persons entitled to be enrolled.

15. Except as provided in this Act or in any regulations made hereunder, every person shall be entitled to enrolment in the appropriate roll who satisfies the Council that she is of good character and has paid the prescribed fee, and—

- (a) has undergone the prescribed course of instruction and has passed the appropriate final examination conducted by the Council; or
- (b) has undergone a course of training and passed an examination (elsewhere than in Kenya) which the Council recognizes as equivalent to the training and instruction required in the case of persons trained in Kenya and qualified by examination under this Act.

Use of titles.

16. (1) Any person registered under this Act may take and use the title appropriate to the register on which her name appears.

(2) Any person enrolled under this Act may take and use the title appropriate to the roll on which her name appears.

PART IV—MISCELLANEOUS

Offences by persons not eligible to be registered or enrolled.

17. (1) Any person who, not being eligible to be registered or enrolled under this Act, uses any title appropriate to a person registered or enrolled under this Act or holds herself out directly or indirectly as being so registered or so enrolled, or wears any uniform, badge or other distinguishing device

prescribed for the use of persons so registered or enrolled or any colourable imitation thereof shall be guilty of an offence and shall be liable to a fine not exceeding two thousand shillings.

(2) Any person who, not being registered or enrolled under this Act, undertakes except in a case of emergency any of the duties of a person registered in a register or enrolled in a roll under this Act in which her name is not registered or enrolled shall be guilty of an offence and shall be liable to a fine not exceeding one thousand shillings.

(3) Any person who, not being eligible to be registered or enrolled under this Act, practises for gain as a nurse, midwife or health visitor in any area which the Minister, by notice in the *Gazette*, shall have determined to be unsuitable for such practice by persons who are not registered or enrolled under this Act, except in such circumstances as may be laid down in regulations under this Act, shall be guilty of an offence and shall be liable to a fine not exceeding two thousand shillings:

Provided that nothing in this section shall prohibit persons employed in the service of the Government or by an approved institution from performing their duties under the general supervision of a medical practitioner or of a person registered or enrolled under this Act.

(4) For the purposes of this section the expression "approved institution" means an institution recommended by the Council and approved by the Minister.

18. (1) Any person who, though eligible for registration or enrolment under this Act, is not so registered or so enrolled and who practises except in a case of emergency as a nurse, midwife or health visitor of any of the categories contained in sections 14 and 16 of this Act, shall be guilty of an offence and shall be liable to a fine not exceeding one thousand shillings.

Offences by persons eligible to be registered or enrolled.

(2) Any person who, being registered or enrolled under this Act, wears the uniform, badge or other distinguishing device or any colourable imitation thereof prescribed for any class of persons registered in any register or enrolled in any roll under this Act in which her name is not so registered or so enrolled or holds herself out directly or indirectly as being

registered in any register or enrolled in any roll in which her name is not so registered or so enrolled, as the case may be, or uses any name, title or description other than that which she is entitled to use under this Act shall be guilty of an offence and shall be liable to a fine not exceeding one thousand shillings.

19. (1) Any person who, being in charge of a hospital, nursing home or other institution which is not approved by the Council as an institution for the training of persons seeking registration or enrolment under this Act—

- (a) admits to the institution under her charge persons for training in any of the categories of the nursing, midwifery or health visiting professions in respect of which provision is made for registration or enrolment in this Act;
- (b) purports to be conducting courses of training or examinations under this Act or regulations made thereunder; or
- (c) issues any certificate, badge, seal or uniform implying that the institution under her charge is approved by the Council as an institution for the training of persons seeking registration or enrolment under this Act; or
- (d) issues any certificate, badge or seal implying that the holder thereof has undergone a course of instruction or passed an examination prescribed by the Council,

shall be guilty of an offence and shall be liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and such imprisonment.

(2) Any person purporting to be conducting examinations on behalf of the Council and not being authorized by the Council so to do shall be guilty of an offence and shall be liable to a fine not exceeding one thousand shillings.

20. Any certificate under the seal of the Council stating that any person is or was at any date duly registered or enrolled under the provisions of this Act shall be conclusive evidence of the fact stated in the certificate.

Offences by persons conducting training courses or examinations without authority.

Certificates.

21. Any person who wilfully makes or causes to be made any false entry in or falsification of any register or roll kept under this Act or procures or attempts to procure herself or any other person to be registered or enrolled under this Act by making or producing or causing to be made or produced any false or fraudulent representation or declaration either orally or in writing shall be guilty of an offence and shall be liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding twelve months, or to both such fine and such imprisonment.

Falsification
of registers
or rolls.

22. (1) If the Council is satisfied in respect of any person registered or enrolled under this Act that such person whether before or after she became registered—

Disciplinary
powers of
Council.

(a) has been convicted of any offence punishable by imprisonment the commission of which in the opinion of the Council has dishonoured her in the public estimation; or

(b) has been guilty of negligence or malpractice in respect of her calling; or

(c) has been guilty of impropriety or misconduct whether in respect of her calling or not,

it may, in its discretion, either cause that person's name to be removed from the appropriate register or roll or suspend her registration or enrolment for a period not exceeding twelve months:

Provided that the Council may in its discretion cause the name of a person which has been removed from a register or roll to be restored to the appropriate register or roll.

(2) Upon any inquiry held by the Council or a Committee of the Council under subsection (1) of this section, the person whose conduct is being inquired into shall be afforded an opportunity of being heard, either in person or by an advocate.

(3) For the purpose of proceedings at any inquiry held by the Council or a Committee of the Council, the Council or Committee may administer oaths and may, subject to the

provisions of any regulations made under section 23 of this Act, enforce the attendance of persons as witnesses and the production of books and documents.

(4) Any person whose name has been removed from the register or roll or whose registration or enrolment has been suspended shall forthwith surrender to the Registrar her certificate and badge, and any person who fails to do so shall be guilty of an offence and shall be liable to a fine not exceeding one thousand shillings.

(5) Any person aggrieved by any decision of the Council may, within three calendar months from the date of such decision, appeal to the Supreme Court, and in any such appeal the Supreme Court may annul or vary the decision as it thinks fit.

Regulations.

23. The Council, with the approval of the Minister, may make regulations generally for better carrying out the provisions of this Act and, without prejudice to the foregoing generality, may make regulations to provide for—

- (a) the form and the method of keeping the registers and rolls under this Act;
- (b) the conditions of admission to the registers and rolls;
- (c) the manner in which the various categories of persons for whom provision is made in this Act for registration or enrolment may be established and their training regulated;
- (d) the conditions under which training schools for persons desirous of obtaining registration or enrolment under this Act will be approved and the courses of training and instruction to be undergone by persons seeking such registration or enrolment;
- (e) the subject matter of training courses and examinations to be conducted by the Council;
- (f) the conditions of admission or entry to training courses and examinations to be conducted by the Council;
- (g) uniforms, badges and other distinguishing devices which may be worn by persons registered or enrolled under the provisions of this Act;

- (h) the standard and conditions of professional practice of persons registered or enrolled under this Act;
- (i) the fees payable in respect of examinations and of registrations and enrolments under this Act, in respect of the issue of certificates and badges and in respect of any other matters under this Act;
- (j) the procedure for election of those members of the Council who are to be elected;
- (k) the summoning of meetings and the direction of the proceedings of the Council;
- (l) the powers and duties of local supervising authorities;
- (m) the disposal of fees collected, the authorization of such disbursements as may be necessary and the management of any funds within the control of the Council;
- (n) the opening of new registers and rolls and the closing of parts of existing registers and rolls.

24. (1) The Nurses and Midwives Registration Act, 1949, is hereby repealed.

Repeal and saving.
16 of 1949.

(2) Until such date as the Minister shall, by notice in the Gazette, appoint (being a date not later than twenty-one days after the first Council under this Act has been established whether by election or otherwise), the functions, powers and duties of the Council shall be performed by the Council established under the Nurses and Midwives Registration Act, 1949, which latter Council shall remain in existence for that purpose until such date, notwithstanding the repeal of the Nurses and Midwives Registration Act, 1949.

(3) So long as it shall remain in existence as provided in subsection (2) of this section, the Council established under the Nurses and Midwives Registration Act, 1949, shall continue to be governed as to its procedure by the provisions of that Act and by any regulations in that regard made thereunder.

(4) All institutions, licences, regulations, orders, registers, registrations, records, certificates, notices, instruments and generally all acts of authority that originated under the Nurses

and Midwives Registration Act, 1949, and are subsisting or in force on the commencement of this Act shall endure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act and accordingly shall, where necessary, be deemed to have so originated.

(5) All matters and proceedings commenced under the Nurses and Midwives Registration Act, 1949, and pending or in progress on the commencement of this Act may be continued, completed and enforced under this Act.