



## NURSING ACT, 1978

Act No. 50 of 1978

**as amended by**

Nursing Amendment Act, 1981	Act No. 71 of 1981
Nursing Amendment Act, 1982	Act No. 70 of 1982
Transfer of Powers and Duties of the State President Act, 1986	Act No. 97 of 1986
Nursing Amendment Act, 1987	Act No. 56 of 1987
Medicines and Related Substances Control Amendment Act, 1991	Act No. 94 of 1991
Nursing Amendment Act, 1992	Act No. 21 of 1992
Medical Schemes Amendment Act, 1993	Act No. 23 of 1993
[ This Amendment Act repealed by section 68 of Act No. 131 of 1998 ]	
Nursing Amendment Act, 1993	Act No. 145 of 1993
Nursing Amendment Act, 1995	Act No. 5 of 1995
Abolition of Restrictions on the Jurisdiction of Courts Act, 1996	Act No. 88 of 1996
Nursing Amendment Act, 1997	Act No. 19 of 1997
Extension of Terms of Office of Members of Certain Councils Act, 1997	Act No. 45 of 1997

## TABLE OF CONTENTS

<b>ACT</b> .....	<b>4</b>
1. Definitions.....	4
<b>CHAPTER 1</b> .....	<b>5</b>
<i>Establishment, Objects, Functions and Powers of the South African Nursing Council</i> .....	5
2. Establishment of South African Nursing Council .....	5
3. Objects of council .....	5
4. Powers of council .....	6
5. Constitution of council .....	7
6. Vacation of office and filling of vacancies .....	8
7. Office-bearers.....	9
8. Meetings of council.....	10
9. Quorum and procedure at meetings.....	10
10. Executive committee.....	11
11. Other committees.....	11
12. Appointment of registrar and staff .....	11
13. Financing of council .....	12
14. Minister may rectify defects.....	12
<b>CHAPTER 2</b> .....	<b>12</b>
<i>Education, Training, Registration and Enrolment</i> .....	12
15. Control over education and training .....	12
16. Registration or enrolment a prerequisite for practising.....	13
17. Keeping of registers and rolls.....	13
18. Removal of name from register or roll, and restoration thereof .....	14
19. Custody and publication of registers and rolls.....	15
20. Receipt as proof.....	15
21. Limited registration.....	15
22. Registration of additional qualifications .....	16
23. Registration of student nurses and student midwives .....	16
24. Enrolment of pupil nurses and pupil nursing auxiliaries .....	17
25. Council may refuse registration or enrolment.....	17
26. Persons registered or enrolled may use certain titles.....	17
<b>CHAPTER 3</b> .....	<b>17</b>
<i>Offences by Persons not Registered or Enrolled</i> .....	17

27.	Penalties for practising as registered nurse, midwife, enrolled nurse or nursing assistant or for performing certain other acts while not registered or enrolled .....	17
CHAPTER 4.....		19
	<i>Disciplinary Powers of the Council.....</i>	19
28.	Inquiry by council into charges of misconduct.....	19
29.	Matters for, and procedure at, inquiry by council.....	19
30.	Postponement of imposition, and suspension of operation, of penalty.....	21
31.	Effect of suspension, or removal from register or roll.....	22
32.	Cognizance by council of conduct of registered or enrolled persons under certain circumstances .....	22
33.	Penalty for false evidence .....	22
34.	Limitation of liability.....	22
35.	Acts or omissions in respect of which disciplinary steps may be taken.....	22
36.	Restriction in, or suspension from, practice of registered or enrolled person..	22
CHAPTER 5.....		24
	<i>General and Supplementary Provisions.....</i>	24
37.	Nursing agencies .....	24
38.	[ Repealed ].....	24
38A.	Special provisions relating to certain nurses .....	24
39.	Charges by registered and enrolled persons .....	24
40.	Penalty for false representation inducing registration or enrolment, for false entries in register or roll and for impersonation .....	25
41.	Presumptions .....	26
42.	Limitations in respect of persons not registered or enrolled .....	26
43.	Investigation of matters relating to the teaching or training of certain classes of persons	26
44.	Penalties .....	27
45.	Regulations .....	27
46.	Repeal of laws .....	29
47.	Short title and commencement.....	29

## ACT

**To consolidate and amend the laws relating to the professions of registered or enrolled nurses, nursing auxiliaries and midwives; and to provide for matters incidental thereto.**

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows: —

### 1. Definitions

In this Act, unless the context otherwise indicates—

“**approved nursing school**” means a nursing school approved by the council under section 4;

“**council**” means the South African Nursing Council established by section 2;

“**Director-General**” means the Director-General: Health or his or her nominee;

“**enrol**” means the entry in a roll of a category, or a member of a category, of persons in respect of whom a roll is kept in terms of this Act, and “**enrolled**” and “**enrolment**” have a corresponding meaning;

“**enrolled nurse**” means a person enrolled as a nurse under section 16;

“**inquiry**” means an inquiry in terms of section 28;

“**medicinal purpose**”, in relation to a scheduled substance, means the treatment or prevention of a disease or some other definite curative or therapeutic purpose, but does not include the satisfaction or relief of a habit or craving for the substance used or for any other such substance except where the substance is administered or used in a hospital or similar institution maintained wholly or partly by the Government or a provincial administration, or approved for this purpose by the Minister;

“**midwife**” means a person registered or enrolled as such under section 16, and includes an accoucheur;

“**Minister**” means the Minister of Health;

“**nursing agency**” means a business which supplies registered nurses or midwives or enrolled nurses or nursing auxiliaries to any person, organisation or institution, whether for gain or not and whether in conjunction with any other service rendered by such business or not;

“**nursing auxiliary**” means a person enrolled as such under section 16;

“**nursing college**” means an approved nursing school conducted in co-operation with a university;

“**nursing school**” means any institution where persons are educated and trained for the profession of nursing or midwifery;

“**prescribed**” means prescribed by regulation;

“**pupil nurse**” means a person enrolled as such under section 24;

- “pupil nursing auxiliary”** means a person enrolled as such under section 24;
- “register”**, when used as a noun, means a register kept in terms of this Act, and when used in relation to any category, or any member of any category, of persons in respect of whom a register is kept, the register kept for that category and, when used as a verb, means to enter in a register in terms of this Act, and the words **“registered”**, **“registrable”**, **“registration”** and all other words derived from the word **“register”** have a corresponding meaning;
- “registered nurse”** means a person registered as a nurse under section 16;
- “registrar”** means the registrar appointed under section 12;
- “regulation”** means a regulation made in terms of this Act;
- “roll”** means a roll kept in terms of this Act, and when used in relation to any category, or any member of any category, of persons in respect of whom a roll is kept, the roll kept for that category;
- “scheduled substance”** means **“scheduled substance”** as defined in section 1 of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965);
- “South African Nursing Council”** means the South African Nursing Council referred to in section 2 of this Act prior to the amendment of the said section 2 by the Nursing Amendment Act, 1995;
- “student midwife”** means a person registered as such under section 23;
- “student nurse”** means a person registered as such under section 23;
- “this Act”** includes the regulations.

## CHAPTER 1

### ESTABLISHMENT, OBJECTS, FUNCTIONS AND POWERS OF THE SOUTH AFRICAN NURSING COUNCIL

#### 2. Establishment of South African Nursing Council

- (1) There is hereby established a juristic person to be called the South African Nursing Council.
- (2) The head office of the council shall be in Pretoria.

#### 3. Objects of council

The objects of the council shall be—

- (a) to assist in the promotion of the health standards of the inhabitants of the Republic;
- (b) subject to the provisions of the Chiropractors Act, 1971 (Act No. 76 of 1971), the Homeopaths, Naturopaths, Osteopaths and Herbalists Act, 1974 (Act No. 52 of 1974), the Pharmacy Act, 1974 (Act No. 53 of 1974), and the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974), to control, and to exercise authority in respect of, all matters affecting the education and training of, and the manner of the exercise of the practices

pursued by, registered nurses, midwives, enrolled nurses and nursing assistants;

- (c) to promote liaison of the education and training, and the manner of the exercise of the practices, referred to in paragraph (b), both in the Republic and elsewhere, and to promote the standards of such education and training and the manner of the exercise of such practices in the Republic;
- (d) to advise the Minister on any matter falling within the scope of this Act;
- (e) to communicate to the Minister information on matters of public importance acquired by the council in the course of the performance of its functions under this Act;
- (f) to make recommendations to the Minister on the constitution of a new council within a period not exceeding 30 months from the date of the commencement of the Nursing Amendment Act, 1995 (Act No. 5 of 1995);
- (g) to advise the Minister on the amendment or adaptation of this Act so as to support the universal norms and values of the nursing profession and to place greater emphasis on professional practice, democracy, transparency, equity, accessibility and community involvement.

#### **4. Powers of council**

The council may—

- (a) cause copies of the registers and rolls, and supplementary lists, and copies thereof, showing all alterations to the registers and rolls, to be printed and published;
- (b) make extracts from the registers and rolls and charge the prescribed fees in respect thereof;
- (c) where authorized by this Act, remove from or, upon payment of the prescribed fee, restore to a register or roll any name;
- (d) appoint examiners and moderators, conduct examinations and grant diplomas and certificates, and charge the prescribed fees in respect of such examinations and the issue of such diplomas and certificates;
- (e) approve nursing schools in accordance with the prescribed conditions, inspect such schools, or withdraw or suspend approval of any such school if the education or training thereat is not, in the opinion of the council, satisfactorily carried out, or if any condition imposed has not been complied with;
- (f) charge the prescribed fees in respect of any inspection it may deem necessary to enable it to consider an application for the approval of a nursing school or any variation of a condition imposed in respect of an approved nursing school;
- (g) acquire, hire or dispose of property, borrow money on the security of the assets of the council, accept or make any donation or accept and administer any trust;
- (h) subject to the prescribed conditions and upon payment of the prescribed fees, issue or renew a licence to carry on the business of a nursing agency, inspect the records and accounts, and investigate the activities, of a nursing agency, require any person licensed to carry on the business of a nursing agency to

submit to the council such information as it may deem necessary, and, in the prescribed circumstances, suspend or cancel a licence to carry on the business of a nursing agency;

- (i) consider any matter affecting the nursing or midwifery profession, and make representations or take such action in connection therewith as the council may deem advisable;
- (j) upon application of any person, recognise a qualification held by him (whether such qualification has been obtained in the Republic or elsewhere), as being equal, either wholly or in part, to any prescribed qualification, whereupon such person shall, to the extent to which the qualification has so been recognised, be deemed to hold such prescribed qualification;
- (k) require approved nursing schools to submit annual returns of students registered under section 23 and pupils enrolled under section 24 and such other information as may become necessary at any time;
- (l) require employers to submit annual returns of registered and enrolled persons in their employ and such other information as may become necessary at any time;
- (m) perform such other functions as may be prescribed, and, generally, do all such things as it may deem necessary or expedient to achieve the objects of this Act.

## **5. Constitution of council**

- (1) The council shall consist of—
  - (a) 12 persons who shall be registered nurses or midwives and who shall be elected by registered nurses and midwives;
  - (b) three persons who shall be enrolled nurses and who shall be elected by enrolled nurses;
  - (c) three persons who shall be nursing auxiliaries and who shall be elected by nursing auxiliaries;
  - (d) 18 persons who shall be appointed by the Minister, of whom—
    - (i) one shall be a registered nurse who is in the employment of the Department of Health;
    - (ii) six shall be registered nurses, enrolled nurses or nursing auxiliaries who are not in the employment of the Department of Health;
    - (iii) two shall be nursing students at nursing colleges or universities who are at least in their third academic year of study; and
    - (iv) nine shall be persons who are not nurses, each representing a province, and who shall be appointed from persons whose names are submitted by those members of the Executive Council of the various provinces who are responsible for health, after nominations have been submitted by members of the public in the various provinces; and

- (e) three persons, appointed by the following bodies:
  - (i) One attorney, by the Association of Law Societies;
  - (ii) one pharmacist, by the Interim Pharmacy Council of South Africa; and
  - (iii) one medical practitioner, by the Interim National Medical and Dental Council of South Africa.
- (2) The persons who are elected in terms of subsection (1) (a), (b) and (c) shall be South African citizens who are resident in the Republic and shall be elected in the prescribed manner by persons who are such citizens and are so resident.
- (3) (a) A person who is appointed in terms of subsection (1) (d) (iv) shall be resident in the province he or she represents.  
(b) When the members referred to in subsection (1) (d) (iii) are appointed, the Minister shall endeavour to afford the students in the various provinces an equal opportunity to serve on the council.
- (4) (a) The members of the council shall hold office for a period of five years reckoned from the date on which the notice referred to in subsection (8) is published in respect of them: Provided that a member referred to in subsection (1) (d) (iii) shall hold office for a period of one year.  
(b) Members shall at the expiry of their terms of office be eligible for reappointment or re-election.
- (5) A body mentioned in subsection (1) (e) shall, not later than three months before the expiry of the terms of office of the members of the council, inform the registrar in writing of the name of the person who is appointed by it as member of the council.
- (6) Subject to the provisions of section 6, the members of the council shall hold office as from the date contemplated in subsection (5) until the constitution of a new council but not exceeding a period of 30 months.  

[In the above subsection "council" should have been "South African Nursing Council" – as defined in the definitions.]
- (7) As soon as possible after the election of the members referred to in subsection (1) (a) has taken place, the Minister shall inform the registrar of the names of the persons who have been appointed by him or her in terms of subsection (1) (d).
- (8) The names of the members of the council, the dates of their election and the dates of the commencement of their terms of office shall as soon as possible after the constitution of the council be made known by the registrar by notice in the *Gazette*.

## 6. Vacation of office and filling of vacancies

- (1) A member of the council shall vacate his or her office if—
  - (a) his or her estate is sequestrated or he or she has entered into a composition with the creditors of his or her estate;

- (b) he or she has been absent from more than two consecutive ordinary meetings of the council without the council's leave;
  - (c) he or she is or becomes disqualified under any law from practising his or her profession;
  - (d) he or she ceases to be a South African citizen or to be permanently resident in the Republic;
  - (e) he or she is convicted of an offence, whether in the Republic or elsewhere, in respect whereof he or she is sentenced to imprisonment without the option of a fine;
  - (f) he or she becomes a patient or a President's patient as defined in section 1 of the Mental Health Act, 1973 (Act No. 18 of 1973);
  - (g) he or she—
    - (i) in the case of an elected member, ceases to hold a qualification required for his or her election, or submits his or her resignation in writing to the registrar;
    - (ii) in the case of a member appointed in terms of section 5 (1) (d), ceases to hold a qualification required for his or her appointment, or submits his or her resignation in writing to the Minister;
    - (iii) in the case of a member appointed in terms of section 5 (1) (e), ceases to hold a qualification required for his or her appointment, or submits his or her resignation to the body which appointed him or her;
  - (h) the Minister, in the public interest, terminates his or her membership.
- (2) Every vacancy on the council arising from a circumstance referred to in subsection (1) and every vacancy caused by the death of a member, shall be filled by appointment or election, as the case may be, by the person or body by whom, and in the manner in which, the former member was required to be appointed or elected, and every member who is so appointed or elected shall hold his or her office for the unexpired portion of the period for which the member whose office became vacant was appointed or elected.

## **7. Office-bearers**

- (1) At the first meeting of every newly constituted council the members of the council shall elect a president and a vice-president, who shall be nurses, and a treasurer from among themselves.
- (2) The president, vice-president and treasurer shall hold office during the term of office of the members of the council, unless the president, vice-president or treasurer shall sooner resign or cease to be a member of the council.
- (3) The vice-president may, if the president is absent or is for any reason unable to act as president, perform all the functions and exercise all the powers of the president.
- (4) If both the president and vice-president are absent from any meeting, the members present shall elect one of their number to preside at that meeting

and the person so presiding may, during that meeting and until the president or the vice-president resumes duty, perform all the functions and exercise all the powers of the president.

- (5) If both the president and vice-president have been given leave of absence, the members of the council shall elect one of their number, or, if the council is not in session, the executive committee shall designate a member of the council, to act as president until the president or vice-president resumes duty or vacates office.
- (6) If the office of president, vice-president or treasurer becomes vacant, the members of the council shall at the first meeting after such vacancy has occurred, elect from among themselves a new president, vice-president or treasurer, as the case may be, and the member so elected shall hold office for the unexpired portion of the period for which his predecessor was elected.
- (7) A president, vice-president or treasurer may vacate office as such without such vacation by itself terminating his membership of the council.
- (8)
  - (a) The members of the council may elect a deputy vice-president, who shall be a registered nurse, from among themselves and may assign to such deputy vice-president such of the functions of the president or vice-president as the council may from time to time think fit.
  - (b) The provisions of subsections (2), (6) and (7) shall *mutatis mutandis* apply to the deputy vice-president.
  - (c) If the council assigns, in terms of paragraph (a), any functions to the deputy vice-president, the council may determine when and under which circumstances such functions may or shall be performed.

## **8. Meetings of council**

- (1) The council shall hold at least two meetings in each year at venues to be determined by the council, and may in addition hold such further meetings as the council may from time to time determine.
- (2)
  - (a) The president may at any time convene a special meeting of the council, to be held on such date and at such place as he may determine and he shall, upon a written request by the Minister or a written request signed by at least six members, convene a special meeting to be held, within thirty days after the date of receipt of the request, on such date and at such place as he may determine.
  - (b) Such written request shall state clearly the purpose for which the meeting is to be convened.

## **9. Quorum and procedure at meetings**

- (1) The majority of the members of the council shall constitute a quorum at any meeting of the council.
- (2) A decision of the majority of the members of the council present at any meeting shall constitute a decision of the council: Provided that in the event of an equality of votes the member presiding shall have a casting vote in addition to a deliberative vote.

- (3) No decision taken by the council or act performed under the authority of the council shall be invalid by reason only of an interim vacancy on the council or of the fact that a person who was not entitled to sit as a member of the council sat as a member at the time when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the requisite majority of the members of the council who were present at the time and entitled to sit as members.

**10. Executive committee**

- (1) There shall be an executive committee of the council consisting of the president, the vice-president and the treasurer, and one member appointed in terms of section 5 (1) (d) (i), and one member appointed in terms of section 5 (1) (d) (iv), and other members of the council designated by the council.
- (2) The executive committee may, subject to the directions of the council, exercise all the powers, other than a power referred to in section 29 (6), and perform all the functions of the council during periods between meetings of the council, but shall not have the power, save in so far as the council otherwise directs, to set aside or amend any decision of the council, and any act performed or decision taken by the executive committee shall be of force and effect unless it is set aside or amended by the council at its next ensuing meeting.

**11. Other committees**

- (1) The council may from time to time establish such other committees, constituted as prescribed, as it may deem necessary, to investigate and report to the council on any matter falling within the scope of its functions.
- (2) Subject to the provisions of subsection (3), the council may delegate to any committee established under subsection (1) such of its powers as the council may from time to time deem fit: Provided that the council shall not be divested of any power so delegated and may amend or set aside any decision of any such committee made in the exercise of any such power.
- (3) No penalty imposed by any committee established under subsection (1), other than a caution or a reprimand or a reprimand and a caution, shall be of force and effect until confirmed by the council: Provided that a penalty imposed by any such committee under section 29 (1) (b), (c), (d) or (e) or any order made by it under section 36 (2) shall, if the committee so directs in the public interest, come into operation forthwith, but shall then lapse after the expiration of a period of six months unless confirmed by the council within that period.

**12. Appointment of registrar and staff**

- (1) The council shall appoint a registrar, and may appoint such other persons as it may deem necessary, for carrying out its functions under this Act, and may dismiss any of such other persons.
- (2) The registrar shall act as secretary to the council and shall perform the functions and carry out the duties assigned to, or imposed upon, him under this Act, as well as such functions and duties as may from time to time be assigned to, or imposed upon, him by the council.

- (3) The appointment or dismissal of the registrar shall be subject to the approval of the Minister.

**13. Financing of council**

- (1) All registration, enrolment and examination fees and any other fees payable under this Act, shall be paid to the council and shall constitute its funds and the council shall utilise its funds for defraying expenses incurred in connection with the performance of its functions.
- (2) The council may invest any unexpended portion of its moneys and may establish such reserve funds, and pay therein such amounts, as it may deem necessary or expedient.

**14. Minister may rectify defects**

If anything required to be done under this Act in connection with the appointment or election of any member is omitted or not done within the time or in the manner required by this Act, the Minister may order all such steps to be taken as may be necessary to rectify the omission or error in order to give effect to the objects of this Act.

## CHAPTER 2

### EDUCATION, TRAINING, REGISTRATION AND ENROLMENT

**15. Control over education and training**

- (1) Notwithstanding anything to the contrary in any law contained, no person or institution, excluding a university or technikon established by or under an Act of Parliament, may offer or provide any education or training which is intended to qualify any person to practise the profession of nursing or midwifery to which the provisions of this Act apply, unless such education and training have been approved by the council.
- (2) Any person or institution wishing to offer or to provide the education and training referred to in subsection (1) shall, before offering or providing the education and training, apply to the council in writing for its approval of the education and training and shall furnish such particulars regarding the education and training as the council may require.
- (3) The council may approve or refuse any application made in terms of subsection (2) and may, where it approves the application, determine any condition or requirements it deems fit, to which the education or training shall be subject.
- (4) [ Deleted ]  
[ Sub-section (4) deleted by section 77 of Act No. 88 of 1996 ]
- (5) Any person who contravenes or fails to comply with any provision of this section, or any condition or requirement determined thereunder, shall be guilty of an offence and on conviction liable to a fine not exceeding two thousand rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

**16. Registration or enrolment a prerequisite for practising**

- (1) No person shall be entitled to practise within the Republic the profession of a registered nurse, a midwife, an enrolled nurse or a nursing auxiliary, or to practise within the Republic as a student nurse or a student midwife or as a pupil nurse or a pupil nursing auxiliary, unless he is in terms of this Act registered or enrolled, as the case may be, as a nurse, a midwife, a nursing auxiliary, a student nurse, a student midwife, a pupil nurse or a pupil nursing auxiliary, as the case may be.
- (2) Every person who wishes to be registered or to be enrolled in terms of this Act as a registered nurse, midwife, enrolled nurse or nursing auxiliary, as the case may be, shall apply to the council and shall submit the qualification which, in his submission, entitles him to registration or enrolment, as the case may be, together with such proof of identity and the authenticity and validity of the qualification submitted as may be required by the council.
- (3) If the council is satisfied that the qualification and the other documents submitted in support of the application satisfy the requirements of this Act, it shall, upon payment of the prescribed fee, register or enrol the applicant, as the case may be, and issue a registration or enrolment certificate, as the case may be, authorizing the applicant, subject to the provisions of this Act and to any other legal provisions, to practise within the Republic the profession in respect of which he has applied for registration or enrolment.

**17. Keeping of registers and rolls**

- (1) The council shall keep the separate prescribed registers and rolls in respect of the different prescribed categories of practitioners, students and pupils, and shall enter in the appropriate register or roll the prescribed particulars of every person whose application under section 16 (2), 23 or 24 for registration or enrolment has been granted.
- (2) The council shall keep the registers and rolls correctly and in accordance with the provisions of this Act and shall remove therefrom the names of all registered or enrolled persons who have died or whose period of registration or enrolment has expired in terms of the regulations and shall from time to time make the necessary alterations in the names and addresses or qualifications of registered or enrolled persons.
- (3) Every registered or enrolled person who changes his name or address shall in writing notify the registrar thereof within thirty days after such change.
- (4)
  - (a) No qualification shall be entered in the register or roll if the council is satisfied that the person claiming to possess such qualification is not entitled thereto.
  - (b) Any registration or enrolment which is proved to the satisfaction of the council to have been made in error or through misrepresentation or in circumstances not authorized by this Act, may be removed from the register or roll, and an endorsement of the reason for every such removal shall be made in the register or roll, and the person in respect of whose registration or enrolment such removal has been made shall be notified thereof in the manner contemplated in section 18 (2).

- (c) Any certificate issued in respect of the registration or enrolment in question shall be deemed to be cancelled as from the date on which notice is so given.

**18. Removal of name from register or roll, and restoration thereof**

- (1) The council may direct the registrar to remove from the register or roll the name of any person—
  - (a) who has been absent from the Republic during the three years immediately preceding such removal;
  - (b) who has failed to notify the registrar, within a period of three months as from the date of a written enquiry sent by the registrar to the address appearing in the register or roll in respect of such person, of his present address;
  - (c) who has requested that his name be removed from the register or roll, in which case such person may be required by the registrar to lodge with the registrar an affidavit or affirmation to the effect that no disciplinary or criminal proceedings are being or are likely to be taken against him;
  - (d) whose name has been removed from the register, record or roll of any university, hospital, college, society or other body from which that person received the qualification by virtue of which he was registered or enrolled.
- (2) Notice of the removal in terms of subsection (1) of his name from the register or roll or of the removal in terms of section 17 (4) of an entry from the register or roll, shall be given by the registrar to the person concerned by way of a letter addressed to such person at the address appearing in respect of him in the register or roll.
- (3) As from the date on which notice has been given in terms of subsection (2)—
  - (a) any registration or enrolment certificate issued in terms of this Act to the person concerned shall be deemed to be cancelled; and
  - (b) such person shall cease to practise the profession in respect of which he was registered or enrolled or to perform any act which he, in his capacity as a registered or enrolled person, was entitled to perform, until such time as his name or the entry removed from the register or roll in terms of section 17 (4), as the case may be, is restored to the register or roll.
- (4) If—
  - (a) it appears to the judge from the documents submitted to him in terms of section 18 (3) of the Mental Health Act, 1973 (Act No. 18 of 1973), or it is brought to his notice in any other manner, that the person to whom the documents relate is a person registered or enrolled under this Act and such person is declared mentally ill as contemplated in section 19 (1) (b) of the said Mental Health Act; or
  - (b) it is brought to the notice of a court that an accused person appearing before it is registered or enrolled in terms of this Act, and the court in terms of section 77 (6) or 78 (6) of the Criminal Procedure Act, 1977

(Act No. 51 of 1977), directs that the accused person be detained pending the signification of the decision of the State President, the judge shall direct that a copy of the order declaring the person concerned mentally ill, or the court shall direct that a copy of the direction that the accused person be detained pending the signification of the decision of the State President, be transmitted to the registrar, and the registrar shall on receipt of the copy remove the name of the person concerned from the register or roll.

- (5) The name of a person whose name has in terms of this section been removed from the register or roll, or an entry removed from the register or roll in terms of section 17 (4), shall be restored to the register or roll by the registrar if the person concerned—
- (a) applies on the prescribed form for such restoration;
  - (b) pays any fee prescribed in respect of such restoration;
  - (c) where his name has been removed from the register or roll in terms of sub-section (4), submits proof to the satisfaction of the council of his discharge in terms of the provisions of the Mental Health Act, 1973, from the institution at which he was detained; and
  - (d) complies with such other requirements as the council may determine.

**19. Custody and publication of registers and rolls**

The registers and rolls shall be kept at the office of the council, and the registrar shall, at the intervals to be determined by the council and in accordance with the instructions and the authority of the council, cause copies of the registers and rolls and of any supplementary lists showing any alterations, additions, revisions and deletions made since the last publication of the complete registers and rolls, to be printed and published.

**20. Receipt as proof**

A receipt issued by or on behalf of the council in respect of the payment of annual fees shall be *prima facie* proof in legal proceedings that such person is registered or enrolled according to the provisions of this Act: Provided that in the case of any person whose name—

- (a) appears in such register or roll, but who is unable to produce such receipt, a certificate under the hand of the registrar shall be proof that such person is registered or enrolled under the provisions of this Act;
- (b) has been removed from the register or roll since the date of issue of such receipt and has not been restored to the register or roll, a certificate under the hand of the registrar that the name of such person has been removed from the register or roll, shall be proof that such person is not registered or enrolled under the provisions of this Act.

**21. Limited registration**

- (1) The council may register as a nurse or a midwife any person who belongs to a prescribed category of persons and holds a qualification other than a qualification contemplated in section 16, if in the opinion of the council—

- (a) the first-mentioned qualification indicates a satisfactory standard of education and training; and
  - (b) such person possesses sufficient professional knowledge and ability.
- (2) Any person registered under subsection (1) as a nurse or a midwife shall only be entitled to practise as such—
- (a) for such period or periods as the council may determine;
  - (b) while he holds a post approved by the council;
  - (c) in such branch of nursing as the council may determine;
  - (d) while he is engaged in post-graduate studies in nursing or midwifery at a university or post-basic studies at a nursing school;
  - (e) subject to such further conditions as the council may prescribe generally or determine in his case.
- (3) Any person registered under this section who practises as a nurse or midwife in contravention of the provisions of subsection (2) shall be guilty of an offence.

## **22. Registration of additional qualifications**

- (1) A person registered under section 16 who wishes to register an additional qualification shall, if he complies with the prescribed conditions and furnishes the prescribed particulars, be entitled, subject to the provisions of subsection (2), to register such qualification as an additional qualification upon payment of the prescribed fee.
- (2) Only such qualification as may be prescribed may be registered under this section.
- (3) No registered person shall in any way whatsoever take, use or publish any name, title, description or symbol which indicates, or which is calculated to lead persons to infer, that he holds a registered professional qualification which is not shown in the register in connection with his name.
- (4) The council may remove from the register any registered qualification referred to in subsection (1), if in respect of such qualification the name of the holder thereof has been removed from the roll, register or record of the university, hospital, college, society or other body from which the holder received such qualification.

## **23. Registration of student nurses and student midwives**

- (1) The council shall register as a student nurse or a student midwife, a person undergoing education and training at an approved nursing school, who has complied with the prescribed conditions and has furnished the prescribed particulars.
- (2) Every person shall on commencing or resuming education and training as a student nurse or a student midwife at an approved nursing school, apply for registration with the council.
- (3) The person in charge of an approved nursing school shall forthwith notify the council of the termination of the education and training of a student nurse or a

student midwife, whether by reason of abandonment or completion of education and training or a transfer or for any other reason.

**24. Enrolment of pupil nurses and pupil nursing auxiliaries**

- (1) The council shall enrol as a pupil nurse or a pupil nursing auxiliary a person undergoing education and training at an approved nursing school, who has complied with the prescribed conditions and has furnished the prescribed particulars.
- (2) Every person shall on commencing or resuming education and training as a pupil nurse or a pupil nursing auxiliary at an approved nursing school, apply for enrolment with the council.
- (3) The person in charge of an approved nursing school shall forthwith notify the council of the termination of the education and training of a pupil nurse or a pupil nursing auxiliary, whether by reason of abandonment or completion of education and training or a transfer or for any other reason.

**25. Council may refuse registration or enrolment**

Notwithstanding any provision of this Act, the council may refuse to register or enrol any person under section 16, 23 or 24 or to restore the name of any person to a register or roll, if, in the opinion of the council such person is by reason of a conviction, in the Republic or elsewhere, for a prescribed offence, not fit to practise as a registered nurse, a midwife, an enrolled nurse or a nursing auxiliary, as the case may be, or to undergo education and training as a registered nurse, a midwife, an enrolled nurse or a nursing auxiliary.

**26. Persons registered or enrolled may use certain titles**

A person who is registered or enrolled may use the title “**Registered Nurse**”, “**Registered Midwife**”, “**Enrolled Nurse**”, “**Enrolled Midwife**”, or “**Enrolled Nursing Auxiliary**”, as the case may be.

## CHAPTER 3

### OFFENCES BY PERSONS NOT REGISTERED OR ENROLLED

**27. Penalties for practising as registered nurse, midwife, enrolled nurse or nursing assistant or for performing certain other acts while not registered or enrolled**

- (1) A person who is not registered or enrolled in a particular capacity—
  - (a) who makes use of a title which only a person who is registered or enrolled in that capacity may use, whether he makes use of such title alone or in combination with any word or letter;
  - (b) who holds himself out or permits himself to be held out, directly or indirectly, as being registered or enrolled in that capacity; or
  - (c) who wears a uniform, badge or other distinguishing device, or any misleading imitation thereof, prescribed in respect of a person registered or enrolled in that capacity,

shall be guilty of an offence.

- (2) Subject to the provisions of subsection (4) and the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974), a person—
- (a) who is not registered as a nurse or enrolled as a nurse or a nursing auxiliary and who for gain performs any act pertaining to the profession of nursing;
  - (b) who is not registered or enrolled as a midwife and who for gain performs any act pertaining to the profession of midwifery; or
  - (c) who is not registered or enrolled as a midwife and who makes any internal examination of the genitals of a woman while attending to the woman in relation to a condition arising out of or in connection with pregnancy,

shall be guilty of an offence.

- (3) A person who, knowing that another person is not registered or enrolled in a particular capacity—
- (a) describes such person as the holder of a title which only a person who is registered or enrolled in that capacity may use, whether he describes such other person by making use of such title alone or in combination with any word or letter; or
  - (b) holds such other person out, directly or indirectly, as being registered or enrolled in that capacity,

shall be guilty of an offence.

- (4) (a) The provisions of subsection (2) (a) and (b) shall not apply with reference to—
- (i) a student nurse or a student midwife registered under section 23, or a pupil nurse or a pupil nursing auxiliary enrolled under section 24, while acting in the course of his education and training;
  - (ii) any person who has completed the prescribed period of education and training and who has taken or will at the first available opportunity after such completion take the final examination for a qualification which, if obtained by him would entitle him to be registered or enrolled, as the case may be, until such time as he is advised by the registrar that he has failed the said examination or that he has been registered or enrolled with the council;
  - (iii) a member of the “Suid-Afrikaanse Noodhulpliga”, the South African Red Cross Society or the St. John Ambulance Association, while acting within the scope of the objects, and under the direct control, of the organisation concerned;
  - (iv) a person rendering assistance in a case of emergency;
  - (v) any other prescribed class or classes or persons.

- (b) Any person referred to in paragraph (a) (ii) shall, while that paragraph applies to him, be deemed for the purposes of Chapter 4 to be registered or enrolled, as the case may be.

## CHAPTER 4

### DISCIPLINARY POWERS OF THE COUNCIL

#### **28. Inquiry by council into charges of misconduct**

- (1) The council may institute an inquiry into any complaint, charge or allegation of improper or disgraceful conduct against any person registered or enrolled under this Act and, on finding such person guilty of such conduct, may impose any of the penalties referred to in section 29 (1): Provided that in the case of a complaint, charge or allegation which forms or is likely to form the subject of a criminal case in a court of law, the council may postpone the holding of an inquiry until such case has been disposed of.
- (2) Whenever the council is in doubt as to whether an inquiry should be held, it may in connection with the complaint, charge or allegation in question consult with, or seek information from, any person, including the person against whom the complaint, charge or allegation has been lodged.

#### **29. Matters for, and procedure at, inquiry by council**

- (1) Any person registered or enrolled under this Act who, after inquiry, is found guilty of improper or disgraceful conduct, or conduct which, when regard is had to such person's profession, is improper or disgraceful, shall be liable to one or other of the following penalties—
- (a) a caution or a reprimand or a reprimand and a caution; or
  - (b) suspension for a specified period from practising or performing acts specially pertaining to his profession; or
  - (c) removal of his name from the register or roll; or
  - (d) in the case of a student nurse, student midwife, pupil nurse or pupil nursing assistant, extension of the prescribed period of education and training; or
  - (e) a fine not exceeding R2 000.
- (1A) If a person registered or enrolled under this Act (in this section referred to as the accused) is alleged to be guilty of improper or disgraceful conduct and the council on reasonable grounds is of the opinion that after inquiry the accused may be found guilty of such conduct as is contemplated in subsection (1) and that in respect thereof it would impose a fine, but not a fine exceeding R200, the council may issue an appropriate summons on the prescribed form against the accused carrying an endorsement by the council that the accused may admit that he is guilty of the said conduct and that he may pay the fine, not

exceeding R200, specified in the summons, without having to appear at an inquiry in terms of section 28.

- (1B) If a summons is in terms of subsection (1A) issued against an accused, he may, without appearing at an inquiry in terms of section 28, admit that he is guilty of the conduct mentioned in subsection (1A) by paying the specified fine (in this section referred to as the admission of guilt fine) to the council on or before the date specified in the summons.
- (1C) (a) Any penalty imposed under this section, excluding an admission of guilt fine, shall be paid to the council within 14 days after the imposition thereof.
- (b) The imposition of a fine under this section shall have the effect of a judgement in civil proceedings in the magistrate's court of the district in which the inquiry in question under section 28 took place.
- (2) Any person whose conduct is being inquired into under section 28, shall be afforded an opportunity, by himself or through his legal representative, of answering the charge and of being heard in his defence.
- (3) Any penalty imposed under subsection (1) shall be reduced to writing, shall be signed by the president of the council and shall be made known to the bodies and persons prescribed, and thereafter such writing shall be dealt with in the prescribed manner.
- (4) (a) The council or a committee referred to in section 11 (1) (a) may, for the purposes of an inquiry, take evidence and may, under the hand of the president of the council or the chairman of such committee or the registrar, summon any witness and require the production of any book, record, document or thing, and may, through the president or such chairman, administer an oath to, or take an affirmation from, any witness, and may examine any book, record, document or thing which a witness has been required to produce.
- (b) A summons to appear before the council or the committee as a witness or to produce to it any book, record, document or thing, shall be, as nearly as practicable, in the prescribed form and shall be served either by registered letter sent through the post or in the same manner as it would have been served if it had been a subpoena issued out of a magistrate's court.
- (c) Any person summoned under this subsection shall be bound to obey the summons and any person who, having been duly summoned—
- (i) refuses, or without sufficient cause fails, to attend and give evidence relevant to the inquiry at the time and place specified in the summons;
  - (ii) refuses to take the oath or to make an affirmation when required by the president or the chairman to do so;
  - (iii) refuses to produce any book, record, document or thing which he has in terms of the summons been required to produce; or

(iv) attends before the council or committee but refuses to answer, or to answer fully and satisfactorily to the best of his knowledge and belief, any question lawfully put to him,  
shall be guilty of an offence and on conviction liable to a fine not exceeding one hundred rand: Provided that a person so summoned shall be entitled to all the privileges to which a witness subpoenaed to give evidence before a provisional division of the Supreme Court is entitled.

- (5) The president of the council, where the council itself holds an inquiry, or the chairman of a committee of the council, where such committee holds an inquiry under powers delegated to it by the council, may appoint a person with adequate experience in the administration of justice as an assessor at such an inquiry to advise the council or such committee, as the case may be, on matters of law, procedure or evidence.
- (6) The council may on such conditions as it may determine—
- (a) terminate any suspension under subsection (1) before the expiry of the specified period;
- (b) on payment of the prescribed fee, restore to the register or roll any name which has been removed therefrom.

**30. Postponement of imposition, and suspension of operation, of penalty**

- (1) Where the council finds a person referred to in section 29 (1) guilty of conduct referred to therein, it may—
- (a) postpone for such period and on such conditions as it may determine, the imposition of a penalty; or
- (b) impose any penalty mentioned in section 29 (1) (b) or (c) but order the execution of the penalty to be suspended for such period and on such conditions as it may determine.
- (2) (a) If at the end of the period for which the imposition of a penalty has been postponed in terms of subsection (1) (a), the council is satisfied that the person concerned has observed all the relevant conditions, the council shall inform him that no penalty will be imposed upon him.
- (b) If the execution of a penalty has been suspended in terms of subsection (1) (b) and the council is satisfied that the person concerned has observed all the relevant conditions throughout the period of suspension, the council shall inform him that the execution of the penalty will not be put into operation.
- (c) If the execution of a penalty has been suspended in terms of subsection (1) (b) and the person concerned fails to observe any of the conditions of suspension, the council shall put the penalty into operation unless such person satisfies the council that the non-observant of the condition in question was due to circumstances beyond his control.

**31. Effect of suspension, or removal from register or roll.**

Any person who has been suspended or whose name has been removed from the register or roll in terms of section 29 shall, if his profession is one which cannot be lawfully carried on under this Act by a person who is not registered or enrolled, be disqualified from carrying on his profession, and his registration or enrolment certificate shall be deemed to be withdrawn, until the period of suspension has expired or until his name has been restored to the register or roll by the council, as the case may be.

**32. Cognizance by council of conduct of registered or enrolled persons under certain circumstances**

- (1) Any registered or enrolled person who, either before or after registration or enrolment, is convicted of any offence by a court of law in the Republic or elsewhere, may be dealt with by the council in terms of the provisions of this Chapter if the council is of the opinion that such offence constitutes conduct referred to in section 29 (1), and such person shall be liable on proof of the conviction to one or other of the penalties referred to in that section: Provided that such person shall, before imposition of any penalty, be afforded an opportunity of tendering an explanation to the council in extenuation of the conduct in question.
- (2) Whenever in the course of any criminal or inquest proceedings it appears to the court or magistrate, as the case may be, that there is *prima facie* proof of conduct referred to in section 29 (1) on the part of a registered or enrolled person, the court or magistrate shall direct that a copy of the record of such proceedings, or such portion thereof as is material to the conduct, be transmitted to the council.

**33. Penalty for false evidence**

Any person who gives false evidence on oath or affirmation at an inquiry held under this Chapter, knowing such evidence to be false, shall be guilty of an offence and liable on conviction to the penalties that apply in respect of the crime of perjury.

**34. Limitation of liability**

Save as provided in this Act, the council or a committee of the council or any member or officer thereof shall not be liable in respect of any act done in good faith or duty performed in accordance with this Chapter.

**35. Acts or omissions in respect of which disciplinary steps may be taken**

The Minister shall from time to time, on the recommendation of the council, by notice in the *Gazette* specify the acts or omissions in respect of which the council may take disciplinary steps under this Chapter: Provided that the powers of the council to inquire into and deal with any complaint, charge or allegation under this Chapter, shall not be limited to the acts or omissions so specified.

**36. Restriction in, or suspension from, practice of registered or enrolled person**

- (1) Whenever it appears to the council that a person registered or enrolled under this Act—

- (a) has become mentally or physically disabled to such an extent that it would be detrimental to the public interest to allow him to continue to practise;
  - (b) has become unfit to purchase, acquire, keep, use, administer, prescribe, order, supply or possess any scheduled substance;
  - (c) has used, possessed, prescribed, administered or supplied any scheduled sub-stance regularly for other than a medicinal purpose; or
  - (d) has become addicted to the use of any scheduled substance,
- the council shall cause the matter to be investigated and may, if it deems it necessary, hold an inquiry, *mutatis mutandis*, in accordance with the provisions of section 28 and the regulations, in respect of such a person.
- (2) If the council, after holding an inquiry under subsection (1), finds that any circumstance contemplated in paragraph (a), (b), (c) or (d) of that subsection exists in respect of the person concerned, it may by order—
    - (a) in the case of a person in respect of whom any circumstance contemplated in paragraph (a) of subsection (1) exists—
      - (i) suspend such person for a specific period from practising his profession or performing any act specially pertaining to his profession; or
      - (ii) impose such conditions as it may deem fit, subject to which such person shall be entitled to continue practising his profession; or
    - (b) in the case of a person in respect of whom any circumstance contemplated in paragraph (b), (c) or (d) of subsection (1) exists—
      - (i) impose upon such person any of the penalties referred to in section 29 (1);
      - (ii) prohibit such person for a specified period from purchasing, acquiring, keeping, using, administering, prescribing, ordering, supplying or possessing any scheduled substance; or
      - (iii) impose for a specified period such conditions as it may deem fit subject to which such person shall be entitled to purchase, acquire, keep, use, administer, prescribe, order, supply or possess any scheduled substance.
  - (3) The council may extend for any period the period of operation of any order made under subsection (2), or withdraw or in any other manner amend such order.
  - (4) The provisions of section 31 shall *mutatis mutandis* apply in respect of any person who has been suspended in terms of any provision of subsection (2).
  - (5) Any person registered or enrolled under this Act who contravenes or fails to comply with any order made under subsection (2), shall be guilty of an offence.

## CHAPTER 5

### GENERAL AND SUPPLEMENTARY PROVISIONS

**37. Nursing agencies**

Any person who carries on the business of a nursing agency without a licence as required by this Act, shall be guilty of an offence.

**38. [ Repealed ]**

[ Section 38 repealed by section 1 (1) of Act No. 145 of 1993 ]

**38A. Special provisions relating to certain nurses**

Notwithstanding the other provisions of this Act and the provisions of the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965), of the Pharmacy Act, 1974 (Act No. 53 of 1974), and of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974), any registered nurse who is in the service of the Department of Health, Welfare and Pensions, a provincial administration, a local authority or an organisation performing any health service and designated by the Director-General: Health, Welfare and Pensions after consultation with the South African Pharmacy Board referred to in section 2 of the Pharmacy Act, 1974, and who has been authorized thereto by the said Director-General, the Director of Hospital Services of such provincial administration, the medical officer of health of such local authority or the medical practitioner in charge of such organisation, as the case may be, may in the course of such service perform with reference to—

- (a) the physical examination of any person;
- (b) the diagnosing of any physical defect, illness or deficiency in any person;
- (c) the keeping of prescribed medicines and the supply, administering or prescribing thereof on the prescribed conditions; or
- (d) the promotion of family planning,

any act which the said Director-General, Director of Hospital Services, medical officer of health or medical practitioner, as the case may be, may after consultation with the council determine in general or in a particular case or in cases of a particular nature: Provided that such nurse may perform such act only whenever the services of a medical practitioner or pharmacist, as the circumstances may require, are not available.

**39. Charges by registered and enrolled persons**

- (1) Every person registered or enrolled under this Act (in this section referred to as the practitioner) shall, unless the circumstances render it impossible for him to do so, before rendering any professional services, inform the person to whom the services are to be rendered or any person responsible for the maintenance of such person, of the fee which he intends to charge for such services—
  - (a) when so requested by the person concerned; or
  - (b) when such fee exceeds that usually charged for such services,

and shall in a case to which paragraph (b) relates, also inform the person concerned of the usual fee.

- (2) Any practitioner who in respect of any professional services rendered by him claims payment from any person (in this section referred to as the patient), shall furnish the patient with a detailed account within a reasonable period.

[ Sub-section (2) substituted by section 44 of Act No. 23 of 1993. However, Act No. 23 of 1993 has been repealed in full by section 68 of Act No. 131 of 1998. ]

- (3) (a) The patient may, within three months after receipt of the account referred to in subsection (2), apply in writing to the council to determine the amount which in the opinion of the council should have been charged in respect of the services to which the account relates, and the council shall, as soon as possible after receipt of the application, determine the said amount and notify the practitioner and the patient in writing of the amount so determined: Provided that before the council determines the said amount, it shall afford the practitioner concerned an opportunity to submit to it in writing a case in support of the amount charged.
- (b) [ Deleted ]  
[ Paragraph (b) deleted by section 79 of Act No. 88 of 1996 ]
- (c) The Minister may, after consultation with the council, make such regulations as he may deem necessary in relation to the procedure which the council shall follow in disposing of an application under this subsection.
- (4) A claim which is the subject of an application referred to in subsection (3) of which notice has been given by the council or the patient to the practitioner, shall not be recoverable until a determination has been made in terms of that subsection, and when such a determination has been made no amount which exceeds the amount so determined, shall be payable.

**40. Penalty for false representation inducing registration or enrolment, for false entries in register or roll and for impersonation**

- (1) Any person who—
- (a) procures for himself or any other person registration or enrolment under this Act, or any diploma, certificate, licence, receipt or order referred to in this Act, by means of a false representation, whether verbally or in writing;
- (b) makes or causes to be made any unauthorized entry or alteration in or removal from a register or roll or certified copy thereof or extract therefrom or on any diploma, certificate, licence or receipt issued under this Act;
- (c) wilfully destroys or damages or renders illegible or causes to be destroyed, damaged, or rendered illegible, any entry in the register or roll or, without the permission of the holder thereof, any diploma, certificate, licence or receipt issued under this Act;

- (d) forges or, knowing it to be forged, utters any document purporting to be a diploma, certificate, licence or receipt issued under this Act;
  - (e) impersonates any person registered or enrolled in terms of this Act,
- shall be guilty of an offence and on conviction be liable to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

**41. Presumptions**

- (1) In any criminal proceedings against any person appearing upon a charge of having performed any act which constitutes an offence under this Act if performed by a person who is not registered or enrolled or who is not in possession of any document specified in the charge, the accused shall be deemed not to have been registered or enrolled or to have been in possession of such document at the time of the commission of the alleged offence, unless he proves the contrary.
- (2) In any criminal proceedings against any person appearing upon a charge of having performed an act which constitutes an offence under this Act if performed by him for gain, such person shall be deemed to have performed such act for gain if he has accepted any valuable consideration in respect of such act.

**42. Limitations in respect of persons not registered or enrolled**

- (1) No remuneration shall be recoverable in respect of any act specially pertaining to the profession of a registered or enrolled person when performed by a person who is not authorized under this Act to perform such act for gain.
- (2) No person, other than a registered or enrolled person holding the necessary qualifications, shall be eligible for or entitled to hold any appointment to any establishment, institution, body, organisation or association, whether public or private, if such appointment involves the performance of any act which a person who is not registered or enrolled may in terms of the provisions of this Act not perform for gain: Provided that nothing in this subsection contained shall be construed as prohibiting the education and training of any student in nursing or midwifery under the supervision of a registered nurse, or the employment in any hospital or similar institution of any person undergoing education and training.

**43. Investigation of matters relating to the teaching or training of certain classes of persons**

- (1) Notwithstanding anything to the contrary in any law contained, any person who has been authorized by the council in writing to investigate any matter relating to the education or training of any class of persons undergoing such education or training for the purpose of qualifying themselves to practise any profession to which the provisions of this Act apply, may, for the purpose of making such investigation, enter any institution or premises used for the education or training of any such class of persons.
- (2) Any person who prevents any person authorized in terms of subsection (1) from entering any institution or premises referred to in that subsection or who

hinders him in the making of any investigation contemplated in that subsection, shall be guilty of an offence and on conviction liable to a fine not exceeding one hundred rand.

#### **44. Penalties**

Any person who contravenes or fails to comply with any provision of this Act, shall be guilty of an offence and, save where a penalty is expressly provided, be liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

#### **45. Regulations**

- (1) The Minister may, on the recommendation of the council, make regulations relating to—
- (a) (i) the election and appointment of members of the council;
  - (a) (ii) the requirements for a valid nomination of a candidate for appointment or election as a member of the council;
  - (b) the conduct of the business, and the procedure at meetings, of the council and committees of the council and the manner in which minutes of such meetings shall be kept;
  - (c) the allowances which may be paid to members of the council and of committees of the council when engaged in the service of the council: Provided that—
    - (i) the allowances which may be paid to any such member who is in the full-time service of the state shall not exceed the allowances to which he would be entitled under the laws governing the public service;
    - (ii) no such member shall be required to pay into the State Revenue Fund any allowances which may be paid to him by the council in terms of any regulation made under this paragraph;
  - (d) the conditions of service of the registrar and other officers appointed by the council in terms of section 12;
  - (e) the payment of annual fees and any other fees payable under this Act;
  - (f) the registers and rolls to be kept, and the diplomas and certificates that may be issued, in terms of this Act, the information which shall be recorded in the registers and rolls and the manner in which alterations may be effected in the registers and rolls;
  - (g) the conditions under which extracts from the registers and rolls may be made, including the payment of fees in respect thereof;
  - (h) the particulars to be furnished to the council to enable it to keep the registers and rolls;
  - (i) the qualifications, and the conditions to be complied with, which shall entitle a person to be registered or enrolled in terms of section 16, or which shall entitle a registered person to the registration of an

- additional qualification, including the curricula, the period and nature of the education and training required, the examinations to be passed, and the payment of fees in respect of an application for registration or enrolment and in respect of registration or enrolment;
- (j) the qualifications, and the conditions to be complied with, which shall entitle a person to be registered or enrolled under section 23 or 24, including the payment of fees in respect of registration or enrolment;
  - (k) the conditions which the council may impose for the approval of nursing schools;
  - (l) the uniforms, badges and other distinguishing devices which may, or when on duty shall, be worn by persons registered or enrolled under section 16, 21, 23 or 24, and the prohibition of the manufacture, sale, supply or possession of such uniforms, badges and other distinguishing devices by any person, except a person authorized thereto by the council;
  - (m) the manner in which a complaint, charge or allegation against a person registered or enrolled under section 16, 21, 23 or 24 shall be lodged;
  - (n) the form of subpoena for the attendance of an accused or of a witness at an inquiry, or for the production of any book, record, document or thing;
  - (o) the manner of instituting, and the procedure to be followed at, an inquiry, and any other matter incidental to the institution or holding thereof;
  - (p) the form of a licence to carry on the business of a nursing agency, the circumstances in which such a licence may be issued, suspended or cancelled, the conditions subject to which such a business may be carried on, including the records and accounts which shall be kept, the manner of advertising and the maximum fees that may be charged for services rendered by or on behalf of such a business;
  - (q) the scope of practice of registered or enrolled persons, the conditions under which registered or enrolled persons may carry on their profession, the control which shall be exercised by specified offices of the Department of Health and of local authorities over the practice of enrolled midwives and the inspections which shall be carried out in connection with enrolled midwives;
  - (r) [ Deleted ]  
[ Paragraph (r) deleted by section 21 of Act No. 21 of 1992 ]
  - (s) the circumstances, in addition to the circumstances referred to in this Act, in which any name may be removed from, or restored to, a register or roll, and

generally, any matter which in terms of this Act is required to be, or may be, prescribed by regulation or which the Minister considers necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

- (2) The Minister may, after consultation with the executive committee of the council, if he deems it in the public interest, without the recommendation of the council make regulations relating to any of the matters referred to in subsection (1), or amend or repeal any regulation made in terms of that subsection.
- (3) Any regulation made under this section may prescribe penalties for any contravention thereof or failure to comply therewith, not exceeding a fine of one hundred rand.
- (4) Any notice issued or order made under this Act may from time to time be amended or revoked by the authority which issued or made it.

#### **46. Repeal of laws**

- (1) Subject to the provisions of subsections (2), (3), (4) and (5), the Nursing Act, 1957 (Act No. 69 of 1957), the Nursing Amendment Act, 1970 (Act No. 31 of 1970), the Nursing Amendment Act, 1972 (Act No. 50 of 1972), and the Nursing Amendment Act 1973 (Act No. 14 of 1973), are hereby repealed.
- (2) Any proclamation, notice, regulation, authorisation or order issued, made or granted, or any registration or enrolment, or any removal from a register or roll, or any appointment or any other thing done, in terms of a provision of any law repealed by subsection (1) shall, unless inconsistent with any provision of this Act, be deemed to have been issued, made, granted or done under the corresponding provision of this Act.
- (3) The members of the council as constituted immediately prior to the commencement of this Act shall continue to be members thereof, and the council shall be deemed to be validly constituted in terms of this Act, until a date determined by the Minister and published in the Gazette.
- (4) If any member referred to in subsection (3) vacates his office, the council shall, until the date referred to in that subsection, consist of the remaining members.

#### **47. Short title and commencement**

- (1) This Act shall be called the Nursing Act, 1978, and shall come into operation on a date to be fixed by the State President by proclamation in the *Gazette*.
- (2) Different dates may in terms of subsection (1) be fixed in respect of different provisions of this Act.

---

This pdf version of the Act © S A Nursing Council.

Reproduced in terms of the Government Printer's Copyright Authorization 7977 of 28 June 1983.

You may print copies of this Act for your own or your organization's use. You may quote freely from this Act provided you make reference to the correct Government Notice number. You may NOT sell copies of this Act.

#### **DISCLAIMER:**

While every effort has been made to ensure that this document is error free, should any discrepancy be found, the official versions

printed in the *Gazette* will always take precedence over the information in this document.

---

Nursing Act (amendment version 13.1), 2004-04-02