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LAWS OF THE GAMBIA

NURSES AND MIDWIVES

CHAPTER 38

Act
4 of 1990

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LAWS OF THE GAMBIA

2

Cap. 38

Nurses and Midwives

**Index
of
Subsidiary Legislation**

	<i>Page</i>
Midwives Rules (Rule 4/1945)	16

**Note
on
Repeal**

This Act repealed the Midwives Act, 1935 and the Nurses Act, 1970, with savings.

CHAPTER 38

NURSES AND MIDWIVES

Arrangement of sections

Section

PART I.—PRELIMINARY

1. Short Title.
2. Interpretation.

PART II.—NURSES AND MIDWIVES COUNCIL

3. Establishment of the Council.
4. Composition of the Council.
5. Functions of the Council.
6. Meetings of the Council.
7. Tenure of office.
8. Officers of the Council.
9. Midwifery Committee.
10. *Ad Hoc* committees.
11. Finance Committee.
12. Funds of the Council.
13. Accounts and audit.

PART III.—THE REGISTER

14. Register
15. Application.
16. Admission to Register.
17. Issue of certificate.

PART IV.—DISCIPLINARY PROCEEDINGS

18. Disciplinary Committee.
19. Functions of the Disciplinary Committee.
20. Procedure for instituting Disciplinary proceedings.
21. Powers of Disciplinary Committee.
22. Recommendations by Disciplinary Committee.

Section

23. Appeal.
24. Council to order further training.
25. Representation by legal practitioner.

PART VI.—MISCELLANEOUS

26. Notice of private practice.
27. Traditional birth attendant.
28. Transitional provisions.
29. Offences.
30. Rules.
31. Regulations.
32. Repeal and savings.

CHAPTER 38

NURSES AND MIDWIVES

- 4 of 1990. **An Act to establish a Council for nursing, midwifery and community health nursing and to make provision for the education, training, registration and discipline of nurses and midwives and other matters connected therewith.**
- Short title. **1. This Act may be cited as the Nurses and Midwives Act.**
- Interpretation. **2. In this Act, unless the context otherwise requires—**
 “approved training institution” includes a hospital, health centre and such similar institution in The Gambia as the Council may by rules approve and which provides a course of training in nursing, midwifery or community health nursing;
 “Chairman” means the Chairman of the Council;
 “Council” means the Nurses and Midwives Council established under subsection (1) of section 3 of this Act;
 “educational establishment” means a higher educational establishment in The Gambia, other than an approved training institution which provides a course of training recognised by the Council;

- “enrolled community health nurse” means a person who is enrolled as such under paragraph (e) of subsection (1) of section 16 of this Act;
- “enrolled midwife” means a person who is enrolled as such under paragraph (d) of subsection (1) of section 16 of this Act;
- “enrolled nurse” means a person who is enrolled as such under paragraph (b) of subsection (1) of section 16 of this Act;
- “health regions” means the existing health regions;
- “Minister” means the Minister responsible for the administration of this Act;
- “private practice” in relation to a nurse or midwife means practice otherwise than as an employee of The Gambia Government;
- “register” means the register maintained under Part III of this Act;
- “registered midwife” means a person who is registered as such under paragraph (c) of subsection (1) of section 16 of this Act;
- “registered nurse” means a person who is registered as such under paragraph (a) of subsection (1) of section 16 of this Act;
- “Registrar” means the person appointed as such under subsection (1) of section 8 of this Act; and
- “traditional birth attendant” means a person who has successfully completed prescribed training courses to deliver babies and has his name entered into the register as a traditional birth attendant.

PART II.—NURSES AND MIDWIVES COUNCIL

3. (1) There is hereby established a Council to be known as the “Nurses and Midwives Council”.

Establishment of the Council.

(2) The Council shall be a body corporate having perpetual succession and a common seal, and may sue and be sued in its corporate name.

(3) The Council may acquire, hold, alienate, mortgage, let, and hire property, movable and immovable and enter into such contracts as may be expedient.

4. (1) The Council shall consist of—

(a) two nurses in public service from each health region, elected

Composition of the Council.

by the body of nursing personnel in that region;

- 18 Members*
- (b) two members of the public not registered or holding any qualification registrable under this Act, to be appointed by the Minister;
 - (c) two representatives from The Gambia Nurses Association, elected by the Association at a general meeting;
 - (d) one principal tutor from an educational establishment to be elected by the body of tutors; and
 - (e) the Chief Nursing Officer.

(2) The members of the Council shall elect from the nurses amongst such members, a Chairman and a Vice-Chairman.

(3) The Attorney-General shall nominate a legal practitioner of at least four years standing to serve as legal adviser to the Council and the Disciplinary Committee.

(4) A member of the Council elected under paragraph (a) of subsection (1) of this section shall cease to be a member if he ceases to work in the health region from which he was elected.

Functions of the Council.

5. The functions of the Council shall be—

- (a) to advise the Minister on matters concerning the profession of nursing and midwifery;
- (b) to regulate the profession and practice of nursing and midwifery;
- (c) to maintain and improve standards of training and professional conduct for nurses and midwives;
- (d) to prescribe and regulate courses of instruction and training in the educational establishments;
- (e) to ensure that standards of training for nurses and midwives meet the community requirements of the country;
- (f) to keep and maintain a register of nurses and midwives; and
- (g) to publish annually in the *Gazette* the names and particulars of nurses and midwives entered in the register.

Meetings of the Council.

6. (1) The Council shall, in the performance of its functions, meet at such times and places as it deems fit, but shall in any case meet at least once in every three months.

- (2) The quorum at every meeting of the Council shall be six.
- (3) The Chairman shall preside at every meeting at which he is present.
- (4) Where for any reason the Chairman is absent from a meeting, the Vice-Chairman shall preside and in the absence of the Vice-Chairman the members present shall elect one of their numbers to preside.
- (5) The validity of any proceedings of the Council shall not be affected by reason of a defect in the election or appointment of a member of the Council.
- (6) The Chairman may at any time convene a special meeting of the Council and shall, if requested by notice in writing signed by not less than two-thirds of the members of the Council, convene a meeting within fourteen days.
- (7) Subject to the provisions of this Act, the Council shall determine and regulate its own rules of procedure.

7. (1) The members of the Council shall hold office for a period of three years effective from the date the Council first meets and may, at the expiration of such term, be eligible for re-appointment or re-election, as the case may be.

Tenure of office.

(2) Where the office of a member falls vacant otherwise than by the expiry of his term of office, or where a member is for any reason incapable of performing his duties, the Minister—

- (a) may, in the case of an appointed member, appoint another person to hold office for the unexpired portion of the term of office of such person; or
- (b) shall, in the case of an elected member, order that a by-election be held in respect of the position for which a vacancy occurs.

(3) The Chairman and any member may, by writing under his hand addressed to the Registrar, resign from his office.

(4) Where disciplinary proceedings are instituted against a member under PART IV of this Act, he shall forthwith cease to hold office.

8. (1) The Council shall appoint a registered nurse with at least five years post-registration experience to be Registrar of the Council.

Officers of the Council.

(2) The Registrar shall be Secretary to the Council and shall keep

a minute book in which he shall record the minutes of meetings and transactions of the Council.

(3) The Council may appoint a person to be Treasurer to the Council and where no such appointment is made, the Registrar shall act as Treasurer.

(4) The Council may, in the execution of its functions, appoint such other person as may be necessary.

(5) The officers of the Council and such other person as may be appointed under subsection (4) of this section shall be paid by the Council from its funds.

Midwifery
Committee.

9. (1) There shall be established by the Council a Midwifery Committee comprising not more than five persons one of whom shall be a practising midwife in private practice.

(2) The majority of the members of the Committee shall be practising midwives.

(3) The Committee shall discharge such functions as may be delegated to it by the Council, but it shall in any case be consulted on all matters relating to midwifery.

Ad hoc
committees.

10. The Council may establish *ad hoc* committees empowering them to assist the Council in the performance of its duties, and in particular with respect to such matters as—

- (i) training;
- (ii) clinical nursing studies and research;
- (iii) psychiatric nursing;
- (iv) paediatric nursing;
- (v) public health nursing; and
- (vi) private nursing.

Finance
Committee.

11. (1) The Council shall establish a Finance Committee which shall be responsible for advising the Council on all matters relating to finance.

(2) The Finance Committee shall comprise not more than five persons, three of whom shall be members of the Council.

12. The Funds of the Council shall—

Funds of the Council.

- (a) consist of Government subventions as may be appropriated to it, and such grants, donations, fees and subscriptions as may be made or paid to it; and
- (b) be kept in such bank as may be appointed by the Council.

13. (1) The Council shall—

Accounts and audit.

- (a) in the conduct of its business, keep proper accounts which shall be audited annually by the Auditor-General; and
 - (b) within three months after the end of the financial year, submit to the Minister, the audited statement of accounts.
- (2) The Minister shall, as soon as practicable, lay before House of Representative the audited statement of accounts.

PART III.—THE REGISTER

14. (1) The Council shall maintain a register of qualified nurses and midwives.

Register.

(2) The register shall be divided into such parts as the Council may, after consultation with the Minister, determine.

15. A person who seeks to have his name admitted in the register shall make an application in writing addressed to the Registrar, and shall—

Application.

- (a) set out his qualifications and the institution from which he has qualified; and
- (b) produce testimonials sufficient to satisfy the Council that he is a person of good character.

16. (1) A person shall be qualified to have his name entered in the Register and to practice—

Admission to Register.

- (a) as a registered nurse if—
 - (i) he has successfully completed a prescribed course of training in an educational establishment recognised by the Council; or
 - (ii) he is registered to practise nursing in a jurisdiction recognised by the Council;

- (b) as an enrolled nurse if—
- (i) he has successfully completed a practical course of training in nursing recognised by the Council; or
 - (ii) he is enrolled to practise nursing in a jurisdiction recognised by the Council;
- (c) as a registered midwife if—
- (i) he has successfully completed a prescribed midwifery educational programme recognised by the Council; or
 - (ii) he is registered to practise midwifery in a jurisdiction recognised by the Council;
- (d) as an enrolled midwife if—
- (i) he has successfully completed a practical course of training in midwifery recognised by the Council;
 - (ii) he is enrolled to practise midwifery in a jurisdiction recognised by the Council; or
- (e) as an enrolled community health nurse if—
- (i) he has successfully completed a practical course of training in community health nursing recognised by the Council; or
 - (ii) he is enrolled to practise community health nursing in a jurisdiction recognised by the Council.

(2) Where the Council is of the opinion that an applicant does not have qualifications sufficient to satisfy the requirements for admission under subsection (1) of this section, it may recommend that the applicant sit for additional examinations or undergo further training for such period as the Council may determine.

Issue of
certificate.

17. The Council shall, upon admission of a person to the register, issue that person with a practising certificate and such certificate shall be conclusive evidence of the facts stated therein.

PART IV.—DISCIPLINARY PROCEEDINGS

Disciplinary
Committee.

18. (1) The Council shall establish a Disciplinary Committee which shall consist of—

- (a) the Chairman of the Council as Chairman of such Committee;

- (b) two registered nurses and a registered midwife, each of whom must have at least five years post-qualification experience and must not have been guilty of any breach of discipline;
- (c) a person who is not registered or holding any qualifications registrable under this Act; and
- (d) the Registrar, who shall be the Secretary of such Committee.

(2) A person appointed to serve on such Committee shall hold office for three years effective from the date of appointment and shall at the expiration of the three years, be eligible for re-appointment.

(3) Where the Chairman of such Committee, or any member is for any reason unable to attend the proceedings of such Committee, the Council shall, from among its members, appoint a person to act in the place of such Chairman or member.

19. (1) The Disciplinary Committee shall deal with all matters relating to professional misconduct referred to it by the Council.

Functions of
the
Disciplinary
Committee.

(2) Where a case of professional misconduct against any person is referred to the Disciplinary Committee, it shall—

- (a) conduct an enquiry into such allegation;
- (b) direct an investigation into any alleged breach of discipline in respect of such person; and
- (c) after hearing all the evidence in such case, submit its findings and recommendations to the Council.

20. (1) Where it comes to the notice of the Council that a registered person—

Procedure
for instituting
disciplinary
proceedings.

- (a) has been negligent in the performance of his duty;
- (b) has been convicted of an offence relating directly or indirectly to the practice of his profession;
- (c) has been disqualified from practising as a nurse or midwife, by whatever name called, in any jurisdiction;
- (d) has through some fraudulent means been registered under this Act; or
- (e) has committed any other serious breach of professional conduct;

it shall, as soon as practicable, furnish that person in writing with the details of the alleged misconduct requesting him to submit, within fourteen days, a written explanation thereto.

(2) The Council may, upon receipt of the explanation under subsection (1) of this section, decide whether to refer the matter to the Disciplinary Committee.

(3) Where the Council decides to refer any matter to the Disciplinary Committee, it shall—

- (a) draft a charge listing out the alleged case of misconduct committed; and
- (b) furnish the person affected with a copy of the draft charge at least seven days before he is due to appear before the Disciplinary Committee.

(4) Where a person fails to submit an explanation in accordance with subsection (1) of this section, the Council shall cause him to appear before the Disciplinary Committee.

(5) Where disciplinary proceedings are instituted against a person, such person shall stand suspended from practising until his case is finally disposed of and in the case of an appeal pending, until a decision is made thereon.

Powers of
Disciplinary
Committee.

21. The Disciplinary Committee may, in the conduct of its proceedings—

- (a) order the attendance of any person as a witness; or
- (b) order a person who has in his possession books or other documents that may be relevant to the proceedings, to produce such books or documents for use by such Committee.

Recommendations by
Disciplinary
Committee.

22. (1) Where in disciplinary proceedings the Disciplinary Committee finds a person guilty of misconduct, it may recommend to the Council that—

- (a) such person be reprimanded;
- (b) such person be suspended from practising for a period of not less than six months; or
- (c) the name of such person be struck off the register for a period of not less than one year.

(2) Where the Disciplinary Committee makes a recommendation to the Council, the Council may accept and act on or vary the recommendation, but shall, in any case, not vary the recommendation to enhance the punishment so recommended.

(3) The Disciplinary Committee shall cause a notice of its findings and recommendations to be served on the person to whom it relates.

(4) Where the Disciplinary Committee finds a person not guilty of misconduct, it shall recommend that the person be discharged and the Council shall so oblige.

23. (1) A person who is not satisfied with a decision of the Council may, within thirty days after being notified of the decision, appeal to the Supreme Court. Appeal.

(2) No appeal shall lie on the decision of the Supreme Court.

24. (1) Where a person—

(a) who has been suspended from practising; or

(b) whose name has been struck-off the register,

has completed his period of suspension or has his name restored to the register, as the case may be, the Council shall order that such person undergo a refresher course for such period as the Council may determine.

Council to order further training.

(2) Notwithstanding the provisions of subsection (4) of section 22 of this Act, the Council may on the recommendation of the Disciplinary Committee, direct that a person against whom disciplinary proceedings have been brought and found not guilty, undergo further training for such period as the Council may determine.

25. A person against whom disciplinary proceedings are being instituted shall be entitled to be represented by a legal practitioner of his choice.

Representation by legal practitioner.

PART V.—MISCELLANEOUS

26. Where a nurse or midwife registered under this Act is in private practice, he shall, within one month after changing his place of practice, notify the Registrar of such change.

Notice of private practice.

27. The Council may train and recognise any person as a traditional birth attendant who shall perform such duties as the Council may prescribe.

Traditional birth attendant.

28. A person who, prior to the coming into force of this Act, is qualified to practise nursing, midwifery or community health nursing

Transitional provisions.

in The Gambia or in a jurisdiction recognised by the Council shall, within five months of the coming into force of this Act, be entitled upon application to be registered under Part III of this Act.

Offences.

29. (1) A person commits an offence under this Act if he—

- (a) engages a nurse or midwife who is not registered under this Act;
- (b) falsely assumes the name or title of a nurse or midwife;
- (c) falsely represents himself, by word or conduct, to be a nurse or midwife;
- (d) by any title or description falsely implies that he is registered under this Act;
- (e) for the purpose of registration knowingly makes a false statement; or
- (f) practises or holds himself out to practise as a nurse or midwife after he has been suspended or has had his name struck-off the register.

(2) A person who commits an offence under this Act shall be liable on conviction to a fine not exceeding two thousand dalasis or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

Rules.

30. The Council may make rules—

- (a) prescribing the standard of training and examinations to be undertaken by a person with a view to registration under this Act;
- (b) requiring a nurse or midwife to give notice of his intention to practise privately;
- (c) requiring a nurse or midwife to attend from time to time such courses of instruction as it may deem necessary;
- (d) recognising qualifications from certain jurisdictions;
- (e) prescribing fees for registration under this Act;
- (f) prescribing the form of the certificate issued under section 17 of this Act;
- (g) altering and correcting entries in the register; and
- (h) regulating generally the practice of nursing midwifery and community health nursing.

31. The Minister may make regulations for the better carrying into effect of the purposes of this Act. Regulations.

32. (1) The Midwives Act, 1935 and the Nurses Act, 1970 are hereby repealed. Repeal and savings.

(2) Notwithstanding the provisions of subsection (1) of this section, any rules and regulations made under the Midwives Act, 1935 and the Nurses Act, 1970 shall, until repealed, continue to have force with such modifications as may be necessary to make them consistent with this Act.
