

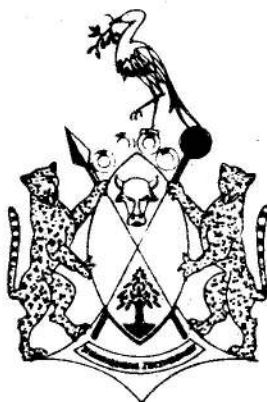
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YECISKEI**

**REPUBLIC OF
CISKEI**

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**GOVERNMENT
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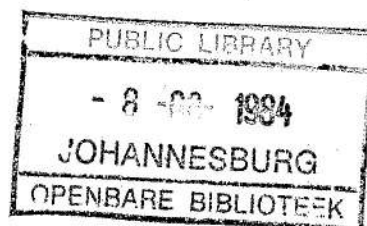
DEPARTMENT OF HEALTH

GOVERNMENT NOTICE No. 45

**IT IS HEREBY NOTIFIED THAT THE PRESIDENT HAS
ASSENTED TO THE FOLLOWING ACT WHICH IS HEREBY
PUBLISHED FOR GENERAL INFORMATION:-**

NURSING ACT, 1984

ACT NO. 13 OF 1984



NURSING ACT, 1984

A C T

To regulate and control the exercise of the profession of a nurse or a midwife and to provide for matters incidental thereto.

(English text signed by the President. Assented to on 13 July 1984.)

BE IT ENACTED by the National Assembly of the Republic of Ciskei, as follows:

Definitions.

1. In this Act, unless the context otherwise indicates —
 - "approved" means approved under this Act;
 - "Ciskei" means the Republic of Ciskei;
 - "council" means the Ciskeian Nursing Council established under section 2;
 - "enrol" means the entry in a roll kept under this Act and "enrolled" and "enrolment" have a corresponding meaning;
 - "enrolled midwife" means a person enrolled as such under section 16;
 - "enrolled nurse" means a person enrolled as such under section 16;
 - "enrolled nursing assistant" means a person enrolled as such under section 16;
 - "executive committee" means the executive committee established under section 8;
 - "Gazette" means the Government Gazette of Ciskei;
 - "Government" means the Government of Ciskei;
 - "inquiry" means an inquiry held in terms of section 25;
 - "Medical Act" means the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act 56 of 1974) or the corresponding law of the Republic of Ciskei, as the case may be;
 - "medicinal purpose" means "medicinal purpose" as defined in section 1 of the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965);
 - "Minister" means the Minister of Health;
 - "nursing agency" means a business which supplies registered nurses or registered midwives or enrolled nurses or enrolled midwives or enrolled nursing assistants to any person, organization or institution, whether for gain or not and whether in conjunction with any other service rendered by such business or not;
 - "nursing school" means a nursing school approved by the council in terms of section 12;
 - "prescribed" means prescribed by regulation;
 - "pupil nurse" means a person enrolled as such under section 20;
 - "pupil nursing assistant" means a person enrolled as such under section 20;
 - "register", when used as a noun, means a register kept under this Act, and, when used as a verb, means to enter in a register and the words "registered", "registration" and all other words derived from the word "register" have a corresponding meaning;
 - "Registered Medical Practitioner" means a person registered as such under the Medical Act;
 - "registered midwife" means a person registered as such under section 16 and includes an accoucheur;
 - "registered nurse" means a person registered as a nurse under section 16;
 - "registrar" means the registrar appointed under section 10;
 - "regulation" means a regulation made and in force under this Act;
 - "roll" means a roll kept under this Act;
 - "scheduled substance" means "scheduled substance" as defined in section 1 of the Medicines and Related Substances Control Act, 1965;
 - "student midwife" means a person registered as such under section 19;
 - "student nurse" means a person registered as such under section 19;
 - "this Act" includes the regulations.

PART 1

CISKEIAN NURSING COUNCIL

Establishment of Nursing Council.

2. (1) On a date to be fixed by the Minister by notice in the *Gazette*, there shall be established a council, to be known as the Ciskeian Nursing Council, which shall be a body corporate capable of suing or being sued in its corporate name and of performing all such acts as are necessary for or incidental to the performance of its functions and the exercise of its powers under this Act.

NURSING ACT, 1984

Constitution of council.

(2) The head office of the council shall be at or near the seat of the Government.

3. (1) Subject to the proviso to section 4 (1), the council shall consist of the following members, namely
- (a) members appointed by the Minister, being —
 - (i) the Director-General for the time being of the Department of Health, or an officer of that Department who is either a registered nurse or a registered medical practitioner;
 - (ii) the Director of Nursing Services of the Department of Health;
 - (iii) an officer of the professional division of the Department of Education, appointed by the Minister after consultation with the Minister of Education;
 - (iv) three registered nurses of whom one shall be registered both as a general nurse and as a psychiatric nurse, one shall be actively involved in the education and training of nurses and midwives and one shall be a member of the full-time staff of the Department of Health Sciences of the University of Fort Hare;
 - (v) two persons who are not registered or enrolled in terms of this Act, or enrolled in terms of the Chiropractors Act, 1971 (Act 76 of 1971), or the Homeopaths, Naturopaths, Osteopaths and Herbalists Act, 1974 (Act 52 of 1974) or registered in terms of the Pharmacy Act, 1974 (Act 53 of 1974) or the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act 56 of 1974) or any corresponding law in Ciskei : Provided that, in respect of the first council, one of the said persons may be a person with experience in the administration of a Nursing Act or any similar law in any other country;
 - (vi) in respect of the first council, a registered nurse in terms of the Nursing Act, 1978 (Act 50 of 1978) of the Republic of South Africa who, at the time of appointment is a member of the South African Nursing Council established under the said Nursing Act, 1978;
 - (b) one person appointed by any Medical Council established for Ciskei and who is registered as a medical practitioner, and is a member of that council : Provided that, if the said council has not been constituted as at the date of commencement of this Act, the Minister shall appoint a registered medical practitioner;
 - (c) three registered nurses in respect of each of two areas into which Ciskei shall be divided for the purpose in the manner prescribed, elected from amongst themselves by registered nurses resident in the area concerned : Provided that in respect of the first council such members shall be appointed by the Minister from amongst registered nurses and the provision that Ciskei shall be divided into two areas shall not apply.
- (2) Whenever the persons entitled to elect any members of the council fail to elect any person, or if the Medical Council contemplated in subsection (1) (b) fails to appoint a member under that subsection, the Minister may appoint any person qualified to be elected or appointed, whereupon the person so appointed shall be deemed to have been elected or appointed, as the case may be, by the said person or by the said council.
- (3) The members of the council shall be appointed or elected for five years, but shall be eligible for re-appointment or re-election : Provided that the members of the first council shall hold office for two years.
- (4) The registrar shall give notice in the *Gazette* of the appointment or election of any member of the council and the date from which such membership commences.
- (5) If anything required to be done under this Act in connection with the appointment, nomination or election or 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 or may validate anything done in an irregular manner or form in order to give effect to the objects of this Act.
4. (1) No person shall be appointed or elected as a member of the council —
- (a) who is an unrehabilitated insolvent;
 - (b) who has been or is disqualified under any law from practising his profession;
 - (c) who is not a citizen of Ciskei and permanently resident in Ciskei;
 - (d) who has been convicted of an offence, whether in Ciskei or elsewhere, in respect of which such person was sentenced to imprisonment without the option of a fine;
 - (e) who is a patient or a President's patient as defined in section 1 of the Mental Health Act, 1973 (Act 18 of 1973) :

Disqualification, vacation, of office and filling of vacancies.

NURSING ACT, 1984

Provided that nothing in paragraph (c) contained shall be construed as prohibiting or preventing the Minister or other competent authority from appointing as a member of the council under section 3 (1) any person who is not a citizen of Ciskei or permanently resident in Ciskei.

- (2) A member of the council shall vacate his office if -
- (a) he becomes subject to any disqualification referred to in subsection (1);
 - (b) he ceases to hold any qualification necessary for his appointment or election;
 - (c) he has been absent from more than two consecutive ordinary meetings of the council without the council's leave;
 - (d) (i) being an elected member, he tenders his resignation in writing to the registrar;
(ii) being a member appointed by the Minister, he tenders his resignation in writing to the Minister and the Minister accepts his resignation;
(iii) being a member appointed by the council contemplated in section 3 (1) (b), he tenders his resignation in writing to the said council and his resignation is accepted by the said council; or
 - (e) the President of Ciskei, in the public interest, terminates his membership.
- (3) Every vacancy on the council shall be filled by the appointment or election, as the case may be, of another member in the manner and subject to the conditions upon which the member whose office has become vacant has been appointed or elected : Provided that a member so appointed or elected shall hold office for the unexpired portion of the period for which the member whose office has become vacant, had been appointed or elected.

President and vice-president of council.

5. (1) The members of every newly constituted council shall, at the first meeting of such council elect from amongst themselves a president and a vice-president, who shall be registered nurses, each of whom shall hold office for the life of such council, unless the president or vice-president sooner resigns as such, or ceases to be a member of the council.
- (2) The president, or in the absence of the president, the vice-president shall preside at a meeting of the council : Provided that if both the president and the vice-president are absent from any meeting of the council, the members present shall elect from amongst themselves a chairman, who shall preside at such meeting during the absence of the president or the vice-president.
- (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 the vice-president have been given leave of absence or are for any reason unable to act, the members of the council shall elect from amongst themselves, 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.
- (5) If the office of president or vice-president becomes vacant, the members of the council shall, at the first meeting after such vacancy occurs, elect from amongst themselves a new president or vice-president, 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.

Meetings of council.

6. (1) The council shall hold at least two meetings in each year of office at such places and on such dates as the council or the executive committee may determine : Provided that the first meeting of each newly constituted council shall be held at or near the seat of the Government and be convened by the registrar.
- (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 the president 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.

Quorum and procedure at meetings.

7. (1) Nine members, of whom at least five shall be registered nurses, shall form 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 may exercise a casting vote in addition to a deliberative vote.

NURSING ACT, 1984

- Executive committee.* 8. (1) The council shall establish an executive committee consisting of the president, the vice-president, one member of the council appointed in terms of section 3 (1) (a) (v) and so many other members of the council as the council may determine.
- (2) The executive committee may, subject to the directions of the council, exercise all the powers (other than a power referred to in section 30) 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.

- Education committee, investigating committee, disciplinary committee, other committees.* 9. (1) The council shall establish —
- (a) an education committee consisting of so many members of the council as the council may determine, but including at least two registered nurses who are actively engaged in the education and training of nurses and midwives and one shall be the member appointed under section 3 (1) (a) (iv) from the staff of the Department of Health Sciences of the University of Fort Hare;
 - (b) an investigating committee consisting of so many members of the council as the council may determine;
 - (c) a disciplinary committee consisting of the president and so many other members of the council as the council may determine.
- (2) A committee established in terms of subsection (1) shall carry out such duties as the council may determine and, subject to the provisions of subsection (4), exercise such of the council's powers and perform such of the council's functions as the council may determine.
- (3) The council may, from time to time establish such other committees as it may deem necessary, each consisting of so many members of the council as the council may determine, to carry out such duties as the council may determine, and, subject to the provisions of subsection (4), to exercise such of the council's powers and perform such of the council's functions as the council may determine.
- (4) The council shall not delegate to a committee any power referred to in section 30 and no penalty imposed by the committee established in terms of subsection (1) (c), other than a caution or a reprimand and a caution, shall be of force and effect until confirmed by the council: Provided that an order made by any such committee under section 31 (2) shall, if the committee so directs in the public interest, come into operation forthwith, but shall lapse after the expiration of a period of six months unless confirmed within that period by the council.

- Appointment of registrar and staff.* 10. (1) (a) The council shall appoint a registrar and regulate his duties and conditions of service: Provided that as from the date of commencement of this Act and until such time as the council appoints a registrar, a person appointed by the Minister (on such conditions as the Minister may determine) shall be registrar.
- (b) The appointment or dismissal of the registrar shall be subject to the approval of the Minister.
- (2) The council may appoint such other officers as it may deem necessary and may regulate their duties and conditions of service.

- Objects of council.* 11. The objects of the council shall be —
- (a) to assist in the promotion of health standards in Ciskei;
 - (b) to control the education and training of nurses and midwives and the manner of the exercise of the profession;
 - (c) to promote liaison of the education and training and the manner of the exercise of the profession of nurses and midwives in Ciskei and elsewhere and to promote the standards of education and training and the exercise of the profession in Ciskei;
 - (d) to advise the Minister on any matter falling within the scope of this Act;
 - (e) to communicate to the Minister any information on matters of public importance acquired by the council in the course of the performance of its functions under this Act.

- Powers of council.* 12. The council may —
- (a) cause copies of the register and rolls, and of supplementary lists showing all alterations, to be printed and published;

NURSING ACT, 1984

- (b) issue extracts from the register 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 certificates and diplomas, and charge the prescribed fees in respect of such examinations and the issue of such certificates and diplomas;
 - (e) approve, on the prescribed conditions, nursing schools, inspect such schools, bring to the notice of the person in charge of any such school and the authority in control of such school any matter which, in the opinion of the council is detrimental to the training of students for additional qualifications, student nurses, student midwives, pupil nurses or pupil nursing assistants, or withdraw or suspend approval of any such school if the training thereat is not, in the opinion of the council, satisfactorily carried out or if any condition imposed has not been complied with: Provided that the council shall not, without the consent of the Minister, refuse to approve of, or withdraw or suspend approval of, any such school;
 - (f) charge the prescribed fees in respect of any inspection it may deem necessary to enable it to consider an application for approval of a nursing school or for variation of any condition imposed in respect of a nursing school;
 - (g) acquire, hire or dispose of property, invest monies, establish reserve funds, borrow money on the security of the assets of the council, accept any donations or accept and administer any trust;
 - (h) regulate the conduct of 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;
 - (i) 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;
 - (j) 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;
 - (k) upon application of any person, recognise a qualification held by such person (whether such qualification has been obtained in Ciskei 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;
 - (l) require employers to submit annual returns of registered and enrolled persons in their employ and to submit such other information as the council may deem necessary at any time;
 - (m) require nursing schools to submit annual returns of students for additional qualifications, student nurses, student midwives, pupil nurses, pupil nursing assistants and such other information as the council may deem necessary at any time;
 - (n) perform such other functions as may be prescribed,
- and generally to all such things as it may deem necessary or expedient to achieve the objects of this Act.

Regulations.

13. (1) The council may, with the approval of the Minister, make regulations not inconsistent with this Act in relation to -
- (a) the election of members of the council : Provided that the regulations made under this paragraph shall -
 - (i) provide for such election to be conducted by secret ballot;
 - (ii) provide for the division of Ciskei into two regions in such a manner that the number of registered persons who are qualified to vote in each region is approximately the same;
 - (b) the payment of annual fees and any other fees payable under this Act;
 - (c) the registers and rolls to be kept, the particulars to be furnished to the council to enable it to keep the registers and rolls, the information which shall be entered in the registers and rolls and the certificates and diplomas which may be issued in terms of this Act;
 - (d) the conditions under which extracts from the registers and rolls may be issued, including the payment of fees in respect thereof;

NURSING ACT, 1984

- (b) 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 nurse to the registration of an additional registration in terms of section 17, 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;
 - (f) the qualifications to be held and the conditions to be complied with, entitling a person to be registered under section 19 or enrolled under section 20, including the payment of fees in respect of registration or enrolment;
 - (g) the circumstances, in addition to those referred to in this Act, in which any name may be removed from, or restored to, a register or roll;
 - (h) the conditions which the council may impose in approving of nursing schools;
 - (i) the uniforms, badges or other distinguishing devices which may or, when on duty, shall be worn by persons registered or enrolled under sections 16, 19 and 20 and the badges or other distinguishing devices which may or, when on duty, shall be worn by registered persons holding additional qualifications entered in the register in terms of section 17, and the prohibition of the manufacture, sale, supply or possession of such uniforms, badges and other distinguishing devices by any person other than a person authorized thereto by the council;
 - (j) the acts or omissions in respect of which the council may take disciplinary steps under Part 4;
 - (k) the manner in which a complaint, charge or allegation of improper or disgraceful conduct brought against a person registered or enrolled under this Act shall be lodged;
 - (l) the form of summons for the attendance of an accused at an inquiry;
 - (m) the form of subpoena for the attendance of a witness at an inquiry and for the production of any book, record, document or thing;
 - (n) the manner of instituting and the procedure to be followed at an inquiry and any matter incidental to the institution or holding thereof;
 - (o) 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 allowance to which such member would be entitled under the laws governing the public service;
 - (ii) no such member shall be required to pay into the Ciskeian Revenue Fund any allowances which may be paid to such member by the council in terms of any regulation made under this paragraph;
 - (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 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 an agency;
 - (q) the scope of practice of registered or enrolled persons and the conditions under which registered or enrolled persons may carry on their profession;
 - (r) the maximum fees which may be charged by registered or enrolled persons for professional services rendered by them,
- and generally any matter which in terms of this Act is required to be, or may be, prescribed by regulation, or which the council considers necessary or expedient to prescribe to achieve the objects of this Act.
- (2) 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.

PART 2

EDUCATION, TRAINING, REGISTRATION AND ENROLMENT

Control over education and training.

14. (1) Notwithstanding anything to the contrary in any law contained, no person or institution may offer or provide any education and 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.

NURSING ACT, 1984

- (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 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 requirement it deems fit, to which the education and training shall be subject.
- (4) Any decision made by the council in terms of subsection (3) shall be final.
- (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 five hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Registration or enrolment a prerequisite for practising.

15. (1) No person shall be entitled to practise within Ciskei the profession of a registered nurse, a registered midwife, an enrolled midwife, and enrolled nurse or an enrolled nursing assistant, or to practise within Ciskei as a student nurse or a student midwife or as a pupil nurse or a pupil nursing assistant, unless such person is in terms of this Act registered or enrolled, as the case may be, as a nurse, a midwife, a nursing assistant, a student nurse, a student midwife, a pupil nurse or a pupil assistant, as the case may be.

Registration and enrolment and keeping of register and rolls.

16. (1) The council shall register as a nurse or midwife or enrol as a nurse, midwife or nursing assistant any person holding the appropriate prescribed qualifications, who has complied with the appropriate prescribed conditions, has furnished the appropriate prescribed particulars and has paid the prescribed fees.
- (2) (a) The council may register as a nurse for a period not exceeding two years any person who —
 - (i) is registered as a nurse in a country or state outside Ciskei by virtue of qualifications obtained there after undergoing education and training for a period of not less than the period prescribed under section 13;
 - (ii) is not entitled to registration as a nurse in terms of subsection (1) because such person has not undergone education and training in some branch of nursing for the period prescribed or of the nature prescribed under section 13;
 - (iii) is required to undergo further education and training not exceeding six months in order to comply with the requirements so prescribed in respect of the period or nature of education and training :
Provided that a nurse so registered may not exercise his profession in respect of such branch of nursing as may be determined and indicated by the council, or be appointed or elected as a member of the council, or vote in the election of members of the council in terms of section 3 (1) (c).
- (b) A person registered under this subsection and who practises for gain in a branch of nursing in respect of which such person may not exercise his profession, shall be guilty of an offence.
- (3) For the purposes of subsections (1) and (2) the council shall keep a register and rolls in the prescribed form in which the prescribed particulars shall be recorded.

Registration of additional qualifications.

17. (1) A person registered under section 16 (1) who wishes to register an additional qualification shall, if such person 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 qualifications 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.

Receipt proof of registration or enrolment.

18. A receipt issued by 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 —

NURSING ACT, 1984

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

Registration of student nurses and student midwives and keeping of registers.

- 19. (1) The council shall register as a student nurse, or student midwife, or as a student for an additional qualification, any person undergoing education and training at a nursing school who holds the prescribed qualifications, has complied with the prescribed conditions, has furnished the prescribed particulars and has paid the prescribed fees and shall, for that purpose, keep a register in the prescribed form in which the prescribed particulars shall be recorded.
- (2) Every person on commencing or resuming education and training as a student nurse, or student midwife, or as a student for an additional qualification, at a nursing school, shall apply for registration with the council.
- (3) The person in charge of a nursing school shall forthwith notify the council of the termination of the education and training of any student nurse or student midwife or student for an additional qualification, whether by reason of completion of education and training or a transfer to another nursing school or for any other reason.

Enrolment of pupil nurses and pupil nursing assistants and keeping of rolls.

- 20. (1) The council shall enrol as a pupil nurse or a pupil nursing assistant any person undergoing education and training at a nursing school who holds the prescribed qualifications, has complied with the prescribed conditions, has furnished the prescribed particulars and has paid the prescribed fee, and shall for that purpose keep rolls in the prescribed form in which the prescribed particulars shall be recorded.
- (2) Every person on commencing or resuming education and training as a pupil nurse or a pupil nursing assistant at a nursing school shall apply for enrolment with the council.
- (3) The person in charge of a nursing school shall forthwith notify the council of the termination of the education and training of any pupil nurse or pupil nursing assistant, whether by reason of completion of education and training or of a transfer to another nursing school or for any other reason.

Council may refuse registration or enrolment.

- 21. Notwithstanding any provision of this Act, the council may refuse to register or enrol any person under section 16, 19 or 20, 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 Ciskei or elsewhere, for a prescribed offence, not fit to practise as a registered nurse or midwife, an enrolled nurse or midwife or nursing assistant, as the case may be, or to undergo education and training as a registered student nurse or midwife, or as an enrolled pupil nurse or pupil nursing assistant.

Persons registered or enrolled may use certain titles.

- 22. A person who is registered or enrolled may use the title "Registered Nurse", "Registered Midwife", "Enrolled Nurse", "Enrolled Midwife" or "Enrolled Assistant", as the case may be.

Registration or enrolment in terms of repealed law deemed to be registration or enrolment in terms of this Act.

- 23. Any person who, on the date of commencement of this Act, was, or within a period of one year from the said date is, registered or enrolled as a nurse, midwife, nursing assistant, student nurse or student midwife, pupil nurse or pupil nursing assistant in terms of a law repealed by section 44, shall be deemed to be registered or enrolled, as the case may be, in terms of the corresponding provision of this Act for a period of one year from the said date.

PART 3

OFFENCES BY PERSONS NOT REGISTERED OR ENROLLED.

Penalties for practising as registered nurse, midwife, enrolled nurse, or nursing assistant or en-

- 24. (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;

NURSING ACT, 1984

rolled midwife or for performing certain other acts while not registered or enrolled.

- (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, or prescribed in respect of an additional qualification,

shall be guilty of an offence.

- (2) Subject to the provisions of subsection (4) and of the Medical Act, a person —

- (a) who is not registered as a nurse or enrolled as a nurse or a nursing assistant 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 nurse or 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 other person as the holder of a title which only a person who is registered or enrolled in that capacity may use, whether the said person 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 —

- (i) to a student nurse or a student midwife registered under section 19, or a pupil nurse or a pupil nursing assistant enrolled under section 20, while acting in the course of his education and training;
- (ii) to 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) to a member of the "Suid-Afrikaanse Noodhulp Liga", 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 organization concerned; or
- (iv) to a person rendering assistance in a case of emergency.

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

PART 4

DISCIPLINARY POWERS OF THE COUNCIL

Inquiry by council into charges of misconduct.

25. The council may inquire into any complaint, charge or allegation of improper or disgraceful conduct, against any registered or enrolled person, whether or not with regard to such person's profession or whether or not prescribed under section 13 (1) (j) as constituting improper or disgraceful conduct, irrespective of whether such complaint, charge or allegation relates to conduct before or after the commencement of this Act, and may, on conviction impose the penalties referred to in section 28 : 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 determined.

Procedure at and of offences relating to inquiries by council.

26. (1) Any person in respect of whose conduct an inquiry is being held, shall be afforded an opportunity, by himself or through a legal representative, of answering the charge and of being heard in his defence.

NURSING ACT, 1984

- (2) (a) For the purpose of an inquiry the council may take evidence and may, under the hand of the registrar, subpoena witnesses and require the production of any book, record, document or thing and may, through the member presiding, administer an oath to any witness or require him to make an affirmation and may examine any book, record, document or thing, which any witness has been required to produce.
- (b) A summons for the attendance before the council of a person in respect of whose conduct an inquiry is to be held, shall be as nearly as possible in the prescribed form and shall be served by registered post or in the manner in which it would be served if it were a summons issued in a magistrate's court.
- (c) A subpoena for the attendance of a witness before the council or for the production to it of any book, record, document or thing, shall be as nearly as possible in the prescribed form and shall be served by registered post or in the manner in which it would be served if it were a subpoena issued by a magistrate's court.
- (d) Any person who fails, without sufficient cause, to attend and give evidence relevant to the inquiry, at the time and place specified in the subpoena, or who refuses to be sworn or to make an affirmation, or to produce any book, record, document or thing which he has been required by subpoena to produce, 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 liable on conviction to a fine not exceeding one hundred rand : Provided that any person so subpoenaed shall be entitled to all the privileges to which a witness giving evidence before the Supreme Court of Ciskei is entitled.
- (3) Any person who, after having been sworn or having made affirmation, gives false evidence at an inquiry, knowing such evidence to be false or not believing it to be true, shall be guilty of an offence and liable on conviction to the penalties which may be imposed for the crime of perjury.
- (4) In the case of any charge the evidence in support whereof is documentary, or in such other cases as the council may think fit, the registrar acting as *pro forma* complainant may institute proceedings under this Part.
- (5) The council may appoint an assessor, who shall be a magistrate nominated by the Director-General: Department of Justice, to be present at an inquiry to advise the council on matters of law, procedure and evidence.

When improper or disgraceful conduct is the commission of an offence and transmission to council of copies of court records.

27. (1) Any registered or enrolled person who, whether before or after registration or enrolment in terms of this Act, is convicted of any offence by a court of law in Ciskei or elsewhere, may be dealt with by the council in terms of the provisions of this Part if the council is of the opinion that such offence constitutes conduct referred to in section 25 : Provided that such person shall, before the imposition of any penalty be afforded the rights and privileges referred to in section 26 (1).
- (2) Whenever proceedings before any court of law or at an inquest disclose *prima facie* evidence of improper, or disgraceful conduct on the part of a registered or enrolled person whether or not in regard to his profession, the court or the magistrate, as the case may be, shall direct that a certified copy of the record in such proceedings or portion as is material to the issue, shall be transmitted to the council.

Penalties.

28. Any person who is convicted at an inquiry shall be liable to one or other of the following penalties, namely:
 - (a) a caution or a reprimand or a caution and a reprimand; or
 - (b) suspension for a specified period from practising in any capacity in which he is registered or enrolled; or
 - (c) removal of his name from the register or any roll; or
 - (d) in the case of a registered student nurse or midwife, or an enrolled pupil nursing assistant, extension of the prescribed period of education and training.

Postponement of imposition or suspension of operation of penalty.

29. (1) If a person has been convicted at an inquiry, the council may —
 - (a) postpone the imposition of a penalty for such period and on such conditions as it may determine; or
 - (b) impose any penalty referred to in section 28 (b), (c) or (d), but order the operation thereof to be suspended for such period and on such conditions as it may determine.

NURSING ACT, 1984

- (2) (a) If the council is satisfied, after expiry of the period for which the imposition of a penalty has been postponed under subsection (1) (a), that the person concerned has complied with all the determined conditions, the council shall inform such person that no penalty will be imposed.
- (b) If the operation of a penalty has been suspended under subsection (1) (b) and the council is satisfied that the person concerned has, during the whole period for which the operation of the penalty has been so suspended complied with all the determined conditions, the council shall inform such person that the penalty will not be enforced.
- (c) If the imposition of a penalty has been postponed under subsection (1) (a) and the person concerned fails to comply with a condition subject to which the imposition of a penalty has been so postponed, the council shall impose a penalty referred to in section 28, unless such person satisfies the council that the failure to comply with the condition in question is due to circumstances beyond his control.
- (d) If the operation of a penalty has been suspended under subsection (1) (b) and the person concerned fails to comply with a condition subject to which the operation of the penalty has been so suspended, the council shall enforce the relevant penalty, unless such person satisfies the council that the failure to comply with the condition in question is due to circumstances beyond his control.

Termination of suspension and restoration of name to register or roll.

30. The council may, on such conditions as it may determine, terminate any suspension under section 29 before the expiry of the specified period, or, on payment of the prescribed fee, restore to the register or any roll any name which has been removed therefrom under section 29.

Limitation of the practice or suspension of registered or enrolled person.

31. (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 contrary to the public welfare to allow him 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 substance regularly for other than a medicinal purpose; or
 - (d) has become addicted to the use of any scheduled substance,
- the council shall hold an inquiry *mutatis mutandis* in accordance with the provisions of this Part.
- (2) If the council, after an inquiry in terms of subsection (1), finds that a provision of paragraph (a), (b), (c) or (d) of the said subsection applies to the person in respect of whom such inquiry was held, it may —
- (a) in the case of a person to whom a provision of paragraph (a) applies —
 - (i) order that such person may not for a specified period exercise his profession or perform any act specially pertaining to his profession; or
 - (ii) order that such person shall only be entitled to exercise his profession subject to such conditions as may be determined; or
 - (b) in the case of a person to whom a provision of paragraph (b), (c) or (d) applies —
 - (i) order that any one of the penalties referred to in section 29 be imposed on such person;
 - (ii) order that for a specified period, such person shall be prohibited from purchasing, acquiring, keeping, using, administering, prescribing, ordering, supplying or possessing any scheduled substance; or
 - (iii) order that for a specified period, such person shall only be entitled to purchase, acquire, keep, use, administer, prescribe, order, supply or possess any scheduled substance on such conditions as may be determined.
- (3) The council may at any time extend, modify or rescind any order made under subsection (2).
- (4) Any person who contravenes or fails to comply with any order made under subsection (2), shall be guilty of an offence.

Limitation of liability of council.

32. Save as is provided in this Act, no legal proceedings, whether criminal or civil, shall lie against the council or any member or officer thereof in respect of any act or duty performed in accordance with this Part.

NURSING ACT, 1984

PART 5

GENERAL AND SUPPLEMENTARY

Nursing Agencies.

33. 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.

Charges by registered or enrolled persons.

34. (1) A registered or enrolled person 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) A registered or enrolled person who claims payment in respect of any professional services rendered by him, shall furnish the person concerned with a detailed account within a reasonable period.
- (3) (a) The person concerned 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 so determined : Provided that before the council determines the said amount, it shall afford the claimant concerned an opportunity to submit to it in writing a case in support of the amount charged.
- (b) A determination made by the council under this section shall be final.
 - (c) The council may, with the approval of the Minister, make such regulations as it may deem necessary in relation to the procedure which shall be followed 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 to the applicant, to the claimant, 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.

Certificates by registrar proof of matters relating to registration and enrolment.

35. A certificate purporting to be signed by the registrar stating —
- (a) that a person is registered as a nurse or midwife, or enrolled as a nurse or midwife or a nursing assistant, or registered as a student nurse or midwife, or enrolled as a pupil nurse or pupil nursing assistant, or is not so registered or enrolled;
 - (b) that the name of a person has been removed from a register or roll and has not been restored thereto;
 - (c) that a person has been suspended for a specified period from practising in the capacity in which he is registered or enrolled;
 - (d) that a person is qualified to be registered or enrolled;
 - (e) that a diploma, certificate, licence, receipt or any document referred to in this Act, has been issued under this Act or has been not so issued.
- shall for all purposes be *prima facie* proof of the facts so stated.

Remuneration in respect of certain services not recoverable.

36. Any person who under this Act is prohibited from practising nursing or midwifery for gain may not recover any remuneration in respect of services rendered by him while so practising.

Effect of suspension or removal of name from register or roll.

37. (1) Any person who has in terms of this Act been suspended from practising shall, during the period of suspension, be deemed not to be registered or enrolled and his registration or enrolment certificate shall be deemed to be withdrawn until the period of suspension has expired.
- (2) Any person whose name has under this Act been removed from a register or a roll shall, until his name has been restored to the register or the roll, be deemed not to be registered or enrolled and his registration or enrolment certificate shall be deemed to be withdrawn until his name has been restored to the register or roll.

NURSING ACT, 1984

Offences relating to registration or enrolment or to registers, rolls, diplomas, certificates, licences or receipts.

38. (1) Any person who -

- (a) procures for himself or any other person registration or enrolment under this Act, or any diploma, certificate, licence, receipt referred to in this Act, by means of a false representation, whether verbally or in writing, or attempts to do so;
 - (b) makes or causes to be made unauthorized entry or alteration in or removal from a register or a roll or certified copy thereof or extract therefrom or on any diploma, certificate, licence or receipt issued under this Act, or attempts to do so;
 - (c) wilfully destroys or damages or renders illegible or causes to be destroyed, damaged, or rendered illegible, any entry in a register or a roll, or attempts to do so;
 - (d) forges or, knowing it to be forged, utters any document purporting to be a diploma, certificate, licence or receipt issued under this Act, or attempts to do so;
 - (e) impersonates any person registered or enrolled in terms of this Act, or attempts to do so,
- shall be guilty of an offence and liable on conviction 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.

Certain functions may be performed by certain nurses.

39. Notwithstanding the other provisions of this Act, and the provisions of the Medicines and Related Substances Control Act, 1965 (Act 101 of 1965), or of the Pharmacy Act, 1971 and of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act 56 of 1974) or corresponding law of Ciskei, any registered nurse who is in the service of the Department of Health, a local authority or any organization performing any health service and designated by the Director-General : Department of Health, and who has been authorized thereto by the said Director-General, the medical officer of health of such local authority or the medical practitioner in charge of such organization, as the case may be, may in the course of such service perform -

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

any act which the said Director-General, medical officer of health or medical practitioners, 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.

Strikes and go-slow strikes.

40. (1) No person shall instigate a strike or go-slow strike by persons registered or enrolled in terms of this Act, or incite such persons to take part in or to continue such a strike or go-slow strike, or take part in such a strike or go-slow strike or in the continuation of such a strike or a go-slow strike.
- (2) For the purposes of this section "strike" and "go-slow strike" shall include any action by which the services rendered by persons registered or enrolled in terms of this Act are disrupted or are likely to be disrupted.

Presumptions in criminal proceedings.

41. (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 the accused 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 that person 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.

Investigation of matters relating to education and training of nurses and midwives.

42. (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 and training of any class of persons undergoing such education and 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, at any reasonable time enter any institution or premises used for the education and training of any such class of persons.

NURSING ACT, 1984

- (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 such authorized person 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.

Penalty where not expressly provided for.

43. Any person who is convicted of an offence under this Act for which no penalty is expressly provided shall be liable 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.

Repeal of Act 50 of 1978 and Act 71 of 1981 and savings.

44. (1) Subject to the provisions of subsection (2), the Nursing Act, 1978 and the Nursing Amendment Act, 1981 (Act 71 of 1981) are hereby repealed.
(2) Any regulation made or anything done under any law repealed by subsection (1) shall, unless inconsistent with the provisions of this Act, be deemed to have been made or done under the corresponding provisions of this Act.

Short title and commencement.

45. This Act shall be called the Nursing Act, 1984, and shall come into operation on a date to be fixed by the President by proclamation in the *Gazette*.

OFFICE OF THE PRESIDENCY

PROCLAMATION NO. 9 OF 1984

by the President of the Republic of Ciskei.

NURSING ACT, 1984 (ACT 13 OF 1984) : DATE OF COMMENCEMENT

Under and by virtue of the powers vested in me by section 45 of the Nursing Act, 1984, I declare that the said Act shall come into operation on 1 August 1984.

Given under my Hand and the Seal of the Republic of Ciskei on this Eighteenth day of July One thousand Nine Hundred and Eighty-four.

**L L SEBE
PRESIDENT**

Govt.
Notice No.
45

CONTENTS

Page
No.

Gazette
No.
59

DEPARTMENT OF HEALTH
GOVERNMENT NOTICE No. 45
NURSING ACT, 1984
(ACT NO. 13 OF 1984)

OFFICE OF THE PRESIDENCY
PROCLAMATION NO. 9 OF 1984
NURSING ACT, 1984 (ACT 13 OF 1984) : DATE OF COMMENCEMENT
