

GOVERNMENT

SIKKIM



GAZETTE

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GOVERNMENT OF SIKKIM  
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GANGTOK

No. 4/LD/P/2010

Date: 5.2.2010

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the President on the *2<sup>nd</sup> day of December, 2009* is hereby published for general information:-

**THE SIKKIM NURSES, MIDWIVES AND HEALTH VISITORS ACT, 2008**

(ACT NO. 4 OF 2008)

AN  
ACT

to provide for the registration of Nurses, Midwives and Health Visitors in the State of Sikkim.

WHEREAS it is expedient to provide for the registration of nurses, midwives and health visitors in the State of Sikkim;

*BE* it enacted by the Legislature of Sikkim in the Fifty-ninth Year of the Republic of India as follows

PART I  
PRELIMINARY

Short title, extent,  
commencement  
and application.

1. (1) This Act may be called the Sikkim Nurses, Midwives and Health Visitors Act, 2008.
- (2) It shall extend to the whole of Sikkim.
- (3) (a) (i) Part I and section 29 of Part VII of this Act shall come into force at once in the whole of Sikkim
- (ii) Parts II, III, V and VI and the remaining sections of Part VI this Act shall come into force in the whole of the State of Sikkim on such date as the State Government may by notification appoint.
- (b) Part IV shall come into force on such date and shall apply to such class of persons only in such areas as the State Government may by notification specify.

## 2. Definitions.

In this Act, unless the context otherwise requires,-

(a) "affiliated institution" means an institution and Health Care facilities provider for the nursing of the sick, maternity or child welfare, which may be affiliated to the Council in accordance with the bye-laws;

(b) "auxiliary nurse-midwife" means a person who has passed the examination prescribed in this behalf;

(c) "bye-law" means a bye-law made by the Council under section 32;

(d) "Council" means the Sikkim Nursing Council constituted under section 3;

(e) "health visitor" means a person who has obtained the Health Visitors' Certificate from any Health School, institution and examining body recognised in this behalf by the Council;

(f) "institution" includes any association, which maintains or controls a nurses establishment;

(g) "licensing authority" means the urban corporation or the municipal council or such other state urban or rural authority established for such area: Provided that the State Government may by notification in respect of any area specify any other authority as the licensing authority for such area;

(i) Nurse – Midwives

(ii) Nurses

(iii) Midwives

(iv) Auxiliary Nurse Midwives

(v) Health Visitors

(vi) Public Health Nurses

(h) "list" means a list of nurse midwives, nurses, midwives, auxiliary nurse midwives, health visitors and public health nurses prepared and kept under section 14;

(i) "midwife" means a person who holds a certificate in midwifery from any institution recognized in this behalf by the Council;

(j) "notification" means a notification published in the Official Gazette;

(k) "nurse" means a person who holds a certificate/diploma/degree in nursing from any institution recognised in this behalf by the Council;

(l) "nurses establishment" means any establishment, whether carried on for gain or not, which provides for or is intended to provide the services of persons to act as nurses, midwives, auxiliary nurse-midwives or health visitors to those requiring such services;



(m) "prescribed" means prescribed by rules;

(n) "register" means a register maintained under section 14 and the expressions "registered" and "registration" shall be construed accordingly;

(o) "registered medical practitioner" means a person registered under any law in force in the State regulating the registration of practitioners in the ayurvedic, unani, homeopathic or modern system of medicine;

(p) "rule" means a rule made by State Government under section 31.

## PART II

### THE SIKKIM NURSING COUNCIL

3. **Establishment,  
incorporation  
and constitution  
of Council.**

(1) The State Government may, by notification, establish a Council to be called the Sikkim Nursing Council for the purpose of carrying out the provisions of this Act. Such Council shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and disposed of property and to contract and may, by the same name, sue and be sued.

(2) The Council shall consist of the following members:-  
(a) as ex-officio members,-

(i) The Director of Health Care, Human Services Personal Services and Family Welfare in Sikkim or such other Officer as the State Government may nominate;

(ii) The Joint Director of Nursing Services, Government of Sikkim,.

(iii) The Principal, College of Nursing, SMU

(iv) Deputy. Director of Nursing Services, Govt. of Sikkim;

(b) as elected members -

(i) eight persons to be elected from amongst themselves by (aa) nurses, (bb) midwives, (cc) auxiliary nurse-midwives and (dd) health visitors registered in the register, the number of persons to be elected from each category being so divided as to be in the proportion of the number of their members in the register:

Provided that in determining the said proportion, a fraction of one-half or less shall be neglected and a fraction of more than one-half shall be counted as one:

Provided further that the number of members to be elected/nominated representing any particular category shall be at least one.

(ii) two persons to be elected/nominated from amongst themselves by the heads of the affiliated institutions;

(iii) two persons to be elected/nominated from amongst themselves by the matrons and Nursing Superintendents of the affiliated institutions in the State of Sikkim;

(iv) one person to be elected/nominated from amongst themselves by the sister tutors of the affiliated institutions;

(v) one person to be elected/nominated by the Sikkim Medical Council;

(vi) one person to be elected/nominated by the Sikkim State Branch (by whatever name called) of the Indian Medical Association;

(vii) one person to be elected/nominated by the Sikkim branch of Nurses Association;

(c) as nominated members, three persons to be nominated by the State Government of whom at least one person shall be a woman:

Provided that the members to be elected under clause (b) shall in respect of the first Council, be nominated by the State Government from persons who in the opinion of the State Government are entitled to be included in the electorate or body concerned and shall hold office for a period of two years.

- (3) The President and Vice-President of the Council shall be elected/nominated from among the members of the Council.
- (4) The election of the President and Vice-President shall, subject to the provisions of this Act, be held at such time and place and in such manner as may be prescribed.
- (5) The Council shall constitute from among its members an Executive Committee and such other Committees for general and special purposes as the council deems necessary to carry out purposes of this Act.
- (6) The Council shall also appoint a Registrar and such other officers and servants as the council deems necessary to carry out the purposes of this Act.

**4. Appointment of members in default of election.**

If any of the electorates or bodies referred to in section 3 does not, by such date as may be prescribed, elect a person to be a member of the Council, the State Government shall, by notification appoint to the vacancy a person qualified for election thereto; and the person so appointed shall be deemed to be a member of the Council as if he had been duly elected by the said electorate or body

**5. Period of office of Members.**

- (1) The members of the Council, other than the ex-officio members specified in clause(a) of sub-section(2) of section 3, shall hold office for a term of five years from the date of their election or nomination or until their successors have been duly elected or nominated whichever is longer and shall be eligible for re-election or re-nomination, as the case may be.



- 2) Any such member may at any time resign his appointment by letter addressed to the President of the Council.

**6. Vacancy.**

When a vacancy occurs in the office of a member of the Council through death, resignation, removal or disability of such member or otherwise, previous to the expiry of the period of his office, the vacancy shall be filled in the manner prescribed. Any person elected or nominated to fill a casual vacancy shall, notwithstanding anything contained in section 5, hold office only so long as the member in whose place he is elected or nominated would have held office if the vacancy had not occurred.

**7. Vacancy not to affect proceedings.**

If a vacancy in the office of a member of the Council has occurred, the continuing members of the Council has occurred, the continuing members thereof shall act as if no vacancy had occurred, and no act or proceeding of the Council shall be deemed invalid merely by reason of a vacancy in the Council or the disqualification of, or of defect in the election or nomination of a person acting as a member of the Council.

**8. Disqualifications.**

A person shall be disqualified for being chosen as, and for being, a member of the Council,-

(a) if he/she has been sentenced by a criminal court for an offence involving moral turpitude and punishable with imprisonment for a term exceeding three months, such sentence not having been subsequently reversed, quashed or remitted, unless he has by order, which the State government is hereby empowered to make in this behalf, been relieved from the disqualification arising on account of such sentence, or

(b) if he/she is an un-discharged insolvent, or

(c) if he/she is of unsound mind and stands so declared by a competent Court, or

(d) if his/her name has been removed from the register, or

(e) if he/ she is a whole time officer or servant of the Council.

**9. Disabilities from continuing as member**

- (1) If any member, during the period for which he has been elected or nominated;
- (a) absents himself without excuse, sufficient in the opinion of the Council, from three consecutive ordinary meetings of the Council; or
- (b) absent out of India for a period exceeding eighth consecutive months; or
- (c) ceases to be a member of the electorate or body by which he was elected or;
- (d) becomes subject to any of the disqualifications specified in section 8; or
- (e) having been elected by the Sikkim Medical Council, ceases to be a registered medical practitioner;

the President of the Council shall forthwith report the fact to the State Government, which shall thereupon, by an order in writing, declare his seat to be vacant.

- (2) If any question arises whether a vacancy has occurred under sub-section (1), the orders of the State Government shall be final for the decision of such question.
10. **Leave of absence to members.** The Council may permit any member to absent from the meetings of the Council for any period not exceeding six months.
11. **Officers, Committees and Servants of the Council .** (1) The Secretary of the Council (who may also, if it is deemed expedient by the Council to act as Treasurer) shall for three years from the first constitution of the Council, be a person appointed by the State Government and shall hold office during the pleasure of the State Government.
- (2) the Council shall.
- (a) elect from among its members a Vice President;
  - (b) constitute from among its members an Executive Committee and such other committees for general or special purposes as the Council deems necessary to carry out the purposes of this Act;
  - (c) subject to the provisions of sub-section (1) appoint a Secretary, who may also, if deemed expedient, act as Treasurer;
  - (d) appoint or nominate such other officers and servants as the Council deems necessary to carry out the purposes of this Act;
  - (e) require and take from the Secretary, or from any other officer or servant, such security for the due performance of his duties as the Council deems necessary;
  - (f) with the previous sanction of the State Government, fix the fees and allowances to be paid to the President, Vice President and member and the pay and allowances of officers and servants of the Council.
12. **The Executive Committee .** (1) The Executive Committee shall consist of six members, of whom five shall be elected by the Council from among its members.
- (2) The President and Vice President of the Council shall be members ex-officio of the Executive Committee, and shall be President and Vice President respectively of the Committee.
- (3) In addition to the powers and duties conferred and imposed upon it by this Act, the Executive Committee shall exercise and discharge such powers and duties as the Council may confer or impose upon it by any regulations which may be made in this behalf.
13. **Elections to be by distributive system of voting.** All elections to be held by distributive system of voting.

#### **Explanation**

Distributive system of voting means a system of voting in which every voter shall be entitled to give as many votes as there are seats to be filled:

Provided that no voter shall give more than one vote to any one candidate: Provided further that no voting paper shall be deemed to be valid unless the voter has recorded all the votes which he is entitled to give.



## PART III

### REGISTRATION

14. **Maintenance of register.** The Council shall maintain a register of (a) nurses midwives, (b) nurses (c) Midwives, (d) auxiliary nurses and (e) health visitors, consisting of four sections, in such form, containing such particulars and divided into such parts as may be prescribed.
15. **Persons entitled to registration.** Persons who have undergone such courses of training, have passed such examinations and who fulfill such other conditions as may be prescribed shall, on payment of the prescribed fee and on making an application in the prescribed form, be entitled to registration.
16. **Refusal of registration and removal and re-entry of names.** (1) Subject to such conditions as may be prescribed, the Council may, after giving an opportunity to the person concerned to be heard in his defense and after holding an inquiry in the prescribed manner, refuse to enter in the register the name of any person or may order the removal of the name of such person from the register.
- (2) The order passed under sub-section (1) shall be in writing and shall be served on the person concerned in the prescribed manner.
- (3) The Council may direct that the name of any person against whom an order under sub-section (1) has been passed shall be entered or re-entered in the register, as the case may be.
17. **Appeal from order under section 14.** (1) Any person aggrieved by any order of the Council made under section 16 may, within ninety days from the date on which such order is served, appeal against such order to the State Government.
- (2) The order of the State Government on any such appeal shall be final.
18. **Renewal fee.** (1) Notwithstanding anything contained in section 15, the Council may, with the previous sanction of the State Government, direct that for every three years a renewal fee of hundred rupees shall be paid by each person registered under this Act for the continuance of his name on the register.
- (2) If the renewal fee is not paid before the date fixed by the Council, the Council may after giving notice to the defaulter concerned remove the name of the defaulter from the register:
- Provided that the name so removed may be re-entered in the register on payment of the renewal fee in such manner and subject to such conditions as the Council may, after giving notice to the defaulter concerned by bye-laws direct.
19. **Maintenance of list of persons practicing as nurses, midwives, auxiliary nurses** (1) The Council shall prepare and keep a list of persons whose names are not entered in the register maintained under section 14 and who are practicing as nurses, midwives, auxiliary nurse-midwives and health visitors. The list shall be divided into such parts as may be determined by the Council.

midwives, and  
health visitors and  
public health  
nurses.

- (2) Every person not being qualified for registration under this Act, who, within the period of two years from the date on which this Part comes into force, proves to the satisfaction of the Council that he has been in regular practice as a nurse, midwife, auxiliary nurse-midwife, or health visitor and fulfils such other conditions as may be determined by the Council shall on payment of the prescribed fee, be entitled to have his name entered in the list:

Provided that any person whose name has been removed from the register maintained under this Act or under any other law for the time being in force in any other part of India or from the register of any other country for infamous conduct in any professional respect shall not be entitled to have his name entered in the list.

- (3) The provisions of sections 16 and 17 shall mutatis mutandis apply to the list.

#### PART IV

#### NURSES, MIDWIVES, AUXILIARY NURSE-MIDWIVES AND HEALTH VISITORS ENTITLED TO PRACTISE AND CONTROL OF LICENSING AUTHORITIES

20. Persons not  
registered  
or included in the  
list not to practice  
as nurses etc.

- (1) No person other than a person registered under this Act or a person whose name is entered in the list, shall practice or hold himself/herself out, whether directly or by implication, as practicing habitually or for personal gain as a nurse, midwife, auxiliary nurse-midwife or health visitor.
- (2) Any person who acts in contravention of the provisions of sub-section
- (1) shall, on conviction, be punished with fine which may extend to one hundred rupees for the first offence, to two hundred rupees for the second offence, and to three hundred rupees for any subsequent offence.

21. Conditions on  
practice in certain  
areas.

- (1) Notwithstanding anything contained in section 20, a person whose name has been entered in the list shall not practice as a nurse, midwife, auxiliary nurse-midwife or health visitor in an area within the limits of a municipal corporation or other municipal body or an area notified under sub-section(2), unless he/she,-
- (a) has been in regular practice as a nurse, midwife, auxiliary nurse-midwife or health visitor for a continuous period of five years prior to the date on which this section has come into force, or
- (b) has been in regular practice as a nurse midwife, auxiliary nurse-midwife or health visitor or public health nurse for a continuous period of two years prior to the date on which



this section has come into force and produces a certificate from an institution signed by the Matron, Medical Superintendent or other responsible officer of such institution that such person has received the training as a nurse-midwife, auxiliary nurse-midwife or health visitor in a prescribed manner.

- (2) The State Government may, after consultation with the concerned Zilla Panchayat by a notification, direct that the provisions of sub-section (1) shall apply on such date as may be specified therein to any other area in the Zilla Panchayat subject to such adaptations and modifications as it may consider suitable having regard to the local conditions of the area.
22. **Licensing authority to exercise general supervision.** (1) Subject to the provisions of this Act and the rules and by-laws made in this behalf, every licensing authority shall exercise general supervision and control over the nurse midwives, auxiliary nurse-midwives, and health visitors practicing within the area under its jurisdiction.
- (2) The licensing authority may authorize any of its officers to perform any of the duties and to exercise any of the powers conferred on it by this section and section 23.
23. **Notice to licensing authority before commencement of practice.** (1) Every person registered under this Act and every person whose name has been entered in the list, if he/she intends to continue to practice after the date on which this Part comes into force in any area or if either of such persons intends to practice in such area as a nurse midwife, auxiliary nurse-midwife, or health visitor, he/she shall give notice in writing to the licensing authority and shall give a like notice to the said authority in the month of January every three years thereafter during the period he/she continues to practice within the said area.
- (2) Every such notice shall contain such particulars and shall be in such form as may be determined by the Council.
- (3) Any person who fails to comply with the provisions of sub-sections (1) and (2) shall, on conviction, be punished with fine which may extend to two hundred and thirty rupees for the first offence, to five hundred rupees for the second offence and to one thousand rupees for any subsequent offence.
- (4) Any person who knowingly or wilfully makes or causes or procures any other person to make any false statement in any notice under this section shall, on conviction, be punished with fine which may extend to one thousand rupees for the first offence, to two thousand rupees for the second offence and to five thousand rupees for any subsequent offence.

## PART V

### NURSES ESTABLISHMENTS

#### 24. Regulation of Nurses establishments.

- (1) No person shall carry on any nurses establishment, except under a licence granted by the licensing authority and in accordance with the terms and conditions approved by the Council and specified in such license.
- (2) Any person who desires to carry on any nurses establishment shall apply to the licensing authority for a license before such date, in such manner and in such form as may be prescribed. He/She shall along with the application pay to the licensing authority the prescribed fee, half of which shall be refunded to him/her if the license is not granted.
- (3) The licensing authority may before granting such license impose such additional conditions as it may think fit for securing the proper conduct of the establishment.
- (4) The licensing authority may, after giving an opportunity to the person concerned of being heard, refuse to grant any license or revoke any license already granted, if,-
  - (i) the applicant or the holder of the license is below twenty-one years or is in its opinion not a suitable person to hold such license; or
  - (ii) the premises of the establishment are not suitable; or
  - (iii) any offence under this section has been committed in respect of the establishment.
- (5) Any person aggrieved by any of the conditions imposed by the licensing authority or by the refusal or revocation of any license may appeal within ninety days of such imposition, refusal or revocation to the State Government. The memorandum of appeal shall be accompanied by such fee as may be prescribed. The decision of the State Government on such appeal shall be final.
- (6) The licensing authority may authorise any of its officers to perform any of the duties conferred on it by this section.
- (7) Any officer duly authorised by the licensing authority in this behalf may at all reasonable times enter the premises specified in any license or application for license or any premises which are used, or which the officer has reasonable cause to believe are used, for the purpose of, or in connection with, the nurses establishment and inspect the premises and any records relating to such establishment as may be kept thereon.



- (8) The Council may also exercise the powers of entry and inspection conferred by sub-section (7) through any of its officers authorised by it in this behalf. If the Council is of opinion that in any case the license should be refused or revoked it shall report the matter to the State Government. On receipt of such report, the State Government may after consultation with the licensing authority or after making such inquiry as it deems fit, and after giving an opportunity to the person concerned of being heard pass orders refusing or revoking the license. Such orders shall be final.
- (9) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to two thousand five hundred rupees for the first offence and for any subsequent offence with fine which may extend to five thousand rupees or with simple imprisonment for a term which may extend to six months or with both.
- (10) Any person who refuses any duly authorised officer of the licensing authority or any such officer of the Council to enter or inspect any premises or to inspect any records under sub-section (7) or (8), as the case may be, or obstructs such officer in the exercise of his aforesaid powers shall, on conviction, be punished with fine which may extend to five hundred rupees for the first offence and for any subsequent offence with fine which may extend to one thousand rupees or with simple imprisonment for a term which may extend to three months or with both.
- (11) Any person who makes or causes to be made or knowingly allows to be made any entry in a record to be kept under this section, which he knows to be false in any material particular for any of the purposes of this Act or who makes, produces, furnishes or knowingly allows to be made, produced or furnished any statement, record or information which he knows to be false in any material particular for the purpose of obtaining a license under this section or for any other purposes of this Act shall, on conviction, be punished with fine which may extend to two thousand and five hundred rupees for the first offence and for any subsequent offence with fine which may extend to five thousand rupees or with imprisonment for a term which may extend to six months or with both.
- (12) (i) If the person committing an offence under this section is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

- (ii) Notwithstanding anything contained in clause (i), where an offence under this section has been committed by a company and it is proved

that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation.-**

For the purposes of this sub-section,-

- (a) "company" means any body corporate and includes a firm or other association of individuals, and
- (b) "director" in relation to a firm means a partner in the firm.

**PART VI**

**TRAINING INSTITUTIONS**

25. Training Institutions. (1) The institutions which are approved and recognised by the Council after inspection by its representatives shall be competent to train nurses, midwives, auxiliary nurse-midwives, or health visitors and public health nurses as well as to train registered nurse midwives/nurses in other part certificate courses including degrees/diplomas by any University with the State of Sikkim, as approved recognized by Indian Nursing Council and to send them for examination for the qualifying certificates of the Council.
- (2) The Council may withdraw recognition from any such institution after its inspection by a representative appointed by the Council.
- (3) No school, college hospital' or other institution which is not approved and recognised under this section shall issue to any person a certificate or enter the name of any person in any document purporting to show that such person is qualified by reason of his having passed any examination or undergone any course of training to practice as a nurse, midwife, auxiliary nurse-midwife, or health visitor, unless his name is registered or entered in the list under this Act.
- (4) Any person who contravenes the provisions of sub-section (3) shall, on conviction, be punished with fine which may extend to three thousand rupees.
- (5) If the person committing an offence under this section is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that, nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was



committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

- (6) Notwithstanding anything contained in sub-section(5) where an offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

**Explanation.-**

For the purposes of this sub-section,-

- (a) "company" means any body corporate and includes a firm or other association of individuals, and  
(b) "director" in relation to a firm means a partner in the firm.

**26 Appeal against refusal to recognize institutions.**

Any person aggrieved by the refusal of the Council to approve and recognized any institution as competent to train nurses, midwives, auxiliary nurse-midwives, or health visitors may appeal, within ninety days from the date of such refusal, to the State Government against such order of refusal. The decision of the State Government on any such appeal shall be final.

**PART VII**

**MISCELLANEOUS**

**27. Removal of names from register on notice of death.**

Every Registrar of Births and Deaths who receives notice of the death of any person whose name he knows to be or has reason to believe is entered in any register, shall forthwith transmit by post to the Council a certificate of registration of such death signed by him and stating the time and place of death; and thereupon the name of such person shall be removed from the register.

**28 Penalty for dishonest use of certificate.**

Any person who -

- (a) dishonestly makes use of any certificate of registration issued under the provisions of this Act to him/her or to any other person,  
(b) procures or attempts to procure registration under the provisions of this Act by making or producing, or causing to be made or produced any false or fraudulent declaration, certificate or representation, whether in writing or otherwise, or

(c) willfully makes or causes to be made any false representation in any matter relating to the register or certificate issued under the provisions of this Act,

-shall, on conviction, be punished with fine which may extend to two thousand and five hundred rupees for the first offence and for any subsequent offence with fine which may extend to five thousand rupees or with simple imprisonment for a term which may extend to six months or with both.

29. Penalty for unlawful assumption of title of registered nurse, midwife, auxiliary nurse-midwife, or health visitor.

Any person who, not being a registered nurse, midwife, auxiliary nurse-midwife, or health visitor, takes or uses the name or title of registered nurse, midwife, auxiliary nurse-midwife or health visitor or uses any name, title, description, prescribed uniform, object or sign board, with the intention that it may be believed, or with the knowledge that it is likely to be believed that such person is a registered nurse, midwife, auxiliary nurse-midwife or health visitor shall, on conviction, be punished with fine which may extend to one hundred rupees for the first offence and for any subsequent offence with fine which may extend to two hundred rupees or with simple imprisonment for a term which may extend to three months or with both.

30. Court competent to try offences under Act.

No court other than a Magistrate of the First Class shall take cognizance of or try any offence under this Act.

31. Power of State Government to make rules.

- (1) the State Government may, after previous publication, by notification make rules to carry out all or any of the purposes of this Act
- (2) In particular and without prejudice to the generality of the foregoing power, rules may be made,-
  - (a) prescribing the manner in which elections and nominations of members of the Council and the elections of the President and Vice-President shall be made, and casual vacancies shall be filled under section 6;
  - (b) prescribing the form in which a register shall be kept, the particulars to be entered in such register, and the parts into which such register shall be divided under section 14;
  - (c) prescribing the courses of training and examinations including those for auxiliary nurse-midwives entitling a person to registration, the fee payable on application for registration, the form in which such applications shall be made, and the conditions subject to which names shall be entered in the register under section 15;



- (d) prescribing the causes for which, the conditions under which, and the manner in which the names of nurses, midwives, auxiliary, nurse-midwives, and health visitors may be removed or re-entered in the register under section 16 and the manner in which the order of removal or refusal shall be served on such persons;
  - (e) nurses midwives, nurses, midwives, auxiliary nurse-midwives and health visitors practising within the area under its jurisdiction under section 22;
  - (f) the date before which and the manner and form in which application for a licence for any nurses establishment shall be made under section 24;
  - (g) the manner in which an order of withdrawal of recognition of an institution shall be served under section 25;
  - (h) prescribing the fees payable for entering the name of any person in the list under sub-section(2) of section 19 and in respect of an appeal under section 17 or 26; and
  - (j) any matter which is to be or may be prescribed.
- (3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions 14 immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything done under that rule.

**32. Power of Council to (1) make by-laws.-**

The Council may make by-laws not inconsistent with this Act or the rules-

- (a) for regulating the compilation, maintenance and publication of the register or list and the conditions of admission to the register or list;
- (b) for regulating the conduct of any examinations which may be prescribed as a condition of admission to the register and any matter ancillary to or connected with such examinations, including the courses of training which the candidates appearing for the examinations shall under go;
- (c) for determining the manner in which the list shall be maintained, the conditions which shall be fulfilled by persons whose names are to be entered in the list, the qualifying examination to be passed by persons whose names are entered in the list and for regulating the conduct or such examinations;

- (d) for the approval of any institution for the purpose of such training and the granting of diplomas to candidates passing the examinations;
- (e) for regulating the conditions under which institutions for nursing the sick, maternity or child welfare may be affiliated to the Council.
- (f) for appointing a Registrar and such other servants as may be necessary;
- (g) for regulating the pay, pension, conduct and other conditions of service of persons appointed under clause (f).
- (h) for establishing a provident fund for the benefit of the employees of the Council and of affiliated institutions and regulating its administration;
- (i) for regulating and supervising the practice of their profession by registered nurse midwives, nurses, midwives, auxiliary nurse-midwives, health visitors and public health nurses and by persons whose names are entered in the list;
- (j) for regulating the publication of the names of registered nurse midwives, nurses, midwives, auxiliary nurse-midwives and health visitors and public health nurses and of persons whose names are entered in the list and their residence;
- (k) for regulating the conditions under which such nurses, midwives, ancillary nurse-midwives and health visitors registered in other States may be admitted to the register, on such other States granting reciprocal registration to persons registered on the register of the Council;
- (l) for determining the form and the manner in which notices under section 23 shall be given;
- (m) for determining the manner of inspection of the nurses establishments by the Council, the statements to be furnished and records to be maintained by such establishments;
- (n) for regulating the summoning of meetings of the Council and its proceedings;
- (o) for determining the manner in which all fees levied under this Act and all money received by the Council shall be accounted for, audited and applied for the purposes of this Act, and for regulating the expenditure of the Council generally;
- (p) for prescribing the traveling and other expenses payable to the members of the Council or of committees;
- (q) generally for the provisions of any matter in respect of which the Council considers provision should be made for the purposes of this Act.
- (2) The Council may further make regulations generally to carry out the provisions of this Act, and in particular and without prejudice to the generality of the foregoing power, such regulations may provide for –
  - (a) this management of the property of the Council and the maintenance and audit of its accounts;



- (b) the manner in which elections referred to in sub-section (2) of section 5 and in clause (a) of sub-section (2) of section 8 shall be conducted;
- (c) the summoning and holding of the meetings of the Council, the times and places at which such meetings shall be held, the conduct of business there at and the number of members necessary to constitute a quorum;
- (d) prescribing the functions of the Executive Committee, the summoning and holding of meetings thereof, the times and places at which such meetings shall be held and the number of members necessary to constitute a quorum;
- (e) prescribing the powers and duties of the President and the Vice-President;
- (f) prescribing the tenure of office and the powers and duties of the Secretary and other officers and servants of the Council;
- (ff) prescribing the powers and duties of inspectors;
- (g) prescribing the standard curricula for the training of nurses, midwives and health visitors, for training courses for teachers of nurses, midwives and health visitors, and for training in nursing administration;
- (h) prescribing the conditions for admission to courses of training as aforesaid;
- (i) prescribing the standards of examination and other requirements to be satisfied to secure for qualifications recognised under this Act.
- (3) To enable the council to be first constituted, the Governor may, with the previous sanction of the State Government, make regulations for the conduct of the elections referred to in sub-section (2) of section 5, and any regulations so made be altered or rescinded by the Council in exercise of its powers under this section.
- (4) No by-law made by the Council shall come into force until it has been approved by the State Government, with or without modification or amendment.
- (5) All by-laws made under this section shall be published in the Official Gazette.
- (6) It shall be lawful for the State Government by notification, to cancel or amend any by-law made under this Act.

**33. Protection of persons acting in good faith under the Act, rules, or by-laws.**

No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act, rules or by-laws.

**34. Jurisdiction of Civil Courts.**

No act done in the exercise of any power conferred by or under this Act on the State Government or the Council or the Registrar shall be questioned in any Civil Court.

35. Control-

- (1) If at any time it shall appear to the State Government that the Council has failed to exercise, or has exceeded or abused any of the powers conferred upon it by or under this Act, or has failed to perform any of the duties imposed upon it by or under this Act, the State Government may, if it considers such failure excess or abuse to be of a serious character, notify the particulars thereof to the Council, and if the Council fails to remedy such default, excess or abuse, within such time as the State Government may fix in this behalf, the State Government may dissolve the Council and cause all or any of the powers and duties of the Council to be exercised and performed by such person and for such period as it may think fit and thereupon the funds and property of the Council shall vest in the State Government for the purpose of this Act until a new Council shall have been constituted under section 3.
- (2) When the State Government has dissolved the Council under sub-section (1), it shall take steps as soon may be convenient to constitute a new Council under section 3 and thereupon the property and funds referred to in sub-section (1) shall revert in the Council so constituted.
- (3) Notwithstanding anything contained in this Act, rules or by-laws, if, at any time, it shall appear to the State Government that the Council or any other authority empowered to exercise any of the powers or to perform any of the functions under this Act, has not been validly constituted or appointed, the State government may cause any of such powers or functions to be exercised or performed by such person in such manner and for such period not exceeding six months and subject to such conditions as it thinks fit.

36. Power to remove difficulties.

If any difficulty arises in giving effect to the provisions of this Act in consequence of conflict with any provision of a Central Act or account of any directions from the Government of India, the State Government, may by notification make such provisions as appear to it to be necessary or expedient for removing the difficulty.

Pratibha Devisingh Patil  
PRESIDENT OF INDIA

R.K. PURKAYASTHA (SSJS)  
LR-cum-SECRETARY  
File No: 16 (82)/LD/P/2010



EXTRAORDINARY  
PUBLISHED BY AUTHORITY

GOVERNMENT OF SIKKIM  
LAW DEPARTMENT  
GANGTOK

Dated: 5.07.2014

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 31<sup>st</sup> January,2014 is hereby published for general information:-

AN  
ACT

Further to amend the Sikkim Nurses, Midwives and Health Visitors (Amendment) Act, 2008.  
Be it enacted by the Legislature of Sikkim in the Sixty-fifth Year of the Republic of India as follows:-

|   |    |  |
|---|----|--|
| Short title<br>extent and<br>Commencement | 1. | <p>(1) This Act may be called the Sikkim Nurses, Midwives and Health Visitors (Amendment) Act, 2014.</p> <p>(2) It extends to the whole of Sikkim.</p> <p>(3) It shall be deemed to have come into force on the 08<sup>th</sup> day of February, 2010.</p>   |
| Amendment<br>of section 32                | 2. | <p>In the Sikkim Nurses, Midwives and Health Visitors Act, 2008, in section 32:—</p> <p>(1) in clause (K) of sub section (1), the following proviso shall be inserted, namely:- "Provided the candidate has passed from the institute recognized by the Indian Nursing Council,"</p> <p>(2) in sub-section (2), clauses (g), (h) and (i) shall be omitted.</p> |

Lakchung Sherpa SSJS  
L.R.-cum-Secretary,  
Law Department.

S.G.P.G. -292/ Gazette /30 Nos./Dt:- 19.07.2014.

THE SUBSEQUENT AMENDMENTS TO THE SIKKIM THE SIKKIM NURSES, MIDWIVES AND HEALTH VISITORS ACT, 2008 (ACT NO. 4 OF 2008) AMENDED AND UPDATED UPTO JULY, 2014