

GOVERNMENT OF GOA

Department of Law & Judiciary Legal Affairs Division

Notification

7/20/2012-LA

The Goa Nursing Council Act, 2012 (Goa Act 23 of 2012), which has been passed by the Legislative Assembly of Goa on 8-8-2012 and assented to by the Governor of Goa on 26-9-2012, is hereby published for general information of the public.

Sharad G. Marathe, Joint Secretary (Law).

Porvorim, 3rd October, 2012.

The Goa Nursing Council Act, 2012

(Goa Act 23 of 2012) [26-9-2012]

AN

ACT

to provide for the registration of nursing personnel (nurses, auxiliary nurse-midwives, multi- purpose health workers and health visitors), to regulate nursing education and for that purpose constitute Goa Nursing Council in the State of Goa and matters connected therewith or incidental thereto.

Be it enacted by the Legislative Assembly of Goa in the Sixty-third Year of the Republic of India, as follows:—

CHAPTER I

Preliminary

1. Short title, extent and commencement.— (1) This Act may be called the Goa Nursing Council Act, 2012.

(2) It shall extend to the whole of the State of Goa.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. Definitions.— In this Act, unless the context otherwise requires,—

(a) “affiliated institution” means an institution stated in section 34;

(b) “appointed date” means the date on which this Act shall come into force;

¹[(c) “auxiliary nurse-midwife” means a person who possesses a certificate in Auxiliary Nursing Midwifery or a diploma in Auxiliary Nurse-Midwifery; or such other equivalent qualification, recognized by the Indian Nursing Council, from a recognized institution;]

(d) “board” means examination board of the Council constituted under section 12 of this Act;

(e) “Council” means the Goa Nursing Council constituted under section 3;

(f) “Government” means the Government of Goa;

(g) “health visitor” means a person who has obtained the Health Visitor’s Certificate from any Institution recognized in this behalf by the Council;

(h) “licensing authority” means an officer authorized by the Government to issue licenses under section 30 of this Act;

(i) “List” means a list of persons prepared under section 23;

(j) “member” means a member of the Council;

²[(k) “nurse” means a person possessing.— (a) a Bachelor’s Degree in Nursing; or (b) a Diploma in General Nursing and Midwifery; or (c) a Diploma in General Nursing and such other qualification as may be recognized by the Indian Nursing Council in lieu of Midwifery; or (d) such other equivalent qualification as may be recognized by the Indian Nursing Council, from a recognized university/institution;]

(l) “nursing establishment” means any establishment, whether carried on for gain or not, which provides or is intended to provide the services of persons to act as nurses to those requiring such services;

(m) “nursing personnel” means nursing personnel, namely, nurses, auxiliary nurse-midwives, multi-purpose health workers and health visitors;

(n) “prescribed” means prescribed by rules made under this Act;

(o) “President” means the President of the Council;

(p) “register” means the register of nursing personnel prepared under this Act;

(q) “registered” means registered in accordance with the provisions of section 17;

(r) “Registrar” means the Registrar appointed under section 15;

(s) “regulations” means regulations made by the Council under this Act;

(t) “rules” means rules made under section 42;

(u) “section” means section of this Act;

(v) “State” means the State of Goa;

(w) “Vice President” means the Vice-President of the Council.

CHAPTER II

Constitution, Functions and Powers of the Council

3. Constitution and incorporation of the Council.— (1) The Government may, by notification in the Official Gazette, constitute a Council to be called the Goa Nursing Council;

(2) The Council shall be a body corporate, having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract and may by the name aforesaid sue and be sued.

(3) The Council shall consist of the following members, namely:—

(a) Ex officio Members:

(i) the Director of Health Services;

(ii) the Dean, Goa Medical College;

(b) Nominated Members:

(i) four head nurses (by whatever name called) having minimum qualifications of Bachelor's Degree in nursing, from hospitals in the State, to represent each hospital, namely, the Goa Medical College and Hospital, Institute of Psychiatry and Human Behaviour, Mormugao Port Trust Hospital, Government District Hospitals of North and South Goa and Employees State Insurance Hospital, to be nominated by the Government by rotation;

(ii) three members to be nominated by the Government out of whom one shall be a Public Health Nurse and one each shall be from amongst auxiliary nurse-midwives and teachers of recognized nursing schools/colleges in the State.

(c) Elected Members:

(i) one member, to be elected from amongst the principals of colleges conferring degree in nursing, by themselves;

(ii) one member, to be elected from amongst the faculty conferring degree in nursing by themselves;

(iii) one member to be elected from amongst the faculty conferring diploma in auxiliary nursing midwifery by themselves;

(iv) one member to be elected by members of the Trained Nurses Association of India (Goa Branch), from amongst themselves;

(v) one member, to be elected by the nurses whose names are entered in the register, from amongst themselves.

(4) The President and the Vice-President of the Council shall be elected by the members from amongst themselves.

(5) The election of the members and of the President and the Vice-President shall be held at such time, and at such place and in such manner, as may be prescribed.

(6) If at any election, the electors fail to elect the requisite number of members or the President, or the Vice-President, the Government shall nominate such person or persons who are qualified to be elected, as it deems fit, to fill up the vacancy or vacancies; and the person or persons so nominated shall be deemed to have been duly elected under this section.

(7) Where any dispute arises regarding any election of a member or the President or Vice-President, it shall be referred to the Government and the decision of the Government shall be final.

(8) The Government shall, by notification in the Official Gazette, publish the names of both elected and nominated members.

4. Term of office.— (1) Save as otherwise provided in this Act, a member whether elected or nominated, shall hold office for a period of three years from the date of publication of the notification under sub-section (8) of section 3, for a maximum of two terms.

(2) Save as otherwise provided in this Act, the President and the Vice-President shall hold office from the date of their election upto the date on which their term of office as a member expires.

(3) The term of office of an outgoing member shall, notwithstanding anything contained in sub-section (1), be deemed to extend to and expire on the day immediately preceding the day on which the names of the successor members are published under sub-section (8) of section 3.

(4) An outgoing member, the President and the Vice-President, shall be eligible for re-election or re-nomination, subject however to the maximum term as specified in sub-section (1).

5. Casual Vacancies.— (1) Any casual vacancy in the office of the President or the Vice-President or of a member elected under clause (c) of sub-section (3) of section 3, caused by reason of death, resignation, disqualification or disability or any other reason, shall be filled by election:

Provided that, any such vacancy in the office of such elected member occurring within six months prior to the date on which the term of office of all the members expires, shall not be filled.

(2) Any casual vacancy, previous to the expiry of the term, in the office of the member nominated under clause (b) of sub-section (3) of section 3, shall be reported forthwith by the Registrar to the Government, and shall, as soon as possible thereafter, be filled by the Government by nomination.

(3) Any person elected under sub-section (1) or nominated under sub-section (2) to fill up a casual vacancy shall, notwithstanding anything contained in section 4, hold office only so long as the person in whose place he is elected or nominated would have held office, if the vacancy had not occurred.

6. Resignation.— (1) The President or the Vice-President may at any time resign his office by a notice in writing addressed to the Council and delivered to the Registrar. The resignation shall take effect from the date on which it is accepted by the Council.

(2) An elected member may at any time resign his office by a notice in writing addressed to the President. A nominated member may at any time resign his office by a notice in writing addressed to the Government. Every such resignation shall take effect from the date on which it is accepted by the President or the Government, as the case may be.

7. Disqualification.— (1) A person shall be disqualified for being elected or nominated as, and for continuing as, a member,—

- (a) if he is an undischarged insolvent;
- (b) if he is of unsound mind, and stands so declared by a competent court;
- (c) if his name has been removed from the register and has not been re-entered therein;
- (d) if he is a whole-time officer or servant of the Council;
- (e) if he has completed sixty-five years of age; or

(f) if he is convicted of an offence involving moral turpitude within a period of five years immediately before he's being elected or nominated as a member.

(2) If any member absents himself from three consecutive meetings of the Council, without leave of the Council or without such reasons as may, in the opinion of the Council, be sufficient, the Council may declare his seat vacant, and take steps to fill up the vacancy.

(3) If any member becomes disqualified or is found to be subject to any of the disqualifications mentioned in sub-section (1), the Council shall submit a report to the Government, and the Government, if satisfied about the disqualification, shall declare his seat vacant.

(4) Notwithstanding anything contained in this Act, the Government may remove a member from office, if the Council decides at a meeting by two-third majority of its total membership that the continuation of a member in office is prejudicial to the interest of the Council.

8. Meetings of the Council.— (1) The meetings of the Council shall be convened, held and conducted in such manner as may be prescribed.

(2) The President, when present, shall preside over every meeting of the Council. If at any meeting the President is absent, the Vice-President, and in the absence of both, some other member elected by the members present, from amongst themselves, shall preside over such meeting.

(3) All questions at a meeting of the Council shall be decided by a majority of votes.

(4) In case of equality of votes, the presiding authority at a meeting shall have and exercise a second or a casting vote.

(5) Five members (including the President and the Vice-President) shall form a quorum. When a quorum is required but not present, the presiding authority shall adjourn the meeting to such hour on some future day, as it may notify on the notice board at the office of the Council; and the business which would have been brought before the original meeting had there been a quorum thereat, shall be brought before the adjourned meeting, and may be disposed of at such meeting or any subsequent adjournment thereof, whether there be a quorum present or not.

9. *Proceedings of meetings and validity of acts.*— (1) No disqualification of or defect in the election or nomination of any person as a member, or as the President, or as the Vice- - President or as a Presiding Authority of a meeting, shall of itself be deemed to vitiate any act or any proceedings of

the Council in which such person has taken part, whenever the majority of persons who are parties to such act or proceedings, were entitled to vote.

(2) During any vacancy in the Council, the continuing members may act, as if no vacancy has occurred:

Provided that, the number of vacancies shall, at any time, not exceed four.

10. *Powers, duties and functions of the Council.*— Subject to the provisions contained in this Act, the powers, duties and functions of the Council shall be,—

(a) to maintain the register and the list, and to provide for the registration and enlistment of nursing personnel;

(b) to hear and decide appeal from any decision of the Registrar;

(c) to prescribe a code of ethics for regulating the professional conduct of nursing personnel;

(d) to reprimand a registered or an enlisted nursing personnel or to suspend or remove his name from the register and the list, or to take such other disciplinary action against him as may, in the opinion of the Council, be necessary or expedient;

(e) to hold examinations and to make all necessary arrangements for such examinations;

(f) to prescribe the courses or training leading to the examinations held by the Council, and to charge fees for such examinations;

(g) to prepare, publish and prescribe text-books and to publish statements of prescribed courses of study;

(h) to grant certificates and diplomas and marks of honour;

(i) to award stipends, scholarships, certificates of merit, medals, prizes and other rewards;

(j) to recognize institutions for the purpose of training and giving instructions for the courses leading to the examinations held by the Council, or to cancel such recognition;

(k) to inspect nursing establishments and to regulate the functioning of such establishments;

(l) to provide for the inspection of recognized and affiliated institutions, and to require such institutions to furnish such information as may be necessary;

(m) subject to the approval of the Government, to receive donations and to determine the conditions of acceptance of donations; and

(n) to exercise such other powers and perform such other duties and functions as are laid down in this Act, or as may be prescribed.

11. *Executive Committee and other Committees.*— (1) The Council shall, as soon as may be, constitute an Executive Committee consisting of the President ex-officio, and such number of other members elected by the Council from amongst its members, as may be prescribed.

The term of office of, and the manner of filling casual vacancies among, and the procedure to be followed by, the members of the Executive Committee, shall be such as may be prescribed.

(2) In addition to the powers, duties and functions conferred, imposed and entrusted by this Act, the Executive Committee shall exercise such powers, perform such duties and discharge such functions of the Council as may be entrusted to it, from time to time, by the Council.

(3) The Council may, subject to any rules made in this behalf, from time to time, by resolution passed at a meeting, appoint any other Committee or Committees of its members, consisting of such number of persons, on such terms and for performing such functions, as may be specified in the resolution.

12. *Examination Board.*— (1) The Council shall constitute an Examination Board consisting of a Chairman and six members, out of whom three shall be members of the Council and other three shall be nominated by the Council from amongst prominent academicians. The Chairman of the Examination Board shall be a person with such qualification as may be prescribed:

Provided that, an elected member of the Council shall continue to hold office of a member of the Examination Board only so long as he is a member of the Council.

(2) The term of office of, and the manner of filling casual vacancies among, and the procedure to be followed by, the members of the Examination Board shall be such as may be prescribed.

(3) It shall be the duty of the Examination Board to appoint examiners, to conduct examinations held by the Council and to make recommendations to the Council in respect of the courses of studies, and to perform such other duties and functions in connection with the said examinations as may be prescribed.

13. *Fees and allowances for meetings.*— The President, the Vice-President and other members of the Council and members of the Executive Committee and other Committees, if any, appointed by the Council, and the Chairman and members of the Examination Board shall be paid, such fees and allowances for attendance at meetings, and such travelling allowance, as shall, from time to time, be prescribed.

14. *Income and Expenditure of the Council.*— (1) The income of the Council shall consist of—

(a) fees received under this Act or the rules or regulations;

(b) grants received from the Government, if any; and

(c) any other sums received by the Council.

(2) It shall be competent for the Council to incur expenditure for the following purposes, namely:—

(a) salaries and allowances of the Registrar and the staff of the Council.

(b) fees and allowances to be paid to the persons mentioned in section 13;

(c) remuneration to be paid to the examiners and other persons appointed by the Council for the conduct of the examinations;

(d) such other expenses as are necessary for performing its duties and discharging its functions under this Act, or the rules or regulations.

Registrar of Council and his duties and functions.— (1) The Council shall, with the previous sanction of the Government, appoint a full time Registrar and if there need be, due to workload, a Deputy Registrar.

(2) The Executive Committee may, from time to time, grant leave to the Registrar:

Provided that, if the period of leave does not exceed one month, the leave may be granted by President.

(3) The Registrar may, from time to time, grant leave to the Deputy Registrar.

(4) Deputy Registrar shall act as a Registrar during his absence. If the Deputy Registrar is not appointed then during any temporary vacancy in the office of the Registrar due to leave or any other reason, the Executive Committee may, with the previous sanction of the Government, appoint another person to act in his place and any person so appointed shall, for the period of such appointment, be deemed to be the Registrar for the purpose of this Act:

Provided that, when the period of such vacancy does not exceed one month, the appointment may be made by the President, who shall forthwith report about such appointment to the Executive Committee, and the Government.

(5) The Council may, with the previous sanction of the Government, suspend, dismiss or remove any person appointed as the Registrar or Deputy Registrar or impose any other penalty upon them.

(6) Save as otherwise provided in this Act, the qualifications, salary and allowances and other conditions of service of the Registrar and Deputy Registrar shall be such as may be prescribed.

(7) The Registrar shall be the Secretary and the Executive Officer of the Council. He shall attend all meetings of the Council, and of the Executive Committee and of the Examination Board, and shall keep minutes of the names of the members present and of the proceedings of such meetings.

(8) The accounts of the Council shall be kept by the Registrar in the prescribed manner.

(9) The Registrar shall have such supervisory powers over the staff as may be prescribed, and may perform such other duties and discharge such other functions as may be specified in this Act, or as may be prescribed.

(10) The Registrar appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

15. Other employees of Council.— (1) The Council may appoint such officers and servants, other than the Registrar, as it may deem necessary for performing its duties and discharging its function under this Act:

Provided that the number and designations of such officers and servants and their qualifications, salaries and allowances and conditions of service shall be determined by the Council, with the previous sanction of the Government, by regulations made in this behalf.

(2) Notwithstanding anything contained in sub-section (1), but subject to such financial limit as may be laid down in this behalf by the Council, it shall be competent for the Executive Committee to create temporary posts of clerks or servants and to make appointments thereto, to meet any temporary increase in work, or to carry out any work of a seasonal character.

CHAPTER III

Registration and Enlistment

16. Preparation of Register.— (1) As soon as may be after the appointed day, the Registrar shall prepare and maintain thereafter a Register of nursing personnel for the State in accordance with the provisions of this Act.

(2) The Register shall be in such form and may be divided into such parts as may be prescribed. It shall include the full name, address and qualifications of the nursing personnel, the date on which each qualification was granted, and such other particulars as may be prescribed.

(3) Any person who holds any of the recognised qualifications included in the Schedule to the Indian Nursing Council Act, 1947 (XLVIII of 1947) shall, subject to any conditions laid down by or under the said Act, at any time, on an application made in the prescribed form to the Registrar and on payment of the prescribed fee and on presentation of his degree, diploma or certificate, be entitled to have his name entered in the register:

Provided that, the name of an applicant who is unable to present his degree, diploma or certificate may be entered in the Register, if he satisfies the President that he holds such degree, diploma or certificate but for sufficient cause cannot present the same with his application.

(4) Every registered nursing personnel shall be given a certificate of registration in the prescribed form. Such certificate shall be valid upto the date specified therein.

17. Renewal of Registration.— (1) Every registered nursing personnel within three months prior to the expiry of his registration shall apply to the Registrar and pay to the Council a renewal fee of such amount as may be prescribed for the continuance of his name on the register.

(2) (a) If the renewal fee is paid on or before the due date, the Registrar shall issue to the registered nursing personnel a renewal slip in the prescribed form specifying the date upto which the validity of the certificate of registration has been extended.

(b) If the renewal fee is not paid by the due date, the Registrar shall remove the name of the defaulting person from the register. On such removal, the certificate of registration issued to the nursing personnel shall be deemed to have been cancelled:

Provided that, the name so removed may be re-entered in the Register on payment of the outstanding renewal fee, and such penal fee as may be prescribed in this behalf. On receipt of such fees, the Registrar shall issue a renewal slip as provided in clause (a).

18. Maintenance of Register.— (1) It shall be the duty of the Registrar to make entries in the register, from time to time, to revise the same and to issue certificates of registration in accordance with the provisions of this Act, and the rules made thereunder, and the Orders of the Council.

(2) The names of registered nursing personnel who die or whose names are directed to be removed from the Register under section 24 shall be removed therefrom.

(3) Any person whose name is entered in the Register and who subsequent to his registration desires to record in the Register any change in his name, shall, on an application made in this behalf and on payment of prescribed fee, be entitled to have such change in his name recorded in the Register.

(4) Subject to the provisions of section 11 of the Indian Nursing Council Act, 1947 (XLVIII of 1947), any person whose name is entered in the Register and who subsequent to his registration obtains any recognized higher qualification, shall, on an application made in this behalf with documentary proof and on payment of the prescribed fee, be entitled to have an entry, stating such qualification, made against his name in the Register.

(5) Where it is shown to the satisfaction of the Registrar that a certificate of registration has been defaced, lost or destroyed, the Registrar may, on payment of the prescribed fee, issue a duplicate certificate.

19. Special procedure for registration in certain cases.— (1) No person who possesses a certificate of nurse, auxiliary nurse midwife, multipurpose health worker, health visitor, health supervisor, etc., granted by any authority in any place outside the territory of India (other than the qualification specified in the Schedule of the Indian Nursing Council Act, 1947 (XLVIII of 1947) shall be registered under this Act, unless the procedure specified in sub-section (2) has been followed.

(2) Any person, who holds any such qualification, may apply to the Council by giving a correct description of his qualification with the dates on which they were granted and by presentation of his degree or diploma or certificate and evidence of having the requisite knowledge and skill for efficient practice as a nursing personnel. If the Council is satisfied that the degree or diploma or certificate held by the applicant is such as to secure the possession by the applicant of the requisite knowledge and skill for efficient practice as a nursing personnel, the Council may, with the previous approval of the Indian Nursing Council and on payment of a prescribed fee, enter his name in the register.

20. Persons who may not be registered.— Notwithstanding anything contained in sections 17 and 20, no person, whose name has been removed from any register kept under this Act or any other law for the time being in force in India regulating the registration of nursing personnel on the ground of professional misconduct, shall be entitled to have his name entered in the register, unless his name is duly ordered to be restored in the register from which it was so removed.

21. Fees for and Certificate of Provisional Registration.— (1) Any person not being a citizen of India who is employed as a nurse, midwife, auxiliary nurse-midwife, teacher or

administrator in any hospital or institution situated in the State for purposes of teaching, research or charitable work desires to be enrolled temporarily in the register shall make an application in the prescribed form to the Registrar and shall pay fee as may be prescribed. On receipt of such application, the Registrar shall seek the approval of the President of the Council constituted under the Indian Nursing Council Act, 1947 (XLVIII of 1947) for temporary enrolment of the applicant in the register, and enroll his name in the register of temporary enrolment for such period as may be specified in this behalf in the order issued by the said President.

(2) Every person whose name is entered in the register of temporary enrolment under sub-section

(1) shall be given a certificate of temporary registration in the prescribed form. Such certificate shall remain in force for such period as may be specified therein.

(3) Any person who possesses temporary registration under sub-section (1) shall not be eligible to contest, or to vote at, any election held under this Act.

22. Preparation of List.— (1) As soon as may be, after the appointed day, the Registrar shall, in accordance with the provisions of this Act, prepare and maintain thereafter a list of persons practicing as nursing personnel, but not entitled to have their names entered in the register under section 17.

(2) No person other than the person registered under this Act or a person whose name is entered in the list under sub-section (1), shall practice as a nursing personnel:

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 part of India, or from the register of any other country on the ground of any professional or other misconduct, shall not be entitled to have his name entered in the list.

(3) The provisions of sub-section (2) of section 17 and of sections 18 and 25 shall, mutatis mutandis, apply to the list prepared under this section.

23. Removal of names from the Register and the list.— (1) If a person whose name is entered in the register or list, after due enquiry held by the Council or by the Executive Committee in the prescribed manner, is found guilty of any misconduct, the Council may,—

(a) issue a letter of warning to such nursing personnel; or

(b) direct the name of such nursing personnel,—

(i) to be removed from the register or the list for such period as may be specified in the direction;

or

(ii) to be removed from the register or the list permanently.

Explanation.— For the purposes of this section, “misconduct” shall mean,—

(a) the conviction of a registered nursing personnel by a criminal court for an offence which involves moral turpitude, and which is cognizable within the meaning of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974); or

(b) the conviction under the Army Act, 1950 (Central Act 46 of 1950) of a registered nursing personnel, subject to the military law, for an offence which is cognizable within

the meaning of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974); or

(c) any conduct, which, in the opinion of the Council, is infamous in relation to the nursing profession, and particularly under, any Code of Ethics as may be prescribed by the Council in this behalf or by the Indian Nursing Council.

(2) If the name of any registered nursing personnel is also entered by any other authority in the register or the list, maintained under any other law and it is removed from the said register or the said list, the Council shall, if such removal comes or brought to its notice, also remove the name of such registered nursing personnel from the register or the list maintained under this Act.

(3) It shall be the duty of the Registrar to intimate the public and the Indian Nursing Council of such removal.

(4) The Council may, on sufficient cause being shown, direct at any subsequent date that the name of nursing personnel removed under sub-section (1) shall be re-entered in the register or list on such conditions and on payment of such fee, as may be prescribed.

(5) Any person aggrieved by any order of the Council made under this section may, within three months from the date on which the order is communicated to him/her, may appeal against such order to the Government. The order of the Government on such appeal shall be final.

(6) The Council may, of its own motion, or on the application of any person, after due and proper inquiry and after giving an opportunity to the person concerned of being heard, cancel or alter any entry in the register, or the list if in the opinion of the Council, such entry was fraudulently or incorrectly made.

(7) In holding any inquiry under this section, the Council or the Executive Committee, as the case may be, shall have the same powers as are vested in Civil Courts under the Code of Civil Procedure, 1908 (Central Act 5 of 1908), when trying a suit, in respect of the following matters, namely:—

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents;
- (c) issuing of commissions for the examination of witnesses.

(8) All inquiries under this section shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code (45 of 1860).

(9) (a) For the purpose of advising the Council or the Executive Committee, as the case may be, on any question of law arising in any inquiry under this section, there may in all such inquiries be an assessor, who has been not less than ten years,—

- (i) an advocate enrolled under the Advocates Act, 1961 (Central Act 25 of 1961) as in force; or
- (ii) an attorney of a High Court.

(b) Where an assessor advises the Council or the Executive Committee on any question of law as to evidence, procedure or any other matter, he shall do so in the

presence of every party or person representing a party, to the inquiry who appears thereat or if the advice is tendered after the Council or the Executive Committee has begun to deliberate as to its findings, every such party or person as aforesaid shall be informed as to what advice the assessor has tendered. Such party or person shall also be informed if in any case the Council or the Executive Committee does not accept the advice of the assessor on any such questions as aforesaid.

(c) Any assessor under this section may be appointed either generally, or for any particular inquiry or class of inquiries, and shall be paid the remuneration as prescribed.

24. Publication of Register and List.— After every three years, the Registrar shall cause to be printed and published a correct list of all nursing personnel for the time being entered in the register.

(2) The Registrar shall cause to be printed or published annually on or before a date to be decided by the Executive Committee, an addendum and/or a corrigendum to the list published under sub-section (1), showing,—

(a) the names of all nursing personnel for the time being entered in the register and not included in any subsisting list already printed and published;

(b) the names of all nursing personnel included in any subsisting list, whose names have since been removed on account of any reason whatsoever from, and not re-entered in, the register; and

(c) any other amendments to the subsisting list.

(3) The form of the list published under sub-section (1), the particulars to be included therein, and the manner of its publication, shall be such as may be prescribed.

A copy of the list referred to in sub-section (1) shall be evidence in all Courts, and in all judicial or quasi-judicial proceedings, that the persons whose names specified therein are registered according to the provisions of this Act, and the absence of the name of any person from such copy shall be evidence, until the contrary is proved, that such person is not registered according to the provisions of this Act:

Provided that, in the case of any person whose name does not appear in such copy, a certified copy under the hand of the Registrar of the entry of the name of such person on the register shall be evidence that such person is registered under the provisions of this Act.

25. Rights of registered nursing personnel.— Notwithstanding anything contained in any law for the time being in force, the expression “legally qualified nurse, auxiliary nurse-midwife, multipurpose health worker, health visitor” or any word imparting a person recognized by a law as a registered member of the nursing profession shall, in all Acts of the State Legislature and in all Central Acts (in their application to the State of Goa) in so far as such Acts relate to any matters specified in List II or List III in the Seventh Schedule to the Constitution of India, include a nursing personnel, whose name is entered in the register under this Act.

26. Appeals.— (1) Any person aggrieved by any decision of the Registrar under this Act may, within the period of one month from the date on which the decision is communicated to him, appeal to the Council, which shall hear and determine the appeal in the prescribed manner.

(2) Save as otherwise provided in the Indian Nursing Council Act, 1947 (XLVIII of 1947), every decision of the Council under this Act shall be final.

27. Act in addition and not in derogation.— The provisions of this Act are in addition to, and not in derogation of, the provisions of the Indian Nursing Council Act, 1947 (XVIII of 1947).

CHAPTER IV

Nursing personnel entitled to practice and control of Licensing Authorities

28. Persons not registered or not on the list not to practice as a nursing personnel.— (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 out, whether directly or by implication, as practicing habitually or for personal gain, as a nursing personnel.

(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 ten thousand rupees for the first offence and to thirty thousand rupees for any subsequent offence.

29. Licensing authority.— The Government may, by notification in the Official Gazette, appoint licensing authority to issue licences for establishing nursing establishments.

30. Licensing authority to exercise power of general supervision.— Subject to the provisions of this Act and the rules and regulations made thereunder, every licensing authority shall exercise power of general supervision and control over all nursing personnel practicing within the State of Goa.

31. 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 intends to continue to practice, after the date on which this Act comes into force, in the State, he shall give notice in writing to the Licensing Authority.

(2) Every such notice shall contain such particulars and shall be in such form as may be prescribed.

(3) Any person who fails to comply with the provisions of sub-section (1) shall, on conviction, be punished with fine which may extend to one thousand rupees for the first offence and to three thousand rupees for any subsequent offence.

(4) Any person who knowingly or willfully 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 ten thousand rupees for the first offence, and to thirty thousand rupees for any subsequent offence.

CHAPTER V

Recognition of Training Institutions and Affiliation of Institutions

32. Recognition of training institutions.— (1) The Council shall by its regulations specify examinations to be held by it, the qualifications for admission to such examinations, the courses of studies for such examinations, the standard of passing, the certificates or any other like awards to be given to persons who pass the examinations, and such other matters in respect of recognition of such examinations as may be necessary or expedient.

(2) The Council may, in accordance with the regulations made by it in this behalf and after inspection by its representatives and holding such inquiry as it deems fit, recognize any institution for training nursing personnel for the examinations of the Council.

(3) The Council may withdraw recognition from any such institution after its inspection by representatives of the Council. The order of such withdrawal shall be in writing and shall be served in the manner as laid down by regulations.

(4) Any person aggrieved by the order of the Council under this section may, within three months from the date on which such order is communicated to him, appeal against such order to the Government. The decision of the Government on any such appeal shall be final. The Government may direct the Council to re-inspect the institution or may uphold the decision of the Council.

(5) No college, hospital or other institution which is not recognized 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 or training to practice as a nursing personnel.

(6) Any person who contravenes the provisions of sub-section (5) shall, on conviction, be punished with fine which may extend to fifty thousand rupees.

33. Affiliation of institutions.— The Council may, in accordance with regulations made by it in this behalf and after inspection by its representatives and holding such inquiry as it deems fit, affiliate to it any nursing training institution for the purpose of training of nursing personnel.

CHAPTER VI

Nursing Establishments

34. Regulation of nursing establishments.— (1) No person shall carry on any nursing establishment, except under a valid license granted by the licensing authority and in accordance with the terms and conditions specified in such license, which shall be such as may be approved by the Council.

(2) Any person who desires to carry on any nursing establishment shall apply to the licensing authority for a license in such manner, alongwith such fee and in such form as may be prescribed. He shall along with the application pay to the licensing authority the prescribed fee, half of which shall be refunded to him if the license is refused. Any nursing establishment already existing on the date of commencement of the Goa Nursing Council Act, 2012, shall apply to the licensing authority for a license within three months from the date of commencement of this Act.

(3) The licensing authority may, before granting 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—

(a) the applicant or the holder of the license is under twenty-one years, or is in its opinion not a suitable person to hold such license; or

(b) the premises of the establishment are not suitable; or

(c) 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 under this section may appeal within three months of such imposition, refusal or revocation to the Government. Such fee as may be prescribed shall accompany the memorandum of appeal. The decision of the Government on such appeal shall be final.

(6) The licensing authority may authorize any other officer to perform any of the duties conferred on it by this section.

(7) Any officer duly authorized 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 is used or which the officer has reasonable cause to believe is used, for the purpose of, or in connection with, the nursing 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 authorized by it in this behalf. If the Council is of opinion that in any case the license be refused or revoked, it shall report the matter to the licensing authority. The licensing authority, if it agrees with the Council, refuse or revoke the license, and, if it does not agree with the Council, report the matter to the Government. On receipt of such report the Government may, after making such inquiry as it deems fit, pass such order as it deems fit. The order of the Government in such matter 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 ten thousand rupees for the first offence and for any subsequent offence with simple imprisonment for a term which may extend to six months, or with fine which may extend to fifty thousand rupees, or with both.

(10) Any person who refuses any duly authorized 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 two thousand rupees for the first offence and for any subsequent offence with simple imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees, 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, or provides information which he knows to be false for the purpose of obtaining a license under this section or for any other purpose of this Act, shall, on conviction, be punished with fine which may extend to ten thousand rupees for the first offence and for any subsequent offence with the imprisonment for a term which may extend to six months, or with fine which may extend to thirty thousand rupees, or with both.

CHAPTER VII

Miscellaneous

35. *Penalty for dishonest use of certificate.*— Any person who,—

(a) dishonestly makes use of any certificate of registration or enlistment issued under the provisions of this Act to him or any other person;

(b) procures or attempts to procure registration or enlistment 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 the list maintained or any certificate issued under the provisions of this Act, shall, on conviction, be punished,—

(i) for the first offence, with fine which may extend to two thousand rupees;

(ii) for any subsequent offence, with simple imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

36. Penalty for unlawful assumption of title of registered or enlisted nursing personnel.— Any person who, not being a registered or enlisted nursing personnel, takes or uses the name or title of registered or enlisted nursing personnel, or uses any name, title, description, prescribed uniform, object or sign-board with the intention that it may be believed, or with knowledge that it is likely to be believed that such person is registered or, as the case may be; an enlisted nursing personnel, shall, on conviction, be punished—

(a) for the first offence, with fine which may extend to five thousand rupees;

(b) for any subsequent offence, with simple imprisonment for a term which may extend to three months, or with fine which may extend to ten thousand rupees, or with both.

37. Offences by companies.— (1) If the person committing an offence under section 33 or 34 is a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, 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 provided in this Act 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.

(2) Notwithstanding anything contained in sub-section (1), where an offence under sections 33 or 34 has been committed with the consent or connivance of, or is attributable to any negligence 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 purpose of this section,—

(a) “company” means a body corporate and includes a partnership firm or other association of individuals; and

(b) “director” in relation to a company means a partner in the partnership firm.

38. Court competent to try offences under this Act.— No Court other than the Court of Judicial Magistrate of the First Class shall take cognizance of or try any offence under this Act.

39. Compounding of offence.— (1) Any offence punishable under this Act with fine only

may, before the institution of the prosecution, be compounded by such person as may be authorized by the Government, on payment to that person, for the credit to the Government, of such sum as may be specified by that person not exceeding the maximum amount of fine which may be imposed for that offence.

(2) Where an offence is compounded under sub-section (1), no proceeding shall be taken against the offender in respect of the offence so compounded.

40. Protection of action taken in good faith.—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act or under the rules or regulations made thereunder.

41. Power to make rules.— (1) The Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) under section 3(5), the time, place and manner of holding elections of members, the President and the Vice-President of the Council;

(b) under section 8(1), the manner of convening, holding and conducting meetings of the Council;

(c) under section 10(n), the other powers to be exercised and other duties and functions to be performed, by the Council;

(d) under section 11, the number of members of the Executive Committee, their term of office, the manner of filling casual vacancies, the procedure to be followed by them;

(e) under section 12, the qualifications which the Chairman of the Examination Board shall have, the term of office of members of the Board and the manner of filling casual vacancies, procedure to be followed and other duties and functions of the Board;

(f) under section 13, the fees and allowances to be paid to the President, Vice-President, members of the Council, Executive Committee and other Committees and the Chairman and members of the Examination Board;

(g) under section 15, qualifications, salary, allowances and other conditions of service of the Registrar, Deputy Registrar and the manner of keeping accounts and supervisory powers and other duties and functions of the Registrar;

(h) under section 17, the form of Register, parts into which it shall be divided and particulars it shall include, form of application fee to be paid, and form of certificate of registration;

(i) under section 18, the renewal fee for continuation of name on the Register, form of renewal slip and penal fee to be paid for failure to pay renewal fee in time;

(j) under section 19, the fee for recording change in name and for making entry regarding recognized higher qualification, in the Register or List and also fee for issuing duplicate certificate of registration or enlistment;

(k) under section 20, fee for entering the name of person in the register who is holding qualifications as specified therein;

(l) under section 22, the fee to be paid, the form of application for temporary registration and of certificate of such registration;

(m) under section 23(3), the form List, parts into which it shall be divided and other particulars it shall include, form of application, fee, and renewal fee to be paid and the form of certificate of enlistment;

(n) under section 24, the manner of holding inquiry and conditions and fee payable for re- entering the name in the Register and the List;

(o) under section 25, the form of list of all nursing personnel, particulars to be included therein and manner of its publication;

(p) under section 27, the manner of hearing and determining appeals by the Council;

(q) under section 32, the form of notice to be given to the Licensing Authority and the particulars which shall contain in such notice;

(r) under section 35, the form and the manner in which, the application for license to establish nursing establishment shall be made and the fee to be accompanied with such application and memorandum of appeal;

(s) any other matter which is to be or may be prescribed under this Act.

42. Power to make regulations.— (1) The Council may, with the previous sanction of the Government, by notification, make regulations consistent with the provisions of this Act or the rules made thereunder to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing powers, such regulations may provide for,—

(a) the examinations to be held by it;

(b) the qualifications for admission to examinations and the courses of studies for the examinations;

(c) the standards of passing;

(d) the certificate or other awards to be conferred upon those who pass the examinations and manner of conferring such awards;

(e) the conditions of appointment of examiners, paper setters, moderators and other persons appointed and remuneration to be paid to them for the conduct of examinations and the fee to be charged in connection with the examinations;

(f) the conditions of affiliation of institutions;

(g) the conditions for recognition of institutions;

(h) the number of students to be admitted to recognized institutions;

(i) the language in which instructions shall be given in recognised institutions;

(j) the manner, in which the accounts of the Council shall be kept by the Registrar;

(k) the supervisory powers of the Registrar over the staff;

(l) the fee payable for the copies of the order of the Council or of the Registrar and for the supply of a copy of any entry from the Register or List;

(m) the dress code for nursing personnel.

(3) The Government on receiving the draft regulations may sanction or refuse to sanction the same, or sanction subject to such modifications as it may think fit, or return them to the Council for further consideration.

(4) All regulations, when sanctioned, shall be published in the Official Gazette by the Government.

43. Control of Government.— (1) If at any time it appears to the Government that the Council or its President or Vice-President has failed to exercise, or has exceeded or abused any of the powers conferred upon it or him by or under this Act, or has ceased to function, or has become incapable of functioning, the Government may, if it considers such failure, excess, abuse or incapacity to be of a serious character, notify the particulars thereof to the Council or the President or the Vice-President, as the case may be. If the Council or the President or the Vice-President fails to remedy such failure, excess, abuse or incapacity within such reasonable time as the Government may fix in this behalf, the Government may remove the President or the Vice-President or dissolve the Council, as the case may be, and in case of dissolution of the Council, cause all or any of the powers, duties and functions of the Council to be exercised, performed and discharged by an administrator or any person of eminence as may be appointed by the Government, for such period as may be decided by the Government not exceeding two years, and shall take steps to constitute, a new Council.

44. Removal of difficulties.— If any difficulty arises in giving effect to the provisions of this Act, the Government may, by general or special order published by notification in the Official Gazette, make such provisions consistent with the provisions of this Act as appear to it to be necessary or expedient for the purposes of removing difficulty:

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.,

Secretariat
Porvorim-Goa.
Dated: 3-10-2012.

PRAMODV. KAMAT
Secretary to the Govt. of Goa,
Law Department (Legal Affairs)

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1. Substituted by the First Amendment Act 5 of 2014 Original clause read as follows :- —auxiliary nurse—midwife means a person who possesses a certificate of auxiliary nurse-midwife, recognized by the Indian Nursing Council for practicing auxiliary nursing and auxiliary midwifery in public and private sectors and registered under section 17;
 2. Substituted by the First Amendment Act 5 of 2014 Original clause read as follows : (k) —nurse means a person who possesses requisite qualification in nursing, either Bachelor's degree in nursing or course in nursing having at least six months duration from recognized University/Institution;

