

# REPRINT

## NURSING COUNCIL ACT (CAP. 104)

**As in force at: 5 February 2024**

<b>STATUS:</b> <b>CURRENT</b>
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For details see Endnotes
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**AN ACT TO ESTABLISH A NURSING COUNCIL FOR SOLOMON ISLANDS; TO REPEAL THE NURSES AND MIDWIVES ACT; AND FOR OTHER MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO**

## **NURSING COUNCIL ACT (CAP. 104)**

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### **SCHEDULE** **11**

# NURSING COUNCIL ACT (Cap. 104)

As in force at: 5 February 2024

## 1 Short title

This Act may be cited as the *Nursing Council Act*.

## 2 Exemption from application of Act

This Act shall not apply to a person:

- (a) who is registered as a medical or dental practitioner pursuant to the *Medical and Dental Practitioners Act*;
- (b) who is acting under the instructions or supervision of a medical or dental practitioner; or
- (c) who is registered as a health worker pursuant to the *Health Workers Act*.

## 3 Interpretation

For the purposes of this Act, the expressions:

**“auxiliary nurse”** means an assistant community health nurse, nurse aid, and includes a village health worker who has been trained and registered pursuant to this Act;

**“Chairman”** means the Chairman of the Council or any person for the time being performing the functions of the Chairman;

**“Council”** means the Council established under section 4;

**“Head of Nursing Services”, “head of the hospital”, and “head of the community health services”** means respectively the heads of those services in the Ministry of Health and Medical Services;

**“Institution”** means either schools of nursing, colleges or hospitals where training is undertaken;

**“member”** means a member of the Council and includes the Chairman and deputy Chairman;

**“Minister”** means the Minister responsible for administration of the Ministry of Health and Medical Services;

**“Ministry of Health and Medical Services”** means the Government Ministry responsible for the administration of health and medical services;

**“nurse”** means a person who has undertaken a three year basic nursing course and has been registered pursuant to this Act;

**“nurse specialist”** means a person who has undergone specialist training in any field of nursing and registered pursuant to this Act;

**“practise”** when used in relation to a nurse, nurse specialist or auxiliary nurse, means to perform the duties of a nurse, nurse specialist or auxiliary nurse;

**“register”** means the register of nurses referred to in section 6;

**“Registrar”** means the person appointed to be the Registrar of nurses under paragraph 9(1) of the Schedule; and

**“secretary”** means the person appointed under section 8(1) of the Schedule.

#### **4 Establishment of Nursing Council**

- (1) There shall be established for the purposes of this Act a body to be known as the Nursing Council of Solomon Islands (hereinafter referred to as “the Council”) which shall be a body corporate to which the provisions of Part VII of the *Interpretation and General Provisions Act* shall apply.
- (2) The provisions of the Schedule shall have effect as to the constitution of the Council and otherwise in relation thereto.

#### **5 Functions**

The functions of the Council shall be:

- (a) to consider and set examinations for registration of persons wishing to practice nursing in Solomon Islands;
- (b) to register persons who are entitled to be registered as nurses, nurse specialists or auxiliary nurses;
- (c) to keep in such a manner as it considers desirable a register for nurses, nurse specialists and auxiliary nurses;
- (d) to issue certificates and badges to nurses, nurse specialists and auxiliary nurses who have been registered under this Act;
- (e) to regulate and supervise the practice of nurses, nurse specialists and auxiliary nurses in Solomon Islands;
- (f) to ensure and promote proper professional conduct by nurses, nurse specialists and auxiliary nurses;
- (g) to exercise disciplinary control over nurses, nurse specialists and auxiliary nurses;
- (h) to approve training courses run by institutions for nurses, nurse specialists and auxiliary nurses; and
- (i) to view matters related to the profession of nursing in the light of developments in technology, medical and nursing care for the benefit of patients and the nursing profession.

## **6 Register of Nurses**

- (1) The Council shall keep and maintain a register (to be known as the “Register of Nurses”) which shall be open to inspection by any member of the public at all reasonable times.
- (2) The Register shall contain such particulars as the Council deems necessary.
- (3) No entry or deletion in the Register referred to in subsection (1) shall be made except on the directions of the Council.

## **7 Application for registration**

- (1) Any person who wishes to be registered as a nurse, nurse specialist

or auxiliary nurse may apply to the Council in such form as may be prescribed.

- (2) An application under subsection (1) should be accompanied by such fee as may be prescribed.

## **8 Registration and issue of certificates and badges**

- (1) Where an application is made under subsection (1) of section 7, the Council may register the applicant if it is satisfied that the applicant is qualified under section 9 and not disqualified under section 10, but otherwise it shall reject the application.
- (2) Where an applicant is registered under subsection (1), the Council shall issue:
  - (a) a certificate of registration in such a form as may be prescribed; and
  - (b) such badges as determined.
- (3) A decision made by the Council under subsection (1), whether to accept or to reject an application is final and conclusive.

## **9 Qualifications**

A person shall be qualified to be registered under section 8 if that person:

- (a) has undergone a course of training and or education approved by the Council at an institution recognised by the Council and has passed to the satisfaction of the Council, such examinations as are approved by the Council; or
- (b) has been registered as a nurse in a country where the standard of training and examination is not lower than that approved by the Council under this Act; or
- (c) possesses such other qualifications as, in the opinion of the Council, are sufficient to justify registration under this Act; and
- (d) is of good character.

## **10 Disqualifications**

Notwithstanding the provisions of section 9 a person is not qualified for registration under this Act if that person:

- (a) is under the age of eighteen years;
- (b) is certified by a medical practitioner to be mentally or physically unfit to perform the duties of a nurse, nurse specialist or auxiliary nurse, as the case may be; or
- (c) has been convicted of an offence and sentenced to imprisonment for a term of six months or more which in the opinion of the Council is sufficient to justify rejection of the application.

## **11 Personal attendance**

- (1) When considering an application made under section 7, the Council may, if it considers it necessary to do so, give notice to the applicant to appear before the Council on such a date and at such a place and time as may be specified in the notice.
- (2) The Council may reject an application made by an applicant who fails to comply with the notice given under subsection (1).

## **12 Applicant to be notified of rejection**

Where an application is rejected under subsection (1) of section 8, the Council shall, as soon as reasonably practicable, notify the applicant of the rejection and the reasons therefor.

## **13 Cancellation of registration**

- (1) The Council may cancel the registration of any person under this Act if it is satisfied that the person:
  - (a) has died;
  - (b) has left Solomon Islands and has no intention of returning;
  - (c) has been registered by mistaken, fraudulent or false representation;

- (d) is guilty of professional misconduct which in the opinion of the Council, is sufficient to justify cancellation of the registration;
  - (e) has been convicted of an offence the nature of which is such that, in the opinion of the Council, it is fit and proper that the person should not continue to perform the duties of, or, to remain as a nurse, nurse specialist or auxiliary nurse; or
  - (f) has become disqualified under section 10.
- (2) Any certificate of registration held by a person whose registration has been cancelled under subsection (1) is void and of no effect.

#### **14 Suspension of registration**

- (1) The Council may suspend the registration of a person as a nurse, nurse specialist or auxiliary nurse under this Act:
- (a) where following investigation it is satisfied that the person is guilty of conduct which, in its opinion, sufficiently justifies the suspension of the registration; or
  - (b) pending the result of any investigation into any allegation made against the person in connection with any of the matters specified in subsection (1) of section 13.
- (2) No suspension imposed under subsection (1) shall be for a period in excess of six months.

#### **15 Opportunity to be heard**

- (1) No registration shall be:
- (a) cancelled on any of the grounds specified in paragraphs (c), (d) or (e) of subsection (1) of section 13; or
  - (b) suspended under subsection (1) of section 14, unless the Council has requested the person to show cause why registration should not be so cancelled or suspended.
- (2) Any person who is aggrieved by the decision of the Council may appeal to the High Court on a point of law, and the Council shall, if the Court so orders, withdraw the cancellation or suspension, as the



case may be.

## **16 Provisional certificate**

- (1) Notwithstanding anything contained in this Act, the Chairman or, in his absence, the deputy Chairman may issue to a person who:
  - (a) has made an application under subsection (1) of section 7; and
  - (b) satisfies the Chairman or deputy Chairman as the case may be, that the applicant is qualified for registration under section 9 and not disqualified under section 10,

a certificate in such form as may be prescribed authorising the person to practise as a nurse, nurse specialist, or auxiliary nurse, as the case may be, pending the consideration of the application.

- (2) A certificate issued under subsection (1) shall remain valid and in force until it is cancelled by the Council.

## **17 Re-registration**

- (1) Any person whose registration as a nurse, nurse specialist or auxiliary nurse is cancelled on any grounds specified under paragraphs (b) to (f) of subsection (1) of section 13 may re-apply to the Council to be re-registered under this Act.
- (2) An application under subsection (1) shall be made in such form as may be prescribed and shall be accompanied by such fee as may be prescribed.
- (3) Where an application is made under subsection (1), the Council may, in its absolute discretion and subject to such conditions as it may deem fit to impose, re-register the applicant.

## **18 Offence of practising as or pretending to be a nurse**

- (1) Save as provided for in section 16, no person shall:
  - (a) practise as a nurse, nurse specialist or auxiliary nurse; or
  - (b) use any name, title or description or wear any uniform or badge implying that the person is registered as a nurse, nurse

specialist or auxiliary nurse,

unless that person registered as a nurse, nurse specialist or auxiliary nurse in accordance with this Act.

- (2) Any person who contravenes subsection (1) is guilty of an offence and liable to a fine of five hundred penalty units or to imprisonment for a term of two years or to both such fine and imprisonment.

**19 Offence of altering particulars of certificate**

Any person who fraudulently alters any particulars contained in any certificate issued under this Act is guilty of an offence and liable to a fine of two hundred penalty units or to imprisonment for a term of six months or to both such fine and imprisonment.

**20 Offence of giving false particulars**

Any person who includes in an application under subsection (1) of section 7 or subsection (1) of section 17 any particulars or material which are proven to be false is guilty of an offence and liable to a fine of two hundred penalty units or to imprisonment for a term of six months or to both such fine and imprisonment.

**20A Protection of members**

No member of the Council shall be personally liable for any act or default of the Council done or omitted to be done in good faith in the course of the operation of the Council.

**21 Certificate is conclusive evidence**

In any court proceedings under this Act, any document purporting to be a certificate issued under this Act shall, unless the contrary is proved, be conclusive evidence to the facts stated therein.

**21A Registered persons may charge for services**

Every registered person under this Act is entitled to practice nursing and provide nursing services in the areas of expertise, as the case may be, in Solomon Islands, and may demand and recover any reasonable charges for services rendered.

## **22 Regulations**

The Council may with the approval of the Minister make regulations:

- (a) prescribing any matter that is required to be prescribed by this Act;
- (b) prescribing fees payable in respect of inspection of the Register of Nurses or in respect of issuing of duplicate copies of certificates or other documents prescribed under this Act;
- (c) with respect to classification and training of nurses, nurse specialists and auxiliary nurses; and
- (d) generally, for the better carrying out of the provisions of this Act.

## **23 Repeal and savings**

- (1) The *Nurses and Midwives Act* (hereinafter referred to as the “repealed Act”) is hereby repealed.
- (2) Notwithstanding such repeal, from and after the date of coming into operation of this Act:
  - (a) all members of the former Board shall become corresponding members of the Council and continue in office for the period for which they were appointed as members of the former Board;
  - (b) all registers kept, certificates issued and other documents in use and valid on the date of coming into operation of this Act shall continue to be valid until such time as the Council makes other provisions in that behalf;
  - (c) all persons registered as nurses or nurse specialists under the repealed Act shall be deemed to be persons registered as nurses and nurse specialists under this Act; and
  - (d) any application for registration as a nurse or nurse specialist made under the repealed Act and pending on the date of coming into operation of this Act shall continue to be valid and be deemed to be an application for registration duly made under this Act.

- (3) In this section the words “**former Board**” means the Board established under the repealed Act.

**24 Rules made under the repealed Act to continue**

Any rules made by the Nurses and Midwives Board under the repealed Act shall be deemed to be regulations made by the Council and approved by the Minister under this Act and shall continue in force and be valid until these rules are cancelled or new rules are made under this Act.

## **SCHEDULE**

(Section 4)

### **1. Constitution of Council**

(1) The Council shall consist of:

- (a) a chairman who shall be the Director of Nursing;
- (b) a deputy chairman, who shall be the Assistant Director of Nursing Community;
- (c) the heads of approved training and educational institutions;
- (d) Assistant Director of Nursing Hospitals;
- (e) a registered nurse employed in the service of a religious organisation in Solomon Islands;
- (f) a registered nurse nominated by an association representing nurses in Solomon Islands; and
- (g) the Registrar as appointed under paragraph 9 to this Schedule.

(2) The members referred to in sub-paragraphs (d) to (g) (hereinafter referred to as the “appointed members”) shall be appointed by the Council with the approval of the Minister.

### **2. Term of office of appointed member**

Subject to paragraphs 3 and 4, an appointed member holds office for three years and is eligible for re-appointment.

### **3. Resignation of appointed member**

An appointed member may resign his office at any time by giving the Council one month’s written notice thereof.

### **4. Termination of appointment of appointed member**

- (1) The Minister, on recommendation of the Council may terminate the appointment of an appointed member on the grounds that the member:
  - (a) is, by reason of physical or mental disability or illness, incapable of discharging the functions of his office;
  - (b) has been absent from three consecutive meetings of the Council without reasonable excuse; or
  - (c) has persistently conducted himself in a manner inconsistent with the functions of his office.
- (2) No termination of appointment pursuant to sub-paragraph (1) shall take effect until after the expiration of one month from the date of the termination.

## **5. Presiding, voting and procedure at meetings**

- (1) The Chairman, or, in his absence, the deputy Chairman, shall preside at the meetings of the Council.
- (2) Except as provided otherwise by the Council the manner of voting at any of the Council meetings shall be by a show of hands.
- (3) The Council shall regulate the procedure for its meetings.

## **6. Quorum**

The quorum at any of the meetings of the Council shall be five members.

## **7. Remuneration of members**

The members of the Council shall be entitled to such sitting allowances as may be fixed by the Minister.

## **8. Secretary and Registrar**

- (1) The Council shall appoint a Secretary with the approval of the Minister.
- (2) The duties of the Secretary shall be:
  - (a) to keep records of the Council;
  - (b) to record the minutes of the Council meetings;
  - (c) to receive and despatch correspondence on behalf of the Council;
  - (d) to prepare, in consultation with the Chairman, the agenda for Council meetings; and
  - (e) to perform such other duties as may be directed by the Council;
- (3) The Secretary shall also be the Registrar of the Council.

#### **9. Duties of the Registrar**

- (1) The Council shall with the approval of the Minister, appoint a Registrar.
- (2) The duties of the Registrar shall be:
  - (a) to register in the Register of Nurses, persons who are approved by the Council to be registered under this Act;
  - (b) to have custody of the Register of Nurses;
  - (c) to issue certificates, and badges to persons who have been registered under this Act; and
  - (d) to perform such other duties as may be directed by the Council.

#### **10. Resignation of Secretary**

The Secretary may resign his office by giving written notice to the Council.

## **11. Power to appoint officers**

The Council may appoint and employ at such remuneration and on such terms and conditions as it thinks fit such officers as it thinks necessary for the proper carrying out of its functions.

## **12. Accounts and audit**

The Council shall keep proper accounts and other records in relation to its work and shall prepare annually a statement of accounts in a form satisfactory to the Auditor-General.

## **13. Power of the Minister to require information etc**

The Council shall furnish the Minister with such information as he requires with respect to the activities of the Council, and shall afford to him facilities for verifying such information in such manner and at such times as he may reasonably require.



## ENDNOTES

### 1

#### KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
lt = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

#### NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 104 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act since that date.

### 2

#### LIST OF LEGISLATION

##### ***Nursing Council Act (Cap. 104)***

*Constituent legislation:* 13 of 1987 (Commenced 1 December 1987)

##### ***Nursing Council (Amendment) Act 1997 (No. 6 of 1997)***

Assent date 10 July 1997  
Gazetted 25 May 1998\*  
Commenced 25 May 1998

*[\*Note: The date of publication in the Gazette has been validated by s4 of the Constitution (Amendment and Validation) Act 2023]*

##### ***Penalties Miscellaneous Amendments Act 2009 (No. 14 of 2009)***

Assent date 29 July 2009  
Gazetted 1 October 2009  
Commenced 1 October 2009

##### ***Legislation Amendment, Repeal and Validation Act 2023 (No. 17 of 2023)***

Assent date 29 December 2023  
Gazetted 29 December 2023  
Commenced 5 February 2024

### 3

### LIST OF AMENDMENTS

s 3	amd by Acts No. 6 of 1997; No. 17 of 2023
s 5	amd by Acts No. 6 of 1997; No. 17 of 2023
s 7	amd by Acts No. 6 of 1997; No. 17 of 2023
s 8	amd by Act No. 6 of 1997
s 9	amd by Act No. 6 of 1997
s 10	amd by Acts No. 6 of 1997; No. 17 of 2023
s 11	amd by Act No. 6 of 1997
s 13	amd by Acts No. 6 of 1997; No. 17 of 2023
s 14	amd by Acts No. 6 of 1997; No. 17 of 2023
s 15	amd by Act No. 6 of 1997
s 16	amd by Acts No. 6 of 1997; No. 17 of 2023
s 17	amd by Acts No. 6 of 1997; No. 17 of 2023
s 18	amd by Acts No. 6 of 1997; No. 14 of 2009; No. 17 of 2023
s 19	amd by Act No. 14 of 2009
s 20	amd by Acts No. 6 of 1997; No. 14 of 2009
s 20A	ins by Act No. 6 of 1997
s 21A	ins by Act No. 6 of 1997
s 22	amd by Acts No. 6 of 1997; No. 17 of 2023
s 23	amd by Acts No. 6 of 1997; No. 17 of 2023
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