

THE KARNATAKA NURSES, MIDWIVES AND HEALTH VISITORS ACT, 1961

ARRANGEMENT OF SECTIONS

[Statement of Object and Reasons](#)

Sections

PART I

PRELIMINARY

1. [Short title, extent, commencement and application.](#)
2. [Definitions.](#)

PART II

THE MYSORE NURSING COUNCIL

3. [Establishment, incorporation and constitution of Council.](#)
4. [Appointment of members in default of election.](#)
5. [Period of office of members.](#)
6. [Vacancy.](#)
7. [Vacancy not to affect proceedings.](#)
8. [Disqualifications.](#)
9. [Disabilities from continuing as member.](#)
10. [Leave of absence to members.](#)
11. [Elections to be held by distributive system of voting.](#)

PART III

REGISTRATION

12. [Maintenance of register.](#)
13. [Persons entitled to registration.](#)
14. [Refusal of registration and removal and re-entry of names.](#)
15. [Appeal from order under section 14.](#)
16. [Renewal fee.](#)
17. [Maintenance of list of persons practising as nurses, midwives, auxiliary nurse midwives and health visitors.](#)

PART IV

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

18. [Persons not registered or included in the list not to practise as nurse, etc.](#)
19. [Conditions on practice in certain areas.](#)
20. [Licensing authority to exercise general supervision.](#)
21. [Notice to licensing authority before commencement of practice.](#)

PART V

NURSES ESTABLISHMENTS

22. [Regulation of nurses establishments.](#)

PART VI
TRAINING INSTITUTIONS

23. [Training Institutions.](#)
24. [Appeal against refusal to recognise institutions.](#)

PART VII
MISCELLANEOUS

25. [Removal of names from register on notice of death.](#)
26. [Penalty for dishonest use of certificate.](#)
27. [Penalty for unlawful assumption of title of registered nurse, midwife, auxiliary nurse-midwife or health visitor.](#)
28. [Court competent to try offences under Act.](#)
29. [Power of State Government to make rules.](#)
30. [Power of Council to make bye-laws.](#)
31. [Protection of persons acting in good faith under the Act, rules or bye-laws.](#)
32. [Jurisdiction of Civil Courts.](#)
33. [Control.](#)
34. [Repeal.](#)
35. [Power to remove difficulties.](#)

* * * * *

STATEMENT OF OBJECTS AND REASONS

I

Act 4 of 1962.- There are at present separate enactments in force in the Bombay Area, Hyderabad Area and the Madras Area of the State for the registration of Nurses, Midwives, etc. With a view to have uniformity in law and control over the nursing profession it has become necessary to have a uniform law applicable throughout the State of Mysore. On a careful consideration of the enactments in force in the several States, this Bill has been prepared after consulting the W.H.O. Nursing Adviser and W.H.O. Adviser, MCH Project in the State of Mysore.

(Obtained from File No.LAW 13 LGN 60.)

II

Act 27 of 1981.—The Karnataka Nursing Council maintains a register of nurses, midwives, auxiliary nurses and health visitors who are registered under the Act. For the purpose of continuance of their names on the register such nurses etc., may be required by the Council to renew their registration once in every three years by paying a renewal fee. At present the renewal fee is one rupee which was fixed in the year 1961. It is proposed to enhance it to five rupees having regard to the increase in the cost connected with the registration of nurses etc.,

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary), Part IV-2A, dated 3rd February 1981, as No. 101, at page 3).

* * *

¹[KARNATAKA]¹ ACT No. 4 OF 1962

(First published in the ¹[Karnataka Gazette]¹ on the Twenty-fifth day of January, 1962.)

**THE ¹[KARNATAKA]¹ NURSES, MIDWIVES AND HEALTH VISITORS
ACT, 1961**

(Received the assent of the President on the Sixteenth Day of January, 1962.)

(Amended by Karnataka Act 27 of 1981)

An Act to provide for the registration of Nurses, Midwives and Health Visitors in the ¹[State of Karnataka]¹.

WHEREAS it is expedient to provide for the registration of nurses, midwives and health visitors in the ¹[State of Karnataka]¹;

BE it enacted by the ¹[Karnataka State]¹ Legislature in the Twelfth Year of the Republic of India as follows:-

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

PART I

PRELIMINARY

1. Short title, extent, commencement and application.- (1) This Act may be called the ¹[Karnataka]¹ Nurses, Midwives and Health Visitors Act, 1961.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(2) It shall extend to the whole of the ¹[State of Karnataka]¹

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(3) (a) (i) Part I and section 29 of Part VII of this Act shall come into force at once in the whole of the ¹[State of Karnataka]¹.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(ii) Parts II, III, V and VI and the remaining sections of Part VII of this Act shall come into force in the whole of the ¹[State of Karnataka]¹ on such ¹[date]¹ as the State Government may by notification appoint.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(b) Part IV shall come into force on such ¹[date]¹ and shall apply to such class of persons only in such areas as the State Government may by notification specify.

1. Parts specified in section 1(3)(a)(ii) of the Act came into force w.e.f. 16.8.1968 by Notification No. PHS 22 MAA 62 dt. 30.7.1968

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

(a) "affiliated institution" means an institution 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 30;

(d) "Council" means the ¹[Karnataka Nursing Council]¹ constituted under section 3;

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(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" in the case of a municipal area means the municipal corporation or the municipal council or other municipal authority established for such area and in the case of any other area, taluk development board 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;

(h) "list" means a list of nurses, midwives, auxiliary nurse-midwives and health visitors prepared and kept under section 17;

(i) "midwife" means a person who holds a certificate in midwifery from any institution recognised 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 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 12 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 29.

1. Substituted for sub-section (d) by Karnataka Adaptations of Laws order 1973 w.e.f. 1.11.1973

PART II

THE ¹[KARNATAKA NURSING COUNCIL]¹

3. Establishment, incorporation and constitution of Council.- (1) The State Government may, by notification, establish a Council to be called the ¹[Karnataka Nursing Council]¹ 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 dispose of property and to contract and may, by the same name, sue and be sued.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(2) The Council shall consist of the following members:-

(a) as *ex-officio* members,-

¹[(i) the Director of Health and Family Planning Services in Karnataka or such other Officer as the State Government may nominate;]¹

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(ii) the Superintendent of Nursing Services, ¹[Government of Karnataka]¹;

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(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 representing any particular category shall be at least one.

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

(iii) two persons to be elected from amongst themselves by the matrons and Nursing Superintendents of the affiliated institutions in the ¹[State of Karnataka]¹;

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

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

(v) one person to be elected by the ¹[Karnataka Medical Council]¹;

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(vi) one person to be elected by the ¹[Karnataka State Branch]¹ (by whatever name called) of the Indian Medical Association;

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(vii) one person to be elected by the ¹[Karnataka State Branch]¹ of the Trained Nurses' Association of India.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

(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 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.

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 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 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 is an undischarged insolvent, or

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

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

(e) if he is a wholtime 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) is absent out of India for a period exceeding eight 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 ¹[Karnataka Medical Council]¹, ceases to be a registered medical practitioner;

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

-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 himself from the meetings of the Council or any period not exceeding six months.

11. Elections to be held by distributive system of voting.- All elections under this Act shall be held according to the 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

12. Maintenance of register.- The Council shall maintain a register of (a) nurses, (b) midwives, (c) auxiliary nurses and (d) health visitors, consisting of four sections, in such form, containing such particulars and divided into such parts as may be prescribed.

13. Persons entitled to registration.- Persons who have undergone such courses of training, have passed such examinations and who fulfil 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.

14. 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 defence 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.

15. Appeal from order under section 14.- (1) Any person aggrieved by any order of the Council made under section 14 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.

16. Renewal fee.- (1) Notwithstanding anything contained in section 13, the Council may, with the previous sanction of the State Government, direct that for every three years a renewal fee of ¹[five rupees]¹ shall be paid by each person registered under this Act for the continuance of his name on the register.

¹ Substituted by Act 27 of 1981 w.e.f. 9.4.1981

(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.

17. Maintenance of list of persons practising as nurses, midwives, auxiliary nurse-midwives and health visitors.- (1) The Council shall prepare and keep a list of

persons whose names are not entered in the register maintained under section 12 and who are practising as nurses, midwives, auxiliary nurse-midwives and health visitors. The list shall be divided into such parts as may be determined by the Council.

(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 14 and 15 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

18. Persons not registered or included in the list not to practise as nurse, etc.-

(1) No person other than a person registered under this Act or a person whose name is entered in the list, shall practise or hold himself out, whether directly or by implication, as practising 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.

19. Conditions on practise in certain areas.- (1) Notwithstanding anything contained in section 18, a person whose name has been entered in the list shall not practise 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,-

(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 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 Taluk Development Board of a Taluk 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 Taluk, subject to such

adaptations and modifications as it may consider suitable having regard to the local conditions of the area.

20. 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 nurses, midwives, auxiliary nurse-midwives, and health visitors practising within the area under its jurisdiction.

(2) The licensing authority may authorise 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 21.

21. 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 practise after the date on which this Part comes into force in any area or if either of such persons intends to practise in such area as a nurse, midwife, auxiliary nurse-midwife, or health visitor, he 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 continues to practise 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 twenty-five rupees for the first offence, to fifty rupees for the second offence and to one hundred 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 hundred rupees for the first offence, to two hundred rupees for the second offence and to three hundred rupees for any subsequent offence.

PART V

NURSES ESTABLISHMENTS

22. 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 licence.

(2) Any person who desires to carry on any nurses establishment shall apply to the licensing authority for a licence before such date, in such manner 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 licence is not granted.

(3) The licensing authority may before granting such licence 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 licence or revoke any licence already granted, if,-

(i) the applicant or the holder of the licence is below twenty-one years or is in its opinion not a suitable person to hold such licence; 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 licence 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 licence or application for licence 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 licence 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 licence. 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 hundred and fifty rupees for the first offence and for any subsequent offence with fine which may extend to five hundred 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 fifty rupees for the first offence and for any subsequent offence with fine which may extend to one hundred 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 licence under this section or for any other purposes of this Act shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees for the first offence and for any subsequent offence with fine which may extend to one 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

23. Training Institutions.- (1) The institutions which are approved and recognised by the Council after inspection by its representative shall be competent to train nurses, midwives, auxiliary nurse-midwives, or health visitors 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 of the Council. The order of such withdrawal shall be in writing and shall be served in the prescribed manner.

(3) No school, 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 practise 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 hundred rupees.

(5) (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.

24. Appeal against refusal to recognise institutions.- Any person aggrieved by the refusal of the Council to approve and recognise 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

25. 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.

26. 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 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) wilfully 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 hundred and fifty rupees for the first offence and for any subsequent offence with fine which may extend to five hundred rupees or with simple imprisonment for a term which may extend to six months or with both.

27. 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.

28. 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.

29. 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 12;

(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 13;

(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 14 and the manner in which the order of removal or refusal shall be served on such persons;

(e) the course of instruction for and the manner in which training is required to be received by a person as a nurse, midwife, auxiliary nurse-midwife or health visitor for the purpose of section 19; prescribing the matters and the manner in which and the conditions under which a licensing authority shall exercise supervision and control over the nurses,

(f) midwives, auxiliary nurse-midwives and health visitors practising within the area under its jurisdiction under section 20;

(g) the date before which and the manner and form in which application for a licence for any nurses establishment shall be made under section 22;

(h) the manner in which an order of withdrawal of recognition of an institution shall be served under section 23;

(i) prescribing the fees payable for entering the name of any person in the list under sub-section (2) of section 17 and in respect of an appeal under section 15 or 24; 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

immediately following, both House agree in making any modification in the rule or both House 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.

30. Power of Council to make by-laws.- (1) 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 of 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 nurses, midwives, auxiliary nurse-midwives and health visitors and by persons whose names are entered in the list;

(j) for regulating the publication of the names of registered nurses, midwives, auxiliary nurse-midwives and health visitors 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 21 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 moneys 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 travelling 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) 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.

(3) All by-laws made under this section shall be published in the Official Gazette.

(4) It shall be lawful for the State Government by notification, to cancel or amend any by-law made under this Act.

31. 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.

32. Jurisdiction or 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.

33. 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.

34. Repeal.- The Madras Nurses and Midwives Act, 1926 (Madras Act III of 1926), the Hyderabad Nurses, Midwives and Health Visitors Registration Act, 1951 (Hyderabad Act XIX of 1951) and the Bombay Nurses, Midwives and Health Visitors Act, 1954 (Bombay Act XIV of 1954), are hereby repealed:

Provided that section 6 of the '[Karnataka]' General Clauses Act, 1899 ('[Karnataka]' Act III of 1899), shall be applicable in respect of such repeal and sections 8 and 24 of the said Act shall be applicable as if the said enactments had been repealed and re-enacted by this Act.

1. Adapted by the Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973

35. Power to remove difficulties.- If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the Acts in force immediately before the commencement of this Act, the State Government, may by notification make such provisions as appear to it to be necessary or expedient for removing the difficulty.

* * *

NOTIFICATION

Bangalore, dated 30th July, 1968 [PH.S 22 MDA 62]

S.O. 1626.- In exercise of the powers conferred by sub-clause (ii) of clause (a) of sub-section (3) of section 1 of the Karnataka Nurses, Midwives and Health Visitors Act, 1961 (Karnataka Act 4 of 1962), the Government of Karnataka hereby appoints the 16th day of August 1968 as the date on which parts II, III, V and VI and the remaining sections of Part VII of the said Act shall come into force in the whole of the State of Karnataka.

By Order and in the name of the Governor of Karnataka,

B.S. SRIKANTIAH,
Secretary to Government,
Health & Municipal Admn. Department