

Jammu and Kashmir Nursing Council Act, 2012

JAMMU & KASHMIR

India

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Act 4 of 2012

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Jammu and Kashmir Nursing Council Act, 2012(Act No. 4 of 2012, dated 14th April, 2012)An Act to provide for constitution of a Nursing Registration Council and to regulate the qualification as also provide for registration and better training of Nurses, Midwives and Health Visitors in the State.Be it enacted by Jammu and Kashmir State Legislature in the Sixty-third Year of the Republic of India as follows:

Chapter I Preliminary

1. Short title and commencement

(1) This Act may be called the Jammu and Kashmir Nursing Council Act, 2012.(2)It shall come into force on such date as the GoVernment may, by notification in the Government Gazette, appoint.

2. Definitions

In this Act, unless there is anything repugnant in the subject or context, (a)"Act" means the Jammu and Kashmir Nursing Council Act, 2012;(b)"Council" means the Jammu and Kashmir Nursing Registration Council constituted under section 3 of the Act;(c)"Government" means the Government of Jammu and Kashmir;(d)"Institution" means any establishment which offers nursing education or training and is registered under the Act;(e)"Member" means a member of the Council and includes its President;(f)"nurse" includes male nurse;(g)"prescribed" means prescribed by rules or regulations under the Act;(h)"President" means the President of the Council;(i)"register" means a register maintained under sub-section (2) of section 11 of the Act;(j)"regulations" means regulations made under section 36 of the Act;(k)"rules" mean rules made under the Act by the Government; and(l)"Special Tribunal" means the Special Tribunal established under the Jammu and Kashmir Special Tribunal Act, 1988.

Chapter II

Nursing Registration Council

3. Constitution and composition of the Council

(1) The Government may, as soon as may be, by notification in the Government Gazette, establish a Council to be called the Jammu and Kashmir Nursing Registration Council for carrying out the provisions of the Act. (2) The Council shall be a body corporate with the name aforesaid having perpetual succession, common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued. (3) The Council shall consist of following:

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| (a) Principal, Government Medical College, Srinagar/Jammu | ex officio, President by rotation of two years. The first President of the Council shall be the Principal. Government Medical College, Srinagar during which period the Principal, Government Medical College, Jammu shall be a member of the Council. Similarly, during the president ship of the Principal Government Medical College, Jammu, the Principal, Government Medical College. Srinagar shall be a member of the Council. |
| (h) Principal, Government Dental College, Srinagar/Indira Gandhi Government Dental College. Jammu or their representatives the Director. Health Services, | (Members) |
| (c) Kashmir/Jammu or their representative | (Members) |
| (d) representative of SKIMS three Principals of the existing Government | (Member to be nominated by the Government) |
| (e) Nursing Colleges/Institutes, that is, AMT School Jammu, AMT School, Srinagar and College of Nursing SKIMS, Srinagar representative of Govt. Medical | (Members ex officio) |
| (f) College, Srinagar/Jammu not below the rank of Assistant Professor Matron of two major hospitals of the | (Member to be nominated by the Government) |
| (g) State (i. e. SMHS, Srinagar and GMCH, Jammu registered under the Act) | (Members to be nominated by the Government) |

- two Auxiliary Nurse, Midwives
amongst the registered
- (h) Auxiliary Nurse, Midwives under the
Act (one from each division)
two female multipurpose health
workers elected amongst
- (i) the registered female multipurpose health workers under the Act
(one from each division) (Members)
representative of the Administrative
- (j) Department not below the rank of Deputy Secretary to Government
(Member)
two representatives of private
- (k) paramedical/nursing institutes (one from each division) (Members to be nominated by the Government)
- (l) two representatives of associations of
nursing/paramedicals (one from each Division) (Members to be nominated by the Government).
- (4) No act done by the Council shall be questioned on the ground merely of existence of any vacancy in, or any defect in the composition of, the Council.

4. Term of office of the nominated Members and casual vacancies

(1) Subject to the provisions of this section, the term of office of a nominated member shall be four years or till he retires on attaining the age of superannuation, whichever is earlier. (2) A nominated member shall be eligible for re-nomination only once at the end of his term of office. (3) A nominated member may at any time resign his membership in writing under his hand addressed to the President and the seat of such member shall be declared vacant from the date of acceptance of his resignation. (4) A nominated member shall be deemed to have vacated his seat if he is absent without excuse, sufficient in the opinion of the Council from three consecutive meetings of the Council where the interval between the first and third of the said meetings exceeds six months: Provided that the Council may permit any member to absent himself from meeting for any period not exceeding six months. (5) A casual vacancy in the Council shall be filled by fresh nominations, and the person so nominated to fill the vacancy shall hold for the remainder of the term for which the member in whose place he was nominated. (6) If any member dies or resigns his membership or retires on attaining the age of superannuation or ceases to be a member as provided under sub-section (4), the vacancy shall be filled within one month of the notification of the vacancy by fresh nomination.

5. Vacancy not to invalidate proceedings of the Council

The powers of the Council may be exercised notwithstanding any vacancy in the number of its members fixed under section 3.

6. Meetings and quorum

(1) The Council shall hold its first meeting at such time and place as may be appointed by the President, and thereafter the Council shall meet at such time and place as may be appointed by the Council.(2)Unless otherwise prescribed, thirteen members of the Council shall form a quorum, and all the acts of the Council shall be decided by a majority of the members present and voting or in case of any equality of votes, by casting vote of the President of the Council or, in his absence, of the member presiding at the meeting.

7. Officers, Committees and Employees of the Council

The Government shall provide the Council with such officers and employees as may be necessary for the efficient performance of the functions of the Council: Provided that an officer, not below the rank of Under Secretary to Government, may be appointed as Registrar who shall be the ex officio Secretary of the Council.

8. Vice-President of the Council

(1) The Council shall elect from among its members a Vice-President at a meeting thereof.(2)The terms of the office of Vice-President shall be four years or till he continues as Member, whichever is earlier.(3)The Vice-President may resign his office by notice in writing to the President and on his resignation being accepted by the Council, the office shall become vacant.(4)When the office of Vice-President becomes vacant, another member shall be elected Vice-President for the remainder of period of the term of the office of the Vice-President in whose place he is elected or for the remainder of his term of office as member, whichever is earlier.(5)In the absence of the President, for whatsoever reasons, the Vice-President shall exercise the powers and functions of the President under the Act.

9. The Executive Committee

(1) The Council may constitute from among its members an Executive Committee and such other committees for general or special purposes, as the Council deems necessary to carry out its functioning.(2)The Executive Committee shall consist of six members, of whom (a)the President and Vice-President of the Council shall be ex officio members; and(b)four shall be elected by the Council from amongst its members.(3)The President and Vice-President of the Council, respectively shall be the Chairman and Vice-Chairman of the Executive Committee.(4)The Executive Committee shall discharge such duties as may be prescribed by the Council under the regulations.(5)Without generality to the forgoing provisions, the Executive Committee shall discharge following functions, namely: (i)the Executive Committee shall recommend to the Council such number of Inspectors whether from among members of the Council or otherwise, as it deems necessary, to inspect any institution recognized as a training institution, and to inspect examinations held for the purpose of granting any recognized qualification or recognized higher qualification and the inspectors so appointed by the Council shall report to the Executive Committee on the suitability of the institution

for the purposes of training and on the adequacy of the training therein, or as the case may be, on conduct of the examination;(ii)the Executive Committee shall forward a copy of such report to the council or institution concerned, and shall also forward copies with the remarks, if any, of the council or institution concerned thereon to the Government;(iii)the Executive Committee shall submit its report to the Council regarding withdrawal of recognition of an institution if it is satisfied that the courses of study and training and the examinations conducted in order to obtain a recognized qualification from any authority or the conditions for admission to such courses or the standards of proficiency required from the candidates at such examination are not in conformity with the regulations made under the Act or fall short of the standards required thereby or that an institution recognized by the Council for the training of Nurses, Midwives or Health Visitors doesn't satisfy the requirements prescribed by the Council.

10. Income and expenditure of the Council

(1) The income of the Council shall be derived from, (a)fees;(b)grants received from the Government; and(c)gifts and donations made to the Council.(2)The Council shall utilize the money obtained under sub-section (1) in such manner, as may be prescribed by the regulations.

Chapter III

Registration

11. Maintenance of register under the Act

(1) Subject to the provisions of the Act and the rules made thereunder, it shall be the duty of the Registrar to maintain the register of registration under the Act.(2)The Registrar shall maintain and keep the register in such form, as may be prescribed, and shall contain the name, address and qualifications of every registered practitioner together with the dates on which such qualifications were acquired. The register shall be divided into following parts, namely: (a)Register of Nurses;(b)Register of Midwives; and(c)Register of. Health Visitors.(3)The Registrar shall maintain the register in a correct form, as far as possible and may from time to time, enter therein any material alteration in the address and qualifications of the person registered.(4)The register shall be deemed to be a document as per Evidence Act, Samvat 1977.

12. Persons entitled to be registered under the Act

(1) Every nurse, midwife, auxiliary nurse midwife and multipurpose health worker shall be entitled to registration under the Act, who (a)has passed the examination after undergoing the course of training recognized by the Council and fulfils such other conditions, as may be prescribed; or(b)is registered as nurse, midwife, auxiliary nurse midwife or multipurpose health worker by an association which is recognized by the Council; or(c)is at the time of commencement of the Act already employed, practising in the State and doing the same work subject to such conditions and restrictions as may be prescribed and subject to the condition that an application on prescribed form is received within one year from the date on which the Act comes into force.(2)If the Registrar is

satisfied that (a) if any person applying under clause (a) or (b) of sub-section (1) is entitled to be registered, he shall, on payment of such fee, as may be prescribed, enter the name of such person in the register maintained for the purpose of registration under the Act. (b) if any person applying under clause (c) of sub-section (1) is entitled to be registered as a nurse, midwife, auxiliary nurse midwife or multipurpose health worker, Registrar shall lay the application before the Council with a recommendation that he may be permitted to enter the name of such persons in the prescribed register: Provided that the Registrar on receiving an application under clause (a) or (b) above from any person in respect of whom he considers that the Council may wish to exercise its power of refusal, may refer the said application to the Council or to any sub-committee appointed by the Council for that purpose and shall not make an entry in the register in respect of such person, until the entry is permitted by the Council to be made. (3) Any person registered under the Act, shall on payment of such fee as may be prescribed, be entitled to have entered in the register any further qualification in the field/discipline which he/she may obtain after the initial registration.

13. Refusal of registration, removal and re-entry of names

(1) The Council may refuse to permit the registration of any person as a nurse, midwife, auxiliary nurse midwife or multipurpose health worker and if he/she is registered, may issue a warning or direct the temporary or final removal of his/her name from the register on any of the following grounds, namely: (a) that he/she has been sentenced by any court for any non-bailable offence and the sentence not having been subsequently reversed or quashed; (b) that he/she has been found guilty of any offence which, in the opinion of the Council, indicates professional incompetence, negligence or contravention of regulation ordinarily included in the performance of the duties of nurse, midwife, auxiliary nurse midwife or multipurpose health workers; or (c) that there are defects in his/her character which in the opinion of the Council would render the entry or retention of his/her name undesirable: Provided that no action shall be taken by the Council under this section until after due enquiry is conducted and the person concerned has been given an opportunity to be heard in his/her defence and to appear either in person or by the Counsel and he/she has been found by majority of two-thirds of the members present and voting at the meeting, to have indulged in an act as specified in clauses (a), (b) or (c) above. (2) Any name so removed may afterwards be re-entered in the register and any order of removal of name from register passed under sub-section (1) may be withdrawn under the direction of the Council given by majority of two-thirds of the members present and voting at the meeting and the name so removed may be re-entered in the register. (3) The names of persons registered under the Act, who die or whose names are directed to be removed from the Register under the Act, shall be removed from the register.

14. Removal of fraudulent and incorrect entries

Any entry in the register which is proved to the satisfaction of the Council to have been fraudulently or incorrectly made, may be ordered to be removed under resolution of the Council: Provided that before passing any resolution, the Council shall afford reasonable opportunity of being heard to the person concerned.

15. Renewal of registration

A person shall renew his/her registration after every five years on payment of renewal fee as may be prescribed.

16. Maintenance of annual list of registered persons

The Registrar shall maintain a list of registered persons under the Act on or before a date to be fixed in this behalf by the Council and thereafter every year get the list printed and published. The list shall contain, (a) the names entered in the respective registers arranged in alphabetical order according to surnames; (b) the registered address or placement address of each person whose name is entered in the register; and (c) the registered qualification of each such person and the date on which such qualification was certified/entered.

17. Presumption as to registration

Every Court shall presume that any person whose name is entered in such list as has been prepared under section 16 is duly registered under the Act, and that any person whose name is not so entered is not registered under the Act: Provided that in case of any person whose name does not appear in such printed list, a certified copy, signed by the Registrar, of the entry of the name of such person in a register so maintained shall be a conclusive evidence that such person is registered under the Act: Provided further that a certificate purporting to be signed by the Registrar stating that the name of a person borne on the printed register has been removed from such register and specifying the date of such removal shall be conclusive evidence that such person is not registered under the Act and the date from which he ceased to be so.

18. Registration under the Act not to qualify for registration under the Jammu and Kashmir State Medical Registration Act, 1998

The certificate of registration under the Act shall not confer upon any person any right or title to be registered under the Jammu and Kashmir State Medical Registration Act, 1998 or to assume any title, name or designation implying that he/she is by law recognized as a Medical Practitioner or that he/she is authorized to grant any medical certificate or any certificate of death or still birth or to undertake the charge of cases of abnormality or disease in connection with parturition.

Chapter IV

Establishment and Recognition of Training Institutions

19. Establishment of Training Institutions

(1) No person shall establish any institution for training nurses, midwives or health visitors and to conduct examination for the qualifying certificates of such courses except with the prior approval of

the Government: Provided that the approval of the Government under this sub-section shall not be given unless the Council make a recommendation to that effect. (2) Subject to the provisions of the Act and the rules made thereunder, every application for approval under sub-section (1) shall be made in such form, on payment of such fee and in such manner as may be prescribed in the regulations.

20. Recognition of institution and examination

(1) The Government shall, on the recommendation of the Council, by a notification, specify the institutions which are authorized to hold qualifying examinations and grant certificates, diploma or degree for the purposes of the Act. (2) The institution(s) registered under the Act shall maintain a website giving information about infrastructure, names and photographs of the faculty members, affiliation status, prescribed fee, attachment with the hospital for practical training to the students and such other particulars/information as may be prescribed from time to time.

21. Appointment of Inspectors by the Council

(1) The Council may appoint such number of Inspectors as recommended by Executive Committee whether from amongst members of the Council or otherwise, preferably having at least Degree in Nursing to inspect the institutions recognized as a Training Institution and to inspect examinations held for the purpose of granting any recognized qualification subject to payment of such fee as may be prescribed. (2) The Inspector shall, in accordance with any general or special directions of the Council given from time to time, inspect the institutions established by or affiliated to the Council and report to the Executive Committee in regard to the courses of study pursued and training imparted at every institution which they inspect and on any other matter with regard to which the Council may require them to report to the Executive Committee. (3) Every qualifying examination and every prior examination leading up to it held by the Bodies or institutions authorized under the Act shall be inspected by the Inspector at least once in two years or more frequently, if the Council so directs. (4) An Inspector shall not interfere with the conduct of any examination, but it shall be his duty to report to the Executive Committee of his opinion as to the sufficiency or insufficiency of any examination which he is asked to inspect and any other matter in relation to such examination on which the Council may require him to report to the Executive Committee.

22. Duties of the Council

Subject to other provisions of the Act, the Council shall exercise the following specific duties: (a) prescribe the course of training and qualifying examinations including the examinations prior to qualifying examination; (b) award stipends, scholarships, medals, prizes and other rewards; (c) prepare, publish and prescribe text books etc. of prescribed courses of study; (d) establish and maintain a library; (e) maintain and update its website; (f) recommend schemes for Postgraduate Training and Research in the Nursing Education; (g) appoint any Committee or Board of Studies as may be necessary and lay down its constitution, duties and functions; and (h) exercise such other powers, and perform such other functions, as may be specified in the Act or in the rules or regulations made thereunder or as the Government may from time to time, by notification, direct for

carrying out the purpose of the Act.

23. De-recognition

When the Council receives an adverse report regarding any institution that it falls short of the standards required thereby or does not satisfy the requirements prescribed by the Council under the Act and, the Council is of the opinion that an enquiry should be made, as to the desirability of withdrawing recognition for that particular institution, it shall constitute a Committee for inspection and if the report is found true, the Council may, after consideration of the report so received, withdraw the recognition with the previous approval of Government. The order of such withdrawal shall be in writing and shall be served in the prescribed manner.

24. Right to appeal

Any person or institution aggrieved by any order made under section 23 may, within three months from the date on which such order is served upon him or it, prefer appeal to the Special Tribunal against such order. The decision of the Tribunal on any such appeal shall be final: Provided that before passing any order in appeal, the Tribunal shall afford reasonable opportunity of being heard to the Council.

Chapter V Miscellaneous

25. Person not registered under the Act not to be employed

No Government or Private Dispensary, Hospital infrastructure or hospital shall employ any person as a nurse, midwife or health visitor unless he/she is registered under the Act.

26. Penalty for unlawful assumption of title of registered nurse, midwife or health visitor

If any person not registered under the Act, assumes or uses the name or title of registered nurse, midwife or health visitor or uses any name, title, addition, description or signboard, implying that such person is a registered nurse, midwife or health visitor, as the case may be, he/she shall be punished, with fine not exceeding rupees ten thousand in the case of a first offence, and with imprisonment which may extend to one year or fine not exceeding rupees twenty thousand or with both for a second or any subsequent offence.

27. Penalty for dishonest use of certificate

Any person who, (a) dishonestly makes use of any certificate of registration issued under the provisions of the Act; or (b) procures or attempts to procure registration under the provisions of the

Act by making or producing or causing to be made or produced any false, incorrect or fraudulent declaration 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 the list of any certificate issued under the provisions of the Act, shall be punished for the first offence with a fine not exceeding rupees five thousand and for the second or subsequent offence with simple imprisonment for a term of six months or with a fine of rupees ten thousand or with both.

28. Audit

The accounts of the Council shall be audited in such manner as may be prescribed.

29. Bar to prosecutions

(1) No Court shall take cognizance of any offence punishable under the Act except upon a complaint made with previous sanction of the Council.(2)A complaint under this section shall be lodged by the Registrar or any other authorized officer of the Council in the Court of competent jurisdiction.

30. Protection of persons acting in good faith under this Act

No suit or any other legal proceedings shall lie against the President, Vice-President, Members of the Council or staff thereof or any person for anything done or intended to be done in good faith under the Act.

31. Certain persons to be public servants

Every person appointed under section 3 or 7 shall be deemed to be a public servant within the meaning of section 21 of the Ranbir Penal Code, Samvat 1989.

32. Dissolution and reconstitution of the Council

If at any time it appears to the Government that the Council has failed to exercise, or exceeded or abused, any of its powers conferred upon it under the Act, it may dissolve the Council and in case of dissolution of the Council. all or any of the powers, duties and functions of the Council shall be exercised, performed and discharged by an Administrator to be appointed by Government:Provided that no person shall be appointed as Administrator unless he is qualified as Senior Nursing Officer:Provided further that the Council shall be reconstituted by the Government within a period of six months of its dissolution.

33. Recognition of qualifications

(1) For the purpose of the Act, the qualifications included in Schedule of the Indian Nursing Council Act, 1947 (Central Act No. 48 of 1947), as amended from time to time, shall be recognized

qualifications for the purposes of the Act.

34. Person not holding recognized qualification to be barred from registration

Notwithstanding anything in any other law for the time being in force, no person shall, after the commencement of the Act be entitled to be enrolled in the register maintained under the Act as a nurse, midwife, auxiliary nurse midwife, health visitor or public health nurse unless he or she holds a recognized qualification: Provided that any person enrolled in any State register before the commencement of the Act may continue to be so enrolled notwithstanding that he or she may not hold a recognized qualification.

35. Power of Government to make rules

(1) The Government may make rules to carry out the purposes of the Act. (2) Without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely: (a) the manner in which the election, nomination and appointment of members of Council shall be made under section 3; (b) the period for which a Member of the Council may hold office under section 4; (c) the manner in which the meetings of Council shall be convened and conducted; (d) the form in which a register shall be kept, the particulars to be entered in such register, and the parts in which such register shall be divided under section 11; (e) the form of list to be maintained under section 16; (f) the manner in which the money shall be received and spent by the Council under section 10 and accounts are audited under section 28; (g) the manner in which an order of withdrawal--of recognition of an institution shall be served under section 23; and (h) any other matter which may need to be prescribed.

36. Powers of Council to make regulations

The Council may make regulations/ bye-laws, (a) to prescribe the conditions and restrictions which are to be complied with and the courses of training to be completed and examinations to be passed by the persons applying for examination; (b) to prescribe the syllabi for examinations to be passed by the person applying for registration; (c) to prescribe the fee payable with application form for examination, registration, renewal of registration and re-entry of names removed from the registers and also for the copies of the orders passed by the Council or by the Registrar; (d) to provide for recognition of institution competent to impart such trainings and prescribe the fees for the affiliation of institution recognized for training of nurses, midwives and multipurpose health workers; (e) to regulate the issue of registration certificate, maintenance and publication of registers and all conditions of admission of the persons to be registered and to prescribe the form of application for such admission; (f) to prescribe the scale of fees, remuneration, travelling allowance to be paid to the members of the Council and to the Examiners, Supervisors, Invigilators, Inspectors and other persons appointed by the Council for conduct of examination and inspection of Training Institutions; (g) to prescribe the duties, powers, leave, suspension, removal and other terms and conditions of service of the Registrar, other officers and employees; (h) to regulate the conduct of and prescribe the uniform and badge to be worn by, the registered nurses, midwives, auxiliary nurse midwives and multipurpose health workers; (i) to prescribe the manner in which the account of the

Council shall be maintained by the Registrar; and(j)to prescribe for any other matters for carrying out the provisions of the Act.

37. Removal of difficulties

(1) If any difficulty arises in giving effect to the provisions of the Act, the Government may, by order published in the Government Gazette, make such provisions, not inconsistent with the provisions of the Act, as may appear to it to be necessary or expedient for the removal of the difficulty: Provided that no such order shall be made after the expiration of two years from the commencement of the Act.

38. Repeal

(1) The Jammu and Kashmir Nurses, Midwives' and Health Visitors Registration Act, 1956 is hereby repealed. (2) Notwithstanding such repeal, anything done or any action taken under said Act or any other law in force before this Act comes into force shall be deemed to have been done, or taken under the Act unless the same is inconsistent with, or contrary to the provisions of the Act.