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EXTRAORDINARY

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PART IV (A) - PROVINCIAL COUNCILS

Provincial Councils Notifications

WESTERN PROVINCE PROVINCIAL COUNCIL

The Indigenous Medical Statute No. 03 of 2013 of that the Western Province Provincial Council

I hereby inform that the Western Province Provincial Council Indigenous Medical Statute No. 03 of 2013 which was passed at the Western Province Provincial Council meeting held on 18.06.2013 and which has received the assent of the Hon. Governor, Western Province on 09.10.2013 is being implemented with effect from 25.10.2013.

JAGATH ANGAGE,
Minister of Health, Indigenous Medicine, Social Welfare &
Women Affairs, Probation and Child Care Services
and Council Affairs - Western Province.

No. 175,
Stanley Thilalakarathna Mawatha,
Nugegoda,
Minister of Health, Indigenous Medicine, Social Welfare & Women Affairs,
Probation and Child Care Services and Council Affairs
Western Province,
25th October, 2013.

THE INDIGENOUS MEDICAL STATUTE NO. 03 OF 2013 OF WESTERN PROVINCE PROVINCIAL COUNCIL.

In compliance with the subject of "Indigenous Medicine" stipulated in list 1 schedule 9 of the Constitution of Democratic Socialist Republic of Sri Lanka, Western Provincial Council with a view to healing the diseases of the people living in Western Province, the curative services, health education and establishment and maintenance of indigenous community medical services, promotion and preservation of matters, relating to indigenous medicine, establishment of indigenous medical institutions, their maintenance, development and facilitation, establishment, maintenance and extension of medicinal herb parks, the registration of indigenous medical institutions and employees in Western Province, their monitoring and supervision and other matters connected and incidental to them by application of indigenous medical system, the Western Provincial does enact this statute as follows. The provisions of this Statute are inconsistent with Ayurveda Act, no 3 of 1961. Thus the Western Provincial Council of Democratic Socialist Republic of Sri Lanka does therefore enacts as follows.



Short title & the
Date of the
enactment.

1. This statute maybe sided as “Indigenous Medical Statute No 03 of 2013” of Western province and shall come to operation with effect from the date on which the Governor of western province approves it.

Part I

THE ESTABLISHMENT OF PROVINCIAL INDIGENOUS MEDICAL DEPARTMENT- ITS COMPOSITION AND ROLE.

The
establishment of
Provincial
Indigenous
Medical
Department’

The
Commissioner
of Indigenous
Medicine of
Western
Provincial
Council and
staff.

2. For realization of the objectives of this Statute, a Department titled as Western Province Indigenous Medical Department (herein after referred to as “Department” shall be established).
3. (1) The Western Provincial Commissioner of Indigenous Medicine here in after referred to as “Commissioner” shall be the Head of the Department which has been established under the provisions of section 2 of this statute.
(2) There shall be a staff consisting of Deputy Commissioners and Indigenous Medical Practitioners to assist the Commissioner.
(3) The provisions of Provincial Council Act , No. 42 of 1987 shall apply for the matters of appointment of staff, transfers, and termination of service, discipline and to other incidental matters.

The objectives
of Department.

4. The objectives of the Department are as follows :
(a) As stipulated in section 12 list No 1 schedule No 9 Constitution No 154 (a) in 13th amendment to Constitution of Democratic Socialist Republic of Sri Lanka 1978, the establishment of indigenous medical hospitals and their maintenance, establishment of other institutions where patients are provided with treatments according to indigenous medical system, their effective maintenance, provision of facilities, assistance and incentives ;
(b) To streamline the maintenance of indigenous medical systems for the promotion of health conditions of citizen living within the area of Western Provincial Council, aiming at regular maintenance curative services healing, and Medical Educational Affairs ;
(c) The establishment and maintenances of medicinal herb parks for the purpose of conservation of indigenous medicinal plants ;
(d) Monitoring of any Indigenous Medical Dispensary, Hospital, Massage Centre, Pharmacy and Pharmaceutical Manufacturing institution coming under or interpreted as Ayurveda, Siddha, Unani Indigenous, or traditional medical systems.

Functions of the
department

5. The functions of the Department will be as follows :
(a) Establishment of hospitals, dispensaries other institutions engaged in treatment for patients under indigenous medical systems and to ensure their effective, efficient functioning and their maintenance and monitoring ;
(b) Preparation of plans necessary for the promotion of health condition of the people living within the province and their operations ;

- (c) Improvement of the quality of Para-medical services and to take necessary actions for propagation of Indigenous medical systems ;
 - (d) The promotion of knowledge and training of personnel, working in indigenous medical institutions ;
 - (e) Registration of governmental, non-governmental, semi-governmental or organizations affiliated to government, related to Indigenous medicine, within Western Province, in accordance with government policies and accepted standards and stipulation of guidance, standards, norms, and their maintenance, supervision, and monitoring ;
 - (f) Establishment of medical herbs parks and their maintenance ;
 - (g) Provisions of incentives for cultivation of medical herbs and promotion of knowledge pertaining to that ;
 - (h) Establishment of Pharmaceutical Manufacturing Laboratories in keeping with national policies and accepted standards their maintenance and distribution of a drugs among the institutions that are being carried out by the department ;
 - (i) Expansion of community medical services for the people living in the Province and provisions of the services at instances of infectious diseases and other emergencies ;
 - (j) Encouragement in the production of drugs required by indigenous medical institutions and promotion of awareness with regard to such activities ;
 - (k) The inspection, guidance and encouragement of governmental, non-governmental, semi-governmental, and other indigenous medical institutions affiliated to the government with regard to their functioning in accordance with national policies and accepted standards;
 - (l) Collection and information indigenous medical health services provided within the province and related propaganda work ;
 - (m) Collection of information pertaining to indigenous traditional medical systems and conservation and promotion of such information ;
 - (n) Obtaining funds and material aids from foreign sources, in keeping with national policies and accepted standards for development programs and/or implementation of technical programs at the performance of departmental functions and responsibilities ;
 - (o) Formulation of provincial indigenous medical policies in keeping with national policies.
6. (1) Vesting of powers on the department within the limits imposed by common law for realization of objectives of the department provided by the statute. The powers of department.
- (2) Any information, documents or records, necessary for realization of objectives coming under this statute, are requested by the commissions or by any other officer authorized by the commissioner for any governmental or non-governmental indigenous medical institution or from any other person shall provide, the requested information, documents or records.

Part II

INDIGENOUS MEDICAL INSTITUTIONS

7. (1) No person shall organize or operate an indigenous medical institution on a date or thereafter fixed by a Gazette notification published by subject minister, unless, Registration of indigenous medicine institutions.
- (a) The Commissioner has authorized that person to operate an indigenous medical Institution by a license issued by the Commissioner.

The powers and functions of the commissioner in respect of registered Indigenous medical institutions .

- (b) The premises where the particular indigenous medical institution will be housed has already been certified by the Commissioner as a house suitable for housing an indigenous medical institution and certificate has been issued in that respect ;
 - (c) The governmental, non-governmental, semi-governmental indigenous medical institutions or such institutions affiliated to the government in Western Province, which have been operating by the time that this statute come in to operation, and has been registered under Ayurveda Act, no 31 of 1961, shall be re-registered under the provisions of this statute as well. ;
 - (d) The registration attended to as above will be valid for a period of 02 calendar years from such date of registration.
- (2) (a) Every application meant for registration of an indigenous medical institution should be in the prescribed form and be addressed to Commissioner, along with the registration fee ;
- (b) The Commissioner upon receipt of an application in terms of 2(a) above for registration of an indigenous medical institution shall refer it to Community Indigenous Medical Officer of the relevant Divisional Secretariat area for a report of observations ;
- (c) The Ayurveda Community Medical Officer upon receipt of such intimation from the Provincial Commissioner should submit a report with his/her observations within a period 60 days from such intimation ;
- (d) The Commissioner after Consideration of the report of observations submitted should follow the following procedure.
- I. Should register the indigenous medical institution and should issue a licenses for that effect and issue the license to the effect that the premises where the institution be housed is suitable for that purpose ;
 - II. Should otherwise reject the application if it does not comply with the regulations/ rules coming under the provisions of the statute, and should inform the applicant in writing that his/her application is rejected ;
 - III. Any rejections under Para 2 above should be intimated with the reasons to the relevant applicant within (60 days) from the date of rejection.
- (e) (I) If any applicant is dissatisfied with the Commissioner's decision for rejection of his/ her application he/ she can make an appeal against that decision to the Secretary within 21 days of intimation of that rejection to him/ her.
- (II) The Secretary upon receipt of such an appeal should intimate the applicant his delusion on the appeal within 60 days from the date of his receipt of the appeal.
- (f) The registration fee should be levied in accordance with the regulations enacted by Provincial Minister in charge of the subject.
8. (1) The Commissioner if he considers it is necessary can delegate his powers for the performance of matters and functions coming under this Statute to any other officer or to a committee and upon such delegation that officer or the committee is under obligation to carryout Commissioner's normal or special orders in this regard.
- (2) Any person authorized by the Commissioner in writing, can enter any of the registered indigenous medical institutions or its premises at any time subjected to the limitations imposed

by the law of the land, in order to perform the matters and functions coming under this Statute in terms of 7(2) (c) and/or 7(2)(c)(1) of it and attend to any of the following matters.

- (a) Conduct and inspection about the premises ;
 - (b) To consult any person or patient in those premises ;
 - (c) To check the documents or reports maintained by the institution and take their Photostat copies ;
 - (d) To instruct or order the owner or any other occupier of the premises to follow the rules and regulations imposed by this Statute, as their functions ;
9. In carrying out the matters and functions coming under this Statute, if the Commissioner requests the support of the Police, it is obligatory by the Police to extend such support.

Part III

INDIGENOUS MEDICAL EMPLOYEES

10. No person shall work in the capacity of an indigenous medical employee within Western Province provided he/she has duly been registered by the Commissioner as an indigenous medical employee on the date or thereafter fixed by the Subject Minister by a Gazette notification. Registration of indigenous medical employees.
11. (1) Every application for registration as an indigenous medical employee shall be addressed to the Commissioner properly and in writing. Such application shall accompany necessary testimonials.
- (2) Any person whose registration as an indigenous medical employee has been cancelled by the Commissioner he/she can re-apply for registration.
12. (1) The Commissioner shall maintain separate registers in respect of following categories of employees.
- (a) Indigenous medical Pharmacists.
 - (b) Indigenous medical Attendants.
 - (c) Indigenous medical Panchakarma Therapists and/or Masseurs
- (2) The Commissioner is responsible for proper custody and maintenance of documents stipulated in (1) above.
13. No person is eligible to be registered as an indigenous medical employee, provided he/she is The requirements for registration as an indigenous medical employee.
- (1) A citizen of Sri Lanka;
 - (2) Holds a certificate of proficiency from an institution recognized by the Commissioner, after successfully completed an educational course in the relevant field at that institution; and,
 - (3) The Commissioner is satisfied that person concerned is, as the case may be, possesses adequate knowledge and experience in the relative professions such as, Pharmaceutical, Patient care, Panchakarma therapy, relating to Indigenous Medicine.

Registration or rejection of an application to be registered as an Ingenious Medical Employee.

14. Upon receipt of an application for registration as an indigenous medical employee under sub section 11(1);
 - (1) If the applicant complies with the rules stipulated by this Statute, he/she should be registered as an indigenous medical employee and a license of registration shall be issued in his/her name. or
 - (2) Those applications inconsistent with the rules and requirements specified for registration shall be rejected and action shall be taken to intimate the rejection to the applicant in writing.
 - (3) The reason for rejection of an application under 14(2) above shall be intimated to the relevant applicant in writing within 30 days of such rejection

The reason for registration cancellation or suspension of an application for registration.

15. At instances where an applicant for registration, has been punished by a law court, which possesses the jurisdiction over the matter for an offence committed that he/she committed punishable under Penal Code, then the Commissioner can reject his/her application or if has already been registered shall cancel such a registration.

The registered indigenous medical employees are entitled to work in Western Province.

16. Every registered Indigenous Medical Employee can work in the capacity of an Indigenous Medical Employee in the profession for which he/she has been registered within the Western Province.

17. (1) No person shall be deployed to work in the capacity of a Pharmacist Attendant, or Masseur to perform any such functions in an indigenous medical institution, provided he/she has duly been registered under the provisions of this Statute.
- (2) The owner of a registered indigenous medical institution shall produce a list of names of his/her employees to the Commissioner once in every 3 months.

Appeals against the rejection of applications for the registration.

18. (1) Any aggrieved party whose application for registration has been rejected by the Commissioner under 14(2) can submit an appeal against such decision to the Secretary within 21 days from the date of intimation of the rejection of him.
- (2) The secretary upon his receipt of the appeal shall intimate his decision in writing to the applicant within 30 days of his receipt of the appeal.

Use of the words and phrases such as "Ayurveda", "Siddha", "Unani" or Traditional Medicine" coming under indigenous medicine

19. (1) No person shall use the words and phrases such as "Aurvedha", "Siddha", "Unani" or "Traditional Medicine", unless he/she has been duly authorized eventually by the Commissioner in writing.
- (2) The use of the words "Aurvedha", "Siddha", "Unani" or "Traditional Medicine" as described in 2(1) above will also include the use as the introduction or any or more of those words, before
 - (a) A designation or a name; or
 - (b) On a name board or a on a sign board; or
 - (c) In a commercial advertisement through electronic or printed media; or
 - (d) In a notice, name boards prospects or pamphlets or in written media of any other nature.

Part IV

OFFENCES AND PENALTIES

20. Any person who operates an indigenous medical institution without been registered under subsection 7(1) of this Statute does thereby commit an offence and if found guilty at a summary trial before a Magistrate is liable for a fine not exceeding Rupees Two Hundred Thousand or to an imprisonment not exceeding six months (06) or to a punishment of both descriptions.
21. Any person who employs himself/herself in the capacity of an Indigenous Medical Employee without been duly registered under subsection 16 (1) of this Statute does thereby commit an offence, if found guilty at a summary trial before a Magistrate is liable for a fine not exceeding Rupees Fifty Thousand or to an imprisonment not exceeding six months (06) or a punishment of both descriptions.
22. Any person who disobey or obstruct the activities of an officer who has been delegated with normal of special powers, under section 7(2) (b) and sub section 8(1) of this Statute or violate the provisions of the Statute, thereby commits an offence, and if found guilty at a summary trial before a Magistrate is liable for a fine not less than Rupees Five Thousand and not more than Rupees Twenty Five Thousand or for an imprisonment not exceeding 06 months or for a punishment of both descriptions.
23. Any person who violates the provisions stipulated in sub section 17(1) and/or (2) of this Statute does thereby commits an offence and if found guilty at a summery trial before a Magistrate is liable for a fine not exceeding Rupees Two Hundred Thousand or to an imprisonment not exceeding Twelve months (12) or for a punishment of both descriptions.
24. Any person without been registered under subsection 10(1) of this Statute Displaying Designations Such As Indigenous Medical Attendant, Indigenous Medical Measurer in English or in any other language with individual letters or words.
 - (1) Using any connotations, designations additions or descriptions as to imply that he/she is a registered Indigenous Medical Pharmacist Registered Indigenous Medical Attendant, Registered Indigenous Medical Measurer etc. or
 - (2) Using any name designation addition or description to imply that he/she is a Registered Indigenous Medical Pharmacist, Registered Indigenous Medical Attendants, and Registered Indigenous Medical Measurer or using other words or letters to imply the same.
 - (3) Bogusly practicing in the professions of Indigenous Medical Pharmacist, Indigenous Medical Attendant Indigenous Medical “Panchakarma” Therapist Indigenous Medical Measurer or engaging in medical consultation,

Any person who behaves as any of the above positions does thereby commit an offence and if found guilty at a summery trial before a Magistrate is liable for a fine not exceeding Rupees Two Hundred Thousand or to an imprisonment not exceeding six months (06) or to a punishment of both descriptions.

25. Any person who violates the provisions specified in sub section 19(1) of this Statute thereby commits an offence and if found guilty at a summery trial before a Magistrate is liable for a fine not exceeding Rupees Two Hundred Thousand or for an imprisonment not exceeding Six months (06) or for a punishment of both descriptions.

Part V

PROVINCIAL INDIGENOUS MEDICAL ADVISORY COUNCIL

Provincial
Indigenous
Medical service
Advisory
Council .

26. The minister, for the purpose of planning and implementation of provincial Indigenous Medical Services shall appoint an Advisory Council.
27. (1) The Provincial Indigenous Medical Service Advisory council, (here in after referred to as “Advisory Council”) shall consist of following members.
 - (a) The Secretary ;
 - (b) The Commissioner ;
 - (c) The Provincial Director of Health or his representative ;
 - (d) 3 qualified indigenous medical professionals/ practitioners outside the public service, each to represent each of Colombo, Gampaha and Kalutara districts ;
 - (e) A learned professional to represent the field of Indigenous medicine and the general public.
- (2) The Secretary to subject ministry shall be the ex-officer Chairman, while the “Commissioner” shall be the ex-officer Secretary of Advisory Council.
- (3) The members appointed for the positions of (a),(b) and (c) of sub section 27(1) above, will be appointed on the virtue of their offices.
- (4) (a) the tenure of office of the Advisory Council will be three (03) years.
- (b) Every Advisory Council member holds his office for a period of 03 years unless and otherwise his/her memberships was terminated owing to reasons such as resignation, death, or termination of office by the Minister or any other reason and those members whose membership has been terminated are eligible for re appointment.
- (c) At instances where a membership falls vacant owing to the resignation or death of a member or termination of office by the Minister or to some other reason the Minister shall appoint another suitable person to fill the vacancy valid until the end of the tenure of that Council.
- (5) The membership of any member appointed to the advisory council under sub section 27(1) para (d) and (e) can be terminated at any time by the subject minister.
- (6) A member of the Advisory appointed under sub section 7(1) para (d) and (e) can resign from his post any time by submission of a letter of resignation added to the Subject Minister.
- (7) The advisory council shall meet at least once in three months (03).
- (8) The quorum of the Advisory council meeting shall be four members (04).
28. The role of the Advisory Council is to submit their observations recommendations and advices to the subject minister on the matters referred to the council and to submit from time to time their recommendations and/or suggestions for promotion of services rendered by provincial Indigenous Medical Department and to for development of health conditions in the province.

The role of the
Advisory
Council.

\Part VI

HOSPITALS DEVELOPMENT COMMITTEES

29. (1) The Secretary can appoint Hospital Development Committees (here in after referred to as "committees") in respect of Indigenous hospitals, Indigenous central dispensaries, and other indigenous medical institutions. The establishment of Hospitals Development Committees and their composition.
- (2) The composition of a hospital development committees appointed in terms of sub section 29(1) above shall be as follows.
- (a) The divisional secretary of the relevant division or his representative ;
 - (b) The medical officer in charge of the institution ;
 - (c) Members to represent voluntary organizations operating in the area where the relevant institution is located ;
 - (d) Registered Indigenous Medical Practitioners of the area ;
 - (e) Representatives representing Clergy ;
 - (f) Representatives of hospitals staff ;
 - (g) Other persons who are able to provide an active contribution to the development of the institution.
- (3) The representatives mentioned above in paragraphs c, d, e, f, g shall be appointed with the consent of the Minister in charge of the subject and the number of representatives to be appointed thus as per each paragraph shall be decided by way of rules by the Minister according to the categorization of the institution.
- (4) A person named by the Minister from among the Committee members recommended by the Hospital Committee shall become the Chairman of this committee and the Medical Officer in charge of the institution shall ex-officio become the Secretary of this Committee.
- (5) (a) The tenure of the committee shall be 02 years
- (b) If the membership of any committee member appoint under para (c) (d) (e) (g) in sub section 29(2) above, terminates before the completion of tenure of office due to any reason, a successor can be appointed to fill that vacancy with the concurrence of the subject minister in such instances, the so appointed member will hold his office for the remaining period in the tenure of office of his predecessor ;
 - (c) the subject minister can terminate the membership of any appointed committee member at any time and a member in turn can resign at any time of his own ;
 - (d) The quorum of the hospital committee meeting shall be 07 members.
30. The functions of the hospital committees established under section 29 of this Statute shall be as follows. The functions of the hospital development committees.
- (1) Coordination between the relevant institution and public ;
 - (2) Institutional development performances and welfare activities ;
 - (3) Contribution for provision of qualitative services to its clientele by the institution.

31. (1) The Hospital Committee shall meet once a month and the copies of the proceedings of its meetings shall be presented to the Secretary and to the Commissioner.
- (2) A member of a Hospital Committee or his/her spouse or his/her family member shall not enter in to contracts or engage in supplies or bear any other obligation with the relevant hospital.
- (3) In the accomplishment of one's duty, hospital development committee members, based on their committee membership, shall not exercise unnecessary influences with regard to hospital activities.

Part VII

GENERAL PROVISIONS

Provisions of
legislation by the
minister.

32. (1) The subject minister shall provide legislation over following matters.
 - (a) Legislative provisions applicable for registration of Indigenous Medical Institution in Western Province ;
 - (b) The registration fees for Indigenous Medical Institution to be located in Western Province;
 - (c) The procedure to be adapted in registration of a person as an Indigenous Medical employee in Western Province ;
 - (d) The prescription of qualification for registration as an Indigenous Medical Employee ;
 - (e) The documents and forms to be used in Western Province for registration of Indigenous Medical Institutions and other documents necessary for indication ;
 - (f) The documents and forms to be used in Western Province for registration of Indigenous ;
 - (g) The registration of a person as an Indigenous Medical Employee and the period of validation of such registration ;
 - (h) Instances of registration or cancellation of registration of Indigenous Medical Institution in Western Province and rejection of renewal of such registration ;
 - (i) Instances of registration or cancellation of rejection of Indigenous Medical Employee in Western Province and rejection of renewal of such registration ;
 - (j) Establishing Hospital Development Committees and deciding the composition;
 - (h) Any other matter relating to implementation of the provisions coming under this Statute;
- (2) Every legislation enacted under sub section 32(1) above shall be published in the Government Gazette, and they come to operation either of the date of Gazette notification or on a date thereafter as specified in the notification.
- (3) Every legislation enacted under sub section 32(1) and published in the Government Gazette should be directed to the Provincial Council for its approval.
- (4) Any rule that is not so approved should be considered as invalid from the date of that annulment, but there should not be any prejudice for anything that has been done earlier under it.
- (5) The date of any rule that is considered as made invalid should be published in the Gazette.

33. The implementation of the work, duties and authorities of this Statute should be carried out by the Commissioner under the direction and supervision of the Secretary to the Ministry. Direction of the Secretary.
34. At any controversy about the meaning of Sinhala, Tamil and English versions of this Statute the Sinhala version will prevail. In case of a controversy the Sinhala version prevails.
35. Unless a deviation is arrived at the meanings of the words and phrases given below shall be as follows for the purpose of this Statute, Definitions.
- “The Province” means the Western Province of Democratic Socialist Republic of Sri Lanka ;
- “The Provincial council” means the Western Provincial Council ;
- “The Governor” means the governor of western province ;
- “The Subject Minister” means the Provincial Minister in charge of the Indigenous Medicine in the Western Provincial Council ;
- “The Secretary” means the Secretary to the Ministry of Western Provincial Council to which the subject of Indigenous Medicine belongs ;
- “The Commissioner” means the commissioner of indigenous medicine appointed to Department of Indigenous Medicine in Western Provincial Council ;
- “A Person” means any person Indigenous Medicine Institution or Company.