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ASSAM ACT II OF 1944

THE ASSAM NURSES', MIDWIVES' AND HEALTH\* VISITORS' REGISTRATION ACT, 1944

[Published in the Assam Gazette of the 5th April 1944.]

An Act to provide for the registration and better training of nurses, midwives and health visitors in Assam.

Preamble,

WHEREAS it is expedient to provide for the registration of nurses, midwives and health visitors in Assam ;

AND WHEREAS the previous sanction of the Governor has been obtained under section 119(1) of the Government of India Act, 1935 to the introduction of this Bill ;

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Assam Nurses', Midwives' and Health Visitors' Registration Act, 1944.

(2) It extends to the whole of Assam.

(3) It shall come into force on such date<sup>1</sup> as the [State]<sup>2</sup> Government may, by notification direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(a) "Council" means the Assam Nurses', Midwives' and Health Visitors' Council constituted under section 3.

(b) "Institution" includes any association which maintains or controls a nursing establishment.

(c) "Prescribed" means prescribed by rules or regulations made under this Act.

(d) "Register" means a register maintained under section 13 and "registered" means registered under the provisions of this Act.

(e) "Notification" means a notification published in the official Gazette.

(f) "Nurse" includes a male nurse.

Establishment and incorporation of the Council.

3. The [State]<sup>2</sup> Government may, by notification in the official Gazette, establish a Council<sup>3</sup> to be called the "Assam Nurses', Midwives' and Health Visitors' Council" for the purposes of carrying out the provisions of this Act. Such Council shall be a body corporate and have perpetual succession and a common seal and may, by the said name sue and be sued.

Constitution of the Council.

4. The Council shall consist of the following *ex-officio* and nominated members—

(1) the Inspector General of Civil Hospitals, Assam who shall be the President ;

\*For Statement of Objects and Reasons see Assam Gazette, Part V, page 10, 1942.

<sup>1</sup> 15th November 1944 (see Notification No.MMD.132/44/38, dated 11th November 1944); see also Notification No. MMD. 132/44/39, dated 11th November 1944 bringing the Act in force to P. E. Areas.

<sup>2</sup> Substituted by A. O. 1950 for "Provincial".

<sup>3</sup> Established under Notification No.MMD. 132/44/40, dated 11th November 1944.



(2) the Nursing Superintendent, Welsh Mission Hospital, Shillong ;

(3) the Medical Superintendent, Welsh Mission Hospital, Shillong ;

(4) the Nursing Superintendent, St. Luke's Mission Hospital, Chabua ;

(5) the Medical Superintendent, American Mission Hospital, Gauhati ;

(6) The Nursing Superintendent, American Mission Hospital, Jorhat ;

(7) The Nursing Superintendent, Ganesh Das Hospital, Shillong ;

(8) one doctor from [the district of Cachar]<sup>1</sup> to be nominated by the [State]<sup>2</sup> Government on the recommendation of the Assam Medical Council ; and

(9) One registered midwife or health visitor to be nominated by the [State]<sup>2</sup> Government. *or elected*

Publication of names of members.

5. The name of every member nominated under section 4 shall be published by the [State]<sup>2</sup> Government in the official Gazette.

Term of office of the nominated members.

6. (1) Subject to the provisions of section 7 and section 8, the term of office of the nominated Member shall be three years.

(2) A nominated member shall be eligible for re-nomination at the end of his term of office.

(3) The powers of the Council may be exercised notwithstanding any vacancy in the number of its members fixed by section 4.

Filling up of casual vacancies.

7. If any member dies or resigns his membership or ceases to be a member as provided in section 8, the vacancy shall be filled within one month of the notification of the vacancy by fresh nomination under section 4.

Provided that any person nominated to fill a casual vacancy shall hold office only so long as the member in whose place the nomination is made would have held office.

Cessation of membership.

8. A nominated *or elected* member of the Council shall be deemed to have vacated his seat—

(a) If he is absent without excuse sufficient in the opinion of the Council from three consecutive meetings of the Council ;

(b) If he is absent out of India for any period exceeding six consecutive months.

Leave of absence to members.

9. The Council may permit any member to absent himself from the meetings of the Council for any period not exceeding six months.

Meetings of the Council and constitution of Committees.

10. (1) The Council shall make regulations to regulate :—

(a) the mode of transaction of business, including provision for decisions on emergent matters by the circulation of papers to members, and for co-opting persons specially qualified to advise on any particular matter before the Council ;

<sup>1</sup> Substituted by A. O. 1950 for "the Surma Valley".

<sup>2</sup> Substituted by A. O. 1950 for "Provincial".



- (b) the time and place at which its meetings shall be held ;
- (c) the issue of notices convening such meetings ;
- (d) the conduct of business thereat ; and
- (e) the constitution of committees, the delegation to such committees of any powers or duties of the Council under this Act and the procedure of the Committees (including quorum) in the transaction of business ; Provided that—
- (i) no business shall be transacted at any meeting of the Council unless a quorum of ~~four~~ members be present ; and
- (ii) save as provided in section 19, all questions arising at any meeting of the Council shall be decided by the votes of the majority of the members present and voting or in case of an equality of votes, by the casting vote of the President of the Council or in his absence of the member presiding at the meeting.

(2) Until such time as the regulations referred to in sub-section (1) have come into operation, it shall be lawful for the President of the Council to summon a meeting at such time and place as to him seem expedient, by letter addressed to each member.

Payment of fees and travelling expenses to members. 11. There shall be paid to the members of the Council such fees, if any, for attendance at meetings of the Council or of committees of the Council and such reasonable travelling expenses for attending such meetings or for inspecting institutions as may from time to time be allowed by the Council and approved by the [State]<sup>1</sup> Government.

Registrar and office staff of the Council. 12. (1) With the previous sanction of the [State]<sup>1</sup> Government, the Council—

- (a) shall appoint a Registrar ;
- (b) may grant leave to such Registrar and appoint a person to act in his place ; and
- (c) shall pay to the Registrar and to the person (if any) appointed to act in his place such salary or remuneration and such allowances (if any) as the Council may determine.

(2) The Council may appoint such other officers and such clerks and servants as it may consider necessary for the purposes of this Act, and shall pay them such salary or remuneration and such allowances (if any) as the Council may determine.

(3) The Registrar shall act as ~~Secretary and~~ Treasurer to the Council.

Maintenance of register. 13. The Council shall maintain a register of—

- (i) nurses,
- (ii) midwives, and
- (iii) health visitors,

1. Substituted by A. O., 1950 for "Provincial".



in such forms, containing such particulars, and divided into such parts as may be prescribed.

Maintenance of the registers by the Registrar.

14. (1) The Registrar shall keep the registers in accordance with the provisions of this Act and in accordance with any orders made by the Council, and shall, from time to time, make all necessary alterations in the registered addresses or appointments and in the classification, of the registered nurses, midwives and health visitors and erase the name of any such nurse, midwife or health visitor who is dead or has ceased to practise.

(2) To enable the Registrar to fulfil the duties imposed upon him by sub-section (1) he may send through the post a letter to any person registered as a nurse, a midwife or a health visitor addressed to him according to his registered address or appointment, to inquire whether he has ceased to practise or whether his residence or appointment has been changed; and if no answer to any such letter is received within a period of six months from its despatch, the Registrar may erase the name of such person from the register in which it is entered:

Provided that any name erased under this sub-section may be re-entered in the register under the direction of the Council.

Erasure of names from registers on notice of death.

15. (1) Every Registrar of Deaths who receives notice of the death of any person whose name he knows to be entered in one of the registers, shall forthwith transmit by post to the Registrar of the Council a certificate of such death signed by him and stating particulars of the time and place of death.

(2) On receipt of—

- (a) any such certificate, or
- (b) any other reliable information regarding such death the Registrar of the Council shall erase the name of the deceased person from the register in which it is entered.

Erasure of fraudulent and incorrect entries in registers.

16. Any entry in the registers, which is proved to the satisfaction of the Council to have been fraudulently or incorrectly made, may be erased under an order of the Council.

Persons entitled to be registered.

17. The following persons shall on payment of such fee as may be prescribed, be entitled to registration under this Act, namely:—

- (a) nurses, midwives and health visitors who have undergone the courses of training, have passed the examinations and fulfil such further conditions as may be prescribed;
- (b) nurses, midwives and health visitors who are already in practice at the commencement of this Act and nurses under the Auxiliary Nursing Service Scheme who are not entitled to registration under clause (a) subject to such conditions and restrictions as may be prescribed.



Admission to  
register of  
persons trained  
outside  
Assam.

18. On making an application in the prescribed form and on paying such fee, not being greater than the fee payable on ordinary applications for registration under this Act, as the Council may demand, any person shall be entitled to be registered under this Act who proves to the satisfaction of the Council that he has been registered either as a nurse, a midwife or a health visitor in any [State]<sup>1</sup> or country outside Assam in respect of which the Council is satisfied—

- (a) that there is in force therein an enactment, or a provision of any kind having the force of law, providing for the registration of nurses, midwives and health visitors under some public authority;
- (b) that persons registered under this Act are admitted to the register established under the said enactment or provision on terms not less favourable than those contained in this section;
- (c) that the standard of training and examination required for admission to the register of nurses, midwives or health visitors established under the said enactment or provision is not lower than the standard of training and examination required under this Act:

Provided that, notwithstanding any rule made under clause (b) of sub-section (1) of section 34, no fee shall be chargeable for the registration under this section of a nurse, midwife or health visitor whose name has been registered in a [State]<sup>1</sup> in India between the Government of which and the [State]<sup>2</sup> Government the principle of reciprocity of registration has been accepted.

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

19. (1) The Council may refuse to permit the registration of any person as a nurse, midwife or health visitor and when he is registered as a nurse, midwife or health visitor, may direct the temporary or final removal of his name from the register of nurses, midwives or health visitors on any of the following grounds:—

- (a) that he has been sentenced by any Court for any non-bailable offence, the sentence not having been subsequently reversed or quashed;
- (b) that he has been guilty of any offence which in the opinion of the Council indicates professional incompetence, negligence, or contravention of regulations ordinarily included in the performance of the duties of nurses, midwives or health visitors;
- (c) that there are defects in his character which in the opinion of the Council would render the entry or retention of his name on the register undesirable:

Provided that no action shall be taken by the Council under this section until after due enquiry (at which the

1. Substituted by A. O., 1950 for 'Province'.  
2. Substituted by A. O., 1950 for "Provincial".



person concerned has been given an opportunity to be heard in his defence and to appear either in person or by counsel, vakil, pleader or attorney, and which at the discretion of the President of the Council may be held in camera) he has been found, by a majority of two-thirds of the members present and voting at the meeting, to have been sentenced for any non-bailable offence specified, in clause (a) or to have been guilty of an offence, or to have defects in his character of the nature specified in clause (b) or clause (c).

(2) Any name so removed may afterwards be re-entered in the register and any order of refusal of registration 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.

Right of appeal. 20. (1) Any person aggrieved by an order of the Council under section 19 may, within three months from the date on which notice of such order is given to him, appeal to the [State]<sup>1</sup> Government against such order.

(2) The order of the [State]<sup>1</sup> Government on any such appeal shall be final.

Registration under this Act not to qualify for registration under the Assam Medical Act, 1916. 21. The certificate of registration under this Act shall not confer upon any person any right or title to be registered under the Assam Medical Act, 1916 or to assume any title, name or designation implying that he is by law recognised as a medical practitioner or that he is authorised 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.

Institutions for training nurses, midwives or health visitors to be recognised by Council. 22. (1) The institutions which are approved and recognised by the Council after inspection by its President shall be competent to train nurses, midwives or health visitors, and to send them for examination for the qualifying certificates of the Council.

(2) All recognised institutions shall be inspected by the President of the Council at least once in two years.

Withdrawal of recognition from institutions. 23. Whenever the Council, on receipt of an adverse report, is of opinion that an enquiry should be made as to the desirability of withdrawing recognition from a particular institution, it shall depute its President and a member for further inspection on such terms as it thinks fit and at the same time call upon the institution to show cause why its recognition should not be withdrawn.

1. Substituted by A.O. 1950 for "Provincial".



The Council may after consideration of the report so received and of the explanation, if any, by the institution, withdraw the recognition. The order of such withdrawal shall be in writing and shall be served in the prescribed manner.

**Appeals.**

24. Any person or institution aggrieved by an order of the Council under sections 16, 18 or 23 may appeal within three months from the date of such order to the [State]<sup>1</sup> Government. The decision of the [State]<sup>1</sup> Government on any such appeal shall be final.

**Prohibition of issue of certificates and entry of names by unrecognised institutions.**

25. No hospital, school or other similar institution which has not been approved or recognised under sub-section (1) of section 22 shall issue to any person a certificate or enter the name of any person on a list, register or other document purporting to show that such person is qualified by having passed any examination or undergone any course of training to practise as a nurse, midwife or health visitor unless such person has been registered under this Act.

**Supervision by Civil Surgeon.**

26. The Civil Surgeon of the district or such other person as may be appointed by the Council shall in consultation with the local authorities and subject to prescribed conditions and restrictions, exercise general supervision over nurses, midwives and health visitors within the district and exercise and perform such other powers and duties as may be prescribed.

**Disabilities of unregistered persons.**

27. After the expiration of seven years from the commencement of this Act no dispensary, hospital, infirmary or lying-in hospital shall employ any person as a nurse, midwife or health visitor unless he is registered under this Act or is under training in an institution recognised by the Council:

Provided that the [State]<sup>1</sup> Government, on the advice of the Council, may exempt for such period and on such terms as it may fix any such dispensary, hospital, infirmary or lying in hospital from the operation of this section.

**Penalty for dishonest use of certificates.**

28. 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 certificates issued under the provisions of this Act,

1. Substituted by A.O., 1950 for 'Provincial',



- (d) being the Secretary, Manager or other officer of a hospital, school or other institution issues or authorises the issue of, a certificate to any person or enters, or authorises the entry of, the name of such person in contravention of section 25,

shall be punishable with fine not exceeding rupees three hundred.

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

29. Any person who, not being a nurse, midwife or health visitor registered under this 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, shall be punished on conviction with fine not exceeding one hundred rupees in the case of a first offence, and with fine not exceeding three hundred rupees in the case of a second or any subsequent offence.

Publication and use of annual list of registered nurses, midwives and health visitors.

30. (1) The Registrar shall, in every year, on or before a date to be fixed in this behalf by the Council cause to be printed and published correct lists of the names for the time being entered in the several parts of the registers of registered nurses, midwives and health visitors, setting forth—

- (a) all the names entered in the several parts of the respective registers arranged in alphabetical order according to surnames ;
- (b) the registered address or appointment of each person whose name is so entered in the registers ; and
- (c) the registered qualification of each such person and the date on which such qualification was certified.

(2) Every court shall presume that any person whose name is entered in the latest of such lists is duly registered under this Act, and that any person whose name is not so entered is not registered under this Act :

Provided that, in the 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 of nurses, midwives or health visitors shall be evidence that such person is registered under this Act :

Provided also that a certificate purporting to be signed by the Registrar stating that the name of a person borne on the printed register of nurses, midwives or health visitors, as the case may be, has been removed from such register and specifying the date of such removal shall be evidence that such person is not registered under this Act and of the date from which he ceased to be so registered.



Court competent to try offences under the Act. 31. No court other than a Magistrate of the First Class shall try any offence under this Act.

Cognizance of offences. 32. No Magistrate shall take cognizance of any offence punishable under this Act except upon complaint made by the Council.

Power of State Government to make rules. 33. (1) The [State]<sup>1</sup> Government may, after previous publication, make rules<sup>2</sup> 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, they may make rules—

- (a) prescribing the period of less than three years for which a member of the Council may hold office under section 6 ;
- (b) prescribing the manner in which nominations and elections of members of the Council and the election of the Vice-President shall be made, and casual vacancies shall be filled under section 7 ;
- (c) prescribing 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 13 ;
- (d) prescribing the manner in which an order of removal or refusal shall be served on persons under section 19 ;
- (e) prescribing the manner in which an order of withdrawal of recognition of an institution shall be served under section 23 ;
- (f) prescribing the fees payable in respect of an appeal under sections 20 and 24 ; and
- (g) any matter which is to be or may be prescribed.

Power of Council to make rules. 34. (1) The Council may make rules,<sup>3</sup> not inconsistent with this Act or the rules prescribed by the [State]<sup>1</sup> Government,

- (a) regulating the compilation, maintenance and publication of the register and the conditions of admission to the register ;
- (b) prescribing 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 ;
- (c) prescribing and regulating the examinations which must be passed as a condition of admission to the register and any matters ancillary to or connected with such examinations, including the courses of training which the candidates appearing for the examination shall undergo ;

<sup>1</sup> Substituted by A.O., 1950 for "Provincial".

<sup>2</sup> Notification No.MM.O.132/44/54, dated 8th March 1945.

<sup>3</sup> *Vide* Notification No.223-NRC., dated 8th December, 1945.



- (d) prescribing the causes for which, the conditions under which and the manner in which the names of nurses, midwives and health visitors may be removed or re-entered in the register under section 19 ;
- (e) for the approval of any institution for the purpose of such training and the granting of diplomas to candidates passing the examinations ;
- (f) regulating the conditions under which institutions for nursing the sick, maternity or child welfare may be approved and recognised by the Council ;
- (g) appointing a Registrar and such other servants as may be necessary ;
- (h) regulating the pay, pension, conduct and other conditions of service of persons appointed under clause (g) ;
- (i) establishing a provident fund for the benefit of the employees of the Council and of recognised institutions and regulating its administration ;
- (j) regulating and supervising the practice of their profession by registered nurses, midwives and health visitors ;
- (k) regulating the publication of the names of registered nurses, midwives and health visitors and their residences ;
- (l) regulating the conditions under which such nurses, midwives and health visitors registered in other [States]<sup>1</sup> or other countries may be admitted to the register, on such other [States]<sup>1</sup> and countries granting reciprocal registration to persons registered on the register of the Council ;
- (m) 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 ; and
- (n) generally for the provision of any matters in respect of which the Council considers provision should be made for the purposes of this Act.

(2) All rules made under this section shall be published in the Official Gazette.

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<sup>1</sup> Substituted by the A. O., 1950 for "Provinces."



Protection of persons acting in good faith under the Act or rules. 35. No suit or other legal proceedings shall lie against any persons for anything done or intended to be done in good faith under this Act or rules.

Certain persons to be public servants. 36. Every persons appointed under sub-section (1) or sub-section (2) of section 12 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Act not to apply to medical practitioners. 37. Nothing in this Act shall apply to medical practitioners possessing qualifications entitling them to registration under the Assam Medical Act, 1916.