

BILL ESSENTIALS

THE NURSES AND MIDWIVES REGISTRATION (AMENDMENT) BILL, 2014

Background

The Nurses and Midwives Registration Act, Chap. 29:53¹ was first passed on October 14, 1960. Since then it has been amended on three (3) occasions. The Minister of Health, in a speech dated Monday July 02, 2012², indicated that despite the Ministry's increase in the number of training programmes, there continues to be a severe shortage of nurses within the local health system. This, in addition to other factors, has impacted negatively on the Ministry's manpower planning. The Minister went on further to state that the Ministry would be exploring various initiatives in an attempt to rectify the situation. It can therefore be surmised that the amendments to the Nurses and Midwives Registration Act, Chap. 29:53, is one such initiative.

What is the purpose of the Bill?

The Bill seeks to amend the Nurses and Midwives Registration Act, Chap. 29:53 by introducing a new category of nurses to be known as "advanced practice nurse" for whom there shall be created a new register.

Relative Legislation mentioned in the Bill

- The Nurses and Midwives Registration Act, Chap. 29:53.

Key Features of the Proposed Legislation:

Among other amendments, the Bill:

1. Amends section 2 of the Act with the insertion of new definitions for:
 - "advanced practice nurse";
 - "Minister";
 - "nurse intern";
 - "nursing personnel"; and
 - "Regional Nursing Body".
2. Provides new Sections 3A and 3B, whereby Section 3A makes provision for the functions of the Nursing Council (hereafter "the Council") and Section 3B, provides for the powers of the Council.
3. Repeals and replaces Section 4 to provide for the composition of the Council.

¹ http://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/29.53.pdf

² <http://www.health.gov.tt/downloads/DownloadDetails.aspx?id=274>

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4. Provides a new Section 4A which provides for the election of a new Council.
5. Amends Section 5 by providing, in a new subsection (8), that the Council appoint non-members of the Council to become members of its committees.
6. Provides for a new Section 8A where the Council must employ a suitably qualified person to be the Registrar of the Council.
7. Amends Section 15 of the Act:
 - by creating a new register for the category of advanced practice nurses by deleting in subsection (1), the words “a register to be known as the Register of Nurses” and substituting the following words “registers to be known as the Register of Nurses and the Register of Advanced Practice Nurses;”
 - by amending subsections (2) and (3) to provide for the implementation of a new register of Advanced Practice Nurses;
 - by inserting five (5) new subsections whereby:
 - subsection (4) ensures that the Register of Advanced Practice Nurses contains the particulars of persons entered therein;
 - subsection (5) provides that where the name of a person is not entered in the Register of Advanced Practice Nurses, that person shall not hold himself/herself out to be an advance practice nurse;
 - subsection (6) provides that names appearing in the Register of Advanced Practice Nurses may also appear in the Register of Nurses;
 - subsection (7) provides for the removal of the name of a nurse or an advanced practice nurse under section 18 of the Act; and
 - subsection (8) provides that notwithstanding the removal of a person’s name on the Register of Advance Practice Nurses, the Council can retain said person’s name on the Register of Nurses.
8. Amends section 16 of the Act by repealing subsections (2), (3), (4) and (5) and substitute new subsections (2) and (3), which provides for the registration of qualified, fit and proper persons.

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9. Provides for a new Sections 16A and 16B, where:

- 16A makes provision for the granting of Provisional Nurse's or Midwives' Certificates and conditions for the granting of such; and
- 16B provides for the Council to keep a Provisional Nurse's Roll on which the names of the persons granted provisional certificates under Section 16A shall be entered.

10. Amends Section 17 of the Act:

- by inserting a new subsection (1A) and provides for the Council issuing persons whose names are on the Register of Advanced Practice Nurses with a licence to practise;
- by repealing and replacing subsection (2) which provides that the Council may suspend a person's certificate or licence if they fail to pay any annual registration fee three months after it becomes due.
- by amending subsection (3) to increase the fines and imprisonment for a first offence from five hundred dollars or to six months imprisonment, to ten thousand dollars and one year imprisonment. The fine for a second offence would be increased from "one thousand dollars" to "fifteen thousand dollars"; and
- by inserting a new subsection (4), which makes it an offence for anyone to practise as an advanced practice nurse after their certificate of registration has been suspended. Upon summary conviction, the fine for a first offence is twenty thousand dollars or imprisonment for three years, and in the case of a second or subsequent offence, the fine would be twenty-five thousand dollars or imprisonment for five years.

11. Amends Section 19 of the Act by inserting the new category of "Advanced Practice Nurse", and alters the fine of "two thousand dollars" to "ten thousand dollars", for a person practicing as a registered nurse when the certificate of registration has been suspended or that person has not been registered as a Nurse under the Act.

12. Amends Section 21 of the Act by repealing and replacing subsections (2) and (3) where:

- subsection (2) provides for the conditions required for a person to be entered on the register; and
- subsection (3) provides for how the Council determines fit and proper persons.

13. Amends Section 22 of the Act:

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- by repealing and replacing subsection (2) which allows the Nursing Council to suspend a person's certificate or licence for failure to pay the annual registration fee. The Council would also be able to restore a licence or certificate once the fee has been paid, in addition to any other fine which they may deem necessary; and
 - by increasing the fine payable and imprisonment terms for a midwife who practices while his/her licence has been suspended.
14. Amends Section 24 of the Act by increasing the fine payable and imprisonment term for a midwife who fails to inform the Secretary of the Nursing Council, within the stipulated time, that his/her registration has been suspended or cancelled.
 15. Amends Section 25 of the Act by increasing the fine payable and imprisonment term for a midwife who fails to give the required notice of an intention to practise in a district, the districts in which he/she has resided, and the district in which he/she has practised in the preceding year.
 16. Amends Section 29 of the Act by increasing the fine from two thousand dollars to five thousand dollars for a person who falsely conveys the impression of being a midwife.
 17. Amends Section 31 of the Act by increasing the fine for an unqualified person who acts as a midwife or assists a woman in childbirth other than under a professional supervision.
 18. Inserts a new Section 32A and provides that the term "midwife" shall also include a "male" midwife.
 19. Amends Section 35 of the Act by increasing the fine payable and imprisonment term from "one hundred" to "five hundred dollars or imprisonment for three months", for a Nursing Assistant who practises after his/her certificate has been suspended. In the case of a second or subsequent offence, the fine and imprisonment has also been increased to one thousand dollars and imprisonment for six months.
 20. Amends Section 41 of the Act:
 - by inserting after Section 41(2)(a), new paragraphs which permits the Council to prescribe the conditions and qualifications of persons who may be registered as Advanced Practice Nurses; and
 - by inserting a new paragraph after Section 41(2)(b) which allows the Council to prescribe the standards for continuous education and training of Advanced Practice

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Nurses and Midwives; and regulate and define the nature of the services performed by Advanced Practice Nurses in paragraph (d).

21. Amends Section 44 of the Act by giving the Council the authority to restore the names of Advanced Practice Nurses from the Register of Advanced Practice Nurses.
22. Amends Section 47 of the Act by making it an offence for anyone to make any falsifications on the Register of Advanced Practice Nurses.
23. Amends Section 48 of the Act by permitting the Council to also approve the design or description of any badge or uniform to be worn by Advanced Practice Nurses.
24. Amends Section 49 of the Act and provides that the Secretary of the Nursing Council may give notice to Advanced Practice Nurses when their application for registration has been refused, or an order for removal or suspension, from the Register of Advanced Practice Nurses has been made
25. Inserts a new Sections 51A and 51B whereby:
 - Section 51A makes provision for “Times of Emergency” where the Minister may permit, by Order, a person who is registered to practice nursing or midwifery in his governing country, to provide specific skills and technology in Trinidad and Tobago as if he had been issued a licence to practice under this Act. The Order would specify the time period for which this circumstance would be permitted; and
 - Section 51B makes provision for the Minister, by Order, to permit nursing personnel who are registered to practise nursing or midwifery in their governing country and who are part of a planned visiting education, or teaching programme, or medical visiting treatment team, to provide specific skills and technology to practise as if a licence had been issued under this Act.
26. Makes general amendments:
 - by deleting the words “is guilty of” throughout the Act and substituting the word “commits”; and
 - by inserting before the words “is liable on”, the words “commits an offence and”, which is in keeping with our current legislative language.
27. Provides that where there is a reference to the “Nurses and Midwives Registration Act”, in any written law, such reference shall now be substituted with a reference to the “Nursing and Midwives Act”.

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Considerations

The Bill:

- i) does not provide for conditions under which a person's appointment to the Nursing Council can be terminated or revoked;
- ii) does not make provisions for meetings and quorum of the Council;
- iii) Provides for a new composition of the Nursing Council as well as a reduction of the number of persons comprising the Council from twenty-two persons (22) to fifteen persons (15). Additionally, provision has been made for the appointment of an Attorney-at-law and a member of the public who is not an advanced practice nurse, midwife, nurse or nursing assistant, to the Nursing Council;
- iv) provides for the employment of a suitably qualified person to be the Registrar of the Council; and
- v) provides that the criteria for being considered a "fit and proper person" are:
 - being of good character;
 - being mentally and physically capable of performing satisfactorily, the duties of a nurse; and
 - having the ability to understand , read and speak English.

Comparison of Similar Legislation in other territories

Country	Legislation	Remarks
United Kingdom	Midwives Registration Act, 1902. ³	The stated purpose of the Act was 'to secure the better training of midwives and to regulate their practice'. The Act enabled a cabinet minister, the lord president of the council, to set up the first Central Midwives Board, consisting of four doctors, one of whom was to be appointed by

³ <http://www.rcm.org.uk/midwives/features/the-midwives-act-1902-an-historical-landmark/>

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		<p>the Incorporated Midwives Institute, two people — one had to be a woman — appointed by the minister, one person appointed by the county councils, one by the Queen Victoria’s Jubilee Institute for Nurses and one by the Royal British Nurses Association. The Act stipulated the need for a Board secretary and other officers as might be required.⁹</p>
	Midwives Act, 1918. ⁴	
	Midwives Bill, 1926. ⁵	<p>The Bill sought to amend the Midwives Acts 1902 and 1918, and to provide for the registration of maternity homes, and for the purposes connected therewith.</p>
	Midwives Act, 1936. ⁶	<p>The Act required that midwives employed in the new service, whether by local supervising authorities, welfare councils or voluntary organizations shall be the whole-time servants of these bodies, but it does not require that shall devote the whole of their time to midwifery and maternity nursing.¹⁰</p>
	The Nursing and Midwifery Order, 2001. ⁷	<p>The Order makes provisions for the Nursing and Midwifery Council and its committees, registration, education and training, fitness to practice, appeals, offences, and rules to</p>

⁴ <http://rcnarchive.rcn.org.uk/data/VOLUME061-1918/page120-volume61-17thaugust1918.pdf>

⁵ <http://rcnarchive.rcn.org.uk/data/VOLUME074-1926/page087-volume74-april1926.pdf>

⁶ <http://hansard.millbhttp://rcnarchive.rcn.org.uk/data/VOLUME061-1918/page120-volume61-17thaugust1918.pdf>

⁶ <http://rcnarchive.rcn.org.uk/data/VOLUME074-1926/page087-volume74-april1926.pdf>
fanksystems.com/commons/1937/mar/25/midwives-act-1936-appointment

⁷ <http://www.nmc-uk.org/Documents/Legislation/Nursing-and-Midwifer>

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	The Nursing and Midwifery (Amendment) Order, 2008. ⁸	midwifery practice etc. ¹¹ The Order makes a number of amendments to the Nursing and Midwifery Order 2001 (“the 2001 Order”), which makes provision for the statutory regulation of nurses and midwives. In particular, the amendments relate to the governance arrangements of the Nursing and Midwifery Council (“NMC”), and its committees. ¹²
Australia South Australia	Nurses Act, 1999. ¹³ Nursing and Midwifery Practice Act, 2008. ¹⁴	An Act to provide for the registration and enrolment of nurses; to regulate nursing for the purpose of maintaining high standards of competence and conduct by nurses in South Australia; to repeal the Nurses Act 1984; and for other purposes. This Act however, was repealed by Schedule 1 Clause 1 of the Nursing and Midwifery Practice Act, 2008. An Act to protect the health and safety of the public by providing for the registration and enrolment of nurses, midwives and students; to regulate the provision of nursing and midwifery care for the purpose of maintaining high standards of competence and conduct by

[y-Order-2001-Consolidated-text-effective-from-20090514.pdf](http://www.rcm.org.uk/midwives/features/the-midwives-act-1902-an-historical-landmark/)

⁹ <http://www.rcm.org.uk/midwives/features/the-midwives-act-1902-an-historical-landmark/>

¹⁰ <http://rcnarchive.rcn.org.uk/data/VOLUME084-1936/page280-volume84-october1936.pdf>

⁸ <http://www.legislation.gov.uk/ukdsi/2008/9780110813837/contents>

¹¹ http://www.legislation.gov.uk/ukdsi/2002/253/pdfs/uksi_20020253_en.pdf

¹² http://www.legislation.gov.uk/ukdsi/2008/9780110813837/pdfs/ukdsiem_9780110813837_en.pdf

¹³ <http://www.legislation.sa.gov.au/LZ/C/A/NURSES%20ACT%201999/2003.11.23/1999.19.PDF>

¹⁴

<http://www.legislation.sa.gov.au/LZ/C/A/NURSING%20AND%20MIDWIFERY%20PRACTICE%20ACT%202008/2010.06.30/2008.50.UN.PDF>

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		nurses, midwives, students and services providers; and for other purposes.
New Zealand	<p>Nurses and Midwives Registration Act, 1925.¹⁵</p> <p>Nurses Act, 1977.¹⁶</p> <p>Health Practitioners Competence Assurance Act, 2003.¹⁷</p>	<p>An Act to consolidate and amend certain Enactments of the General Assembly relating to the Registration of Nurses and Midwives.</p> <p>The Act made provisions for the constitution, membership of the Nursing Council of New Zealand, for the registration and enrollment of Nurses, Schools of Nurses and Nursing Programmes, discipline etc.</p> <p>The Act makes provisions for the registration of, and practicing certificates for, health practitioners, competence, fitness to practice and, quality assurance among other things.</p>
Jamaica	Nurses and Midwives Act. ¹⁸	An act to repeal the Midwifery Law and the Nurses Registration Law and to provide for control of the training and practice of nurses, midwives and assistant nurses, for the registration of nurses and midwives and the enrolment of assistant nurses and for matters incidental to or connected with the matters aforesaid. ¹⁹
Barbados	Nurses Bill, 2008. ²⁰	This Bill will repeal and replace the Nurses and Midwives (Registration) Act, Cap. 372, to make new provision for the registration, regulation and discipline of the nursing profession; and for related purposes.

¹⁵ http://www.austlii.edu.au/nz/legis/hist_act/namra192516gv1925n10438.pdf

¹⁶ <http://legislation.knowledge-basket.co.nz/gpacts/public/text/1977/an/053.html>

¹⁷ <http://www.legislation.govt.nz/act/public/2003/0048/latest/DLM203312.html>

¹⁸ http://moj.gov.jm/sites/default/files/laws/Nurses%20and%20Midwives%20Act_1.pdf

¹⁹ <http://moj.gov.jm/laws/nurses-and-midwives-act>

²⁰ <http://barbadosparliament.com/htmlarea/uploaded/File/Bills/2008/Nurses%20Bill,%202008.pdf>

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India	Indian Nursing Council Act, 1947. ²¹	An Act to constitute an Indian Nursing Council... whereas it is expedient to constitute an Indian Nursing Council in order to establish a uniform standard of training for nurses, midwives and health visitors.
	Nurses and Midwives Act, 1953. ²²	
	Nurses and Midwives (Amendment) Act, 1964. ²³	An Act further to amend the Nurses and Midwives Act, 1953.
Singapore	Nurses and Midwives Act (Chapter 209). ²⁴	An Act to establish the Singapore Nursing Board, to provide for the registration and enrolment of nurses, the registration of midwives and the certification of Advanced Practice Nurses and for matters connected therewith. ²⁶
	Nurses and Midwives (Amendment) Bill, 2005. ²⁵	An Act to amend the Nurses and Midwives Act (Chap. 209 of the 2000 revised edition).

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²¹ <http://www.indiannursingcouncil.org/pdf/inc-act-1947.pdf>

²² http://keralalawsect.org/acts/enactments/act10_1953/index.html

²³ http://keralalawsect.org/keralacode/act14_1964/index.html

²⁴ <http://policy.mofcom.gov.cn/english/flaw!fetch.action?id=f7614114-5429-4f57-b79a-487a12486093>

²⁵ http://www.parliament.gov.sg/sites/default/files/050006_0.pdf

²⁶ <http://statutes.agc.gov.sg/aol/search/display/view.w3p?page=0;query=DocId%3A%223f37c2bf-4f72-4fa4-a166-eadc0769a866%22%20Status%3Ainforce%20Depth%3A0;rec=0>

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[uk.org/Documents/Legislation/Nursing-and-Midwifery-Order-2001-Consolidated-text-effective-from-20090514.pdf](http://www.nmc-uk.org/Documents/Legislation/Nursing-and-Midwifery-Order-2001-Consolidated-text-effective-from-20090514.pdf)

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January 15, 2014