



GOVERNMENT GAZETTE
OF THE
REPUBLIC OF NAMIBIA

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CONTENTS

Page

GOVERNMENT NOTICE

No. 160 Promulgation of Council for Health and Social Services Professions Act, 1993 (Act 29 of 1993), of the Parliament 1

Government Notice

OFFICE OF THE PRIME MINISTER

No. 160

1993

**PROMULGATION OF ACT
OF PARLIAMENT**

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 29 of 1993: Council for Health and Social Services Professions Act, 1993.

**COUNCIL FOR HEALTH AND SOCIAL
SERVICES PROFESSIONS ACT, 1993****ACT**

To provide for the establishment and constitution of the Council for Health and Social Services Professions, and its powers, duties and functions; the appointment of a registrar and other personnel of the Council; and to provide for matters incidental thereto.

(Signed by the President on 26 November 1993)

ARRANGEMENT OF SECTIONS

1. Definitions.
2. Establishment of Council for Health and Social Services Professions.
3. Objects of Council.
4. General powers of Council.
5. Constitution of Council.
6. Disqualifications for appointment as members of Council.
7. Procedure at appointment of members of Council.
8. Vacation of offices and filling of vacancies on Council.
9. Office-bearers of Council.
10. Meetings, quorum and procedures of Council.
11. Committees of Council.
12. Finances of Council, keeping of accounts and submission of reports.
13. Registrar and other personnel of Council.
14. Powers of Council in relation to appeals.
15. Keeping of registers.
16. Levying of annual fees on Boards.
17. Regulations.
18. Delegation of powers.
19. Limitation of liability.
20. Short title and commencement.

**COUNCIL FOR HEALTH AND SOCIAL
SERVICES PROFESSIONS ACT, 1993**

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

PART I**DEFINITIONS****Definitions.**

1. In this Act, unless the context otherwise indicates -

“Board” means any Board established by or under the provisions of the Medical and Dental Professions Act, 1993, the Nursing Professions Act, 1993, the Pharmacy Profession Act, 1993, the Social and Social Auxiliary Workers’ Profession Act, 1993, or the Allied Health Services Professions Act, 1993, as the case may be;

“Council” means the Council for Health and Social Services Professions established by section 2;

“legal practitioner” means any person enrolled as an advocate in terms of the Admission of Advocates Act, 1964 (Act 74 of 1964), or admitted to practise as an attorney in terms of the Attorneys Act, 1979 (Act 53 of 1979);

“member” means a member of the Council;

“Minister” means the Minister of Health and Social Services;

“Permanent Secretary” means the Permanent Secretary: Health and Social Services;

“prescribe” means prescribe by regulation, and “prescribed” shall have a corresponding meaning;

“registrar” means the registrar of the Council referred to in section 13;

“regulation” means any regulation made and in force under this Act;

“this Act” includes the regulations.

Act No. 29, 1993

COUNCIL FOR HEALTH AND SOCIAL SERVICES PROFESSIONS ACT, 1993

Establishment of Council for Health and Social Services Professions.

2. (1) There is hereby established a council to be known as the Council for Health and Social Services Professions.

(2) The Council shall be a juristic person.

Objects of Council.

3. The objects of the Council shall be -

- (a) at the request of the Minister, to assist him or her in the promotion of the health and welfare of the population of Namibia;
- (b) to act as co-ordinating body for the professions in respect of which any Board or Boards have been established, as the case may be;
- (c) to promote the standard of tuition and training of, and the rendering of professional services by, such professions;
- (d) to assist and advise any Board in any negotiations with the Government or any organization or other body relating to such Board's objects and, in general, the performance of its duties and functions;
- (e) to advise and make recommendations to the Minister on any matter falling within the scope of this Act or referred to the Council by the Minister;
- (f) to communicate to the minister any information on matters of public interest acquired by the Council in the performance of its functions under this Act or any other law.

General powers of Council.

4. (1) The Council may -

- (a) acquire, hire or dispose of property, borrow money on the security of the assets of the Council or accept and administer any trust or donation;
- (b) make rules for the control and handling of the funds of the Council;
- (c) investigate and consider any matter affecting the health and social services in Namibia referred to it by the Minister or any board;

**COUNCIL FOR HEALTH AND SOCIAL
SERVICES PROFESSIONS ACT, 1993**

- (d) on request of any Board, advise such Board in respect of the qualifications which such Board may require any person to possess in order to register or enrol with such Board, as the case may be;
- (e) on request of the Minister, render any secretarial assistance and perform any other administrative functions for or on behalf of any Board;
- (f) exercise or perform any power or duty conferred or imposed upon it by or under this Act or any other law and, generally, perform such other functions as may be necessary for or conducive to the achievement of the objects of this Act, or as the Minister may, from time to time, determine.

(2) The Council may, with the approval of the Minister, for the purposes of the rendering of any advice or assistance to, or the performance of any other functions for or on behalf of, any Board referred to in subsection (1), enter into any agreement with such Board on such conditions and at such remuneration payable to the Council as may be so agreed upon, and may enter into any agreement with any person for the rendering of such advice or assistance or performance of such functions, as the case may be.

Constitution of Council.

5. (1) The Council shall, subject to the provisions of section 6, consist of the following members, namely -

- (a) three persons of whom one shall be a legal practitioner appointed by the Minister;
- (b) one person registered or deemed to be registered as a medical practitioner under the Medical and Dental Professions Act, 1993, and appointed by the Medical Board referred to in that Act;
- (c) one person registered or deemed to be registered as a dentist under the said Medical and Dental Professions Act, 1993, and appointed by the Dental Board referred to in that Act;
- (d) two persons registered or deemed to be registered as nurses under the Nursing Professions Act, 1993, and appointed by the Nursing Board referred to in that Act;

**COUNCIL FOR HEALTH AND SOCIAL
SERVICES PROFESSIONS ACT, 1993**

- (e) one person registered or deemed to be registered as a pharmacist under the Pharmacy Profession Act, 1993, and appointed by the Pharmacy Board referred to in that Act;
- (f) one person registered or deemed to be registered as a social and social auxiliary worker under the Social and Social Auxiliary Workers' Profession Act, 1993, and appointed by the Social and Social Auxiliary Workers' Board referred to in that Act; and
- (g) three persons appointed by the Minister, of whom all shall be persons registered or deemed to be registered under the Allied Health Services Professions Act, 1993, and elected for appointment in the manner determined by the Minister by notice in the *Gazette* by the persons registered or deemed to be registered under that Act.

(2) For the purposes of paragraph (g) of subsection (1), any person, so referred to therein, whose name appears on any register established and kept in accordance with the provisions of section 48 of the Allied Health Services Professions Act, 1993, shall be deemed to be registered under that Act as contemplated in that paragraph.

(3) Subject to the provisions of section 8, the members of the Council shall hold office for a period of five years, but shall be eligible for re-appointment.

(4) For the purposes of the constitution of the first Council -

- (a) the Boards referred to in paragraphs (b), (c), (d), (e) and (f) of subsection (1) shall, at the written request of the registrar and within the period stated in such request, each appoint a person or persons, as the case may be, as a member or members in accordance with the provisions of that subsection, and in writing inform the registrar of the name or names of the person or persons so appointed; and
- (b) the registrar shall by notice in the *Gazette* convene a meeting to be held on a date and at a time and place specified in such notice for the election by the persons referred to in paragraph (g) of subsection (1) of three persons for appointment as members in terms of the provisions of that paragraph,

**COUNCIL FOR HEALTH AND SOCIAL
SERVICES PROFESSIONS ACT, 1993**

and subsequent constitutions of the Council shall be effected in accordance with the provisions of section 7.

(5) If any Board referred to in paragraph (b), (c), (d), (e) or (f) of subsection (1) fails to make an appointment in terms of the provisions of any of those paragraphs or the persons referred to in paragraph (g) of that subsection fail to elect for appointment any person in terms of the provisions of that paragraph, as the case may be, the Minister shall make the necessary appointment, and any appointment so made by the Minister shall be deemed to have been properly made in terms of the appropriate paragraph of subsection (1).

(6) The Minister may prior to any appointment of any person as a member of the Council under paragraph (a) of subsection (1) or subsection (5) consult with any board, council or other body or organization which, in the opinion of the Minister, represents the interests of the profession in respect of which such person is registered or enrolled, as the case may be.

(7) If anything required to be done under this Act in connection with the appointment of any member of the Council or the election for appointment of any person as such a member, is omitted or not done within the time or manner required by this Act, the Minister may order all such steps to be taken as may be necessary to rectify the omission or error or may validate anything done in an irregular manner or form, in order to give effect to the objects of this Act.

Disqualifications for
appointment as members
of Council.

6. No person -

- (a) who is not a Namibian citizen or not lawfully admitted to Namibia for permanent residence therein, and resident in Namibia;
- (b) who is an unrehabilitated insolvent;
- (c) who in terms of any law is disqualified from practising his or her profession,

shall be appointed as a member of the Council.

Act No. 29, 1993

**COUNCIL FOR HEALTH AND SOCIAL
SERVICES PROFESSIONS ACT, 1993**Procedure at appointment
of members of Council.

7. (1) The registrar shall -

(a) not less than 45 days prior to the date of expiry of the term of office of the members of the Council referred to in section 5(3) -

(i) request in writing the Boards referred to in paragraphs (b), (c), (d), (e) and (f) of section 5(1) each to appoint a member or members, as the case may be, in terms of the provisions of such section, whereupon the said Boards shall appoint such member or members within the period stated in such request and inform the registrar of the name or names of the member or members so appointed;

(ii) by notice in the *Gazette* convene a meeting to be held on a date, at a time and place specified in such notice, by persons referred to in paragraph (g) of that section, whereupon such persons shall elect for appointment in accordance with the provisions of this Act members of the Council and inform the registrar of the names of the members so elected;

(b) immediately after the appointments or elections referred to in paragraph (a), as the case may be, inform the Minister of the names of the members so appointed or elected, whereupon the Minister shall appoint the members referred to in paragraphs (a) and (g) of section 5(1).

(2) The names of the members of the Council and the date of commencement of their term of office shall be published by the registrar in the *Gazette* as soon as possible after the constitution of the Council.

Vacation of offices and
filling of vacancies on
Council.

8. (1) A member of the Council shall vacate his or her office, if -

(a) such person becomes subject to any disqualification contemplated in section 6;

(b) he or she is declared mentally ill under the Mental Health Act, 1973 (Act 18 of 1973);

**COUNCIL FOR HEALTH AND SOCIAL
SERVICES PROFESSIONS ACT, 1993**

- (c) he or she in writing under his or her hand, addressed and delivered to the registrar, resigns from his or her office;
- (d) he or she has been absent from more than two consecutive meetings of the Council without its leave; or
- (e) he or she is convicted of an offence and sentenced to a term of imprisonment without the option of a fine.

(2) Any vacancy on the Council arising from any circumstance referred to in subsection (1) or caused by the death of any member of the Council, shall be filled by appointment *mutatis mutandis* in accordance with the provisions of section 5(1), and every member so appointed shall hold office for the unexpired portion of the period of office of the vacating member.

Office-bearers of Council.

9. (1) At the first meeting of every newly constituted Council the members of the Council shall elect from their number a chairperson and vice-chairperson.

(2) The chairperson and vice-chairperson shall hold office as such during their terms of office as members of the Council, unless he or she, as the case may be, sooner resigns or ceases to be a member of the Council.

(3) If for any reason the chairperson is absent or unable to act as chairperson, the vice-chairperson shall perform all the duties and functions and exercise all the powers of the chairperson.

(4) If both the chairperson and vice-chairperson are absent from any meeting, the members present shall elect one from their number to preside at that meeting, and the person so presiding may at such meeting during such absence perform the duties and functions and exercise the powers of the chairperson.

(5) If the office of chairperson or vice-chairperson becomes vacant, the members of the Council shall at the first meeting after such vacancy has occurred, elect from among their number a new chairperson or vice-chairperson, as the case may be, and the member so elected shall hold office for the unexpired portion of the period of office of his or her predecessor.

**COUNCIL FOR HEALTH AND SOCIAL
SERVICES PROFESSIONS ACT, 1993**

(6) No person shall hold the office of chairperson for longer than two consecutive terms of office: Provided that a portion of a period of office referred to in subsection (5) shall be deemed not to constitute a term of office as contemplated in this subsection.

(7) The chairperson or vice-chairperson may vacate his or her office as chairperson or vice-chairperson, as the case may be, without terminating his or her membership of the Council.

Meetings, quorum and
procedures of Council.

10. (1) The meetings of the Council shall be held at such times and venues as the chairperson of the Council may determine.

(2) (a) The chairperson of the Council shall, upon the written request signed by at least seven members of the Council or upon the written request by the Minister convene a special meeting of the Council to be held within 30 days after the date of receipt of such request, and on such date and at such place as he or she may determine.

(b) Such written request shall state clearly the purpose for which the meeting is to be convened.

(3) A majority of the members of the Council shall constitute a quorum for any meeting of the Council.

(4) The decision of the majority of the members of the Council present at any meeting of the Council shall constitute a decision of the Council, and in the event of an equality of votes, the person presiding at such meeting shall have a casting vote in addition to his or her deliberative vote.

(5) No decision taken by the Council or act performed under the authority of the Council shall be invalid by reason only of a vacancy on the Council, or by reason only of the fact that any person who is not entitled to sit as a member of the Council sat as a member of the Council when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the requisite majority of the members of the Council who were present at the time and entitled to sit as such members.

(6) The Council may make rules in relation to the holding of, and procedures at, meetings of the Council.

**COUNCIL FOR HEALTH AND SOCIAL
SERVICES PROFESSIONS ACT, 1993**

(7) The Council shall cause proper records to be kept of the proceedings of its meetings.

(8) (a) Any meeting of the Council where the Council hears any appeal to it under any law, shall be open to the public, unless the Council determines, subject to the provisions of the proviso to Article 12(1)(a) of the Namibian Constitution, otherwise.

(b) Any member or former member of the Council or any committee of the Council referred to in section 11, shall preserve and aid in preserving secrecy in relation to all matters that may come to his or her knowledge at or in respect of any meeting of the Council or such committee and shall not communicate any such matter to any other person or permit any other person to have access to any documents in his or her possession or custody related to such matter, except in so far as any such communication or document is required by, or may be made in terms of this Act or any other law, or is required by an order of a court of law.

(c) Any person who contravenes or fails to comply with any determination referred to in paragraph (a) or with the provisions of paragraph (b) shall be guilty of an offence and on conviction be liable to a fine not exceeding R1 000 or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

(9) No appeal shall lie against any decision of the Council.

Committees of Council.

11. (1) (a) The Council shall establish an executive committee which shall consist of the chairperson of the Council (who shall also be the chairperson of that committee) and such number of other members of the Council, appointed by it, but not less than three and not more than five, as may be determined by the Council, to exercise such of the Council's powers and perform such of the Council's duties and functions as the Council may, subject to such conditions as the Council may determine, from time to time confer upon or assign to it, but the Council shall not be divested of any power, duty or function so conferred or assigned.

**COUNCIL FOR HEALTH AND SOCIAL
SERVICES PROFESSIONS ACT, 1993**

(b) The executive committee shall at the first meeting of the Council held for that purpose after the end of any financial year referred to in section 12(4)(e), submit to the Council a report on its activities during that financial year, which report shall be submitted in the manner and form determined by the Council.

(2) For the purposes of the provisions of this Act, any power exercised and any duty or function performed by the executive committee referred to in subsection (1) by virtue of the provisions of paragraph (a) of that subsection shall be deemed to have been exercised or performed by the Council.

(3) The Council may from time to time establish such other committees as it may deem necessary, each consisting of such number of members of the Council, appointed by the Council, as the Council may determine, to investigate and report to the Council on any matter falling within the scope of the Council's functions under this Act or any other law.

(4) The executive committee or any other committee referred to in this section may co-opt, with the approval of the Council and on such conditions and for such period (if any) as may be determined by the Council, one or more persons to assist it in the performance of its functions, but such person or persons shall not be entitled to vote on any matter before such committee.

(5) The Council may make rules in relation to the holding of, and procedures at, meetings of the executive committee and other committees of the Council.

Finances of Council,
keeping of accounts and
submission of reports.

12. (1) The funds of the Council shall consist of such fees and such other moneys, including assistance referred to in subsection (2), as may in terms of this Act from time to time become payable to the Council, and the Council shall utilize its funds for defraying expenses incurred in connection with the performance of its functions.

(2) The Minister may, in consultation with the Minister of Finance and subject to such conditions as the Minister may determine, at any time grant to the Council out of moneys appropriated by law such financial assistance as he or she may deem necessary in connection with the performance of its functions.

**COUNCIL FOR HEALTH AND SOCIAL
SERVICES PROFESSIONS ACT, 1993**

(3) The Council may invest any unexpended portion of its funds and may establish such reserve funds and pay therein such amounts as it may deem necessary or expedient.

(4) (a) The Council shall cause full and correct accounts to be kept of all moneys received or expended by it.

(b) The Council shall cause to be prepared in each year a statement of its income and expenditure during its last preceding financial year and a balance sheet showing its financial position at the end of that financial year and shall, after the statement and balance sheet have been audited by an auditor appointed by the Council, cause copies thereof to be transmitted to every member of the Council, and caused a copy thereof to be open for inspection at the office of the Council by any person registered with any Board.

(c) The Council -

(i) shall in each year, as soon as possible after the close of its financial year, submit to the Minister a report in regard to its activities during that financial year, together with a copy of the audited statement of income and expenditure and the balance sheet referred to in paragraph (b) in respect of that financial year;

(ii) may in each year after receipt of any report, statement of income and expenditure or balance sheet from any Board under any law, submit to the Minister such report, statement or balance sheet if it deems it desirable to do so.

(d) The Minister shall table any report, statement of income and expenditure or balance sheet referred to in paragraph (c) in the National Assembly.

(e) The financial year of the Council shall end on 30 June of each year, unless the Council, with the approval of the Minister, determines otherwise.

Act No. 29, 1993

COUNCIL FOR HEALTH AND SOCIAL SERVICES PROFESSIONS ACT, 1993

Registrar and other personnel of Council.

13. (1) The Minister -

- (a) shall designate any officer in the Ministry of Health and Social Services as registrar of the Council; and
- (b) may make available such other officers or employees in the said Ministry as the Minister may determine, to assist the registrar in the performance of his or her functions and the carrying out of his or her duties under this Act.

(2) The registrar shall -

- (a) act as secretary to the Council; and
- (b) perform the functions and carry out the duties assigned to or imposed upon him or her under this Act or any other law as well as such functions and duties as may from time to time be assigned to or imposed upon him or her by the Council or the Minister, as the case may be.

(3) The registrar shall attend all meetings of the Council but shall not be entitled to vote on any matter before the Council.

(4) In the event of the registrar being for any reason unable to attend any meeting of the Council or to act as secretary to the Council, the Permanent Secretary shall designate any other officer in the Ministry of Health and Social Services to attend such meeting or to act as secretary, and such officer so designated shall perform all the functions and exercise all the powers of the registrar for the duration of such meeting or while he or she so acts as secretary.

Powers of Council in relation to appeals.

14. (1) When notice of appeal is under any law lodged with the Council, the registrar shall in the manner prescribed and in accordance with the procedure so prescribed refer such appeal for investigation and decision to the Council.

(2) An appeal shall be heard on the date and at the place and time determined by the registrar, in consultation with the chairperson of the Council, who shall notify the appellant and the secretary of the Board concerned, in writing thereof.

**COUNCIL FOR HEALTH AND SOCIAL
SERVICES PROFESSIONS ACT, 1993**

(3) The chairperson of the Council may, for the purposes of the hearing of any appeal -

- (a) summon in the prescribed form any person who may give material information concerning the subject of the hearing or who he or she believes has in his or her possession or custody or under his or her control any document which is relevant to the subject of the hearing, to appear before the Council at a time and place specified in such summons, to be questioned or to produce that document and the Council may while any document so produced is examined, retain that document or make extracts therefrom for the purposes of the records of such appeal;
- (b) administer an oath to or accept an affirmation from any person called as a witness at the hearing;
- (c) call any person present at the hearing as a witness and question him or her and require him or her to produce any document in his or her possession or custody or under his or her control.

(4) Unless otherwise provided in the rules made by the Council in accordance with the provisions of this Act, the procedures at the hearing of any appeal shall be as determined by the chairperson of the Council.

(5) The appellant, if he or she appears before the Council at the hearing of the appeal, and the Board concerned may be represented by a legal practitioner.

(6) Any person who, when summoned to give evidence or produce any document, fails, without reasonable excuse, to comply with the terms of the summons or who, whether summoned or not, refuses, while under examination, to answer to the best of his or her knowledge or belief, all questions put to him or her by or with the concurrence of the Council or who wilfully interrupts the proceedings thereof, shall be guilty of an offence and on conviction be liable to a fine not exceeding R2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment: Provided that any witness shall have the same privileges in respect of answering any question or producing any document as he or she would have if he or she were to answer such question before, or to produce such document to, the High Court.

**COUNCIL FOR HEALTH AND SOCIAL
SERVICES PROFESSIONS ACT, 1993**

(7) Any person who gives false evidence on oath or affirmation at the hearing of any appeal before the Council, knowing such evidence to be false, shall be guilty of an offence and on conviction be liable to the penalties prescribed by law for the crime of perjury.

(8) Any person summoned or called under subsection (3) as a witness may be paid such allowances by the Council as may be prescribed.

(9) The decision of the Council in any appeal before it shall be in writing and a copy thereof shall be furnished to the appellant and the secretary of the Board concerned.

(10) The lodging of any appeal as contemplated in subsection (1) shall not stay the execution of the decision or finding which is the subject of such appeal to the Council, unless the Council directs otherwise.

Keeping of registers.

15. (1) The registrar shall, in the prescribed form, keep a register in which he or she shall enter the names, addresses and professions of any members of the Council.

(2) The registrar shall in respect of every profession for which a Board has been established under any law, keep a register in which he or she may enter the name and any particulars in respect of every person registered with such Board, or remove such name and particulars from such register, as the secretary of such Board may, from time to time, advise the registrar.

(3) Any register kept by the registrar in terms of this section shall during office hours at the offices of the Council lie open for inspection by the public.

**Levying of annual fees on
Boards.**

16. (1) The Minister may, upon the recommendation of the Council, by notice in the *Gazette* determine the fees to be paid annually to the Council by any Board: Provided that in determining such fees, the Minister may differentiate between Boards or categories of Boards according to the number of persons registered with such Boards, and whether such Boards have been established before or after a date specified in the notice.

(2) If any Board liable to pay any annual fee determined in terms of subsection (1), fails or refuses to pay such fee within the period specified in the notice in question, the Council may recover such fee by action in a competent court.

COUNCIL FOR HEALTH AND SOCIAL SERVICES PROFESSIONS ACT, 1993

(3) The Council may, with the approval of the Minister, exempt any Board in part or fully from payment to the Council of any annual fee determined in terms of subsection (1).

Regulations.

17. (1) The Minister may, on the recommendation of the Council, make regulations relating to -

- (a) the entering into of agreements by or on behalf of, the handling of funds by, and the book-keeping of, the Council, including the auditing of any books of account;
- (b) the allowances payable to members of the Council or co-opted members of the executive committee or any other committee of the Council, for services rendered for or on behalf of the Council or such committee: Provided that -
 - (i) the allowances payable to a member who is in the full-time service of the State shall not exceed the allowances payable to such member under the Public Service Act, 1980 (Act 2 of 1980); and
 - (ii) no such member shall be required to pay into the State Revenue Fund any allowances paid to him or her in terms of any regulations made under this paragraph; and
- (c) generally all other matters which are by this Act required or permitted to be prescribed or which are necessary or expedient to be prescribed in order to achieve the objects and purposes of this Act.

(2) The allowances payable under subsection (1) may differ according to the office held by the member of the Council or the committee concerned or the services rendered by him or her to or on behalf of the Council or the committee concerned.

Delegation of powers.

18. (1) The Minister may, on such conditions as he or she may determine, in writing delegate to the Permanent Secretary or any other officer or employee in the Ministry of Health and Social Services any power conferred upon him or her by this Act, excluding any power conferred by sections 5 and 17, but shall not be divested of a power so delegated to him or her.

Act No. 29, 1993

**COUNCIL FOR HEALTH AND SOCIAL
SERVICES PROFESSIONS ACT, 1993**

(2) The Permanent Secretary may, on such conditions as he or she may deem fit and with the approval of the Minister, delegate any power conferred upon or entrusted to him or her in terms of this Act to any officer or employee in the Ministry of Health and Social Services, but shall not be divested of a power so delegated by him or her.

Limitation of liability.

19. No compensation shall be payable by the Minister, the Permanent Secretary, any member of the Council, registrar or any other officer or employee employed in carrying out the provisions of this Act, in respect of any act done in good faith under this Act.

Short title and commencement.

20. This Act shall be called the Council for Health and Social Services Professions Act, 1993, and shall come into operation on a date to be determined by the Minister by notice in the *Gazette*.
