

THE MEDICAL AND DENTAL PRACTITIONERS ACT, 1970

*Date of commencement: 9th January, 1970.*

*Arrangement of sections*

PART I

SHORT TITLE AND INTERPRETATION

1. Short title.
2. Interpretation.

PART II

ESTABLISHMENT OF MEDICAL AND DENTAL COUNCIL AND  
REGISTRATION OF PRACTITIONERS

3. Constitution of Medical and Dental Council.
4. Vacation of office and filling of vacancies.
5. Meetings.
6. Procedure and Rules.
7. Quorum and proceedings at meetings.
8. Office of Council.
9. Seal.
10. Council to be a corporate body.
11. Functions of the Council.
12. Appointment of Registrar and other persons.
13. The keeping and maintenance of Registers.
14. Revenues of Council.
15. Evidence of registration.
16. Provisional registration.
17. Only registered persons allowed to practise.
18. Procedure for making application for registration.
19. Persons entitled to be registered or licensed as medical practitioners.
20. Persons entitled to be registered or licensed as dentists.
21. Appeal against refusal to register as medical practitioner or dentist.
22. No fees recoverable unless person is registered.
23. Certification by a person not registered is invalid.
24. Exemptions.

(ISSUE 2)

## PART III

## DISCIPLINARY POWERS OF THE COUNCIL

25. Inquiry by Council into charges of misconduct.
26. Matters for and procedure upon inquiry by the Council.
27. Notification of decision of Council.
28. Power to publish decision.
29. Appeal to the Court against decision by the Council.
30. Effect of suspension or erasure from Register.
31. Restoration of name to Register.

## PART IV

## REGULATIONS

32. Regulations.

## PART V

## OFFENCES AND PENALTIES AND REPEAL

33. Offences and penalties.

---

*An Act to make provision for the registration and licensing of medical and dental practitioners with a Medical and Dental Council and to provide for matters connected with the practice of these professions.*

## PART I

## SHORT TITLE AND INTERPRETATION

*Short title.*

1. This Act may be cited as the Medical and Dental Practitioners Act, 1970.

*Interpretation.*

2. In this Act unless inconsistent with the context —
  - “this Act” includes Rules and Regulations made under it;
  - “Council” means the Swaziland Medical and Dental Council established under section 3;
  - “dentist” or “dental surgeon” means any person practising as a dentist or holding himself out as ready and willing to practise as a dentist, for gain;
  - “Director of Medical Services” means the person filling that office in accordance with the provisions of the Constitution;

“medical practitioner” means any person practising as a medical practitioner or holding himself out as ready and willing to practise as a medical practitioner, for gain;

“Minister” means the Minister for Health and Social Welfare;

“practise as a dentist” means the performance of any such operation or any such treatment, advice or attendance as is usually performed or given by a dentist, or of any operation, treatment, advice or attendance preparatory to or for the purpose of or in connexion with the making, repairing, supplying, fitting, inserting or fixing of artificial dentures or other similar dental appliances, and the “practice of dentistry” shall have a corresponding meaning;

“practise as a medical practitioner” means the performance of any act specially pertaining to the calling of a medical practitioner;

“prescribed” means prescribed by the Minister by Regulation made under section 32;

“qualified” means that a person holds a degree, diploma, certificate or licence which entitles him to be registered or licensed;

“Register” means the Register of Medical and Dental Practitioners entitled to practise as medical practitioners or dentists in Swaziland, kept by the Registrar in terms of subsection (1) or (2) of section 13 or 16, as the case may be;

“Registrar” means the public officer designated to act as Registrar of Medical and Dental Practitioners under section 12.

## PART II

### ESTABLISHMENT OF MEDICAL AND DENTAL COUNCIL AND REGISTRATION OF PRACTITIONERS

#### *Constitution of Medical and Dental Council.*

3. (1) As from the commencement of this Act there shall be established a Council, to be styled “The Swaziland Medical and Dental Council”.

(2) The Council shall consist of the following persons, namely —

(a) the Director of Medical Services for Swaziland who shall act as Chairman:

Provided that the person referred to in paragraph (b) shall preside when the Council is conducting an inquiry in terms of Part III;

(b) the Attorney-General or a law officer appointed by him from time to time;

(c) a Government medical officer appointed by the Minister from time to time;

(d) two registered medical practitioners carrying on the practice of a private medical practitioner in Swaziland, who shall be elected by an association of medical practitioners recognized by the Minister as the Medical Association of Swaziland; and

(ISSUE 2)

- (e) a registered medical or dental practitioner carrying on the practice of a private medical or dental practitioner in Swaziland appointed by the Minister for Health from time to time.

(3) Subject to the provisions of section 4 the persons elected in terms of subsection (1)(d) shall hold office for a period of two years, but shall be eligible for re-election.

*Vacation of office and filling of vacancies.*

4. (1) A member of the Council shall vacate his office —

- (a) if he becomes insolvent;
- (b) if he is convicted in Swaziland or elsewhere of an offence and sentenced in respect of it to imprisonment without the option of a fine, including a suspended sentence of imprisonment;
- (c) if he is absent for more than two consecutive ordinary meetings of the Council without the leave of the Chairman;
- (d) if he is certified insane by a competent authority or is otherwise adjudged to be of unsound mind;
- (e) if he has been disqualified in Swaziland or elsewhere from carrying on his profession or calling; or
- (f) if, as an elected member or one appointed under section 3(2)(e) he notifies his resignation to the Council in writing, or if, as an appointed member, he ceases to be eligible for the appointment, or in the case of a person appointed by the Minister under section 3(2)(c) he notifies the Minister, in writing, of his desire to resign office and his resignation is accepted by the Minister.

(2) Every such vacancy and every vacancy caused by the expiry of the period for which the member has been appointed or elected and every vacancy caused by the death of a member shall be filled by appointment or election according as to whether the vacating member was appointed or elected and a member so appointed or elected shall hold office only for the unexpired portion of the period for which the vacating member was appointed or elected.

*Meetings.*

5. (1) The first meeting of the first Council shall take place at such place and on such date as shall be fixed by the Minister by notice in writing to each member of the Council.

(2) The ordinary meetings of the Council shall be held quarterly in each year. (Amended K.O-I-C. 15/1976.)

(3) Special meetings may be convened by the Chairman and shall be convened by him upon the requisition in writing of any two members of the Council:

Provided that the said requisition shall state clearly the purposes for which the meeting is to be convened.

*Procedure and Rules.*

6. (1) Subject to the provisions of this Act the Council may make Rules providing for —
- (a) the regulation of the conduct of its business including the procedure for convening meetings and notifying the dates of meetings and the procedure at meetings of the Council and the manner in which the minutes of its proceedings shall be kept;
  - (b) the manner in which contracts shall be entered into on behalf of the Council, and in which the accounts of the Council shall be kept;
  - (c) the duties of the Registrar and other officers;
  - (d) the fees to be charged other than those fixed by this Act for any matter in respect of which a fee is chargeable under this Act;
  - (e) the maximum fees chargeable in respect of the services of medical practitioners and dentists;
  - (f) the forms of the Registers to be kept and the manner in which alteration may be effected in such Registers;
  - (g) the forms to be filled in and the documents to be submitted by applicants for registration or licensing or for restoration to the Registers, or renewal of licences;
  - (h) the degrees, diplomas and certificates which may be registered as additional qualifications; and
  - (i) the registration of interns, including the recording of particulars of their training and proof of the performance thereof, the hospitals or other institutions at which, or the person with whom, such training may be undertaken, and any other matter incidental to the registration or training of interns; and
  - (j) generally for the carrying out of its functions under this Act.
- (2) The Rules may provide for a penalty not exceeding forty emalangeni for any contravention thereof or failure to comply therewith.

*Quorum and proceedings at meetings.*

7. (1) Three members shall form a quorum at a meeting of the Council.
- (2) All acts of the Council shall be decided by a majority of votes of the members present at the meeting.
- (3) The Chairman shall, except in an inquiry in terms of Part III, in addition to his vote as a member, have a casting vote in the case of an equality of votes.
- (4) In the absence of the Chairman at any meeting, the members present shall appoint one of them to act as Chairman for the purposes of such meeting.
- (5) No act or proceedings of the Council shall be affected or invalidated by reason of the fact that it is afterwards discovered that there was some defect in the appointment or qualifications of any person purporting to be a member of the Council.

(ISSUE 2)

*Office of Council.*

8. The office of the Council shall be at Mbabane or at such other place as the Minister may, on the recommendation of the Council, prescribe but the Council shall hold its meetings at such times and places as the Chairman may from time to time find convenient.

*Seal.*

9. The Council shall have a seal which shall bear such device as may be decided by it, and approved by the Minister, which it may use upon such occasion as it thinks fit.

*Council to be a corporate body.*

10. The Council shall be a corporate body and may, subject to the provisions of this Act, exercise all the functions exercisable by a corporate body.

*Functions of the Council.*

11. The Council shall carry out the provisions of this Act.

*Appointment of Registrar and other persons.*

12. The Minister shall designate a public officer to act as Registrar of Medical and Dental Practitioners and Secretary of the Council, and the Council may appoint such other persons as may be necessary for carrying out its functions, and may dismiss such other persons.

*The keeping and maintenance of Registers.*

13. (1) The Registrar shall —

- (a) open and cause to be kept a Register in which shall be entered the full names, addresses, qualifications, date of registration and such other particulars as the Council may from time to time prescribe relating to medical practitioners and dentists practising as such and possessing the qualifications referred to in sections 19 and 20;
- (b) open and cause to be kept a Register in which shall be entered the full names, addresses, qualifications, date of the granting of a licence by the Council and such other particulars as the Council may from time to time prescribe relating to medical practitioners and dentists practising as such under licence issued by the Council and in addition, the terms and conditions of such licence;
- (c) enter in the respective Registers the names of all medical practitioners and dentists practising as such, whether under licence or otherwise, at the date of the commencement of this Act, together with the particulars referred to in paragraphs (a) and (b), free of charge:

Provided that —

- (i) application for registration is made within three months from the date of the commencement of this Act; and
  - (ii) the applicant has complied with the provisions of section 18 and is entitled to be registered or licensed in terms of sections 19 or 20, as the case may be;
- (d) cause to be published in the Gazette the name, address and qualifications of each medical practitioner and dentist immediately after his name has been entered in the Register;
- (e) cause to be published in the Gazette as soon as is convenient after the first day of January, in each year, a list containing the names, qualifications and addresses of all medical practitioners and dentists practising as at the end of the previous year;
- (f) cause the necessary alterations to be made in the Register in the case of any change in the address or qualifications of a licensed or registered medical practitioner or dentist;
- (g) cause such additional qualifications acquired by a registered medical practitioner or dentist from time to time since the date of his registration and recognized by the Council, as well as the name of any speciality recognised by it, to be inserted in the Register in respect of such person; (Amended K.O-I-C. 15/1976.)
- (h) cause the name of any medical practitioner or dentist to be erased from the Register who has —
- (i) died; or
  - (ii) not practised in Swaziland during the three years preceding such erasure:

Provided that the Registrar shall not erase the name of a medical practitioner or dentist under this subparagraph without the Council's concurrence; or
  - (iii) within a period of three months from the date of an enquiry sent by the Registrar by registered post to that person's address appearing in the Register, failed to notify the Registrar of his present address; or
  - (iv) failed to pay, within a period of three months from the date on which it fell due, any fee prescribed by the Council; or
  - (v) requested that his name be removed from the Register, in which case he shall lodge an affidavit with the Registrar certifying that no disciplinary or criminal proceedings are pending against him;
- (i) cause the name of any person to be removed from the Register where the Council has, as a result of a disciplinary inquiry held under the provisions of this Act, ordered his name to be removed; and
- (j) on the directions of the High Court or the Council cause the restoration to the Register, on payment of such fee as may be prescribed by the Council, of a name previously erased from the Register.

(ISSUE 2)

(2) The Registers shall be kept at the offices of the Council and shall be open for inspection by the public during normal office hours of the Council on payment of such fee as the Council may prescribe.

(3) On payment to him of such fee as may be prescribed by the Council, the Registrar —

(a) shall issue to a person whose name appears in either Register a certificate, impressed with the Council's seal, signed by the Registrar and stating in which Register the person's name appears; and

(b) may issue a duplicate of the certificate mentioned in paragraph (a).

(4) Every application for restoration to the Register of a name erased under this section shall be made on such form as may be prescribed by the Council and be accompanied by payment of such fee as may be prescribed by the Council.

(5) Every registered person shall within one month of having changed his address notify the Registrar thereof in writing.

(6) No degree, diploma or certificate shall be entered in the Register unless the Registrar is satisfied that the person claiming to possess such degree, diploma or certificate is entitled thereto and the Council authorizes him to register it.

#### *Revenues of Council.*

14. (1) Every registration or other fee or any other monies payable under this Act shall be paid to the Council and shall be devoted to the services of the Council.

(2) The Registrar shall cause proper books of account to be kept, and shall render a statement of revenue and expenditure to the Council at each ordinary meeting of the Council.

(3) The Council shall at each ordinary meeting consider the said statement of revenue and expenditure and confirm or reject any expenditure.

(4) The accounts of the Council shall once a year be submitted to the Director of Audit for audit.

#### *Evidence of registration.*

15. (1) A publication in the Gazette under the provisions of section 13(1)(d) or (e) shall be *prima facie* evidence in all legal proceedings of the facts therein recorded and the absence of the name of any person from such publication shall be evidence, until the contrary is proved, that such person was not registered as a medical practitioner or dentist practising in Swaziland for the period to which the publication relates.

(2) The Registers kept in terms of section 13 and all extracts therefrom duly certified by the Registrar as being correct and bearing the seal of the Council shall be receivable in all courts and tribunals and other bodies authorized by law to receive evidence as *prima facie* evidence of the truth of the statements contained therein.



*Provisional registration.*

16. (1) A person who is not entitled to be registered as a medical practitioner under section 13 by reason only of his not having had the post-graduate experience provided for in section 19 shall, provided he produces evidence satisfactory to the Registrar that he has been selected for employment in a hospital approved by the Council for the purpose of this section and that such employment would provide the required post-graduate experience, be entitled to be provisionally registered.

(2) The Registrar shall cause a separate Register to be kept in which he shall enter the names of persons provisionally registered in terms of subsection (1), and shall erase such person's name from such separate Register on his name being registered in terms of section 13.

(3) A person provisionally registered as set out in this section shall be entitled to be employed only for the purpose set out in subsection (1) and in such approved hospital under supervision by practising medical practitioners and to carry out under such supervision in such a hospital any duties or responsibilities of a registered medical practitioner.

(4) Notwithstanding anything in this Act to the contrary, any document required by law to be signed by a medical practitioner shall be valid if it is signed by a person provisionally registered in terms of this section, and acting in the course of his employment in terms of subsection (3).

(5) The provisions of section 13 shall apply *mutatis mutandis* to the keeping of the separate Register under this section.

*Only registered persons allowed to practise.*

17. No person shall be entitled to practise as a medical practitioner or as a dentist unless he has obtained a certificate of registration in terms of section 13(3).

*Procedure for making application for registration.*

18. (1) Any person desirous of obtaining a certificate of registration under this Act shall make written application to the Council in the form prescribed by the Council, and shall submit the degree, diploma or certificate on which he relies as a qualification for registration, together with a photograph of himself and such proof of identity and good character and of the authenticity and validity of the degree, diploma or certificate submitted as may be prescribed by the Council.

(2) If the Registrar is satisfied that the degree, diploma or certificate and the facts or documents submitted in support of the application are in accordance with the requirements of this Act, he shall, upon the payment by the applicant of such registration fee as may be prescribed by the Council, issue a registration certificate authorizing the applicant subject to the provisions of this Act to practise the profession of medical practitioner or dentist, as the case may be, within Swaziland:

Provided that the Registrar shall at the first meeting of the Council held after the issue by him of such registration certificate report such issue to the Council, and shall at the time of the issue thereof advise such person that it is subject to the confirmation or otherwise of the Council and that the Council's decision thereon is, subject to section 21, final. (Added K.O-I-C. 15/1976.)

(ISSUE 2)

(3) If the Registrar is not satisfied that the degree, diploma or certificate and the facts or documents submitted in support of the application are in accordance with the requirements of this Act, he shall inform the applicant in writing that he is not so satisfied and state his reasons for not being satisfied, and shall, if the applicant requests him to do so in writing, submit the application to the Council for its decision.

*Persons entitled to be registered or licensed as medical practitioners.*

19. (1) Subject to the provisions of this Act, only the holder of a degree, diploma or certificate which is recognized as sufficient qualification to entitle him to registration as a medical practitioner in the Register of the General Medical Council of the United Kingdom of Great Britain or of the corresponding Councils of Ireland or of the Republic of South Africa or of any other country named by the Council by notice in the Gazette shall be entitled to be registered as a medical practitioner in the Register referred to in section 13(1)(a):

Provided that he shall not be entitled to be so registered unless he has completed at least one year of post-graduate hospital duty in a hospital approved by the Council.

(2) Subject to the provisions of this Act the holder of a degree, diploma, or certificate which may for the time being be recognized by the Council as sufficient qualification for such purpose, may be registered as a medical practitioner in the Register referred to in section 13(1)(b) as a person entitled to practise as a medical practitioner under licence issued by the Council:

Provided that —

- (a) the Council may in such licence specify the conditions under which he shall be permitted so to practise; and
- (b) such licence shall lapse unless it is renewed annually on application made to the Council at a time and in a manner prescribed by it.

*Persons entitled to be registered or licensed as dentists.*

20. (1) Subject to the provisions of this Act, only —

- (a) the holder of a degree, diploma or certificate in dental surgery or dentistry which is recognized as sufficient qualification to enable him to be registered as a dental surgeon or dentist in the Register of the General Dental Council of the United Kingdom of Great Britain or Ireland or the Republic of South Africa or of any other country named by the Council by notice in the Gazette; or
- (b) a person who is registered in the Register of the General Dental Council of the United Kingdom of Great Britain as a foreign or Commonwealth dentist or dental surgeon and who is entitled to practise as such in the United Kingdom of Great Britain without any restriction;

shall be entitled to be registered as a dentist in the Register referred to in section 13(1)(a).

(2) Subject to the provisions of this Act, the holder of a degree, diploma, or certificate which may for the time being be recognized by the Council as sufficient qualification for such purpose may be registered as a dentist in the Register referred to in section 13(1)(b) a person entitled to practise as a dentist or dental surgeon in Swaziland under licence issued by the Council:

Provided that —

- (a) the Council may in such licence specify the conditions under which he shall be permitted so to practise; and
- (b) such licence shall lapse unless it is renewed annually on application made to the Council at a time and in a manner prescribed by it.

*Appeal against refusal to register as medical practitioner or dentist.*

21. (1) A person aggrieved by —

- (a) the refusal of the Council to register him or any degree, diploma, or certificate in terms of this Act; or
- (b) the erasure from the Register of his name or of any degree, diploma, certificate or other particular which he maintains he is entitled to have entered in the Register;

may within one month from the date of the notification by the Registrar to him of the refusal under paragraph (a) or of the erasure under paragraph (b) require the Registrar to state in writing the Council's reasons for such refusal or erasure as the case may be, and the said reasons shall be supplied to such person by the Registrar within fourteen days of receipt by the Registrar of a request for such reasons.

(2) A person may within one month from the date of the despatch by the Registrar to him of the reasons referred to in subsection (1), apply to the High Court for the relief referred to subsection (3).

(3) The High Court may either dismiss the application or, if it is of opinion that the Council has not acted in accordance with the provisions of this Act, make an order for the entering in the Register of the applicant's name or of any particular as aforesaid, or may remit the matter to the Council for further consideration, or make such other order, including an order as to costs, as to it may seem just.

*No fees recoverable unless person is registered.*

22. No person shall be entitled to recover any fees or other charges in any court by way of claim, counterclaim, setoff or otherwise for any services rendered as a medical practitioner or dentist, or for any medicine he may have prescribed or supplied unless he proves that he was at the time registered under this Act, or in the case of the sale or supply of medicine that he was duly licensed to deal in such medicines under any other law.

*Certification by a person not registered is invalid.*

23. Subject to the provisions of section 16(4) no document required by law to be signed by a duly qualified medical practitioner or dentist shall be valid unless signed by a person registered under this Act.

(ISSUE 2)

*Exemptions.*

24. Nothing contained in this Act shall be deemed to prevent —

- (a) the giving by any person or class of person of dental treatment of such nature as he may in writing be authorized by the Council to give and subject to such conditions as the Council may impose, in cases where no anaesthetic, other than a local anaesthetic, is used or administered and no fee is charged or received;
- (b) any person, duly approved by the Director of Medical Services or his authorized representative, employed by or attached to any missionary organization in Swaziland from rendering such medical or dental assistance in the course of his duties as the Director of Medical Services may from time to time in writing specify; and
- (c) any person carrying out the duties and functions of a nurse under the supervision of, or pursuant to, the instructions of a registered medical practitioner or dentist.

PART III

DISCIPLINARY POWERS OF THE COUNCIL

*Inquiry by Council into charges of misconduct.*

25. (1) Subject to the provisions of this section, the Council may inquire into any charge, complaint or allegation of improper or disgraceful conduct, or conduct which when regard is had to such person's profession is improper or disgraceful, against any person registered under this Act, and, if he is found guilty, impose the penalties mentioned in section 26(1):

Provided that in the case of a complaint or charge forming or likely to form the subject of criminal proceedings in a court of law, the Council shall postpone the inquiry until such proceedings have been determined.

(1bis) The Registrar shall, and any member of the Council may, bring to the attention of the Council any information he has received which may be regarded as constituting improper or disgraceful conduct on the part of any person registered under this Act, and the Council may in its discretion thereupon act in accordance with subsection (2), (3) and (4) hereof as if a charge, complaint or allegation had been lodged with it in terms of subsection (1):

Provided that a member of the Council shall not be debarred from taking part in any inquiry conducted by the Council under this section merely on the ground that he has brought such information to the attention of the Council or has been a party to the Council's decision in acting in accordance with subsection (2), (3) and (4).

(Added K.O-I-C. 15/1976.)

(2) Prior to the institution of any inquiry the Registrar shall in writing advise the person concerned of the nature of the charge, complaint or allegation made against him and give him a reasonable opportunity of answering it in writing, and of filing such written evidence as he may desire to adduce.

(3) If the Council considers that the answer given in terms of subsection (2) is satisfactory, it shall not institute an inquiry under subsection (1).

(4) The Council may, whenever it is in doubt as to whether the inquiry should be held, enter into preliminary negotiations with a person concerning any charge, complaint or allegation of improper or disgraceful conduct lodged against him.

*Matters for and procedure upon inquiry by the Council.*

26. (1) A person who has been found after inquiry held by the Council under this Part to be guilty of improper or disgraceful conduct, or conduct which when regard is had to such person's profession is improper or disgraceful, shall be liable to one or other of the following penalties —

- (a) a caution or a reprimand or a caution and a reprimand; or
- (b) suspension for a specified period from practising or performing acts specially pertaining to his profession; or
- (c) erasure of his name from the Register.

(2) A person whose conduct is the subject of an inquiry under this Part shall be entitled to an opportunity by himself or his counsel or attorney of answering the charge, of being heard in his defence and of adducing evidence of any other person in support of such defence.

(3) For the purpose of any inquiry under this section the Council may take evidence and may, under the hand of the Registrar, summon witnesses and require the production of any book, record, document or thing and may through the person presiding at the inquiry, administer an oath to any witness and may examine any book, record, document or thing which any witness has been required to produce.

(4) A summons for the attendance before the Council of a person or for the production to it of any book, record, document or thing shall be as near as practicable in a form to be prescribed and shall be served either by registered post or in the same manner as it would be served if it were a subpoena issued by a subordinate court.

(5) A person summoned as aforesaid shall be bound to obey the summons served on him provided that he shall be entitled to all the privileges to which a witness subpoenaed to give evidence before the High Court is entitled.

(6) An inquiry held under this section shall be conducted in accordance with Regulations made by the Minister on the recommendation of the Council prescribing —

- (a) the manner in which complaints or charges brought against a registered person shall be lodged;
- (b) the method of summoning an accused person or a witness and the penalties for failure or refusal on the part of any such person to attend when summoned or for refusing to give evidence or for obstructing or interrupting proceedings; and
- (c) any other matters incidental to the holding of any such inquiry.

(7) The Council may if it thinks fit terminate any suspension under subsection (1) before the expiry of the specified period, or cause to be restored to the Register any name which has been erased therefrom.

*Notification of decision of Council.*

27. As soon as practicable after the conclusion of an inquiry by the Council the Registrar shall by registered post notify the medical practitioner or dentist concerned of the Council's finding and decision.

*Power to publish decision.*

28. After an application to the High Court in terms of this Act has been dismissed or the period has expired during which such an application may be made in terms of this Act, the Council may publish in the Gazette a report of its findings and of any penalty imposed by it at an inquiry held in terms of this Part.

*Appeal to the Court against decision by the Council.*

29. Any person aggrieved at the findings of, or the penalty imposed by, the Council under this Part may apply to the High Court for the relief referred to in section 21(3), and the provisions of section 21 shall *mutatis mutandis* apply to such an application, provided that the High Court shall not set aside the proceedings of the Council by reason only of an informality which did not embarrass or prejudice the applicant in answering the charge or in the conduct of his defence.

*Effect of suspension or erasure from Register.*

30. No person who has been suspended or whose name has been erased from the Register under this Part shall practise as a medical practitioner or dentist, and his registration certificate shall be deemed to be cancelled until the period of suspension has expired or until his name has been restored to the Register in terms of this Act.

*Restoration of name to Register.*

31. (1) A person whose name has been erased from a Register may make application in writing to the Registrar for the restoration of his name to the Register.

(2) The Council shall as soon as practicable after the receipt by the Registrar of the application hold an inquiry to consider such application.

(3) The provisions of sections 25 to 29 inclusive shall, *mutatis mutandis*, apply to such applications and inquiry.

## PART IV

## REGULATIONS

*Regulations.*

32. The Minister may on the recommendation of the Council make Regulations for —

- (a) the registration and control of chiropodists, diagnostic radiographers, dieticians, food inspectors, health inspectors, masseurs, medical technologists,

medical assistants trained as such for four years or more, anaesthetic assistants, occupational therapists, optometrists, orthopaedic mechanics, surgical appliance makers, physiotherapists, and dental mechanics; (Amended K.O-I-C. 15/1976; K.O-I-C. 5/1977.)

- (b) the control of chiropractors, homeopaths, naturopaths and electropaths;
- (c) the prescribing of the qualifications to be required by any person before he may practise any of the professions or callings referred to in paragraph (a);
- (d) the removal of the names of any persons from any Registers established under paragraph (a); and
- (e) the conduct of inquiries conducted by the Council under the provisions of this Act;

and generally for the better carrying out of the objects and purposes of this Act.

## PART V

### OFFENCES AND PENALTIES

#### *Offences and penalties.*

33. (1) A person not registered as a medical practitioner who —
- (a) for gain, practises as a medical practitioner (whether or not purporting to be registered) or performs any act specially pertaining to the calling of a medical practitioner; or
  - (b) pretends or by any means whatsoever holds himself out to be a medical practitioner (whether or not purporting to be registered) or uses the name of medical practitioner or any name, title, description or symbol indicating or calculated to lead persons to infer that he possesses a degree, diploma, or other qualifications as a medical practitioner, doctor of medicine, physician, surgeon, accoucheur or intern, or that he is registered as a medical practitioner under this Act,

shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred emalangenani or, in default of payment, to imprisonment for a period not exceeding eighteen months:

Provided that no prosecution in respect of an offence under this subsection shall be instituted except with the written permission of the Attorney-General.

- (2) (a) A person not registered as a dentist who —
- (i) for gain, practises as a dentist (whether or not purporting to be registered); or
  - (ii) pretends or by any means whatsoever holds himself out to be a dentist (whether or not purporting to be registered) or to be entitled to practise dentistry, or uses the name of dentist or any name, title, description or symbol indicating or calculated to lead persons to infer that he possesses a degree, diploma or other qualification as a dentist, or that he is registered as a dentist or entitled to practise dentistry under this Act;

(ISSUE 2)

shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred emalangeni or, in default of payment, to imprisonment for a period not exceeding eighteen months.

(b) Nothing in this subsection contained shall be construed as prohibiting —

- (i) a person registered as a medical practitioner but not also registered as a dentist from —
  - (A) extracting teeth for gain; or
  - (B) performing in the course of his practice as a medical practitioner any other act pertaining to the practice of dentistry for gain in a case of emergency or when no dentist is available; or
- (ii) the employment, by and under the supervision of a dentist, of any person for the purpose of making or repairing dentures or other dental appliances for his own profit, provided that such work is carried out on the instructions and to the order of a dentist and does not include the taking of any impressions or bite or any trying in, or fitting in, the mouth.

(3) A person who gives false evidence on oath at an inquiry held under Part III, knowing such evidence to be false, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for the crime of perjury.

(4) Any person who —

- (a) procures or attempts to procure for himself or any other person registration under this Act, or any certificate by means of a false representation; or
- (b) makes or causes to be made an unauthorized entry or alteration or erasure in a Register or certified copy thereof or extract therefrom or any certificate issued under this Act; or
- (c) wilfully destroys or injures or renders illegible or causes to be destroyed or injured or rendered illegible any entry in the Register or, without the permission of the holder, any certificate issued under this Act; or
- (d) forges or utters, knowing it to be forged, any document purporting to be a certificate issued under this Act; or
- (e) impersonates any person registered under this Act;

shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand emalangeni or, in default of payment, to imprisonment for a period not exceeding two years, and if his name appears on any Register under this Act the Council shall forthwith cause his name to be erased therefrom.

(5) On the conviction of any person under subsections (1) or (2), the court shall order that any drugs, poisons, medicines, needles, syrups or surgical, medical, dental or diagnostic instruments or appliances used by, or belonging to, or found in the possession of the person convicted, shall be forfeited to the Government or be destroyed or otherwise disposed of.