

Malawi

## Medical Practitioners and Dentists Act Chapter 36:01

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## Malawi

# Medical Practitioners and Dentists Act

## Chapter 36:01

Assented to on 28 August 1987

Commenced on 5 February 1988

*[This is the version of this document at 31 December 2014.]*

*[Note: This version of the Act was revised and consolidated in the Fifth Revised Edition of the Laws of Malawi (L.R.O. 1/2018), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]*

**An Act to provide for the establishment of the Medical Council of Malawi, the registration and disciplining of medical practitioners and dentists, the licensing of private practice of medical practitioners and dentists, the regulation of training within Malawi of medical personnel and generally for the control and regulation of the medical profession and practice in Malawi and for matters incidental to or connected therewith**

### Part I – Preliminary

#### 1. Short title

This Act may be cited as the Medical Practitioners and Dentists Act.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

“**Council**” means the Medical Council of Malawi established by [section 3](#);

“**dentist**” means a person registered as such under [section 17](#);

“**medical practitioner**” means a person registered as such under [section 17](#);

“**member**” in relation to the Council means a member thereof appointed, elected, or ordained under [section 4](#) (1) or (4) or [section 6](#);

“**Registrar**” means the Registrar to the Council appointed under [section 13](#);

*[30 of 1991]*

### Part II – The Medical Council of Malawi

#### 3. Establishment of the Medical Council

There is hereby established a council to be known as the Medical Council of Malawi, which shall be a body corporate having perpetual succession and a common seal and shall, under that name, be capable of suing and being sued and of purchasing or otherwise acquiring, holding and alienating movable or immovable property and, subject to the provisions of this Act, of performing all such acts as bodies corporate may by law perform.

#### 4. Composition of the Council

- (1) The Council shall consist of the following members all of whom shall, save in the case of an *ex officio* member, be citizens of Malawi—
  - (a) the Chief of Health Services who shall be a member *ex officio*;
  - (b) one medical practitioner serving in the public service, appointed by the Minister;
  - (c) one dentist serving in the public service, appointed by the Minister;
  - (d) one medical practitioner nominated by the Private Hospitals Association of Malawi and appointed by the Minister;
  - (e) five members who shall be medical practitioners or dentists elected by the Medical Association of Malawi and at least one of whom shall be elected from amongst full-time private practitioners;
  - (f) one representative of the College of Medicine of the University of Malawi who shall be a medical practitioner nominated by the Faculty and appointed by the Minister;
  - (g) the Solicitor General or his duly designated alternate who shall be a member *ex officio*;
  - (h) not more than three other members appointed by the Minister from the general public all of whom shall be persons of good character and good standing in the community and at least one of whom shall be a medical practitioner or a dentist in the private sector.
- (2) A member of the Council, not being a member *ex officio*, shall hold office for three years.
- (3) The Minister may appoint to the Council for a period not exceeding three years such other persons, not exceeding two in number, from amongst the teaching or other staff of the University of Malawi as he considers suitably qualified to assist the Council in its work and deliberations, and such persons shall not have the right to vote at any meeting of the Council.
- (4) Where the Medical Association of Malawi is for any reason whatsoever unable to elect any number of members of the Council it is required to elect under subsection (1), the Minister may appoint to the Council an equal number of members from amongst persons eligible for election under that subsection, and the members so appointed shall hold office until substituted by elected members or for such period, not exceeding three years, as the Minister may, either at the time of making the appointment or at any time thereafter, direct in writing.
- (5) Upon the appointment or election to the Council of any member, the Minister shall cause notice of such appointment or election to be published in the *Gazette* and shall in such notice specify the current membership of the Council resultant upon such appointment or election.

[22 of 1989]

[30 of 1991]

#### 5. Vacation, etc., of members from office

- (1) The Minister may require a member of the Council to vacate his office if the Minister is satisfied that the member—
  - (a) has become insolvent or has assigned his estate for the benefit of, or made a composition or other arrangement with, his creditors; or
  - (b) has been absent from three consecutive meetings of the Council, of which he has had notice, without the leave of the Council; or
  - (c) has been disqualified under this Act from carrying on his profession or calling; or

- (d) has been convicted of an offence under this Act or the repealed Act or any law relating to poisons or drugs; or
  - (e) has been convicted—
    - (i) within Malawi of a criminal offence; or
    - (ii) outside Malawi of an offence by whatever name called which, if committed within Malawi, would have been a criminal offence, and sentenced to imprisonment for a term of six months or more without the option of a fine, whether or not such sentence has been suspended, and has not received a free pardon; or
  - (f) is mentally or physically incapable of efficiently performing his duties as a member of the Council; or
  - (g) has had a penalty imposed upon him under this Act by the Council.
- (2) The Minister may suspend from office a member of the Council against whom—
- (a) criminal proceedings have been instituted for an offence in respect of which a sentence of imprisonment for a term of six months or more without the option of a fine may be imposed; or
  - (b) disciplinary proceedings under this Act are instituted by the Disciplinary Committee, and while that member is so suspended he shall not carry out any duties as a member.
- (3) A member of the Council may resign his office by notice in writing—
- (a) in the case of an elected member, to the Chairman of the Council;
  - (b) in the case of an appointed member, to the Minister.

## 6. Filling of vacancies on the Council

On vacation of office by a member of the Council, the vacancy shall be filled by a person appointed or elected in accordance with the relevant provisions of [section 4\(1\)](#) under which the former member was appointed or elected:

Provided that if the remaining period is less than six months, then—

- (a) in the case of an appointed member, the Minister may decide not to have the vacancy filled until the expiry of the period; and
  - (b) in the case of an elected member, it shall not be necessary to hold an election and the Council may, if it sees fit, either decide not to have the vacancy filled or to co-opt a person to fill the vacancy until the expiry of the remaining period.
- (2) If any member of the Council is granted leave of absence by the Council, the Council may, if it sees fit, co-opt a person who belongs to the same profession or calling as the member who has been granted leave to fill the vacancy during the absence of that member.

*[Please note: numbering as in original.]*

## 7. Co-opted persons

The Council may in its discretion at any time and for any length of period invite any person, and the Minister may in like manner nominate any officer in the public service, to attend any meeting of the Council and take part in the deliberations of the Council, but such person or officer shall not be entitled to vote at that meeting.

## 8. Chairman and Vice-Chairman

- (1) The Minister shall, by writing under his hand, designate one member of the Council to be the Chairman thereof.
- (2) The Council shall elect a Vice-Chairman from amongst its members. The Vice-Chairman shall, subject to subsection (3), hold office for the duration of his membership on the Council.
- (3) The office of the Vice-Chairman shall become vacant—
  - (a) if the holder resigns his office by notice in writing to the Council; or
  - (b) if the holder of the office ceases to be a member of the Council; or
  - (c) if the Council so directs.
- (4) Wherever the Chairman is absent or is for any cause unable to discharge the functions of his office, the Vice-chairman shall discharge the functions of the Chairman.

## 8A. Executive Committee of the Council

- (1) There shall be an Executive Committee of the Council which shall consist of—
  - (a) the Chairman and the Vice-chairman of the Council respectively as chairman and vice-chairman thereof; and
  - (b) such number of other members of the Council as the Council shall appoint.
- (2) The Executive Committee shall have the following functions—
  - (a) to consider—
    - (i) all recommendations to the Council;
    - (ii) all reports of other committees to the Council;
    - (iii) any matter requiring a decision of the Council, and in appropriate cases make decision thereon on behalf of the Council, subject to the approval of the Council;
  - (b) to monitor and evaluate the implementation of the decisions of the Council; and
  - (c) in cases where any committee of the Council is unable to meet or otherwise transact its business, to deal with any matter before that committee, and the Executive Committee shall report to the Council any of its actions and decisions taken pursuant to this paragraph.

*[30 of 1991]*

## Part III – Meetings of the Council

### 9. Meetings of the Council

- (1) Subject to the provisions to this Act, the Council shall hold ordinary meetings for the dispatch of business at least four times in each year.
- (2) An extraordinary meeting of the Council—
  - (a) may be convened by the Chairman at any time; and
  - (b) shall be convened by the Chairman within twenty-one days of the receipt by him of a request in writing signed by not less than five members of the Council and specifying the purpose for which the meeting is to be convened.



- (3) At any meeting of the Council—
- (a) the Chairman or, in his absence the Vice-Chairman, shall preside;
  - (b) in the absence of both the Chairman and Vice-Chairman the members present and forming the quorum shall elect one of their number to preside; and
  - (c) the quorum shall be formed by any seven members.
- [22 of 1989]*
- (4) At any meeting the decision of the Council on any matter shall be that of the majority of the members present and voting at that meeting, and in the event of an equality of votes, the Chairman or the person presiding shall have a casting vote in addition to his deliberative vote.
- (5) Subject to the provisions of this Act, the Council may make standing orders for the regulations of its proceedings and may vary, suspend or revoke any such standing orders.
- (6) The record of any meeting of the Council shall be made available to any person registered under this Act at all reasonable times at the offices of the Council:
- Provided that the provisions of this subsection shall not be construed as entitling a registered person to peruse the records of—
- (a) a meeting of the Disciplinary Committee or any other committee of the Council; or
  - (b) the Council where the Council has resolved that it shall sit as a committee.
- [22 of 1989]*

## **Part IV – Functions and powers of the Council**

### **10. Functions of the Council**

The Council shall be the sole registering authority of all persons required to be registered under this Act and shall have the following further functions—

- (a) to assist in the promotion and improvement of the health of the population of Malawi;
- (b) to control and to exercise authority affecting the training of persons in, and the performance of the practices pursued in connexion with, the diagnosis, treatment or prevention of physical or mental defects, illnesses or deficiencies in human beings;
- (c) to exercise disciplinary control over the professional conduct of all persons registered under this Act and practising in Malawi;
- (d) to promote liaison in the field of medical training both in Malawi and elsewhere and to promote the standards of such training in Malawi;
- (e) to advise the Minister on any matter falling within the scope of this Act; and
- (f) to communicate to the Minister any information acquired by the Council relating to matters of public health.

### **11. Powers of the Council**

For the better performance of its functions, the Council shall, subject to the provisions of this Act, have power—

- (a) to remove any name from any register or, subject to such conditions as the Council may impose, restore it thereto;

- (b) to appoint examiners and moderators, conduct examinations and approve certificates, and charge such fee in respect of such examinations and certificates as may be prescribed;
- (c) to approve of institutions in Malawi for the training of medical and related personnel;
- (d) to acquire, hire or dispose of property, and borrow money on the security of the assets of the Council or accept and administer any trust or donation;
- (e) to consider any matter affecting the medical, dental or psychology professions and make representations thereon to the Minister or take such action in connexion therewith as the Council considers necessary;
- (f) upon application by any person, to recognize any qualifications held by that person (whether such qualifications have been obtained in Malawi or elsewhere) as being equal, either wholly or in part, to any prescribed qualifications, whereupon such person shall, to the extent to which the qualifications have been so recognized, be deemed to hold such prescribed qualifications;
- (g) to perform such other functions as may be prescribed or assigned to the Council by the Minister; and
- (h) generally, to do such things as the Council deems necessary or expedient to achieve the objects of this Act.

## 12. Committees of the Council

- (1) In addition to Executive Committee, the Disciplinary Committee the Education and Training Committee and the Inspectorate Committee and save as otherwise provided in relation to each of those committees, the Council may establish any number of other committees to carry out any special or general functions determined by the Council and may delegate to any such committee such of the functions of the Council as the Council may consider expedient.
- (2) The Chairman of the Council shall by reason of his office be a member of every committee established under subsection (1).
- (3) The chairman of each committee shall be appointed by the Council from amongst the members of the Council.
- (4) Each committee may co-opt as members of such committee persons who are not members of the Council and any of such members so co-opted may or may not be officers in the public service.
- (5) The chairman of a committee may, at any time and place, convene a meeting of the committee of which he is chairman.
- (6) The Council may, at any time, direct the chairman of any committee to convene a meeting of such committee and such chairman shall, as soon as is practicable, comply with such direction.
- (7) Every committee shall keep minutes of its meetings and shall inform the Council of its activities and shall conduct its proceedings in such manner as the Council may direct.
- (8) Any member of a committee who is not an officer in the public service shall, in respect of expenses incurred by him in travelling and subsistence while discharging his duties as member of that committee, be paid out of the funds of the Council, such allowances as the Council may determine.

*[22 of 1989]*

*[30 of 1991]*

## Part V – Management

### 13. Appointment of Registrar and other staff

- (1) Subject to the provisions of this section, the Council—
  - (a) shall appoint a Registrar upon terms and conditions approved by the Minister; and
  - (b) may appoint assistant registrars and such other employees as it considers necessary or desirable in the discharge of its duties and upon such terms and conditions as it may determine.
- (2) The Registrar, after consultation with the Chairman of the Council, may appoint temporary employees at such daily rates of pay, not below the minimum rates otherwise prescribed by law, as he may consider appropriate and shall, after he has appointed any such employee, report the fact thereof to the Council at its next meeting.
- (3) The Registrar shall be the secretary to the Council and to every committee thereof and shall, on the instructions of the Chairman of the Council or the chairman of any committee, convene a meeting of the Council or the committee, as the case may be.
- (4) If the Registrar is absent or unable to carry out any of his functions under this Act or any other enactment, an assistant registrar or any other officer of the Council shall exercise, during the period that the Registrar is so absent or unable to act, such of the functions of the Registrar as the Chairman of the Council may designate.

## Part VI – Financial provisions

### 14. Funds, accounts, audit

- (1) The funds of the Council shall consist of—
  - (a) such sums as may be appropriated by Parliament for the purposes of the Council;
  - (b) all fees payable under this Act;
  - (c) such other moneys and assets as may vest in or accrue to the Council, whether in the course of its functions or otherwise, including any penalty or costs payable to the Council under this Act; and
  - (d) the levy imposed under [section 15](#).
- (2) The Council shall keep proper accounts and other records relating thereto in respect of its funds and shall in every respect comply with the provisions of the Finance and Audit Act.  
*[Cap. 37:01]*
- (3) The accounts of the Council shall be examined and audited annually by auditors appointed by the Council and approved by the Minister.

### 15. Levy

The Minister may from time to time, by Order published in the *Gazette*, impose a levy on gross or net income accruing to any person or class of persons registered under this Act and such levy shall be appropriated for the general operations of the Council or for such operations of the Council as the Minister may specify in the Order.

## 16. Remuneration and expenses of members of the Council

Members of the Council shall be paid from the funds of the Council such allowances as the Minister may determine and in determining the allowance the Minister may make provision for the reimbursement of any reasonable expenses incurred by a member of the Council or of a committee of the Council in connexion with the business of the Council or the committee.

## Part VII – Registers

### 17. Registers

- (1) Subject to the provisions of this Act, the Council shall continue to keep and maintain the registers which were established before the commencement of this Act relating to medical practitioners and dentists and may establish or continue to keep and maintain—
  - (a) a register of interns, being persons referred to in [section 30](#);
  - (b) a register of vocational trainees, being persons referred to in [section 37](#);
  - (c) a register of persons who may be provisionally registered under [section 32](#); and
  - (d) a register of persons temporarily employed in Malawi, being persons referred to in [section 33](#).
- (2) The Council may establish a register of students who are undergoing training in Malawi or a qualification required for admission as a medical practitioner or dentist.
- (3) There shall be entered in a register under this section in relation to a registered person his name, address, qualifications and date of first registration and such other particulars as the Council may from time to time determine.
- (4) The Council may alter the title of any register and every person registered in a register bearing the former title shall for all purposes be considered as registered in the register bearing the new title.
- (5) Where the Council intends to establish a register or to alter the name of a register, the Council shall cause to be published in the *Gazette* and in one issue of a newspaper in general circulation in Malawi notice of such intention and the date with effect from which it is intended that the register will be established or the name of the register will be altered.

### 18. Specialist Register

- (1) The Council may establish and keep a register of medical practitioners or dentists who have acquired special knowledge and experience in particular branches of surgery, medicine or dental surgery.
- (2) If the Council establishes a register under subsection (1), it may, by rule or otherwise, determine—
  - (a) the requirements to be satisfied, including the experience to be acquired, the nature and duration of the training to be undertaken and the degree, diploma or certificate to be held by a medical practitioner or dentist before he can be registered on that register;
  - (b) the conditions which shall exempt any person from the requirement, experience or training referred to in paragraph (a);
  - (c) the conditions governing the practice of medical practitioners or dentists who have been registered on a register kept under subsection (1), including conditions restricting the practice of any such medical practitioner or dentist to a particular branch of surgery, medicine or dental surgery, as the case may be;

- (d) the circumstances in which the Council may remove the name of a person from a register kept in terms of subsection (1).
- (3) There shall be entered in a register kept under subsection (1) in relation to a registered person such particulars as the Council may from time to time determine.

## 19. Duties of Registrar

- (1) All registers shall be kept under the custody of the Registrar at the offices of the Council.
- (2) It shall be the duty of the Registrar, under the direction of the Council, to—
  - (a) enter in any register the particulars required under this Act of every person whom he registers in that register;
  - (b) make in a register any necessary alterations in the name, address, qualifications and other particulars of a registered person;
  - (c) erase from a register the name of a registered person who dies; and
  - (d) when required to do so by or under this Act or in pursuance of an order of a court—
    - (i) to mark in a register the registration of an applicant or, as the case may be, the suspension from practice of a registered person; and
    - (ii) to erase from a register the name of a registered person;
  - (e) generally to comply with the requirements imposed on him by this Act.
- (3) Where the Registrar erases from a register the name of a registered person he shall enter in that register a record of the reasons therefor.

## 20. Certificates

- (1) If, in the performance of the duties imposed upon him by or under this Act, the Registrar—
  - (a) registers any person, he shall issue to him a certificate of registration;
  - (b) erases from a register the name of a registered person or marks in a register the suspension from practice of a registered person, he shall, wherever possible, notify him in writing accordingly.
- (2) On application by a registered person the Registrar may issue to that person a duplicate certificate of registration—
  - (a) if he is satisfied as to the identity of the applicant; and
  - (b) on production by the applicant of an affidavit certifying that the certificate of registration has been lost or destroyed; and
  - (c) on payment by the applicant of the appropriate prescribed fee, if any.

## 21. Offences in connexion with registers and certificates

A person who—

- (a) makes or causes to be made an unauthorized entry or alteration or deletion in a register or a certified copy thereof or an extract thereof or on a certificate of registration; or
- (b) procures or attempts to procure for himself or another person registration or a certificate of registration by means of fraud or false representation or by the concealment of a material fact; or
- (c) makes or causes to be made in connexion with an application for registration a false declaration in a document used for the purpose of establishing his identity; or

- (d) wilfully destroys, defaces or renders illegible or causes to be destroyed, defaced or rendered illegible an entry in a register; or
- (e) without the permission of the holder, wilfully destroys, defaces or renders illegible or causes to be destroyed, defaced or rendered illegible a certificate of registration; or
- (f) forges or utters or, knowing the same to be forged, possesses or holds a document purporting to be a certificate of registration,

shall be guilty of an offence and liable to a fine of K 1,000 and to imprisonment for six months.

## 22. Publication of registers

- (1) The Registrar shall, from time to time, under the authority of the Council, cause copies of the registers or of supplementary lists showing all alterations, additions, revisions and erasures made since the last publication of the complete registers to be published in the *Gazette*.
- (2) Copies of the registers shall be published in such form as the Council may direct and may contain, in lists separate from the main registers, such particulars as the Council may require to be published.

## 23. Registers to be evidence

- (1) Subject to the provisions of subsection (2), the last published copy of a register, as read with any supplementary list, purporting to be published under the authority of the Council under [section 22](#), shall be *prima facie* evidence in any legal proceedings of the facts therein recorded and the omission of the name of any person from such copy shall be evidence, *prima facie* evidence, that such person is not registered.
- (2) In the case of a person—
  - (a) whose name does not appear in a published copy of a register and whose name has been added to a register after the date of the last published copy thereof, a certificate under the hand of the Registrar of the entry of the name of that person in that register shall be *prima facie* evidence that that person is so registered on that register; or
  - (b) whose name has been erased from a register since the date of the last published copy thereof and has not been restored thereto, a certificate under the hand of the Registrar that the name of that person has been erased from the register shall be *prima facie* evidence that that person is not registered on that register; or
  - (c) who has been suspended from practice in accordance with this Act, a certificate under the hand of the Registrar that that person has been so suspended from practice for a period specified in that certificate shall be *prima facie* evidence that that person has been suspended from practice for that period.

## Part VIII – Registration

### 24. Persons registered before the commencement of this Act

Every person who, immediately before the commencement of this Act was registered in any register of medical practitioners or dentists in Malawi and is resident in Malawi, shall be deemed to have been registered under this Act in that register.

[30 of 1991]

## 25. Residence of registered persons

- (1) Subject to subsection (2), an applicant for registration shall not be registered unless at the time of his application—
  - (a) he resides in Malawi; or
  - (b) he intends, if he is registered, to take up residence in Malawi within six months of the date of his registration.
- (2) Any person who resides in and is lawfully practising his profession or calling in such country as the Council may from time to time specify for the purposes of this subsection by notice in the *Gazette* may be registered if, but for residing outside Malawi, he is otherwise qualified for registration.

## 26. Persons eligible to be registered as medical practitioners or dentists

- (1) Subject to the provisions of this section, a person shall be eligible for registration under this Act as a medical practitioner or dentist if he is a holder of a degree, diploma or other qualification which is recognized by the Council as making him eligible for registration and—
  - (a) after obtaining such degree, diploma or other qualification, he has engaged as an intern in one or more institutions approved by the Council for such period, being not less than one year, as the Council may prescribe; and
  - (b) he satisfies the Council that, whilst engaged in training employment as required under paragraph (a), he has acquired sufficient knowledge of, and experience in, the practice of medicine or dentistry, as the case may be; and
  - (c) he satisfies the Council that he is a person of good moral character and is a fit and proper person to be registered under this Act.
- (2) No qualification from an examining authority outside Malawi shall be recognized or accepted under subsection (1) as a qualification for registration of the holder, unless the qualification entitles the holder to registration in the country, state or territory in which the examining authority has jurisdiction.
- (3) In any case where the Council does not recognize a degree, diploma or other qualification in medicine or dentistry held by any person as making him eligible for registration, the Council may take steps to assess his suitability for registration and for the purpose of so doing may require him to attend any interview or to undergo any oral or written examination.
- (4) The Council may, after assessing the suitability for registration of a person under subsection (3), direct that before registration that person shall undergo such further period of training (hereinafter referred to as “vocational training”) or pass such further examination as the Council may specify.
- (5) The Council may, where it considers it expedient so to do, delegate the assessment of suitability for registration under subsection (3) to a committee of the Council which shall, after making such assessment, make such recommendations to the Council as it considers appropriate.

## 27. Person registered may have additional qualifications inserted in register

Every person registered under this Act who has obtained any higher or further degree or qualification than the degree or qualification in respect of which he has been registered shall be entitled, upon payment of the prescribed fee, to have such higher degree or additional qualification inserted in the register in substitution for or in addition to the qualification previously registered.

## 28. Certificate not valid unless signatory registered

No certificate or other document required by any law to be signed by a duly qualified medical practitioner or dentist shall be valid unless signed by a person registered as a medical practitioner or dentist under this Act.

## 29. Procedure for registration

- (1) Any person desiring to be registered under this Act may apply in writing to the Registrar and shall submit with his application—
  - (a) a certificate of any qualification on which he relies for registration or a certified photostat copy thereof:

Provided that a certificate showing his registration in the country, state or territory in which he qualified is submitted and that such certificate contains details of the qualifications on which registration was based; and
  - (b) if other practical experience or training is required in the country, state or territory in which he qualified before registration in that country, state or territory—
    - (i) evidence that such experience has been acquired or that such training has been obtained; and
    - (ii) a certificate of registration in that country, state or territory or a certificate photostat copy thereof; and
  - (c) if so required by the Council, such evidence of identity, of good character and reputation, of compliance with the conditions, if any, prescribed by the Council in relation to him and of the authenticity and validity of the certificate submitted as the Council may require; and
  - (d) save in the case of a person referred to in [section 25](#) (2), evidence that he resides or intends, if he is registered, to reside in Malawi.
- (2) The Council may require any statement in connexion with an application under subsection (1) to be supported by a solemn or statutory declaration.
- (3) If the Registrar is satisfied that the qualification and the particulars or documents submitted under subsection (1) are in accordance with the requirements of this Part, he shall, upon payment by the applicant of the appropriate prescribed fee, register the applicant in the appropriate register.
- (4) If the Registrar is not satisfied that the qualification or the particulars or documents submitted with an application under subsection (1) are in accordance with the requirements of this Part, he shall refer the application to the Council for decision.
- (5) The Council may refuse to register an applicant if in its opinion the applicant, notwithstanding that he is otherwise qualified, is not a fit and proper person to be registered by reasons of—
  - (a) his physical or mental health; or
  - (b) the fact that he is not of good character and reputation; or
  - (c) the fact that he does not have adequate knowledge of the English language; and
  - (d) any conduct of his which, if he had been registered, would have constituted improper or disgraceful conduct or conduct which, when regard is had to the profession for which that person has applied to be registered, is improper or disgraceful:

Provided that, before refusing registration under paragraph (d), the Council shall refer the matter to the Disciplinary Committee and the provisions of Part IX shall, *mutatis mutandis*, apply as if the applicant were registered on the register on which he has applied to be registered.



### 30. Register of interns

- (1) Any person having the qualifications referred to in [section 26](#) (1) who is employed in Malawi in the practice of medicine, surgery or dentistry as an intern in a hospital or an institution approved by the Council shall, subject to the provisions of this Part, be entitled, on payment by him of the prescribed fee, to be registered in the register of interns.
- (2) A person registered in the register of interns shall be deemed to be registered on the register of medical practitioners in so far as is necessary—
  - (a) to enable him to be employed in the practice of medicine, surgery or dentistry at a hospital or institution approved by the Council;
  - (b) for the purpose of any other enactment or such other purposes as the Council may specify.

### 31. Register of vocational trainees

Any person who is required under [section 26](#) (4) after the acquisition of any qualification to undergo a period of training before he is entitled to be registered and who is employed otherwise than as an intern shall, subject to the provisions of this Part and if he satisfies the Registrar that he is employed at an institution or by an employer approved by the Council, be entitled, upon payment of the prescribed fee, to be registered in the register of vocational trainees appropriate to the profession or calling for which he intends to be registered.

### 32. Provisional registration

- (1) The Council may accept any qualification which has not been recognized under [section 26](#) as entitling the holder to be registered if, in all other respects, he satisfies the conditions and requirements of this Part for registration on a register kept under this Act:

Provided that the acceptance of a particular qualification for provisional registration of one person shall not confer any right to any form of registration on any other person holding the same qualification.
- (2) The Council may require an applicant for provisional registration as a condition of such registration—
  - (a) to undertake a specified period of practice on the staff of a hospital or other institution specified by the Council or with an employer approved by the Council; and
  - (b) to pass, during the period of his provisional registration, such examination as the Council may specify.
- (3) An application for provisional registration under subsection (1) shall be made in writing to the Registrar and shall be accompanied with the prescribed fee.

### 33. Register of persons temporarily employed

Any person qualified to practise the profession or calling of a medical practitioner or dentist, who intends to practise that profession or calling in Malawi but does not intend to reside for a period exceeding twelve months in Malawi may, if he satisfies the Registrar that he is so qualified, be registered on a register of persons temporarily employed:

Provided that in circumstances considered by the Registrar to be exceptional, the Registrar may extend the period of registration for two months.

### 34. Erasures from register

- (1) The Council may direct the Registrar to erase from a register of medical practitioners or register of dentists—
  - (a) the name and all particulars of a person whose registration has been cancelled in accordance with this Act or who—
    - (i) not being a citizen of Malawi; has been absent from Malawi for a continuous period of three years preceding such erasure; or
    - (ii) fails to pay the prescribed fee payable under this Act within three months after the date on which that fee became payable; or
    - (iii) has failed within a period of six months after the date of an inquiry sent by the Registrar by registered letter to the address as shown in the register to notify the Registrar of his present address:

Provided that if such registered letter is returned to the Registrar by reason of it being unclaimed or for any other reason the Council may forthwith direct that the name of the person be erased from the register; or
    - (iv) has requested that his name be removed from the register and, if so required by the Council, has lodged an affidavit proceedings are being or are likely to be taken against him in connexion with the practice of his profession or calling; or
    - (v) is resident or practising in Malawi and whose name has been removed from the roll, register or record of any university, hospital, college, training school or institution, society or other body from which that person received the qualification on the basis of which he was registered; or
  - (b) any entry which is proved to the satisfaction of the Council to have been made in error or through fraudulent representation or concealment of material facts or in circumstances not authorized by this Act.
- (2) The name and all particulars of a person shall be erased from—
  - (a) the register of interns, register of vocational trainees, provisional register or temporary register—
    - (i) when the person is registered on the register of medical practitioners or the register of dentists; or
    - (ii) on the expiration of the period of registration on such register;
  - (b) in case of the provisional register, on the cancellation of the registration of that person.
- (3) If a person referred to in [section 25](#) (1) fails to take up residence in Malawi within the period referred to in that paragraph, his name and particulars shall be erased from the register on the expiration of that period.
- (4) The Registrar shall erase from the register of interns or register of vocational trainees, as the case may be, the name of a person who is registered on that register—
  - (a) who advises the Registrar that he is leaving Malawi whether after completion of his service as interns or trainee or otherwise; or
  - (b) on the expiration of eighteen months from the date of his registration unless he satisfies the Registrar that due to illness or other cause the period of his training has been extended; or
  - (c) on the termination of the period of training which has been extended in the circumstances referred to in paragraph (b); or

- (d) if the Council instructs the Registrar to erase the name of that person from the register.
- (5) Before the Council directs an erasure to be made under subsection (1) (a) (v) or subsection (4) (d) the Council shall afford the person concerned an opportunity of showing cause before the Council as to why the erasure should not be made.

### **35. Method of erasure**

In order to effect the erasure of the name and particulars of a person from a register, a line of red ink shall be drawn through such name and particulars but so as to leave them remain legible.

### **36. Consequence of erasure**

Any certificate of registration issued to a person whose name has been erased shall be deemed to have been cancelled on the date of erasure and the person concerned shall be deemed not to be registered with effect from that date.

### **37. Appeals against refusal to register or erasure from register**

- (1) A person aggrieved by—
  - (a) the refusal of the Council to register him or any qualification or particular which he wishes to be registered in under this Act; or
  - (b) the erasure from a register of his name or of any qualification or particular which he considers he is entitled under this Act to have entered against his name in a register,may after notice to the Council and within three months after the date on which notice is given to him by the Registrar of such erasure, appeal to the High Court in such manner as may be prescribed or as may be considered appropriate by the High Court against such erasure.
- (2) On an appeal under subsection (1) the High Court may—
  - (a) dismiss the appeal; or
  - (b) if it is of opinion that the Council has not acted in accordance with the provisions of this Act, make an order that the name of the appellant or the qualification or particular, as the case may be, be entered in the appropriate register; or
  - (c) refer the matter back to the Council for further consideration, and may, make such other order as to costs or otherwise as it may deem just.

## **Part IX – Private practice**

### **38. Licence for private practice**

- (1) The Council may authorize the Registrar to issue to a medical practitioner or a dentist who has applied in the prescribed manner and whom the Council considers has had suitable experience in medicine, surgery or dentistry, as the case may be, a licence to engage in private practice on his own behalf as a private practitioner or to be employed, either whole time or part time, by a private practitioner.
- (2) A licence under subsection (1) shall—
  - (a) be subject to such conditions as the Council may either generally or specially determine;
  - (b) be issued upon payment of the prescribed fee;
  - (c) be in such form as may be prescribed;

- (d) be valid from the date of issue to 31st March next following the date of issue; and
  - (e) state whether the person so licensed may practise as a private practitioner on his own behalf or may be employed by a private practitioner.
- (3) The Council may, for good cause refuse to issue a licence to engage in private practice to any person or may withdraw or cancel such licence issued to any person either indefinitely or until such time as the conditions, if any, imposed by the Council have been fulfilled.
- (4) No premises shall be habitually used for the purpose of private practice, unless they are authorized for such use by the Council, and any person duly authorized by the Council in that behalf may at any reasonable time enter upon and inspect such premises.
- (5) Any person aggrieved by any decision of the Council under this section may appeal to the High Court, and in such appeal the High Court may annul or vary the decision as it thinks fit.
- (6) A person who engages in private practice without a licence authorizing him so to do issued in accordance with this Act or regulations made thereunder shall be guilty of an offence and liable to a fine of K2,000 and imprisonment for one year.

[22 of 1989]

[22 of 1989]

### **39. Issue, etc., of licences to be published in the Gazette**

The issue, cancellation and withdrawal of any licence under [section 38](#) of this Act shall be notified in the *Gazette*.

### **40. No fees recoverable unless practitioner licensed for private practice**

No person in private practice shall be entitled to recover any charge for any medical treatment, operation, advice or other medical service which he has rendered, or for any medicine which he has prescribed or supplied, as a medical practitioner or dentist, unless he is at the time appropriately licensed under [section 38](#) for private practice.

## **Part X – Education and training**

### **41. Education and Training Committee**

- (1) There shall be an Education and Training Committee which shall consist of—
- (a) one member of the Council appointed by the Council and designated by the Council as chairman of the committee
  - (b) any number of other persons appointed by the Council and who may or may not be members of the Council.
- (2) Subject to the general direction of the Council, the functions of the Education and Training Committee shall be—
- (a) to advise the Council on all matters relating to the education and training requirements of medical and related personnel in Malawi;
  - (b) to satisfy itself and the Council that the curricula in every teaching institution in Malawi in the medical field are such that graduates will have a sufficient basic knowledge for the practice of their profession or calling; and
  - (c) to satisfy itself and the Council in such other matters as may be vested in it by the Council in relation to the supervision of other aspects of medical education and training.

- (3) For the purpose of carrying out its functions the Education and Training Committee may, subject to the general direction and guidance of the Council—
- (a) on behalf of the Council, appoint inspectors to visit hospitals, or other institutions or premises where instruction is given to or examinations are conducted for students who intend to apply for registration under this Act and to evaluate such instructions or examinations; and
  - (b) to submit reports to the Council on the courses and curriculum followed at, and examinations conducted by, any institution referred to in paragraph (a).

#### **42. Reports on training qualifications and practice of persons who are registrable**

The Council may, and if so required by the Minister shall, consider and report to the Minister and advise him upon any matter relating to professional or technical training to other qualifications required for admission to a profession or calling in respect of which a register is kept and the conditions of practice after registration.

#### **43. Approval of institutions, curricula and qualifications**

The Council shall have powers to approve of—

- (a) teaching hospitals;
- (b) medical and dental schools;
- (c) a basic medical education curriculum;
- (d) post-graduate medical education;
- (e) the basic medical qualification of persons to be registered as medical practitioners or dentists;
- (f) registration of medical practitioners and dentists as consultants after approving their post-graduate qualifications;
- (g) and such other matter of training as may be within its competence under this Act or as may be expedient for the purposes and objects of this Act.

*[30 of 1991]*

#### **44. Degrees, diplomas and certificates instituted by the Council**

- (1) The Council may institute and issue degrees, diplomas and certificates of competence for any class of medical personnel trained or employed at an approved institution in Malawi other than medical practitioners, dentists and personnel of a class for which there is established a separate examining or qualifying authority:

Provided that degrees, diplomas or certificates of competence of the College of Medicine of the University of Malawi shall be instituted with the approval of the Council.

- (2) The Registrar shall keep lists of all persons to whom a degree, diploma or certificate instituted under this section has been issued.

*[30 of 1991]*

#### **45. Rules for training and examinations**

The Council may, by notice in the *Gazette*, make rules as to—

- (a) the form of degrees, diplomas and certificates of competence instituted by the Council;

- (b) the issue of duplicates and certified copies of degrees, diplomas and certificates of competence issued by the Council and the fees payable to the Council therefor;
- (c) the requirements to be fulfilled by persons as a condition of the issue of a degree, diploma or certificate of competence to them, including the training and courses of instruction to be undergone and the examinations to be passed, and exemptions from the fulfilment of such requirements;
- (d) the institutions and other places at which the training and courses of instruction referred to in paragraph (c) shall be undergone, the standards of education and character required to qualify persons to undergo such training and courses of instruction and the supervision of persons undergoing such training and courses of instruction;
- (e) the holding of examinations referred to in paragraph (c) including—
  - (i) the appointment and remuneration of examiners and invigilators;
  - (ii) the entry and disqualification of candidates for examination;
  - (iii) the fees payable to the Council by candidates for examination; and
  - (iv) the publication of the results of examinations.

[30 of 1991]

## Part XI – Disciplinary provisions

### 46. Disciplinary Committee

- (1) There shall be a Disciplinary Committee of the Council which shall consist of—
  - (a) the Chairman of the Council who shall be the Chairman of that committee; and
  - (b) not less than two and not more than four other persons specially appointed by the Chairman of the Council for the particular inquiry, who shall—
    - (i) in the case of an inquiry into the conduct of a medical practitioner, be members of the Council who are medical practitioners;
    - (ii) in the case of an inquiry into the conduct of a dentist, be members of the Council who are dentists;
    - (iii) in the case of an inquiry concerning an allegation implicating one or more medical practitioners jointly with one or more dentists, be members of the Council representing both callings;
  - (c) two other members who may or may not be members of the Council.
- (2) In any disciplinary inquiry the Council may request the Attorney General to nominate a legally qualified person serving in the public service to assist the Disciplinary Committee in the proceedings of the inquiry.
- (3) At any meeting of the Disciplinary Committee the Chairman and two other members shall form a quorum.
- (4) For the purposes of any inquiry the Chairman of the Council may appoint to the Disciplinary Committee any other person he considers reasonably qualified to assist the committee in the conduct of the inquiry.
- (5) All acts, matters or things authorized or required to be done by the Disciplinary Committee shall be decided by a majority vote at a meeting of the Disciplinary Committee at which a quorum is present.

- (6) At all meetings of the Disciplinary Committee each member present, being a member by virtue of subsection (1), shall have one vote on a question before the Disciplinary Committee and, in the event of an equality of votes, the Chairman shall have, in addition to a deliberative vote, a casting vote.
- (7) The Disciplinary Committee shall have power to regulate its own procedure.

#### **47. Function of Disciplinary Committee**

- (1) Subject to the provisions of subsection (2), the function of the Disciplinary Committee shall be to inquire into an allegation referred to it under [section 50 \(2\)](#) alleging that a registered person—
  - (a) has been guilty of improper or disgraceful conduct or conduct which, when regard is had to the profession or calling of that person, is improper or disgraceful; or
  - (b) is grossly incompetent or has performed any act pertaining to his profession or calling in a grossly incompetent manner.
- (2) Before exercising its function with respect to any person, the Disciplinary Committee shall—
  - (a) cause to be served upon him a notice setting out the allegations against him; and
  - (b) afford him a reasonable opportunity of being heard either by himself or, if he so wishes, by a legal representative.

#### **48. Taking of evidence by Disciplinary Committee**

- (1) For the purposes of any inquiry, the Disciplinary Committee may take evidence and may—
  - (a) under the hand of the Chairman of the Council or the Registrar summon witnesses and require the production of any book, record, document or thing; and
  - (b) administer an oath or affirmation to any person; and
  - (c) examine any book, record, document or thing which a witness has been required to produce.
- (2) A summons for attendance before the Disciplinary Committee or for the production to it of any book, record, document or thing shall be—
  - (a) in the form prescribed; and
  - (b) signed by the Chairman or the Registrar.
- (3) Any person who—
  - (a) has been summoned under subsection (2) and who—
    - (i) refuses or fails without sufficient cause to attend and give evidence relevant to the inquiry at the time and place specified in the summons; or
    - (ii) refuses to be sworn or to affirm; or
    - (iii) refuses or fails without sufficient cause to produce any book, record, document or thing which he has been required by that summons to produce; or
  - (b) attends a witness before the Disciplinary Committee and refuses to answer or to answer fully and satisfactorily to the best of his knowledge and belief any question properly put to him,shall be guilty of an offence and liable to a fine of K200 and to imprisonment for three months.
- (4) Any person who gives false evidence on oath at an inquiry held under this Part, knowing such evidence to be false or not believing it to be true, shall be guilty of an offence and liable to a fine of K400 and to imprisonment for six months.

- (5) The Disciplinary Committee shall, in any inquiry held by it under this Part, record the proceedings and any evidence heard by it and the decision made by it and the reasons therefor.

#### 49. Exercise of disciplinary powers on conviction for offence

- (1) A registered person who has been convicted of an offence by a court of law within or outside Malawi, whether before, on or after the date of his registration, shall be liable to disciplinary inquiry by the Disciplinary Committee in accordance with the provisions of this Part if the Disciplinary Committee is of opinion that such offence constitutes—
- (a) improper or disgraceful conduct; or
- (b) conduct which, when regard is had to the profession or calling of that person, is improper or disgraceful.
- (2) The Disciplinary Committee may, if it thinks fit on proof before it of a conviction referred to in subsection (1) and without hearing further evidence, deal with the convicted person in accordance with the provisions of this Part:

Provided that the convicted person shall be afforded an opportunity of tendering, in writing or in person or by his legal representative as he may elect, an explanation to the Disciplinary Committee in extenuation of his conduct.

- (3) If, after the termination of proceedings before a court in Malawi—
- (a) it appears to the court that there is *prima facie* evidence of improper or disgraceful conduct on the part of a registered person, the court shall direct that a copy of the record of the proceedings or a copy of such part of the record of the proceedings as is material to the issue shall be transmitted to the Council; or
- (b) the Council requests that a record of the proceedings before a court in Malawi or part of such record be supplied to it on the ground that it is of direct interest to the Council in the exercise of its functions under this Act, the court shall transmit to the Council a copy of the record of the proceedings or a copy of such part of the record of the proceedings as is material.

#### 50. Council to refer cases to Disciplinary Committee

- (1) Whenever there is brought to the notice of the Council an allegation which might be the subject of inquiry by the Disciplinary Committee the Council shall have power to call for information, to cause such investigation to be made as it thinks necessary and to seek such legal advice or other assistance as it may require.
- (2) After any investigation pursuant to subsection (1) the Council—
- (a) may refer the allegation to the Disciplinary Committee for inquiry under this Part and in that case the Registrar shall present a charge, in such form as may be prescribed, to the registered person against whom the allegation is made;
- (b) if it considers that—
- (i) the conduct complained of would not constitute improper or disgraceful conduct; or
- (ii) for any other reason the allegation should not be the subject of inquiry by the Disciplinary Committee,

may dismiss the allegation or take such other action as it deems fit and may, after first allowing the person concerned to make written representation, authorize the Chairman of the Council to admonish that person and the Chairman shall report the fact thereof to the Council;



- (c) if it considers that the allegation forms or is likely to form the subject of criminal proceedings already before a court, may postpone referring the matter to the Disciplinary Committee until such criminal proceedings have been determined.

## 51. Exercise of disciplinary powers

- (1) After due inquiry, the Disciplinary Committee shall report its findings to the Council with such recommendations as the Disciplinary Committee considers appropriate.
- (2) After considering the findings and recommendations of the Disciplinary Committee the Council—
  - (a) if it is satisfied that the registered person—
    - (i) has been guilty of improper conduct or disgraceful conduct or conduct which, when regard is had to the profession or calling of that person, is improper or disgraceful and that such conduct warrants the cancellation of his registration; or
    - (ii) is grossly incompetent or has performed any act pertaining to his profession or calling in a grossly incompetent manner,the Council shall direct the Registrar to cancel the registration of the registered person and, if it thinks fit, order that person to pay to the Council any costs or expenses incidental to the inquiry;
  - (b) if it considers that the registered person has been guilty of improper or disgraceful conduct or conduct which, when regard is had to his profession or calling, is improper or disgraceful but that such conduct does not warrant the cancellation of the registration of that person, shall do one or more of the following—
    - (i) order his suspension for a specified period from practising or performing acts specially pertaining to his profession or calling;
    - (ii) impose such conditions as it deems fit subject to which he shall carry on his profession or calling;
    - (iii) order him to pay to the Council a penalty not exceeding K 1,000;
    - (iv) order him to pay any costs or expenses of and incidental to the inquiry;
    - (v) censure him; and
    - (vi) caution him and postpone, for a specified period not exceeding three years any further action against him on such conditions as the Council may determine as to his future conduct, including conduct or nature of his practice during that period.
  - (c) if it considers that the allegations against the registered person have not been established, shall dismiss the allegations and in such case the Council may if it is of the opinion that the allegations were frivolous or vexatious, order the complainant to pay the costs of the inquiry.
- (3) If at any time the Council is satisfied that during the period of any postponement under subsection (2) (b) (vi) a registered person has not complied with the conditions imposed under that paragraph, the Council after giving reasonable notice to the registered person concerned, may proceed to inflict further upon him more of the measures specified in that subsection.

## 52. Appeal to High Court

- (1) Any person who is aggrieved by the findings of the Disciplinary Committee or the decision reached, or penalty or measure imposed, by the Council under this Part may, within three months after the date of such findings or the imposition of such penalty or measure, appeal to the High Court.

- (2) On an appeal under subsection (1) the High Court may—
  - (a) confirm, vary or set aside any finding, decision or penalty appealed against; or
  - (b) refer the matter back to the Council, for further consideration, and in either case may make such order as to the costs of the appeal or otherwise as it may deem just:

Provided that the High Court shall not set aside any finding or penalty by reason only of an informality or irregularity in the proceedings of the Council or of the Disciplinary Committee which did not embarrass or prejudice the appellant in answering the charge or in the conduct of his defence.

- (3) For the purposes of any appeal under this section the High Court may, if it considers it expedient so to do, sit with one or more persons as assessors, being persons whom it considers specially qualified to assist it in hearing the appeal, and may hear the appeal wholly or partly with such persons, but the decision in such appeal shall be that of the presiding judge or judges.

### **53. Publication of result of disciplinary proceedings**

- (1) The Registrar shall by notice in the *Gazette* publish the name of any person—
  - (a) whose registration has been cancelled; or
  - (b) who has been suspended from practice and shall, in such notice, specify the period of suspension.

### **54. Council or Disciplinary Committee not to be liable**

- (1) Save as is provided in this Act, no legal proceedings whether civil or criminal shall lie against the Council or the Disciplinary Committee or any member or officer thereof in respect of any act or duty done or performed in accordance with the provision of this Part.
- (2) The Council shall not be responsible for any loss of earnings by a person as a result of action taken under this Part, whether by the Council or the Disciplinary Committee, and whether or not a particular finding, decision or penalty is subsequently varied or set aside.

### **55. Improper or disgraceful conduct**

- (1) The Council may in regulations made under this Act—
  - (a) define what, in the case of any class of registered persons shall constitute improper or disgraceful conduct;
  - (b) provide for the manner in which complaints or charges against a registered person may be lodged; and
  - (c) provide for any other matter incidental to the investigation of an inquiry into a complaint or charge against a registered person.
- (2) If any registered person has counselled or knowingly been a party to the performance of any act in respect of which an unregistered person has been convicted of an offence under Part XII the conduct of such registered person shall, for the purposes of this Part, constitute improper or disgraceful conduct:

Provided that the provisions of this subsection shall not be construed as exempting such registered person from prosecution in a court for any offence which such conduct may constitute.

- (3) Regulations referred to in subsection (1) shall not limit the general power conferred on the Disciplinary Committee or on the Council to inquire into allegations of improper or disgraceful conduct not covered by such regulations and to impose any penalty under this Part on any person guilty of such conduct.

## Part XIA – Inspectorate provisions

### 55A. Inspectorate Committee

- (1) There shall be an Inspectorate Committee appointed by the Council which shall, subject to the general or special directions of the Council, perform all such inspectorate functions for the purpose of setting and maintaining the standards of health care in relation to—
  - (a) premises, equipment and supplies;
  - (b) qualifications and credentials of personnel employed at health establishments;
  - (c) behaviour and conduct of health personnel towards patients and clients; and
  - (d) such other matters as the Council may deem expedient, and to report its findings to the Council.
- (2) A person who wilfully obstructs any person duly authorized to perform inspectorate functions pursuant to subsection (1) shall be guilty of an offence and liable to a fine of K2,000 and imprisonment for one year.

*[22 of 1989]*

## Part XII – Offences and penalties by unregistered persons

### 56. Remuneration not recoverable by unregistered persons

No remuneration shall be recoverable in respect of any act pertaining to a profession or calling in respect of which a register is kept under this Act when performed by a person who is not registered on the appropriate register.

### 57. Certain certificates invalid if signed by unregistered person

No certificate required by law from any member of a profession or calling in respect of which a register is kept under this Act shall be valid unless the person signing such certificate is registered on the appropriate register.

### 58. Proof required for issue of licences

No licence required under any law to be obtained by a registered person shall be issued to such person unless the person applying for such licence produces proof that he is registered on the appropriate register.

### 59. Unregistered persons practising as medical practitioners

- (1) Subject to the provisions of subsection (2) and to any exemption granted under this Act any person who, not being registered as a medical practitioner—
  - (a) for gain, practises or carries on business as a medical practitioner, whether or not purporting to be registered or performs or undertakes to perform any act specially pertaining to the practice 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
  - (c) uses the title “medical practitioners” or any name, title description or symbol indicating or calculated to lead any person to enter that he possesses a degree, diploma or other

qualification as a medical practitioner, doctor of medicine, physician or surgeon or that he is registered as a medical practitioner under this Act,

shall be guilty of an offence and liable to a fine of K2,000 or to imprisonment for one year.

- (2) The provisions of subsection (1) shall not apply in relation to—
- (a) a body corporate which is a local authority in respect of which there is a medical practitioner appointed, engaged, employed or otherwise to supervise the health services provided by that local authority; or
  - (b) a body corporate which—
    - (i) employs a medical practitioner principally for the purpose of providing health services for its employees; and
    - (ii) is exempted under subsection (4).
  - (c) any person who, or any body corporate or unincorporate which, establishes a health facility and in respect thereof employs persons registered to practise in accordance with this Act and that the health facility so established meets the minimum requirements prescribed by or under this Act for the category of such health facility.

*[30 of 1991]*

- (3) In paragraph (a) of subsection (2)—
- “local authority” means—
- (a) a city or municipal council, a town council or a district council; or
  - (b) any other body or organization which the Minister may, by notice in the *Gazette*, declare to be a local authority for the purposes of that paragraph.

*[30 of 1991]*

## 60. Unregistered persons practising as dentists

- (1) Subject to the provisions of subsections (3) and (4) and to any exemption granted under this Act, any person who, not being registered as a dentist—
- (a) for gain, practises or carries on business as a dentist, whether or not purporting to be registered, or performs or undertakes to perform any act specially pertaining to the practice of dentistry; or
  - (b) pretends or, by any means whatsoever, holds himself out to be a dental surgeon, whether or not purporting to be registered, or to be entitled to practise dentistry or to perform any act specially pertaining to the practice of dental surgery; or
  - (c) uses the title “dental surgeon” or “dentist” or any name, title, description or symbol indicating or calculated to lead any person to infer that he possesses a degree, diploma or other qualification as a dental surgeon or dentist or that he is registered under this Act; or
  - (d) by any means whatsoever gives advice in dentistry or in any act specially pertaining to the practice or dentistry,

shall be guilty of an offence and liable to a fine of K2,000 or to imprisonment of one year.

- (2) For the purposes of subsection (1), the following acts are specified as specially pertaining to the practice of dental surgery—
- (a) the performance of any operation and the treatment of any disease, deficiencies or lesions on or of the human teeth or jaws, the correction of the malpositions thereof and the performance of radiographic work in connexion with the human teeth or jaws;

- (b) the giving of any anaesthetic in connexion with any operation on the human teeth or jaw;
  - (c) the making, repairing, re-alteration or supply of artificial dentures, restorative dental appliances or other similar dental appliances;
  - (d) the taking in the mouth of any impression or bite with a view to the making, repairing, altering or supplying any artificial dentures, restorative dental appliances or other similar dental appliances;
  - (e) the trying or fitting in the mouth of any artificial dentures, restorative dental appliances or other similar dental appliances;
  - (f) the performance of any such operation, treatment, attendance or the giving of such advice as is usually performed or given by a dentist or any operation, treatment, advice or attendance preparatory to or for the purpose of or in connexion with the making, repairing, altering, supplying, fitting, inserting or fixing of artificial dentures, restorative dental appliances or other similar dental appliances;
  - (g) cleaning and polishing teeth; and
  - (h) scaling teeth, that is to say, the removal of tartar deposits, accretions and stains from those parts of the surfaces of the teeth which are exposed or which are directly beneath the free margins of the gums, including the application of medicaments appropriate thereto.
- (3) Nothing in this section shall be construed as preventing—
- (a) the—
    - (i) performance of any operation or the treatment of any disease, deficiency or lesion of the jaws and soft tissue of the mouth; or
    - (ii) giving of any anaesthetic in connexion with a dental operation; or
    - (iii) performance of any radiographic work, by a medical practitioner in the ordinary course of his practice;
  - (b) the extraction of a tooth—
    - (i) by a medical practitioner, where the services of a dentist are not readily available; or
    - (ii) by any person, where the case is urgent and no registered medical practitioner or dentist is available and the operation is performed without the application of a local or general anaesthetic;
  - (c) the performance in any public service of dental work by any person in accordance with conditions of his employment;
  - (d) the carrying on, in accordance with conditions approved by the Minister, of the practice of dental surgery at any hospital or other institution approved for the purpose of this paragraph by the Minister;
  - (e) the performance, in relation to the practice of dental surgery, of any radiographic work at a hospital or nursing home or at the request or under the direction of a registered medical practitioner or dentist; and
  - (f) the making, repairing or altering of artificial dentures, restorative dental appliances or other similar dental appliances by any person who is registered as a dental technician:

Provided that nothing in this paragraph shall be construed as permitting a registered dental technician to perform an operation in the mouth of any person including the taking of an impression or a bite.

- (4) The provisions of paragraph (a) of subsection (1) shall not apply in relation to—
- (a) a body corporate which is a local authority in respect of which there is a dentist appointed, employed or otherwise engaged to supervise the dental services provided by that local authority; or
  - (b) a body corporate which—
    - (i) employs a dentist principally for the purpose of providing dental services for its employees; and
    - (ii) is exempted under subsection (6);
  - (c) any person who, or any body corporate or unincorporate which, establishes a health facility and in respect thereof employs persons registered or otherwise qualified to practise in accordance with this Act and that the health facility so established meets the minimum requirements prescribed by or under this Act or required by the Council for the category of such health facility.
- (5) In paragraph (a) of subsection (4)—
- “local authority” means—
- (a) a city or municipal council, a town council or a district council, or
  - (b) any other body or organization which the Minister may by notice in the *Gazette*, declare to be local authority for the purposes of that paragraph.

[30 of 1991]

### Part XIII – Miscellaneous provisions

#### 61. African systems of therapeutics allowed

Nothing contained in this Act shall be construed to prohibit or prevent the practice of any African system of therapeutics by any person in Malawi:

Provided that nothing in this section shall be construed to authorize the performance by a person practising any African system of therapeutics of any act which is dangerous to life.

#### 62. Exemptions from registration

- (1) Notwithstanding anything to the contrary contained in this Act, if, with the consent of the Chairman of the Council—
- (a) a registered medical practitioner or dentist calls in as consultant, a medical practitioner or dentist who is neither resident nor registered in Malawi, such consultant shall not be held to require registration in Malawi, in respect of his attendance upon the patient with respect to whom he has been called in consultation;
  - (b) a person registered in any country as a medical practitioner or dentist but who is neither resident nor registered in Malawi and who is called into Malawi on the *bona fide* request of a patient shall not be held to require registration in Malawi in respect of his attendance on such patient;
  - (c) a person practising a profession or calling in respect of which a register is kept who is neither resident nor registered in Malawi and who is appointed by the Council or other body approved by the Council to conduct an examination in Malawi shall not be held to require registration in Malawi in respect of his duties in connexion with the conduct of such examination;

- (d) a person practising a profession or calling in respect of which a register is kept under this Act who is—
    - (i) a member of a naval, military, air or police force of a country other than Malawi and temporarily stationed on duty in Malawi; or
    - (ii) a delegate of the International Committee of the Red Cross and has entered Malawi with the consent, or at the invitation, of the Government,shall not be held to require registration in Malawi in respect of his duties as a member of that force or as such delegate, as the case may be;
  - (e) the Council may exempt from the provisions of this Act regarding registration any person not permanently resident in Malawi who is engaged solely in teaching or research work affecting any or the professions or calling in respect of which a register is kept under this Act for a period not exceeding four months.
- (2) Any prescription or order signed by a person exempted from registration in accordance with subsection (1) and given by him in the course of his practice under that subsection, but not otherwise, shall, for the purposes of any law relating to drugs, have same force and effect as a prescription or order signed by a registered person.

### **63. Registered persons becoming unfit to practice**

- (1) Whenever there is brought to the notice of the Council an allegation that a registered person has—
- (a) become mentally or physically disabled to such an extent that it would be contrary to the public interest to allow him to continue to practice; or
  - (b) become unfit to purchase, acquire, keep, use, prescribe, order, supply or possess any drug; or
  - (c) been using a drug in contravention of any law relating to the use of drugs; or
  - (d) become addicted to or dependent upon the use of drugs, the Council shall have power to call for such information and to cause such investigation to be made as it thinks necessary and to seek such legal advice or other assistance as it may require.
- (2) In consequence of an investigation under subsection (1), the Council may—
- (a) direct that such person shall cease to practice and that his registration be cancelled; or
  - (b) suspend such person from practice for such period, and subject to such conditions, as the Council may determine; or
  - (c) impose such conditions respecting the practise of such person as it may deem necessary and in the event of failure by such person to comply with such conditions, the Council may direct that such person shall cease to practise and that his registration shall be cancelled.

### **64. Restoration to register**

Where the name of a person has been erased from the register, the Council may, if it thinks fit, authorize the restoration to the register of the name of such person if representations are made by the person concerned after the expiration of such period as the Council may determine in that particular case.

### **65. Burden of proof on unregistered persons**

In any criminal proceedings against any person upon a charge of having performed any act which constitutes an offence under this Act, if performed by a person alleged to be not registered, the person charged shall be deemed to be not registered unless he proved the contrary.

**66. Personation of registered person or misrepresentation**

Any person who impersonates a registered person, shall be guilty of an offence and liable to a fine of K2,000 and to imprisonment for one year.

**67. Registered person using unregistered title or qualification**

A registered person who takes, uses or publishes in any way whatsoever a name, title, description or symbol indicating or calculated to lead any person to infer that he possesses a qualification which relates to a profession or calling in respect of which a register is kept and which is not shown in the register in connexion with his name shall be guilty of an offence and liable to a fine of K1,000 and to imprisonment for one year.

**68. Notification of change of address or death**

- (1) A registered person who changes his address shall notify that fact to the Registrar within one month after such change.
- (2) If the registrar of births and deaths receives notice of a death which shows that the deceased belonged to a profession or calling in respect of which a register is kept, he shall forthwith notify the Registrar of such death.

**68A. Closure of premises and seizure of equipment, etc.**

- (1) Where the Council believes, on reasonable grounds, that this Act or any regulations made thereunder have been contravened, the Council may, subject to subsection (2), order—
  - (a) the closure of any premises; and
  - (b) the seizure of any equipment, instrument or any other thing,by means of or in relation to which the Council reasonably believes the contravention was committed.
- (2) The closure of any premises shall cease, and any equipment, instrument or any other thing seized shall not be detained, after the provisions of this Act or any regulations made thereunder have, in the opinion of the Council, been complied with, unless before that time disciplinary or court proceedings, as the case may be, have been instituted in respect of the contravention, in which event the premises shall remain closed and the equipment, instrument or other thing may be detained until the proceedings are finally concluded.
- (3) Where a person has been found guilty of an offence or disciplinary misconduct under this Act or any regulations made thereunder, any equipment, instrument or other thing by means of or in relation to which the offence or misconduct was committed may, in addition to any other penalty imposed by the court or the Council, be forfeited to such person, and may be disposed of in such manner and at such time and place, as the court or the Council, as the case may be, may direct; but no equipment, instrument or other thing shall be disposed of pending an appeal against the decision of the court or the Council or before the time within which the appeal may be taken has expired.

*[19 of 1995]*



## Part XIV – Regulations and savings

### 69. Regulations

The Minister may, with the advice of the Council, make regulations for carrying out or giving effect to the provisions of this Act, and without prejudice to the generality of the foregoing such regulations may—

- (a) prescribe the fees payable—
  - (i) upon registration or renewal of registration in a register; or
  - (ii) on transfer from one register to another register; or
  - (iii) for restoration to a register; or
  - (iv) for registration of an additional or specialist qualification; or
  - (v) for the issue of a duplicate certificate of registration or a certificate extract from a register or other certificate issued by the Registrar; or
  - (vi) in respect of private practice; or
  - (vii) for any other matter under this Act;
- (b) prescribe the forms required to be prescribed under this Act;
- (c) prescribe the acts considered to be or not to be acts specially pertaining to profession or calling in respect of which a register is kept under this Act;
- (d) make provision for the conduct, supervision of private practice and other matters relating thereto; and
- (e) make provision for the registration, control and regulation of persons who practice professions or callings allied to medicine and dentistry and whose work is concerned closely with the prevention or treatment of any physical or mental ailment in human beings.

### 70. Repeal and savings

Repeal and savings. \*

\*The Medical Practitioners and Dentists Registration Act was repealed. Any subsidiary legislation made thereunder shall remain in force unless in conflict with this Act and be deemed to be subsidiary legislation made under this Act and may be replaced, amended or repealed by subsidiary legislation made under this Act.