

THE HEALTH LABORATORY PRACTITIONERS
ACT, 2007

ARRANGEMENT OF SECTIONS

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THE UNITED REPUBLIC OF TANZANIA



No. 22 OF 2007

I ASSENT,

[*Jacayao Harimle*]

President

[24th January, 2008]

An Act to provide for the registration and regulation of Health Laboratory Practitioners and to provide for related matters.

ENACTED by Parliament of the United Republic of Tanzania

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Health Laboratory Practitioners Act, 2007, and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint. Short title and commencement
- 2.-(1) This Act shall apply to Mainland Tanzania. Application
- (2) This Act shall apply to health laboratory scientists, health laboratory technologists, health laboratory assistants and licensed persons.
3. In this Act, unless the context otherwise requires— Interpretation
- “certificate of registration” means a certificate issued by the Council under section 19;
- “certificate of enrolment” means a certificate issued by the Council under section 22;
- “certificate of provisional registration” means a certificate issued by the Council under section 16(3);
- “Committee” means a Committee established under sections 7 and 8 of this Act;

- “Council” means the Health Laboratory Practitioners Council established under section 4;
- “Deputy Registrar” means the Deputy Registrar of the Council appointed under section 11;
- “external quality assessment” means the assessment of the efficiency of quality control procedures by performing investigation on specimens of known content but undisclosed to the participating laboratory under section 33;
- “health facility” means a public or private health facility recognized by the Council;
- “health laboratory assistant” means a person who has undergone health laboratory training at certificate level in a training institution recognized by the Council;
- “health laboratory practitioner” includes a health laboratory scientist, health laboratory technologist and health laboratory assistant;
- “health laboratory scientist” means a person who holds a degree or an advanced diploma in health laboratory sciences issued by a university or institution of higher learning recognized by the Council;
- “health laboratory technologist” means a holder of a diploma in health laboratory sciences from a university or training institution recognized by the Council;
- “internal quality control” means the routine procedures carried out in the laboratory in order to guarantee the quality of results under section 33;
- “licence” means a licence issued by the Registrar under section 25;
- “Minister” means the Minister responsible for health;
- “professional misconduct” means any misconduct by the health laboratory practitioner falling short by an act or omission of the standards of conduct expected of professionalism;
- “rapid test” means a specified test permitted to be conducted under section 23;
- “Record” means a record of licenced persons kept and maintained under section 27;
- “Register” means a register of the health laboratory scientists and health laboratory technologists kept and maintained by the Registrar under section 27;
- “Registrar” means the Registrar of the health laboratory practitioners appointed under section 10;

- “Roll” means the roll of health laboratory assistants kept and maintained by the Registrar under section 27;
- “supervisor” means a person appointed by the Council under section 13;
- “training institution” means a training centre recognized by the Council for teaching health laboratory science leading to award of a certificate, diploma, advanced diploma or a degree.

PART II

THE HEALTH LABORATORY PRACTITIONERS' COUNCIL

4.—(1) There is hereby established a Council to be known as the Health Laboratory Practitioners' Council.

Establishment of the Health Laboratory Practitioners' Council

- (2) The Council shall be a body corporate and shall-
- (a) have a perpetual succession and an official seal;
 - (b) in its corporate name be capable of suing or be sued;
 - (c) subject to this Act, be capable of acquiring, purchasing holding, and disposing of any movable or immovable property;
 - (d) enter into contracts or other transactions and do all other acts and things which a body corporate may lawfully perform;
 - (e) have powers to borrow such sums as it may require for its purpose; and
 - (f) exercise the powers and perform functions conferred upon it by or under this Act.

5.—(1) The Council shall consist of the following members who shall be appointed by the Minister—

Composition of the Council

- (a) a Chairman, who shall be appointed from amongst senior health laboratory practitioners;
- (b) a representative from the diagnostic services section of the Ministry;
- (c) a representative from the private health laboratories;
- (d) a representative from the regional health laboratory technologists;
- (e) a member representing health laboratory practitioners from referral hospitals;

- (f) a representative from the Medical Laboratory Scientists Association of Tanzania;
- (g) a representative from the Association of Pathologists of Tanzania;
- (h) a representative from the Association of Private Hospitals in Tanzania;
- (i) one member representing health laboratory assistants;
- (j) a head of health laboratory services unit of the Ministry;
- (k) a representative from the training section of the Ministry; and
- (l) a State Attorney from the Attorney-General's office.

(2) Upon appointment of members under subsection (1), the Minister shall consider gender balance in the Council.

(3) The provisions of the Schedule to this Act, shall have effect as to the appointment of members of the Council, proceedings of the Council and other matters relating to the Council.

6.-(1) The Council shall be the registering, enrolling and licensing authority to persons eligible for registration, enrolment and licensing under this Act.

(2) The Council shall-

- (a) prescribe the ethics and code of conduct for health laboratory practitioners;
- (b) regulate the standards and practice of the profession of health laboratory;
- (c) evaluate and approve applications from qualified health laboratory practitioners and persons intending to be licensed;
- (d) keep and maintain the Register, the Roll and the Record of licensed persons;

- (e) issue certificates of registration and enrolment to health laboratory practitioners;
- (f) issue licences to licensed persons under section 25;
- (g) advise the Government on matters relating to delivery of health laboratories services and performance of functions by health laboratory practitioners;
- (h) advise and regulate the implementation of the curricula for the training of health laboratory assistants, health laboratory technologists and health laboratory scientists;
- (i) conduct examinations for health laboratory practitioners prior to registration or enrolment, if necessary;
- (j) prescribe standards and conditions for establishing a training institution;
- (k) cancel certificates or licences and amend any particulars thereto and to replace any certificate or licence proven to have been lost or destroyed;
- (l) suspend temporarily from practice any health laboratory practitioner or licensed person for a period not exceeding six months and in accordance with the rules made under this Act, if such suspension appears to the Council necessary;
- (m) receive, consider and determine on the reports submitted by the Committees; and
- (n) do any act or perform any other duty necessary for carrying out the functions under this Act or as may be conferred to the Council by any written law.

7.-(1) There shall be the following committees of the Council-

- (a) Education Committee;
- (b) Registration Committee;
- (c) Ethics and Conduct Committee; and
- (d) Planning and Finance Committee.

(2) Each Committee shall consist of five Council members and the Registrar or the Deputy Registrar of the Council.

Committees
of the
Council

- (3) The functions of the Education Committee shall be to—
 - (a) scrutinize curricular for the training of health laboratory practitioners;
 - (b) advise on the examinations to be given to the health laboratory practitioners prior to registration, enrolment or licensing; and
 - (c) inspect training institutions to ascertain their quality.
- (4) The functions of the Registration Committee shall be to -
 - (a) prescribe and evaluate qualifications for registration, enrolment and licensing, and to make recommendations to the Council;
 - (b) scrutinize applications submitted to the Council; and
 - (c) advise the Council on applications which shall be approved or disapproved in accordance with the provisions of this Act.
- (5) The functions of the Conduct and Ethics Committee shall be to—
 - (a) scrutinize allegations of professional misconduct submitted to the Council; and
 - (b) conduct preliminary investigation into any complaint where it is alleged that a registered, enrolled or licensed person has misbehaved in his capacity as a health laboratory practitioner.
- (6) The functions of the Planning and Finance Committee shall be to—
 - (a) assist in developing strategic plans for the Council;
 - (b) prepare the annual budget estimates of the Council;
 - (c) scrutinize annual reports of the Council; and
 - (d) scrutinize audited reports before their submissions to the Council.

8. The Council may establish not more than three other Committees to carry out any specific or general functions determined by the Council and may delegate to any such Committee such functions as the Council may deem fit.

Establishment of other Committees

9. Each Committee may co-opt as a member any person who is not a member of the Council and any such member so co-opted shall not have right to vote or to participate in the decision making.

Co-option

10.-(1) The Minister shall appoint a health laboratory practitioner from the public service to be the Registrar of the Council.

Appointment of the Registrar

(2) The Registrar shall be responsible for the administration and management of the affairs of the Council.

(3) In addition thereto, the Registrar shall perform the following functions—

- (a) to keep and maintain, on behalf of the Council, the Register and the Roll of health laboratory practitioners and the record of licensed person;
- (b) to make necessary alterations or corrections in the Register, the Roll or a Record of licensed persons on any entry as it may be directed by the Council;
- (c) to reinstate any name removed from the Register, the Roll or a Record of licensed persons as may be directed by the Council;
- (d) to enter into and inspect any health facility as may be directed by the Council;
- (e) to record the minutes of the Council and its Committees and to keep the records and documents of the Council in a proper manner;
- (f) to be a custodian of the Seal of the Council;
- (g) to be responsible for management of funds, property, staff and any other resources of the Council;

- (h) to prepare and submit a general annual report on the affairs and activities of the Council; and
- (i) to carry out any other functions that may be assigned to him by the Council.

Appoint-
ment of
the
Deputy
Registrar

11.—(1) There shall be a Deputy Registrar from amongst public servants to be appointed by the Minister, who shall assist the Registrar in day to day activities and shall perform, such other functions as may be prescribed by the Council.

(2) In the absence of the Registrar and Deputy Registrar, any officer of the Council shall carry out the functions of the Registrar in his behalf as the Chairman of the Council may in writing designate.

Secretariat

12.—(1) There shall be a Secretariat of the Council which shall consist of the Registrar, Deputy Registrar and such number of other officers or staff as the Council may determine.

(2) The officers and staff of the Council shall be paid remuneration or allowances on such terms as the Council may determine.

Appoint-
ment and
duties of
supervisors

13.—(1) The Council may, in respect of any region, district or health institution, appoint a senior health laboratory practitioner to be a supervisor of health laboratory practitioners and licensed persons.

(2) It shall be a duty of the supervisor in respect of any health laboratory practitioner and any licensed person to—

- (a) exercise general supervision in accordance with the regulations made under this Act;
- (b) investigate complaints of malpractice, negligence, misconduct or disobedience and make a report to the Council of the facts and circumstances of any such complaints;
- (c) report to the Council the name of a health laboratory practitioner or a licensed person convicted of any offence

- and the nature of the offence committed as soon as possible after the conviction comes to the knowledge of the supervisor;
- (d) submit to the Council, at a prescribed period, names of health laboratory practitioners and licensed persons who have ceased to practise.

PART III

REGISTRATION, ENROLMENT AND LICENSING

(a) Registration

14.—(1) Subject to the provisions of this Act, a person shall be entitled to be registered as health laboratory practitioner if he—

Eligibility
for
registration

- (a) has attained a degree in bachelor of science, advanced diploma or diploma in health laboratory science from a training institution;
- (b) has complied with such additional requirements relating to the acquisition of practical experience as a health laboratory scientist or a health laboratory technologist;
- (c) produces evidence to the satisfaction of the Council of his entitlement to registration as a health laboratory practitioner in any country; or
- (d) is certified as a health laboratory practitioner in any country.

(2) If in either of the cases referred to in paragraph (d) of subsection (1), the Council is not satisfied with the evidence provided therein, the person seeking registration shall be required to pass such examinations as the Council may direct.

15.—(1) A person who wishes to obtain registration under this Part, shall submit application in the prescribed form to the Registrar.

Procedure
for
registration

- (2) An application under subsection (1) shall be accompanied by—
- (a) a certified copy or copies of certificates for academic qualifications;

- (b) an application fee as may be prescribed in the Regulations; and
- (c) such other documents as may be required by the Council.

(3) The Registrar shall, after receiving an application, refer it to the Registration Committee for consideration.

(4) The Registration Committee shall, after consideration of the application, make a report containing recommendations to the Council.

(5) The Council may after consideration of the report—

- (a) approve the application and direct the Registrar to enter the name of the applicant in the Register; or
- (b) reject the application and direct the Registrar to inform the applicant accordingly stating the reasons for such rejection.

Provisional
registration

16.—(1) Any person who is not entitled to be registered by reason of the fact that he has not complied with the additional requirements referred to in section 14(1)(b) shall, if upon application in the prescribed manner, he satisfies the Council that he has secured an offer for employment or training in an institution or facility approved by the Council for the purpose of complying with the additional requirements, be entitled to be provisionally registered under this section.

(2) A person provisionally registered shall be deemed to be registered as far as is necessary to enable that person to acquire practical experience for the purpose stated in subsection (1).

(3) A person who has obtained a provisional registration, shall upon application and payment of the prescribed fee be issued with a certificate of provisional registration.

Full
registration

17.—(1) A person applying for full registration shall be required to satisfy the Council that he has acquired one year practical experience in a health facility.

(2) A person who is fully registered shall be entitled to practice as a health laboratory practitioner.

18.—(1) Where a person satisfies the Council that—

Temporary
registration

- (a) he is not ordinarily a resident of Mainland Tanzania;
- (b) he is or intends to be employed in Mainland Tanzania in the capacity for which he is applying for the express purpose of carrying out specific assignment in research or teaching;
- (c) he is or immediately before entering Mainland Tanzania was in practice as a health laboratory practitioner and that he is eligible for registration under section 14;
- (d) his professional and general conduct renders him fit and a proper person to be registered,
the Council may direct that he be registered under this section for the duration of the specific assignment or for the period which the Council may specify, in either case the period shall not exceed twelve months.

(2) For purposes of satisfying the requirements under section 15, the Council may direct a person who is not ordinary resident in Mainland Tanzania to sit for examination upon payment of the prescribed fee.

19.—(1) Upon the registration of a health laboratory scientist or a health laboratory technologist and on payment of the prescribed fee, the Registrar shall issue a certificate of registration in the prescribed form.

Certificate
of
registra-
tion

(2) The certificate of registration issued under subsection (1), shall contain—

- (a) full names and address of the applicant;
- (b) academic qualifications and title; and
- (c) such terms and conditions in respect of which a certificate of registration is issued.

(b) Enrolment

20. A person shall be entitled to be enrolled under this Act if he—

- (a) has attained a certificate in health laboratory sciences from a recognized training institution; and

Qualifica-
tions for
enrolment

- (b) produces evidence to the satisfaction of the Council of his entitlement for enrolment as a health laboratory assistant.

Procedures
for
enrolment

21.—(1) A person who wishes to be enrolled under this Act shall submit an application in the prescribed form to the Registrar.

- (2) An application under subsection (1), shall be accompanied by—
- (a) a certified copy or copies of certificates for academic qualifications;
 - (b) an application fee as may be prescribed; and
 - (c) such other documents as may be required by the Council.

(3) The Registrar shall, after receiving an application, refer it to the Registration Committee for consideration.

(4) The Registration Committee shall after consideration of the application, make a report containing recommendation to the Council.

(5) The Council may, after consideration of the report—

- (a) approve the application and direct the Registrar to enter the name of the applicant in the Roll; or
- (b) reject the application and direct the Registrar to inform the applicant accordingly stating the reasons for such rejection.

(6) Within thirty days after the Council has approved a person for enrolment, the Registrar shall enter into the Roll in respect of that person the following particulars—

- (a) his name;
- (b) the date of enrolment;
- (c) his qualifications; and
- (d) such terms and conditions in respect which a certificate of enrolment is issued as the Council may direct.

Certificate
of
enrolment

22.—(1) The Registrar shall, upon the enrolment of a health laboratory assistant and on payment of the prescribed fee, issue a certificate of enrolment in the prescribed form.

- (2) The certificate of enrolment issued under subsection shall contain—
- (a) full names and address of the applicant;
 - (b) academic qualifications and title; and
 - (c) such forms and conditions in respect of which a certificate of enrolment is issued.

(c) Licensing

23. The Council may, in its discretion, permit a person to practice as a licensed person if he has attained a specialised training to perform a specified rapid health laboratory test.

24.—(1) A person who wishes to obtain a licence under this Part, shall submit an application in the prescribed form to the supervisor.

(2) An application under subsection (1) shall be accompanied by—

- (a) a certified copy or copies of certificates for academic qualifications of the applicant; and
- (b) such other documents as may be required by the Council.

(3) The Supervisor shall after receiving an application from the applicant certify it and send it to the Registrar.

(4) The Registrar shall after receiving an application from the Supervisor, refer it to the Registration Committee for consideration.

(5) The Registration Committee shall after consideration of the application, make a report containing its recommendations to the Council.

(6) The Council may, after consideration of the report under subsection (5)—

- (a) approve the application and direct the Registrar to enter the name of applicant in the Record; or
- (b) reject an application and direct the Registrar to inform the applicant accordingly stating the reasons for such rejection.

25. The Registrar shall upon payment of the prescribed fee, issue a licence to the applicant.

Determi-
nation of
application

26.—(1) The Council shall determine an application submitted to it within ninety days from the date of submission of the application.

(2) In the event that an application is not determined within the time prescribed under subsection (1), the Registrar shall give reasons to the applicant for failure to do so.

(d) Register, Roll and Record

Register,
Roll and
Record

27.—(1) The Registrar, shall for the purpose of this Act, keep and maintain separate Registers in which he shall enter particulars of persons who are registered under sections 16, 17 and 18, a Roll for persons who are enrolled under section 21 and a record for persons who are licensed under section 24.

(2) The Registrar shall enter in the Registers, Roll or Record all changes of the particulars of persons who are registered, enrolled or recorded under this Act.

(3) The Registrar may rectify, except for substantial errors, any clerical or typographical errors in the Registers, Roll or Record.

(e) Cancellation, Suspension and Surrender of Certificates

Surrender
of certifi-
cates to
the
Council

28.—(1) A person whose name has been removed from the Register, Roll or Record of licensed persons shall, within thirty days of the notification of such removal, surrender to the Council any certificate of registration or enrolment or licence issued to him by the Council.

(2) A person who fails to surrender his certificate within the period prescribed under subsection (1), commits an offence and upon conviction shall be liable to a fine of not less than two hundred thousand shillings but not more than five hundred thousand shillings or to imprisonment for a term of one year or to both.

De-regist-
ratio-
n, erasure
and
suspension

29. Where any health laboratory practitioner or a licensed person, after due inquiry by the Council, is found guilty of professional misconduct, the Council may-

- (a) warn or censure such health laboratory practitioner or licensed person;
- (b) order his suspension from practice for a period as it deems fit; or
- (c) direct the Registrar to remove the name of such health laboratory practitioner or licensed person from the Register, Roll or the Record.

30. The Council may, if it is satisfied that the terms and conditions of registration, enrolment or licensing have been violated—

Cancellation or suspension of certificate and licence

- (a) cancel or suspend the certificate of registration, enrolment or licence; and
- (b) direct the Registrar to—
 - (i) notify the person whose certificate or licence has been cancelled or suspended from the Register, Roll or Record; and
 - (ii) remove the name of the person whose certificate of registration, enrolment or the license has been cancelled from the Register, Roll or Record as the case may be.

31.—(1) The Council may on its own motion or upon an application by the health laboratory practitioner or a licensed person who has been de-registered or erased from the Register, Roll or a Record, reinstate the name of that person in the Register, Roll or Record upon payment of a prescribed fee.

Reinstatement

(2) Where the name of a person is reinstated under subsection (1), the Council may restore the certificate of registration, certificate of enrolment or a licence of that person and may impose such conditions as it may deem necessary.

32. Every health laboratory practitioner and licensed person shall be required to pay annual retention fees as may be prescribed.

Annual retention fees

PART IV

DUTIES OF HEALTH LABORATORY PRACTITIONERS

Duties of health laboratory practitioners and licensed persons

33.—(1) It shall be the duty of every health laboratory practitioner and licensed person to attend their clients according to ethics and code of conduct.

(2) Every health laboratory practitioner or a licensed person shall comply with the internal quality control requirements and participate in external quality assessment practice.

(3) Every health laboratory practitioner or a licensed person is required to report to the Supervisor or the Council any misconduct of a fellow health laboratory practitioner and licensed person.

PART V

COMPLAINTS, INQUIRIES AND APPEALS

Receipt of complaint by the Registrar

34.—(1) Every complaint against a health laboratory practitioner or a licensed person shall be lodged to the Registrar.

(2) Complaints may be made by a complainant, relative or any other interested person.

Preliminary inquiry

35.—(1) The Council may initiate a preliminary inquiry on a health laboratory practitioner or a licensed person if it is satisfied that information received is sufficient to warrant a preliminary inquiry to be held.

(2) The Registrar shall furnish to the health laboratory practitioner or a licensed person against whom a complaint has been made, all particulars of information received.

(3) The Registrar shall require a health laboratory practitioner or a licensed person against whom a complaint has been made, to respond to such complaint within a period not exceeding twenty one days.

Conduct of the preliminary inquiry by the Registrar

36.—(1) Where the Registrar is satisfied that, the health laboratory practitioner or a licensed person against whom a complaint has been filed has not furnished sufficient information or the reply would require the holding of an inquiry, he shall conduct preliminary inquiry.

(2) The Registrar shall conduct preliminary inquiry or appoint at least two health laboratory practitioners who are not members of the Council to conduct the preliminary inquiry on his behalf who shall thereafter submit a written report to him on the matter within thirty days from the date of appointment.

(3) After completion of the preliminary inquiry, the Registrar shall report the matter to the Council and the Council shall determine whether to hold the inquiry or not.

(4) Where the Council is of the opinion that no case has been made, it shall direct the Registrar to inform both parties of the Council's decision not to hold an inquiry.

(5) Notwithstanding the provising of subsection (4), the Council may re-conduct preliminary inquiry where fresh evidence has been received.

37.-(1) Where the Council is of the opinion that a case has been made, it shall direct that an inquiry be held.

Procedure
for
holding
an inquiry

(2) A person against whom the inquiry is being conducted shall be entitled to appear in person or to be represented by a legal representative.

(3) For purposes of proceedings during the inquiry—

(a) the Chairman shall administer oaths;

(b) the Registrar shall issue summons directing the parties to appear and give evidence;

(c) a State Attorney appointed by the Attorney-General shall present the case against any person in respect of whom an inquiry is conducted.

(4) The expenses of witnesses shall be paid at a rate currently in force for witnesses of the High Court and shall be borne by the Council where the witness is called by or on behalf of the Council, and by the health laboratory practitioner or a licensed person where the witness is called by him.

(5) The Council shall regulate its procedures for the conduct of inquiries.

Notification
of the
decision
of the
Council

38. Within seven days after the conclusion of an inquiry, the Registrar shall serve a notice of the decision of the Council to the health laboratory practitioner or a licensed person in respect of whom an inquiry was held.

Appeals

39. A person aggrieved by the decision of the Council may appeal to the Minister within thirty days from the date on which a notice of the decision was made.

PART VI FINANCIAL PROVISIONS

Funds of
the
Council

40.-(1) The funds and resources of the Council shall consist of—

- (a) the sums of money as may be appropriated by the Parliament;
- (b) all fees payable as may be prescribed in the Regulations;
- (c) proceeds derived from the sale of Council's property;
- (d) such donations, grants, bequeaths or loans as the Council may receive from any organization;
- (e) any other income identified by the Council and legally obtained.

(2) The funds and resources of the Council shall be applied for the purposes which the Council is established and in accordance with the directions of the Council.

(3) The Registrar shall keep proper audited accounts and other records relating to the funds and resources of the Council.

Financial
year of the
Council

41. The financial year of the Council shall be the first accounting period starting from the commencement date of this Act and ending on the 30th day of June of the following year and in respect of subsequent accounting period, twelve months ending on the 30th day of June.

Estimates

42.—(1) The Registrar shall within three months before the end of each financial year, prepare and submit to the Council for approval, estimates of income and expenditure of the Council for the next ensuing financial year.

(2) Upon approval of estimates by the Council, the Registrar shall forward the estimates to the Minister for approval with or without variation.

(3) No expenditure shall be made from the funds of the Council unless such expenditure has been approved by the Council.

43.—(1) The Council shall cause to be prepared and kept proper books of accounts and records with respect to the receipt and expenditure of money and other financial transactions of the Council, and shall cause to be made for every financial year a balance sheet showing the details of the income and expenditure of the Council and all its assets and liabilities.

Accounts
and audit

(2) Within three months after the close of each financial year the accounts including the balance sheet of the Council in respect of that financial year shall be submitted to and audited by the Controller and Auditor-General.

(3) Every such audited balance sheet shall be placed before a meeting of the Council and, if adopted by the Council shall be endorsed with a certificate that it has been so adopted.

(4) As soon as the accounts of the Council have been audited and in any case not later than six months after the close of the financial year, the Council shall submit to the Minister a copy of the audited statement of the accounts together with a copy of the report made by the auditor on the statements of accounts.

44.—(1) The Minister shall after receiving the report, lay it before the National Assembly.

Financial
report

(2) The report shall contain-

- (a) a copy of the audited accounts of the Council;
- (b) a copy of the audited report; and
- (c) a copy of the report regarding the activities of the Council in the preceding financial year.

Remune-
ration

45. Members of the Council, Committees and other staff shall be paid remuneration as the Minister may determine.

PART VII OFFENCES AND PENALTIES

Offence
for illegal
practicing

46.—(1) Any person who practices as a health laboratory practitioner or a licensed person without being registered, enrolled or licensed, commits an offence and shall be liable on conviction to a fine of not less than five hundred thousand shillings and not exceeding one million shillings or to imprisonment for a term of not less than one year and not exceeding two years or to both.

(2) Any employer who knowingly and wilfully employs unregistered or unenrolled health laboratory practitioner or unlicensed person, commits an offence and shall be liable on conviction to a fine of not less than one million shillings and not exceeding three million shillings or to imprisonment for a term of not less than one year and not exceeding three years or to both.

(3) In addition to the penalty imposed pursuant to the provisions of subsections (1) and (2), the trial court may, order that any needles, tools, diagnostic instruments or appliances used by or belonging to or found in possession of a person convicted, be forfeited, destroyed or otherwise disposed of.

Offence
for
procure-
ment of
illegal
registration,
enrollment
or
licensing

47. Any person who—

- (a) illegally procures or attempts to procure registration, enrolment or licensing;
- (b) produces any false or fraudulent statement or documents for purposes of obtaining registration, enrolment or licensing;
- (c) deliberately makes or causes to be made any false information in any matter relating to the Register, the Roll or the Record of licensed persons;
- (d) assists or aids any person to commit any of the acts prescribed under this section,

commits an offence and shall be liable on conviction to a fine of not less than five hundred thousand shillings and not exceeding one million shillings

or to imprisonment for a term of not less than six months and not exceeding twelve months or to both.

48. A person who, with intent to mislead the Council, gives false information or utters forged documents, commits an offence and is liable on conviction to a fine of not less than five hundred thousand shillings and not exceeding one million shillings or to imprisonment for a term of not less than six months and not exceeding twelve months or to both.

Penalty for giving false information or uttering forged documents

49. Any person who—

General offences

- (a) wilfully and falsely uses a name or title implying a qualification to practice as health laboratory practitioner or licensed person;
- (b) having been summoned by the Council fails to attend without reasonable excuse, to produce any book or documents which he is required to produce;
- (c) without lawful excuse, refuses to answer any question put to him during the proceedings of the Council;
- (d) contravenes any other provisions of this Act,

commits an offence and shall be liable on conviction to a fine of not less than five hundred thousand shillings or to imprisonment for a term of six months or to both.

PART VIII

MISCELLANEOUS PROVISIONS

50. An act done or omitted to be done by the Council, Committees, the Registrar or any other person empowered to perform functions under this Act, shall not, if done or omitted to be done in good faith during or in the performance of such functions, render a member of the Council, Committees, the Registrar or any other person personally liable for that act or omission.

Indemnity

51.—(1) The Minister may make regulations for the better carrying out the provisions of this Act.

Regulations

(2) Notwithstanding the provisions of subsection (1), the Minister may make regulations—

- (a) prescribing fees or charges payable under this Act;

- (b) regulating or otherwise make provisions with respect to health laboratory practitioners training for the purposes of this Act which include making provision relating to—
 - (i) standards of training institutions;
 - (ii) laboratory sciences curricula and continuing professional development that may lead to registration, enrolment or licensing;
 - (iii) procedures for the assessment of the health laboratory practitioners or licensed persons competence;
- (c) making provisions with respect to registration, enrolment or licensing under this Act;
- (d) prescribing information that shall be included in the Register, Roll or Record of licensed persons, and make provisions with respect to the keeping of the Register, Roll or Record of licensed persons;
- (e) imposing conditions with respect to renewal of registration, enrolment or licensing of health laboratory practitioners or licensed persons;
- (f) regulating or control any aspect of health laboratory practice;
- (g) prescribing procedures associated with any process or proceedings under this Act;
- (h) prescribing procedures for appeals;
- (i) prescribing procedures for conducting inquiry;
- (j) prescribing various forms to be used under this Act;
- (k) prescribing a list of qualifying countries for the licensure of health laboratory practitioners;
- (l) prescribing particulars required to be given in any notification or notice given or issued under this Act;
- (m) clarifying modalities to be applied by supervisory authorities in the implementation of their duties;
- (n) prescribing the Ethics and Conduct Code for the health laboratory practitioners; and
- (o) prescribing any matters which may be prescribed under this Act.

52. The Minister shall have powers to amend, alter or vary the Schedule as he may deem necessary for better carrying out of this Act.

Powers
of the
Minister
to amend
or vary
the
Schedule

Repeal
and
savings
Cap. 48

53.—(1) The Health Laboratory Technologists Registration Act is repealed.

(2) Notwithstanding the repeal made under subsection (1), anything done or any action taken or purported to have been done or taken under the repealed Act, shall in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

(3) All subsidiary legislation made or issued under the repealed Act which are in force on the commencement of this Act, shall be deemed to have been made, given or issued under or in pursuance of the provisions of this Act and shall remain in force until revoked or rescinded by subsidiary legislation made or issued under this Act.

SCHEDULE

(Under section 5(2))

Tenure of
Office

1.—(1) Members of the Council appointed under this section shall hold office for the period of three years from the date of their appointment and shall be eligible for reappointment to the council after expiration of the first term.

(2) Notwithstanding the provision of subsection (1), a member shall not be eligible for reappointment for a third term.

(3) Where a vacancy occurs in the Council, the Minister shall appoint another person to fill that vacancy, and such person shall hold office for the remaining period of the office and upon the same terms as the member in whose place he is appointed.

(4) The members shall elect one of their member to be the Vice- Chairman of the Council and the member elected shall, subject to his continuing to be a member, hold office for a term of one year from the date of his election, but shall be eligible for reappointment.

Meetings
of the
Council

2.—(1) The Council shall ordinarily meet at such times and such places as it deems necessary for the transaction of its business, but shall meet at least once in every three months.

(2) The Chairman or in his absence, the Vice-Chairperson, may at any time call a special meeting upon a written request by majority of the members of the Council.

(3) The Chairman or in his absence the Vice-Chairperson, shall preside at every meeting of the Council and, in the absence of the Chairman or Vice-Chairman members present shall nominate among themselves a member to preside over the meeting.

Representa-
tion of
absent
members

3. If a member of the Council who is a member by virtue of his position is unable for any reason to attend any meeting of the Council, the person acting on his capacity shall represent him after informing the Chairman in writing and that representative shall have a right to vote.

Quorum

4. The quorum at any regular meeting of the Council shall be half of the members and a quarter of the members in an extra ordinary meetings.

Decision
of the
Council

5.-(1) Subject to subparagraph (2), matters proposed at the deliberation of the meeting of the Council shall be decided by a majority of the votes of the member present and voting, and in the event of an equality of votes, the person presiding over the meeting shall have a casting vote in addition to his deliberative vote.

(2) A decision may be made by the Council without convening a meeting by circulation of the relevant papers among the members and the expression of the views of the members in writing, but any member may require that the decision be deferred and the subject matter be considered at a meeting of the Council.

Minutes
of
meetings
of the
Council

6.-(1) The Registrar shall record and keep minutes of all business conducted or transacted at the meeting and the minutes of each meeting of the Council shall be read and confirmed or amended and confirmed at the next meeting of the Council and signed by the person presiding and the Registrar of the Council.

(2) Any minutes purporting to be signed by the person presiding over the meeting and the Registrar of the Council shall, in the absence of proof of error be deemed to be a correct record of the meeting whose minutes they purport to be.


Vacancies,
not to
invalidate
proceedings
of the
Council

7. Notwithstanding any vacancy of the membership in the Council or any defect in the appointment of the members, the powers of the Council may be exercised as usual and the proceedings of the Council shall not be affected in any manner.

Cessation
of
member-
ship

8. A member of the council shall cease to be a member if the person-
- is absent from three consecutive meetings of the council without good cause,
 - ceases to hold the office or position for which he was appointed,
 - tenders a resignation in writing to the appointing authority,
 - is suffering from a mental illness, or
 - dies.

Passed in the National Assembly on the 1st November, 2007.


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Clerk of the National Assembly