

N.R.C.D. 143

PROFESSIONAL BODIES REGISTRATION ACT, 1973

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Registration

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N.R.C.D. 143**PROFESSIONAL BODIES REGISTRATION ACT, 1973¹**

AN ACT to regulate the operation of professional bodies and to provide for related matters.

*Registration***1. Registration of professional bodies**

(1) A professional body established in the Republic shall be registered in accordance with this Act.

(2) A professional body registered under this Act is a body corporate by virtue of the registration, and

- (a) shall have perpetual succession and a common seal,
- (b) may sue and be sued in its corporate name,
- (c) may acquire, hold and dispose of movable or immovable property, and
- (d) may enter into a contract or any other transaction.

2. Provision of education and training

The provision of education and training for the purpose of enabling persons to qualify to become members of a profession in relation to which a professional body is registered under this Act shall be under the control of the governing body of the registered professional body.

3. Registrar of professional bodies

The Registrar-General is the registrar of professional bodies.

4. Register of professional bodies

The registrar shall maintain in accordance with this Act a register of registered professional bodies.

5. Bodies which may be registered

(1) Subject to this Act, a professional body may apply to the registrar to be registered.

(2) A professional body shall not be registered as a professional body unless it is a society, an institution or a group of persons, the members of which

- (a) are trained and qualified in a recognised profession, and

1. The Act was issued as the Professional Bodies Registration Decree, 1973 (N.R.C.D. 143) made on the 5th day of January, 1973 and notified in the *Gazette* on 12th January, 1973. It was repealed by the Professional Bodies Registration (Repeal) Decree, 1977 (S.M.C.D. 103) but restored by the Professional Bodies Registration Decree, 1979 (A.F.R.C.D. 27) made on the 12th day of September, 1979 and notified in the *Gazette* on 21st September, 1979.

- (b) are united in a common interest for the purposes of pursuing research and any other activities concerned with the progress of knowledge in that profession, and for maintaining and advancing a code of ethics and conduct among its members, and generally for the maintenance of the highest ideals of the profession.

6. Mode of application for registration

(1) A professional body may apply in writing to the registrar and shall furnish to the registrar, together with its application,

- (a) a copy of the constitution of that body,
- (b) a list of the members of that body as at the date of the application, together with their qualifications and addresses,
- (c) a statement of the activities of that body for the period of twelve months immediately preceding the date of the application, or if the body has been in existence for less than twelve months a statement of its activities for the period during which it has been in existence, and
- (d) any other particulars reasonably requested by the registrar.

(2) The constitution of a professional body shall include a statement of

- (a) the objects of that body, and
- (b) the rules regulating the discipline of the members of the profession and the manner of enforcing the rules.

7. Registration

(1) The registrar shall, subject to this Act, register a professional body applying for registration if satisfied

- (a) regarding the body's compliance with the requirements of section 5,
- (b) that it is a body as is described in subsection (2) of section 5, and
- (c) that it is a body which represents not less than seventy-five percent of the persons trained and qualified in the profession in respect of which that body desires to be registered.

(2) The registrar shall publish in the *Gazette* notice of a registration effected under this Act.

(3) A professional body shall, before registration, pay to the registrar

- (a) a registration fee of one million five hundred thousand cedis,
- (b) an annual fee of fifteen thousand cedis for each member of that body before the 31st day of January.

8. Refusal to register

Where the registrar refuses to register a professional body under this Act, the registrar shall within seven days after the refusal notify that body in writing of the reasons for the refusal.

9. Registration of one body to represent one profession

*Omitted.*²

10. Less than fifty persons shall not be registered

Unless the President is satisfied that it is in the interest of the profession so to do, the registrar shall not register a professional body in respect of a profession comprising of less than fifty persons trained and qualified in the profession.

11. Cancellation of registration

(1) The registrar may cancel the registration of a registered professional body if satisfied that,

- (a) the body has ceased to be a body as is described in subsection (2) of section 5, or
- (b) the body has contravened a provision of this Act.

(2) The cancellation shall be published in the *Gazette* and shall take effect on the publication.

(3) Before cancelling the registration of a registered professional body the registrar shall give to that body not less than a month's notice in writing of the intention to cancel the registration and the reasons for the cancellation.

12. Appeals from decisions of registrar

(1) A professional body aggrieved by the refusal of the registrar to register it may within one month after receipt of the reasons for the registrar's refusal appeal to the Court of Appeal against the refusal.

(2) A person aggrieved by the registration of a professional body under this Act may appeal to the Court of Appeal against the registration within one month after notice of the registration is published in the *Gazette* by the registrar under section 7.

(3) The Court of Appeal may on an appeal brought under subsection (1) or (2), confirm, reverse or vary the decision of the registrar.

(4) A registered professional body aggrieved by the cancellation of its registration may appeal to the Court of Appeal within one month after the publication in the *Gazette* of the notice of cancellation, and the Court of Appeal may confirm the cancellation or may set it aside and order the name of the professional body to be restored to the register.

(5) The only ground on which a registered professional body is entitled to appeal under subsection (4) is that subsection (1) of section 11 has not been complied with.

2. Omitted as offending paragraph (e) of clause (1) of article 21 of the Constitution. The section provided that, "The registrar shall not register more than one professional body in respect of any one profession."

13. Powers of disciplinary authorities

(1) Subject to this section, a disciplinary authority appointed by a registered professional body and approved by the President shall for the purposes of a disciplinary enquiry conducted by it, have the powers, rights and privileges that are vested in the High Court in respect of

- (a) enforcing the attendance of witnesses and examining the witnesses, and
- (b) compelling the production of documents.

(2) A person commits an offence if that person

- (a) having been summoned as a witness before an approved disciplinary authority makes a default in attending without reasonable excuse the proof of which lies on that person;
- (b) being in attendance as a witness refuses
 - (i) to take an oath or to make an affirmation legally required by the authority to be taken or to be made, or
 - (ii) without lawful excuse, the proof of which lies on that person, to produce a document in the power or control of that person legally required by the approved disciplinary authority to be produced by that person, or
 - (iii) to answer a question to which the approved disciplinary authority may legally require an answer; or
- (c) does any other thing which would have been a contempt of that court, if the approved disciplinary authority were a court of law having power to commit for contempt.

(3) Where a person commits an offence under subsection (2), the chairman of the approved disciplinary authority shall certify the offence, signed personally by the chairman to the High Court, and the High Court shall forthwith enquire into the alleged offence.

(4) The High Court after hearing the witnesses produced against or on behalf of the person charged with the offence, and after hearing the statement that may be offered in defence may, if satisfied that the person charged has committed the offence, deal summarily with the offence as if that person had committed contempt of the High Court, and sentence that person to a fine not exceeding one hundred and fifty penalty units or to a term of imprisonment not exceeding three months or to both the fine and the imprisonment.

(5) The Rules of Court Committee established by article 157 of the Constitution may make Rules for the regulation of the proceedings of an approved disciplinary authority, which Rules shall be binding on that authority and on the persons affected by the proceedings.

(6) Pending the making of the Rules under subsection (5), where an enquiry falls to be held by an approved disciplinary authority, the enquiry shall be conducted in a manner determined by the professional body not being inconsistent with the requirements of natural justice.

(7) A witness or counsel before an approved disciplinary authority is entitled to the immunities and privileges that are accorded to a witness or counsel before the High Court.

(8) For the purposes of the law relating to perjury an enquiry before an approved disciplinary authority is an enquiry before the High Court.

14. Regulations

(1) A registered professional body may make Regulations governing the admission and the code of ethics of its members compatible with its traditions including rules providing for the ceasing of a person to be a member of that profession.

(2) Despite anything contained in the Regulations made by virtue of this section, a person adversely affected by a decision of a registered professional body or of an approved disciplinary authority being a decision refusing admission to or terminating or suspending or refusing to restore membership of the registered professional body or requiring the payment of the costs of an enquiry, may appeal to the Court of Appeal,

- (a) on a question of law or of mixed law and fact, or
- (b) on a question of fact with the leave of the Court of Appeal.

(3) A decision of a registered professional body or an approved disciplinary authority, as is referred to in subsection (2) shall, as soon as practicable after the decision is taken, be communicated in writing by the registered professional body or the approved disciplinary authority to the person affected by the decision.

(4) An appeal under subsection (2) shall be lodged within twenty-one days after the decision was communicated to the person making the appeal.

(5) Unless the Court of Appeal otherwise directs, the decision shall not have effect during the period within which an appeal may be brought under subsection (4), and unless the Court of Appeal otherwise directs, where an appeal has been lodged the decision shall not take effect until the appeal is finally determined or is discontinued.

(6) The Court of Appeal may on hearing an appeal confirm, reverse or vary the decision appealed against and may otherwise make an order that it thinks fit.

(7) Regulations made under subsection (1) by a professional body with the prior approval of the President may provide for the control of the practice by a firm, company or any other group or body of persons of the profession in respect of which that body is registered and may provide for the registration of that group or body; and subject to subsections (8) and (9) the practice of that profession shall be in accordance with the Regulations.

(8) A person aggrieved by an act done under a regulation made by virtue of subsection (7) may appeal to the Court of Appeal within one month after the doing of that act on the ground that the act is unreasonable.

(9) The Court of Appeal may on an appeal confirm or set aside the act and make the appropriate order.

(10) The Regulations made under this section may prescribe fees in respect of a matter to which the Rules relate.

*Miscellaneous***15. Accounts and audit**

(1) A registered professional body shall keep proper books and records of its accounts.

(2) The accounts of that professional body shall be audited each year by an auditor approved by the registrar.

16. Registered body to submit annual returns

(1) A registered professional body shall submit to the registrar before the 31st day of January in each year a return in respect of the preceding year.

(2) The return shall include:

- (a) a copy of its audited accounts,
- (b) an up to date list of its members,
- (c) the changes which have occurred in its constitution, and
- (d) any other information required by the registrar.

17. Registration of professional persons

(1) A person who is admitted or enrolled as or otherwise accepted to be a member of a registered professional body is entitled to be registered in the register in respect of that professional body on the production to the registrar of a certificate issued by the registered professional body regarding the good standing of that person in that professional body.

(2) The registration of a person under subsection (1) shall lapse at the end of each calendar year, and shall on the production to the registrar of a certificate referred to in subsection (1), be renewed by the registrar.

(3) A person shall not practise a profession in respect of which a professional body has been registered under this Act unless that person has been duly registered under this section.

(4) When a person applies to a professional body for a certificate of good standing for the purposes of this section, the application shall be dealt with by that body as soon as possible and the decision of the registered professional body shall be communicated in writing to the applicant within seven days after the decision is taken.

(5) A person aggrieved by the refusal of a registered professional body to issue a certificate of good standing may within twenty-one days after the decision was communicated under subsection (4) appeal against the decision to the Court of Appeal.

(6) The Court of Appeal may on hearing an appeal brought under this section confirm, reverse or vary the decision of the registered professional body appealed against and may make any other appropriate order.

18. Decisions of the Court of Appeal

*Omitted.*³

19. Offences

A person who

- (a) not being registered under section 17 as a member of a registered professional body poses as so registered, or
- (b) not having the qualification for admission to or enrolment in or for being accepted as a member of a registered professional body poses as having that qualification, or
- (c) otherwise contravenes a provision of this Act,

commits an offence and is liable on summary conviction to a term of imprisonment not exceeding five years or to a fine not exceeding one thousand penalty units or to both the fine and the imprisonment; and where the offence is of a continuing nature the offender is liable to a further fine not exceeding twenty-five penalty units in respect of each day during which the offence continues.

20. Offences by bodies of persons

Where an offence under this Act is committed by a body of persons then every president, vice-president, chairman, vice-chairman, director or partner and every officer of that body commits that offence where that person is proved to have directly or indirectly by an act or omission, permitted to be done the act or omission which constitutes the offence.

21. Exemption from payment of fees

The President, may subject to article 174 of the Constitution in exceptional circumstances by notice published in the *Gazette* exempt a registered professional body from the payment of the whole or a part of the fees prescribed by section 8.

22. Regulations

The President may, by legislative instrument, make Regulations for the furtherance of the aims of this Act and the promotion of the orderly development of professional bodies.

23. Consequential amendments

*Spent.*⁴

3. Omitted as offending articles 129 and 131 of the Constitution. The section 19 provided that, "Any decision of the Court of Appeal on an appeal brought under this Decree shall be final".

4. The section provided that, "The Chairman of the Council may, by legislative instrument, repeal, revoke or amend any enactment relating to professional bodies or the practice of any profession (being an enactment in existence on the day on which this Decree is published in the *Gazette*) for the purpose of bringing the provisions of such enactment into conformity with this Decree or any regulations made thereunder and until any such legislative instrument is made in respect of such enactment that enactment shall remain in force as if this Decree has not been made."

24. Interpretation

In this Act, unless the context other requires,

“**approved disciplinary authority**” means a disciplinary authority appointed by a registered professional body and approved by the President;

“**register**” means the register of registered professional bodies maintained under section 4;

“**registered professional body**” means a professional body registered under this Act;

“**registrar**” means the Registrar-General.

25. Repeal and revocation

*Spent.*⁵

5. The section provided that,

“(1) Article 51 of the suspended Constitution shall cease to have effect.

(2) The Professional Bodies Registration Regulations, 1971 (C.I. 20) are hereby revoked.”

