

**DENTAL COUNCIL ACT**

Act 31 of 1999 – 1 January 2000

*(unless otherwise indicated)*

ARRANGEMENT OF SECTIONS

SECTION

- |  |  |
|--|--|
| <b>PART I – PRELIMINARY</b>                                | 25. Temporary registration of non-citizens                                 |
| 1. Short title   | 26. Temporary registration of visiting dental surgeon or dental specialist |
| 2. Interpretation  | 27. Certificate of registration  |
| <b>PART II – THE COUNCIL</b>                               | 28. Additional qualifications  |
| <b>Sub-Part A – Establishment and Functions of Council</b> | 29. Annual list  |
| 3. Establishment of Council                                | 29A. Continuing professional development                                   |
| 4. Composition of Council                                  | <b>PART IV – MISCELLANEOUS</b>   |
| 5. Tenure of office of members                             | 30. Seal of Council  |
| 6. Vacation of office of member                            | 31. Validity of documents  |
| 7. Filling of vacancies on Council                         | 32. Remuneration and immunity  |
| 8. Chairperson of Council                                  | 33. Duty of disclosure   |
| 9. Meetings of Council                                     | 34. Deficiency in quorum   |
| 10. Registrar  | 35. Restoration of name to register  |
| 11. Appointment of employees                               | 36. Illegal practice of dentistry  |
| 12. Functions of Council                                   | 37. Illegal practice as dental specialist                                  |
| <b>Sub-Part B – Discipline</b>                             | 38. Exemptions from application of Act                                     |
| 13. Preliminary investigation by Council                   | 39. Funds and audit  |
| 14. Disciplinary proceedings                               | 40. Power to make regulations  |
| 15. Reference to Tribunal                                  | 41. Powers of Minister   |
| 16. Membership of Tribunal                                 | 42. Offences   |
| 17. Disciplinary measures                                  | 43. –  |
| 18. Disciplinary measures following conviction             | <b>PART V – SAVINGS AND TRANSITIONAL</b>                                   |
| 19. Summary proceedings                                    | 44. – 50. –  |
| <b>PART III – REGISTRATION</b>                             | 51. Saving of Code of Practice   |
| 20. Registers  | 52. –  |
| 21. Application for registration                           | SCHEDULE   |
| 22. Registration of dental surgeon                         |  |
| 23. Registration of dental specialist                      |  |
| 24. Examination and assessment                             |  |

## **DENTAL COUNCIL ACT**

### **PART I – PRELIMINARY**

#### **1. Short title**

This Act may be cited as the Dental Council Act.

#### **2. Interpretation**

In this Act—

“annual list” means the annual list of dental surgeons and specialists published under section 29;

“Chairperson” means the Chairperson of the Council;

“Code of Practice” means the code of practice referred to in section 12 (c);

“Council” means the Council established under section 3;

“dental specialist” means a person registered as such under section 23;

“dental surgeon” means a person registered as such under section 22;

“diploma in dental surgery” means any diploma, degree, licence or other like qualification or authority to practise dentistry granted by a medical institution;

“infamous conduct” includes causing or bringing disrepute to the dental profession by improper behaviour;

“malpractice” includes a failure to exercise due professional skill or care which results in injury to or loss of life of a person;

“medical institution” means any university, corporation, college, faculty or other institution which—

(a) is authorised under the laws of any country to provide courses leading to a diploma in dental surgery; and

(b) is prescribed by regulations made by the Council;

“member” means a member of the Council and includes the Chairperson;

“Minister” means the Minister to whom responsibility for the subject of health is assigned;

“negligence” includes failure on the part of a registered person to exercise the proper and timely care expected from a registered person;

“Permanent Secretary” means the Permanent Secretary of the Ministry responsible for the subject of health;

“professional misconduct” includes improper, disgraceful, dishonourable or unworthy conduct;

“register” means a register kept under section 20;

“registered person” means a person whose name is on one of the registers kept under section 20;

“Registrar” means the Registrar of the Council appointed under section 10;

“specialist qualification” means a post-graduate qualification in dental speciality obtained after full-time training—

- (a) in the case of a person who obtained his specialist qualification before the year 2000, of not less than one year;
- (b) in the case of a person who obtains his specialist qualification after the year 2000, of not less than 2 years,

in a medical institution and obtained after a certificated examination;

“Tribunal” means the Medical Disciplinary Tribunal referred to in the Medical Council Act.

[S. 2 amended by GN 27 of 2000.]

## **PART II – THE COUNCIL**

### **Sub-Part A – Establishment and Functions of Council**

#### **3. Establishment of Council**

(1) There is established for the purposes of this Act a Council which shall be known as the Dental Council of Mauritius.

(2) The Council shall be a body corporate.

#### **4. Composition of Council**

(1) The Council shall consist of—

- (a) 7 registered dental surgeons, including dental specialists;
- (b) a representative of the Ministry responsible for the subject of health, who is registered as dental surgeon or dental specialist;
- (c) 3 persons, who are neither dental surgeons nor dental specialists, appointed by the Minister.

(2) The 7 members referred to in subsection (1) (a) shall, subject to subsection (4), be elected in accordance with the rules set out in the Schedule from among dental surgeons or dental specialists having at least 10 years' experience.

(3) Out of the 7 members to be elected, 2 shall be public officers.

(4) For the purposes of an election of the members of the Council, a dental surgeon or dental specialist shall vote for—

- (a) not more than 2 dental surgeons or dental specialists who are public officers; and
- (b) not more than 5 dental surgeons or dental specialists who are not public officers.

(5) The composition of the Council shall be published in the *Gazette*.

**5. Tenure of office of members**

The members of the Council shall hold office for a period of 3 years and shall—

- (a) in the case of the members referred to in section 4 (1) (a), be eligible for re-election;
- (b) in the case of the members referred to in section 4 (1) (c), be eligible for reappointment.

**6. Vacation of office of member**

(1) The Council may require a member to vacate his office if he—

- (a) commits a gross negligence, misconduct, default or breach of trust in the discharge of his duties, as a member or otherwise, which in the opinion of the Council renders him unfit to be a member;
- (b) is incapacitated by prolonged physical or mental illness;
- (c) retires, resigns or is dismissed from the public service after having been elected from among dental surgeons or dental specialists who are public officers;
- (d) becomes a public officer after having been elected from amongst dental surgeons or dental specialist who are not public officers;
- (e) is convicted of an offence of such nature as, in the opinion of the Council, renders him unfit to be a member;
- (f) is absent, without leave of the Council, from 2 consecutive meetings of the Council of which he had notice; or
- (g) is disqualified under this Act from practising his profession.

(2) A member may resign by giving notice in writing to the Registrar of the Council.

(3) Where a member resigns under subsection (2), his seat shall become vacant when the Registrar receives the notice.

(4) The Council may suspend from office a member of the Council against whom—

- (a) criminal proceedings are instituted for an offence punishable by imprisonment;
- (b) disciplinary proceedings are instituted—
  - (i) by the Council, on any ground involving fraud, dishonesty, gross negligence, infamous conduct or breach of the Code of Practice; or
  - (ii) by the Public Service Commission, on any ground involving fraud, dishonesty, gross negligence or infamous conduct.

## 7. Filling of vacancies on Council

(1) If a member of the Council dies, resigns or is removed from office, the vacancy thereby caused shall be filled—

- (a) in the case of a member appointed by the Minister, by a fresh appointment;
- (b) in the case of a member elected from amongst public officers, by appointing the public officer who obtained the highest number of votes after the elected public officers at the election held immediately before the vacancy arose;
- (c) in the case of a member who is not a public officer, by appointing the person who, not being a public officer, obtained the highest number of votes after the members elected, from among persons who are not public officers, at the election held immediately before the vacancy arose;
- (d) by holding a fresh election if no person qualifies for appointment under paragraph (b) or (c).

(2) Where a member absents himself with the approval of the Council for a continuous period of 6 months or more, the Council may cause him to be replaced by a member appointed in the manner specified in subsection (1) (a), (1) (b) or (1) (c), as the case may be.

(3) A member appointed under subsection (2) shall remain in office for such period as the Council may determine.

## 8. Chairperson of Council

(1) The Council shall elect a member who is elected under section 4 (2) as its Chairperson.

(2) The Chairperson shall preside at every meeting of the Council.

(3) The Chairperson shall, in the event of an equality of votes, have a casting vote.

(4) When the Chairperson is absent from a meeting, the members present shall elect one of the members elected under section 4 (2) to chair the meeting.

## 9. Meetings of Council

(1) Six members, including the Chairperson, shall constitute a quorum at any meeting.

(2) The validity of any decision, proceeding or act of the Council or act done on the authority of the Council, shall not be affected by—

- (a) any vacancy among the members thereof;
- (b) any defect in the appointment of a member thereof; or
- (c) the fact that some person who was not entitled to do so took part in the deliberation of the Council.

(3) The Council shall meet at least 3 times each year.

(4) A special meeting of the Council—

(a) may be convened by the Chairperson at any time;

(b) shall be convened by the Chairperson within 7 days of the receipt by him of a request in writing signed by not less than 6 members of the Council and specifying the purpose for which the meeting is to be convened.

(5) The Council may set up a committee of 2 or more members for such purpose as it may determine.

#### **10. Registrar**

(1) There shall be a Registrar of the Council who shall be a dental surgeon or dental specialist registered under the Dental Council or a registered medical practitioner under the Medical Council Act.

(2) The Registrar shall be appointed by the Council and shall hold office on such terms and conditions as the Council thinks fit.

(3) The Registrar shall be responsible to the Council for—

(a) the proper administration of the Council;

(b) executing all decisions of the Council; and

(c) carrying out such duties as may be assigned to him by the Council.

(4) In the exercise of his functions, the Registrar shall act in accordance with such directions as he may receive from the Council.

(5) The Registrar shall also be the Secretary to the Council.

(6) If the Registrar is for any reason unable to carry out his functions, the Council may appoint another person to act as Registrar.

(7) Service of any process by, or on behalf of, the Council shall be sufficient if made by, or on behalf of, the Registrar.

#### **11. Appointment of employees**

(1) The Council may, on such terms and conditions as it thinks fit, appoint such employees as it considers necessary for the proper discharge of its functions under this Act.

(2) Every employee of the Council shall be under the administrative control of the Registrar.

#### **12. Functions of Council**

The Council shall—

(a) exercise and maintain discipline in the practice of dentistry;

- (b) advise the Minister on any matter governed by the provisions of this Act or any matter connected therewith or incidental thereto;
- (c) establish a Code of Practice for the dental profession on standards of professional conduct and dental ethics and monitor compliance with such a code;
- (d) organise such examination, including clinical or practical examination or assessment in dental surgery, prior to registration, as the Council may determine;
- (e) promote education and training of dental surgeons and specialists generally;
- (f) notwithstanding the Mauritius Qualifications Authority Act and the Tertiary Education Commission Act, be the sole authority empowered to—
  - (i) pronounce on all matters relating to the recognition and equivalence of any qualification for the practice of dentistry;
  - (ii) define the criteria which govern the comparability of any qualification for the practice of dentistry;
- (g) keep a record of all its proceedings and decisions; and
- (h) publish the annual list.

#### **Sub-Part B – Discipline**

### **13. Preliminary investigation by Council**

(1) The Council may investigate any complaint of medical negligence, professional misconduct, malpractice or any breach of the Code of Practice against a registered person.

(2) Where the Council investigates a complaint—

- (a) it shall notify the person whose conduct, act or omission is under investigation of the nature of the complaint;
- (b) it may summon and hear the person;
- (c) it may summon and hear witnesses; and
- (d) it may call for relevant documents and make such copies thereof as it thinks fit.

(3) The Council shall keep a proper record of its proceedings under subsection (2).

(4) Notwithstanding section 9 (1), for the purpose of an investigation under subsection (1), the Council shall consist of not less than 3 members designated by the Council.

(5) Where, in the course of an investigation, a person refuses to give evidence, or to communicate any document, on the ground of confidentiality, the Registrar may apply to a Judge sitting in Chambers for an order directing that person to disclose the evidence required or communicate any document required for the purpose of the investigation.

(6) The Judge shall make an order under subsection (5) if he is satisfied that the information or document the disclosure of which is sought is bona fide required for the purposes of the investigation.

#### **14. Disciplinary proceedings**

(1) Where after having carried out a preliminary investigation, the Council is satisfied that a registered person has committed—

- (a) a breach of the Code of Practice;
- (b) an act of fraud, dishonesty or negligence; or
- (c) any other act likely to bring the dental profession into disrepute,

the Council may institute disciplinary proceedings against the registered person before the Tribunal.

(2) Notwithstanding subsection (1), where, after an investigation under section 13, the Council considers that—

- (a) there is prima facie evidence of negligence, incompetence, or grave misconduct on behalf of a registered person; and
- (b) public interest requires that the registered person should instantly cease to practise dentistry,

the Council may suspend the registered person from the practice of dentistry until a decision is taken under section 17 (4).

#### **15. Reference to Tribunal**

Where—

- (a) after an investigation under section 13, the Council is of the opinion that disciplinary proceedings should be instituted against a registered person; or
- (b) pursuant to section 89 (2) of the Constitution, the Public Service Commission refers to the Council a case of alleged medical negligence or professional misconduct against a registered person who is a public officer,

the Council shall refer the matter for hearing to the Tribunal.

#### **16. Membership of Tribunal**

(1) Notwithstanding section 15 (1) (b) of the Medical Council Act, in relation to a matter referred to the Tribunal under section 15, the Prime Minister shall, subject to subsections (2) and (3), appoint 2 persons who—

- (a) are registered as dental surgeons or dental specialists; and
- (b) have not less than 10 years' experience in the practice of dentistry,

as members of the Tribunal.

(2) The Prime Minister shall not appoint a member of the Council as a member of the Tribunal.



(3) The Prime Minister may appoint a person who is not registered under this Act as member of the Tribunal, if the Prime Minister is satisfied that the person—

- (a) has wide experience in the practice of dentistry;
- (b) is registered as dental surgeon or dental specialist outside Mauritius.

#### **17. Disciplinary measures**

(1) The Tribunal, after having enquired into the matter, shall forward its report to the Council as soon as practicable and at any rate not later than one month from the termination of the proceedings.

(2) The report of the Tribunal shall include—

- (a) a statement as to whether the charge has been proved and a brief statement of the reasons for those findings;
- (b) details of any matters which, in the Tribunal's opinion, aggravate the charge or alleviate the gravity of the charge; and
- (c) the record of the proceedings of the Tribunal.

(3) The Tribunal shall not make any recommendation regarding the form of punishment.

(4) Where the Council receives a report from the Tribunal under subsection (1) stating that the charge has been proved, it may—

- (a) administer a warning or a severe warning to the registered person;
- (b) administer a reprimand or a severe reprimand to the registered person;
- (c) suspend the registered person from the practice of dentistry for a period not exceeding 12 months; or
- (d) remove the name of the registered person from the register.

(5) The decision of the Council under subsection (4) shall be communicated to the registered person in question as soon as practicable and at any rate not later than 15 days from the date of such decision.

(6) A registered person aggrieved by the decision of the Council may appeal to the Supreme Court by way of judicial review.

(7) Where—

- (a) a registered person has been suspended under section 14 (2) or 17 (4) (c); or
- (b) the name of a registered person has been removed from the register under section 17 (4) (d),

such suspension or removal shall not be stayed pending the determination of any related appeal.

(8) In relation to a registered person in respect of whom the Public Service Commission has delegated to the Council its powers of discipline under section 89 (2) of the Constitution, after receiving the report of the Tribunal, the Council shall, without prejudice to its powers under subsection (4), forward the report referred to in subsection (2) to the Public Service Commission for it to inflict such punishment it may be empowered to inflict.

#### **18. Disciplinary measures following conviction**

Where a registered person has been convicted of a criminal offence involving negligence, professional misconduct, fraud or other dishonesty in the exercise of his calling, the Council may, after giving him an opportunity to show cause in writing why disciplinary measures should not be taken against him, take against him any of the measures specified in section 17 (4).

#### **19. Summary proceedings**

Notwithstanding section 15, the Council may, without reference to the Tribunal and after an investigation carried out under section 13, inflict on a registered person—

- (a) a warning;
- (b) a severe warning;
- (c) a reprimand; or
- (d) a severe reprimand.

### **PART III – REGISTRATION**

#### **20. Registers**

(1) The Registrar shall keep—

- (a) a register of dental surgeons;
- (b) a register of dental specialists;
- (c) a register of temporarily registered dental surgeons and dental specialists; and
- (d) such other register as the Council may determine.

(2) The Registrar shall enter in the appropriate register—

- (a) the names, addresses, qualifications and other particulars of every person who is—
  - (i) registered as a dental surgeon;
  - (ii) registered as a dental specialist;
  - (iii) temporarily registered as a dental surgeon or dental specialist;
- (b) any alterations in the names, addresses, qualifications and other particulars of registered persons;
- (c) an annotation as to whether a registered person—
  - (i) has died;
  - (ii) has been struck off as a dental surgeon or dental specialist by the Council;

- (iii) has been suspended from practising dentistry; or
- (iv) has left Mauritius with the intention of settling abroad.

## 21. Application for registration

(1) Every person who wishes to be registered under section 20 shall apply in person to the Registrar in such form as may be prescribed.

(2) An applicant under subsection (1) shall submit with his application—

- (a) in the case of a dental surgeon, the original or a certified copy of his diploma in dental surgery;
- (b) in the case of a dental specialist, the original or a certified copy of his specialist qualification;
- (c) a certified translation in English or French of his diploma in dental surgery or specialist qualification;
- (d) his birth certificate;
- (e) other acceptable evidence of his identity;
- (f) such other particulars as the Council may require, including evidence of appropriate linguistic skills after proficiency tests.

(3) Where the Registrar is satisfied that an applicant qualifies for registration under this Act, he may, with the approval of the Chairperson, cause the name of the applicant to be entered in the appropriate register and inform the Council accordingly.

(4) (a) Notwithstanding subsection (2) (a) and (b), the Registrar may, subject to such conditions as the Chairperson may determine, register an applicant if the applicant produces evidence to the satisfaction of the Chairperson that the applicant has obtained a diploma in dental surgery or a specialist qualification.

(b) Where the name of the applicant has been entered in the register pursuant to subsection (3) or paragraph (a), the Registrar shall, not later than 60 days from the date of receipt of the application, notify the applicant in writing of his registration.

(5) Where the Registrar does not register an applicant under subsection (3) or (4), the Registrar shall refer the application to the Council for its decision.

(6) Where the Council refuses an application, the Registrar shall, not later than 60 days from the date of receipt of the application, notify the applicant accordingly, stating the reasons for the refusal.

[S. 21 amended by s. 10 (a) of Act 38 of 2011 w.e.f. 15 December 2011.]

## 22. Registration of dental surgeon

(1) A person may be registered as a dental surgeon if—

- (a) he is a citizen of Mauritius;
- (aa) produces a certificate, or a certified copy of a certificate, stating that he has passed at one sitting any 3 subjects at Advanced (“A”) level (or its equivalent), with a minimum of 21 points, based on the following scale (or such equivalent scale as may be

approved by the Council on the recommendation of the Ministry responsible for the subject of education) —

<b>A Level Grade</b>	<b>A Level Points</b>
A +	10
A	9
B	8
C	7
D	6
E	4

- (b) he holds a diploma in dental surgery;
- (c) he is of good character and has not been convicted of an offence in any country involving fraud or dishonesty;
- (d) he has not been disqualified from practice as a dental surgeon in any country;
- (e) he has not in any country been removed from the list of dental surgeons on account of professional misconduct or negligence;
- (f) he does not suffer from any mental or physical incapacity which may hamper the discharge of his duties;
- (g) he has successfully undergone such examination or assessment as the Council may deem fit for the purpose of determining whether he possesses adequate professional medical knowledge and linguistic skills; and
- (h) he has paid such fee as may be prescribed by the Council.

(2) Subsection (1) (aa) shall not apply to a person who has, on the commencement of this section, already enrolled on a course leading to a diploma in dental surgery.

[S. 22 amended by s. 7 (a) of Act 27 of 2012 w.e.f. 1 January 2013.]

### **23. Registration of dental specialist**

A person may be registered as a dental specialist if —

- (a) the person is registered as a dental surgeon in Mauritius;
- (b) he holds a specialist qualification;
- (c) he establishes to the satisfaction of the Council that he has, after obtaining his specialist qualification, undergone not less than one year of practical (including clinical) training under the supervision of one or more specialists who has not less than 10 years' practical (including clinical) experience in the field in which the person has specialised;
- (d) he has successfully undergone such assessment as the Council may deem fit for the purpose of determining whether the person possesses adequate professional knowledge and skills in the field in which the person has specialised; and
- (e) he has paid such fee as may be prescribed by the Council.

## 24. Examination and assessment

(1) The examination and assessment referred to under sections 22 and 23, respectively shall be conducted by a board, the appointment and composition of which shall be prescribed by regulations.

(2) The Council may, for the purpose of an examination or assessment, charge such fee as may be prescribed.

## 25. Temporary registration of non-citizens

(1) Notwithstanding section 22 (a), a non-citizen may be temporarily registered as a dental surgeon if—

- (a) he holds a work permit or is exempted from holding a permit under the Non-Citizens (Employment Restriction) Act;
- (b) he satisfies the requirements of section 22 (1) (b) to (g); and
- (c) he has paid the fee prescribed by the Council.

(2) A non-citizen may be temporarily registered as a dental specialist if—

- (a) he satisfies the requirements set out in section 23 (b) and (d); and
- (b) he has paid the fee prescribed by the Council.

(3) No application for temporary registration under this section shall be processed unless the applicant has submitted all the documents referred to in subsection (1) (a) and section 21 (2).

(4) Every application under this section, which has been duly submitted to the Registrar, shall be determined within 60 days of the date of the submission.

(5) Where the Registrar is satisfied that an applicant qualifies for registration under this Act, he shall temporarily register the applicant.

(6) Where the Registrar does not register an applicant under subsection (5), the Registrar shall refer the application to the Council for its decision.

(7) Where the Council refuses an application, the Registrar shall, not later than 60 days from the date of receipt of the application, notify the applicant accordingly, stating the reasons for the refusal.

(8) Subsections (3) to (7) shall apply to any application for temporary registration made before and pending on 15 December 2011, and the 60-day period referred to in subsection (4) shall run, in relation to such application, as from the date of submission of all the documents referred to in subsection (3).

[S. 25 amended by s. 10 (b) of Act 38 of 2011 w.e.f. 15 December 2011; s. 7 (e) of Act 27 of 2012 w.e.f. 22 December 2012.]

## **26. Temporary registration of visiting dental surgeon or dental specialist**

- (1) A dental surgeon or dental specialist who—
- (a) is engaged in the Republic of Mauritius in the implementation of a Government scheme agreed upon by Government and the World Health Organisation or other similar international agency;
  - (b) is visiting Mauritius and has been invited to offer his services under a scheme approved by the Ministry; or
  - (c) is visiting Mauritius for the purpose of teaching, research or study in dentistry under such scheme as may be approved by the Government,

may be temporarily registered as a dental surgeon or dental specialist under this Act.

(2) Any dental surgeon or dental specialist of any visiting force and ship lawfully present in Mauritius shall be exempted from registration for the discharge of his duties.

(3) A dental surgeon or dental specialist registered under subsection (1) shall be exempted from the payment of any fee.

## **27. Certificate of registration**

(1) The Registrar shall issue to every person registered under this Act a certificate of registration in such form as the Council may prescribe.

(2) The Registrar may issue to a registered person a duplicate certificate if he is satisfied that the registered person has lost his certificate of registration.

## **28. Additional qualifications**

Where after registration, a registered person obtains a qualification from a medical institution, the Council may, on application made to it, add the qualification to the register if the Council is satisfied that the qualification is an appropriate qualification to be included in the register.

## **29. Annual list**

(1) The Council shall, not later than 15 February in every year, publish in the *Gazette*, an annual list.

- (2) Notwithstanding section 36, a person shall not—
- (a) practise dentistry as, or profess to be, a dental surgeon;
  - (b) practise as, or profess to be, a dental specialist,

unless his name is on the annual list.

(3) Every dental surgeon or dental specialist who wishes to have his name on the annual list shall—

- (a) in the case of a newly registered dental surgeon or dental specialist, on registration;
- (b) in any other case, not later than 31 January in every year,

pay to the Council such fee as may be prescribed.

(4) The Registrar shall, on receipt of the fee under subsection (3), enter the name of the dental surgeon or dental specialist in the annual list.

(5) A dental surgeon or dental specialist who fails to comply with subsection (3) (b) may apply to the Council to have his name added to the annual list.

(6) A dental surgeon or dental specialist who makes an application under subsection (5) shall state in writing the reason why he was unable to comply with subsection (3) (b).

(7) Where a dental surgeon or dental specialist makes an application under subsection (5), the Council may, if it is satisfied that there are reasonable grounds to explain his failure to comply with subsection (3) (b), cause the name of the dental surgeon or dental specialist to be added to the annual list on payment of such fees as may be prescribed by the Council.

(8) Any person who contravenes subsection (2) shall commit an offence.  
(S. 29 (2) (b) came into operation on 1 July 2000.)

### **29A. Continuing professional development**

(1) Notwithstanding section 29, but subject to subsection (2), no registered person shall have his name entered on the annual list unless he has followed such continuing professional development courses or training programmes dispensed by such institutions or persons as may be approved by the Council.

(2) Subsection (1) shall not apply to a registered person who is excused by the Council on such ground as may be prescribed.

(3) The Council shall give public notice of the courses, programmes, institutions and persons approved under subsection (1).

[S. 29A inserted by s. 7 (f) of Act 27 of 2012 w.e.f. 1 October 2013; repealed and replaced by s. 11 of Act 27 of 2013 w.e.f. 1 August 2016.]

## **PART IV – MISCELLANEOUS**

### **30. Seal of Council**

The Council shall have a seal which shall bear such device as the Council may approve.

### **31. Validity of documents**

All deeds, instruments, contracts and other documents shall be deemed to be duly executed by or on behalf of the Council if signed by the Registrar or any member authorised by the Council for that purpose.

### **32. Remuneration and immunity**

(1) The members of the Council shall be paid such allowance as the Minister may determine.

(2) No civil or criminal proceedings shall lie against a member or the Registrar in respect of any act or omission done by him in good faith in the performance of his duties under this Act.

**33. Duty of disclosure**

Every member who—

- (a) is closely related to a registered person whose conduct, act or omission is under investigation;
- (b) has any pecuniary or other personal interest in the subject matter of the investigation,

shall disclose his relationship or interest, as the case may be, and refrain from participating in the investigation.

*continued on page D5 – 15*



### 34. Deficiency in quorum

(1) Where, by virtue of section 33 or for any other cause specified in section 7 (1), a quorum cannot be obtained by the Council, the quorum shall be constituted in accordance with paragraph (a), (b) or (c) of that subsection.

(2) Where a quorum cannot be obtained without a fresh election and the Council is of the opinion that it is urgent to hold an investigation, the Chairperson may request the Minister to appoint one or more persons, as appropriate, to make up any deficiency in quorum for the purpose of such investigation.

(3) An appointment made by the Minister under subsection (2) shall not lapse notwithstanding that a quorum can be obtained if the investigation in respect of which he is appointed is not completed.

### 35. Restoration of name to register

(1) Subject to any order which may be made by the Supreme Court, where the name of any person has been removed from the register in accordance with the provisions of this Act, the name of that person shall not be restored to it except by order of the Council.

(2) Where the name of a person has been removed from the register, the Council may—

- (a) after the expiry of 12 months from the date of such removal;
- (b) either of its own motion or on application of the person; and
- (c) after holding such inquiry as it thinks fit,

cause the name of such person to be restored to the register.

### 36. Illegal practice of dentistry

(1) No person shall practise dentistry in Mauritius unless he is registered under this Act or exempted from such registration.

(2) No person shall demand or sue for or recover in any Court any charge by way of claim, counterclaim, set-off or otherwise in relation to any dental advice or treatment provided by him unless he is registered as a dental surgeon or dental specialist under this Act or exempted from such registration.

(3) No person shall—

- (a) take or use any name, title, addition or description—
  - (i) implying a qualification to practise dentistry in Mauritius; or
  - (ii) implying or tending to the belief that he is a registered person; or
- (b) by any wilful act or omission, cause or induce any person to believe that he is a registered person,

unless he is duly registered under this Act.

(4) For the purposes of this section, the performance of any single act relating to the practice of dentistry may be held to be sufficient evidence of such practice.

(5) No person, who has been suspended from the practice of dentistry or whose name has been removed from the register shall practise dentistry during the period of suspension or so long as his name has not been restored in the register, as the case may be.

(6) Any person who contravenes subsection (1), (3) or (5) shall commit an offence.

(7) Where a person is convicted of an offence under this section, any drug, poison, medicine or any surgical, medical, dental or diagnostic instrument or appliance used by him or belonging to him or found in his possession may be forfeited, destroyed or otherwise disposed of as the Court thinks fit.

### **37. Illegal practice as dental specialist**

(1) No person shall—

- (a) take or use any title implying that he is a dental specialist; or
- (b) practise as, or profess to be, a dental specialist,

unless he is registered as a dental specialist.

(2) Any person who contravenes subsection (1) shall commit an offence.

(S. 37 came into operation on 1 July 2000.)

### **38. Exemptions from application of Act**

Nothing contained in this Act shall be deemed to prohibit or prevent—

- (a) any person duly authorised by the Permanent Secretary and employed by, or attached to, any voluntary organisation in Mauritius from rendering in the course of his duties, medical assistance under the supervision of, or pursuant to the instructions of, a dental surgeon or dental specialist;
- (aa) any student enrolled in a medical institution, and duly authorised by the Permanent Secretary, from carrying out, or assisting in, dental surgery under the supervision of a dental surgeon;
- (b) any nurse from carrying out his duties under the supervision of or pursuant to the instructions of, a registered person;
- (c) any oral surgeon authorised in writing to do so by the Permanent Secretary from carrying out maxillo-facial surgery.

[S. 38 amended by s. 3 of Act 27 of 2005 w.e.f. 29 October 2005.]

### **39. Funds and audit**

(1) All fees payable under any regulations made under this Act shall form part of the revenue of the Council and any expenses incurred in carrying out the provisions of this Act shall be paid out of such revenue.

(2) The Council shall keep proper accounts of all sums received or paid and the accounts for each financial year shall be audited by a qualified auditor appointed by the Council.

(3) The Council may borrow money or accept any donation.

#### **40. Power to make regulations**

(1) The Council shall have the power to make regulations generally for the carrying out of the provisions of this Act and any such regulations may—

- (a) prescribe anything which is permitted or required by this Act to be prescribed;
- (b) provide for—
  - (i) any matter in respect of which regulations may be made under this Act;
  - (ii) the procedure to be followed by the Council at any inquiry under this Act;
  - (iii) the levy of fees;
  - (iv) a Code of Practice for the purposes of section 12 (c);
  - (v) a registered person to follow such courses, and for such period, as may be prescribed;
  - (vi) a scheme of accreditation of registered persons;
  - (vii) a person who fails to comply with any regulations or Code of Practice shall commit an offence or be subject to disciplinary proceedings, as the case may be;
- (c) amend the Schedule.

(2) Regulations made under this section shall be subject to the approval of the Minister and shall be laid on the Table of the Assembly.

#### **41. Powers of Minister**

The Minister may give to the Council such directions of a general nature, not inconsistent with this Act, as he thinks fit, and the Council shall comply with such directions.

#### **42. Offences**

(1) Any person who—

- (a) fails to attend the Tribunal after having been required to do so;
- (b) refuses to take an oath before the Tribunal or to answer fully and satisfactorily to the best of his knowledge and belief any question lawfully put to him in any proceedings before the Tribunal or to produce any article or document when required to do so by the Tribunal;
- (c) gives false evidence or evidence which he knows to be misleading before the Tribunal;

- (d) at any sitting of the Tribunal—
  - (i) wilfully insults any member thereof;
  - (ii) wilfully interrupts the proceedings or commits any contempt of the Tribunal;
- (e) fraudulently procures or attempts to procure his registration under this Act;
- (f) being required in writing by the Council to attend as a witness or to procure any document for the purposes of this Act, fails to do so without any reasonable or lawful justification or excuse;
- (g) obstructs the proceedings of the Council or Tribunal during any investigation by or proceedings of the Council or Tribunal under this Act;
- (h) molests any member of the Council or Tribunal in the course of or on account of any investigation or proceedings under this Act;
- (i) contravenes any regulation made under this Act,

shall commit an offence.

(2) Any person who commits an offence under this Act or any regulations made under this Act shall, on conviction, be liable to a fine not exceeding 10,000 rupees or to imprisonment for a term not exceeding 12 months.

43. —

#### **PART V – SAVINGS AND TRANSITIONAL**

44. – 50. —

##### **51. Saving of Code of Practice**

Until the Code of Practice is established, the Code of Practice established under the Dental Council Act shall be deemed to be the Code of Practice.

52. —

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#### **SCHEDULE**

[Section 4]

##### **RULES OF ELECTION OF MEMBERS OF THE COUNCIL**

###### **1. Calling for nominations and appointment of nomination day**

Not less than one month before the expiry of the three-month period specified in section 45 (2) and every subsequent period of 3 years, the Registrar shall publish in the *Gazette* and such newspaper as the Council may direct, a notice inviting the submission of nominations and appointing a day on which and the time at which nominations must be submitted.

## 2. Nomination of candidates

No person shall be eligible for election as a member of the Council unless—

- (a) on nomination day he is a fully registered dental surgeon or dental specialist and is not otherwise suspended and reckons at least 10 years' experience as dental surgeon or dental specialist in Mauritius;
- (b) he is a citizen of Mauritius; and
- (c) his nomination is supported by 5 fully registered dental surgeons or dental specialists.

## 3. Procedure after nomination

(1) If the number of persons duly nominated exceeds the number of persons to be elected, the Registrar shall publish in the *Gazette* and such newspaper as the Council may direct a notice—

- (a) specifying the names of the persons duly nominated;
- (b) appointing a day, time and place, being not less than 15 days after the publication of the notice, for the holding of an election.

(2) A person who has been duly nominated shall not publish or distribute any manifesto which is calculated or likely to induce persons to vote for him to be a member of the Council.

## 4. Persons entitled to vote

(1) Every person who on nomination day is fully registered as a dental surgeon or dental specialist under this Act shall be entitled to vote at an election of the members of the Council.

(2) Every dental surgeon or dental specialist voting pursuant to subparagraph (1) shall vote for such number of candidates as there are vacancies available in the membership of the Council representing the public service or private sector, as the case may be.

(3) Any vote which is cast contrary to subparagraph (2) shall be null and void.

## 5. Election

(1) The election of members of the Council shall be conducted by the Office of the Electoral Commissioner who shall communicate the results to the Registrar.

(2) The Registrar shall submit to the Minister the results of the election forthwith.

(3) The Minister shall, within 21 days of the receipt of the results of the election, publish in the *Gazette* the composition of the Council.

[Sch. replaced by Act 3 of 2000.]

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