

## THE NURSING HOMES REGISTRATION ACT

Cap. 263.  
Act  
7 of 2004,  
7 of 2011  
Sch.

[28th June, 1934.]

1. This Act may be cited as the Nursing Homes Registration Act. Short title.

2. In this Act—

Interpreta-  
tion.

“register” and “registration” mean register and registration under this Act;

“nursing home” means any premises used or intended to be used for the reception of and the providing of nursing for persons suffering from any sickness, injury or infirmity, and includes a maternity home but does not include—

(i) any public or regional hospital under the National Health Services Act or any premises maintained or controlled by a local authority; 7/2004  
S. 2.

(ii) a psychiatric facility within the meaning of the Mental Health Act;

“maternity home” means any premises used or intended to be used for the reception of pregnant women or of women immediately after childbirth;

“registered nurse” means a person who is registered as a nurse pursuant to section 9 of the Nurses and Midwives Act.

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3.—(1) If any person carries on a nursing home without being duly registered in respect thereof, he shall be guilty of an offence against this Act and shall in respect of each such offence be liable on summary conviction before a Resident Magistrate to a fine not exceeding two hundred and fifty thousand dollars or, in the case of a second or subsequent offence, to imprisonment for a term not exceeding three months or to a fine not exceeding five hundred thousand dollars or to both such imprisonment and fine.

7/2004  
S. 3(b).

(2) Application for registration shall be made to the Chief Medical Officer in writing in the form prescribed by him and shall be accompanied by a fee of—

- (a) five thousand dollars, for nursing homes with a bed capacity of twenty-five beds or less; or
- (b) ten thousand dollars, for nursing homes with a bed capacity of more than twenty-five beds.

(3) Subject as provided in this Act the Chief Medical Officer shall, on the receipt of an application for registration, register, in a book to be kept by him, the applicant in respect of the nursing home named in the application and issue to him a certificate of registration:

Provided that the Chief Medical Officer may refuse to register the applicant if he is satisfied—

- (a) that the applicant or any person employed by him at the home is not a fit person, whether by reason of age or otherwise, to carry on or to be employed at a nursing home of such description as the nursing home named in the application; or

- (b) that for reasons connected with situation, construction, accommodation, staffing or equipment, the home or any premises used in connection therewith are not fit to be used for a nursing home of such a description as the nursing home named in the application, or that the home or premises are used or to be used for purposes which are in any way improper or undesirable in the case of such a nursing home; or
- (c) in the case of a nursing home (other than a maternity home) that the home is not under the charge of a person who is either a registered medical practitioner or a registered nurse and who is resident in the home, or that there is not a proper proportion of registered nurses among the persons having the superintendence of or employed in the nursing of the patients in the home; or
- (d) in the case of a nursing home (other than a maternity home) that the nursing of the patients in the home is not under the superintendence of a registered nurse who is resident in the home; or
- (e) in the case of a maternity home, that the person having the superintendence of the nursing of the patients in the home is not either a registered nurse or a registered midwife, or that any person employed in attending any woman in the home in childbirth or in nursing any patient in the home is not either a registered medical practitioner, or a registered midwife.

(4) The certificate of registration issued in respect of a nursing home shall be kept affixed in a conspicuous place in the home, and, if default is made in complying with the foregoing requirement, the person carrying on the home shall be guilty of an offence against this Act.

(5) Not later than the last day of March in each year the Chief Medical Officer shall furnish to the Registrar-General for publication in the *Gazette* and the Registrar-General shall cause to be published accordingly a complete list of nursing homes to which certificates of registration have been granted during the past preceding twelve months.

7/2004  
S. 3(c).

(6) A certificate of registration issued under this Act shall, unless sooner cancelled, be valid for a period of two years from the date of issue.

Application  
for renewal of  
registration.

7/2004  
S. 4.

**3A.—**(1) An application for renewal of registration in respect of a nursing home shall be made on the prescribed form to the Chief Medical Officer not later than thirty days before the date of expiration of the certificate of registration issued in respect thereof.

(2) The Chief Medical Officer shall, on receipt of an application under subsection (1), cause the nursing home to be inspected pursuant to section 7 (1) and shall not consider such an application unless a certificate of inspection has been issued in respect of that nursing home.

(3) Every application for renewal of registration shall be accompanied by the respective fees specified in section 3.

4. Subject as provided in this Act the Chief Medical Officer may at any time cancel the registration of a person in respect of any nursing home on any ground which would entitle him to refuse an application for the registration of that person in respect of that home, or on the ground that that person has been convicted of an offence against this Act or that any other person has been convicted of such an offence in respect of that home.

Cancellation  
of regis-  
tration.

5.—(1) Before making an order refusing an application for registration or an order cancelling any registration, the Chief Medical Officer shall give to the applicant or to the person registered, as the case may be, not less than fourteen days' notice of his intention to make such an order, and every such notice shall state the grounds on which the Chief Medical Officer intends to make the order and shall contain an intimation that, if within fourteen days after the receipt of the notice the applicant or person registered informs the Chief Medical Officer in writing that he desires so to do, the Chief Medical Officer will, before making the order, give him (in person or by a representative) an opportunity of showing cause why the order should not be made.

Notice of  
refusal or of  
cancellation  
of regis-  
tration.

(2) If the Chief Medical Officer after giving the applicant or the person registered (if under the provisions of the preceding subsection he is entitled so to do) an opportunity of showing cause as aforesaid, decide to refuse the application for registration or to cancel the registration, he shall make an order to that effect and shall send a copy of the order by registered post to the applicant or the person registered.

(3) No such order shall come into force until the expiration of fourteen days from the date on which it was made, or, where notice of appeal is given against it, until the appeal has been decided or withdrawn.

(4) Any person aggrieved by an order refusing an application for registration or cancelling any registration may, within fourteen days after the date on which the copy of the order was sent to him, appeal against such order to the Nursing Homes Appeal Tribunal constituted under subsection (5).

(5) There shall be constituted a Nursing Homes Appeal Tribunal which shall consist of a Chairman and two other members to be appointed by the Minister.

(6) The members of the Nursing Homes Appeal Tribunal shall, subject to the provisions of subsection (8) hold office for such period, not exceeding two years, as the Minister may determine, but shall be eligible for reappointment.

(7) The Minister may appoint any person to act in the place of the Chairman or any other member of the Nursing Homes Appeal Tribunal in case of the absence or inability to act of the Chairman or other member.

(8) Any member of the Nursing Homes Appeal Tribunal may at any time resign his office by instrument in writing addressed to the Chairman thereof, who shall forthwith cause it to be forwarded to the Minister, and from the date of the receipt by the Chairman of such instrument such member shall cease to be a member of the Nursing Homes Appeal Tribunal.

(9) The appointment, removal, death, departure from the the Island or resignation of any member of the Nursing Homes Appeal Tribunal shall be notified in the Gazette.

6.—(1) The Minister may make regulations subject to affirmative resolution, generally for the proper carrying out of the provisions and purposes of this Act and in particular but without prejudice to the generality of the foregoing, may make regulations—

Regulations.  
7/2004  
S. 5.

- (a) prescribing the records to be kept of the patients received into a nursing home, and, in the case of a maternity home, of any miscarriages occurring in the home, and of the children born therein and of the children so born who are removed from the home otherwise than to the custody or care of any parent, guardian or relative;
- (b) requiring notification to be given of any death occurring in a nursing home;
- (c) prescribing the procedure on appeals to the Nursing Homes Appeal Tribunal.

(2) Regulations made under this section shall have the same force and effect as if they were contained in and formed part of this Act and shall be published in the *Gazette*.

(3) If any person acts in contravention of or fails to comply with the provisions of any regulation other than a regulation relating to appeals, made under this Act, he shall be guilty of an offence against this Act.

(4) Notwithstanding section 29 (b) of the *Interpretation Act*, regulations made under subsection (1) may provide in respect of a breach of the provisions thereof for the imposition of penalties on summary conviction in a Resident Magistrate's Court of a fine not exceeding one million dollars or imprisonment for a term not exceeding twelve months or both such fine and imprisonment.

Inspection of  
Nursing  
Homes.

7.—(1) Any person duly authorized by the Minister may, at all reasonable times enter and inspect any premises which are used, or which that person has reasonable cause to believe to be used, for the purposes of a nursing home, and to inspect any records required to be kept in accordance with the provisions of this Act.

7/2004  
S. 6(a).

(2) Any person who inspects any premises which are used for the purposes of a nursing home shall issue a certificate of inspection to the owner or operator thereof within three days of the date of inspection.

(3) If any person refuses to allow any such person to enter or inspect any such premises as aforesaid or to inspect any such records as aforesaid, or obstructs any such person in the execution of his powers under this section, he shall be guilty of an offence against this Act.

Penalty for  
offences  
against Act  
and provision  
as to offences  
by companies.

7/2004  
S. 7.  
7/2011  
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8.—(1) Where a person commits an offence under this Act for which no penalty is expressly provided by this Act he shall be liable, on summary conviction before a Resident Magistrate, to a fine not exceeding one million dollars.

(2) Where a person convicted of an offence against this Act is a company, the chairman and every director of the company and every officer of the company concerned in the management thereof shall be guilty of the like offence, unless he proves that the act constituting the offence took place without his knowledge or consent.

Minister may  
amend  
monetary  
penalties.

8A. The Minister may, by order subject to affirmative resolution, amend the monetary penalties specified in this Act.

Payment of  
fees into Con-  
solidated  
Fund.

9. All fees received by the Chief Medical Officer under this Act shall be paid into the Consolidated Fund.