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DEPARTMENT OF THE PRIME MINISTER

No. 790. 19 April 1978.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 52 of 1978: Medical, Dental and Supplementary Health Service Professions Amendment Act, 1978.

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 790. 19 April 1978.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 52 van 1978: Wysigingswet op Geneeshere, Tandartse en Aanvullende Gesondheidsdiensberoep, 1978.

MEDICAL DENTAL AND SUPPLEMENTARY HEALTH
SERVICE PROFESSIONS AMENDMENT ACT, 1978.

Act No. 52, 1978

GENERAL EXPLANATORY NOTE:

- [** **]** Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Medical, Dental and Supplementary Health Service Professions Act, 1974, with regard to definitions; in order to change the constitution of the South African Medical and Dental Council; to empower the council to establish tariffs committees, to require persons who apply for limited registration under the Act to sit for certain examinations, to exempt certain persons from certain examinations and from the restrictions applicable in respect of limited registration under the Act, to require certain persons who apply to have a speciality registered, to sit for certain examinations and to determine the fee for the purposes of section 53 (3) of the Act; to provide for a tariff of fees for medical practitioners, dentists and psychologists and in respect of supplementary health service professions, for services rendered to a member or a dependant of a member of a registered medical scheme; and for the prohibition of strikes and go-slow strikes; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 12 April 1978.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

1. Section 1 of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (hereinafter referred to as the principal Act), is hereby amended by the insertion after the definition of "supplementary health service profession" of the following definition:
- 5 "tariff of fees" means a tariff of fees determined under section 53A;" Amendment of section 1 of Act 56 of 1974, as amended by section 1 of Act 33 of 1976 and section 12 of Act 36 of 1977.
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2. (1) Section 5 of the principal Act is hereby amended— Amendment of section 5 of Act 56 of 1974.
- (a) by the substitution for subsection (1) of the following subsection:
- 15 "(1) **[After the date referred to in section 64 (3),]** The council shall consist of the following members, namely—
- (a) the Secretary for Health;
- (b) **[eight]** ten persons appointed by the Minister, of whom—
- 20 (i) four shall be medical practitioners;
- (ii) one shall be a dentist;
- (iii) one shall be attached to a faculty of medicine or dentistry of a university; **[and]**
- (iv) **[two]** three shall be persons who are not registered under this Act; and
- 25 (v) one shall be a chairman of a professional board;

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- (c) one medical practitioner who is a Director of Hospital Services and who shall be designated by the Administrators of the provinces;
- 5 (d) **three** four medical practitioners representing the universities at which faculties of medicine have been established and one dentist representing the universities at which faculties of dentistry have been established, designated from the staffs of such universities by the principals or rectors, as the case may be, of such universities: Provided that not more than one medical practitioner so designated shall be attached to the staff of any one such university;
- 10 (dA) one medical practitioner or dentist representing the College of Medicine of South Africa, designated by that College;
- 15 (e) **seven** ten medical practitioners and **two** four dentists who are South African citizens, resident in the Republic and elected in accordance with the provisions of this Act, in the case of the medical practitioners, by the medical practitioners and, in the case of the dentists, by the dentists resident in the Republic: Provided that not more than **two** three medical practitioners and not more than **one** dentist two dentists so elected shall be ordinarily resident in any one province of the Republic;
- 20 (f) one person designated by the South African Nursing Council established by section 2 of the Nursing Act, 1957 (Act No. 69 of 1957), who is a member of that council and is registered under that Act;
- 25 (g) one person designated by the South African Pharmacy Board referred to in section 2 of the Pharmacy Act, 1974, who is a member of that board and is registered under that Act as a pharmacist.”;
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- (b) by the substitution for subsection (4) of the following subsection:
- 40 “(4) Not less than three months prior to the date of expiry of the term of office of the members of the council, the Administrators of the provinces, the principals or rectors of the universities referred to in subsection (1) (d), the College of Medicine of South Africa referred to in subsection (1) (dA), the South African Nursing Council referred to in subsection (1) (f) and the South African Pharmacy Board referred to in subsection (1) (g) shall inform the registrar in writing of the names of the persons designated by them in terms of the provisions of subsection (1), and the registrar shall, as soon as possible, give notice in the *Gazette* of the names of the persons so designated.”; and
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- (c) by the substitution for subsection (5) of the following subsection:
- 55 “(5) If the Administrators of the provinces or the principals or rectors of the universities referred to in subsection (4) fail, or if the College of Medicine of South Africa or the South African Nursing Council or the South African Pharmacy Board referred to in that subsection fails to make a designation in terms of the provisions of subsection (1), or to inform the registrar, as required in subsection (4), of the names of the persons designated by them, the Minister shall make the necessary designation and any designation so made by the Minister shall be deemed to have been properly made in terms of the appropriate paragraph of subsection (1).”.
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- 5 (2) (a) The members of the South African Medical and Dental Council referred to in section 2 of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974), as that council was constituted immediately prior to the commencement of this Act, shall after such commencement remain members of the council until the period for which they were appointed, designated or elected has expired;
- 10 (b) The period for which members of the said council who became members thereof in terms of the amendment effected by subsection (1), are appointed, designated or elected, shall expire on the same date as the period of office of members referred to in paragraph (a) of this subsection expires.

15 3. Section 11 of the principal Act is hereby amended by the insertion of the following subsection after subsection (2):

Amendment of
section 11 of
Act 56 of 1974.

“(2A) (a) The council—

- 20 (i) shall in respect of any determination of fees, or any amendment thereof, under section 53A, and which relates to the profession of medical practitioner or dentist; and
- 25 (ii) may in respect of any determination of fees, or any amendment thereof, under section 53A, and which relates to the profession of psychologist or any supplementary health service profession, establish a tariffs committee in respect of each such profession to investigate, and to report to the council on, such determination or such amendment.
- 30 (b) A member of the council shall be chairman of a committee established under paragraph (a) and the number of members of each such committee shall be an even number, determined and appointed by the council: Provided that at least half of the number so determined shall be appointed after consultation with the Medical Association of South Africa, the Dental Association of South Africa or the representative body contemplated in section 15 (3), as the case may be, and shall be persons who are in private practice, and that at least half of the number so appointed after consultation shall be persons, if any, who are bound in terms of section 29 (1) of the Medical Schemes Act, 1967 (Act No. 72 of 1967), to render services at the tariff laid down in the tariff of fees under that Act.”

45 4. Section 13 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

Amendment of
section 13 of
Act 56 of 1974.

- 50 “(1) (a) All registration and examination fees and any other fees payable under this Act, shall be paid to the council and shall constitute its funds and the council shall utilize its funds for defraying expenses incurred in connection with the performance of its functions.
- (b) The council shall not defray from its funds any expenses incurred in connection with the application of any provision of section 53A.”

55 5. The following section is hereby inserted in the principal Act after section 13:

Insertion of
section 13A in
Act 56 of 1974.

60 “Moneys payable to council out of State Revenue Fund. 13A. The Minister, in consultation with the Minister of Finance, may annually pay to the council an amount of money from the State Revenue Fund to defray any expenses incurred by the council in connection with the application of any provision of section 53A.”

6. Section 26 of the principal Act is hereby amended—
(a) by the insertion of the following subsections after subsection (1):

Amendment of
section 26 of
Act 56 of 1974.

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5 “(1A) The council may require a person who holds a
qualification referred to in subsection (1) (c) and who
applies for registration under the provisions of this
section, to pass to the satisfaction of the council, on a
date and at a place determined by the council, an
examination prescribed under subsection (1B) before
examiners appointed by the council, for the purpose of
determining whether such person possesses an adequate
professional knowledge and skill and whether he is
10 proficient in any of the official languages of the
Republic.

15 (1B) The Minister may on the recommendation of the
council from time to time make regulations which
prescribe the examination which shall be conducted for
the purposes of subsection (1A), and the fees which
shall be paid by persons who sit for such examination.”;

and

20 (b) by the substitution for subsection (3) of the following
subsection:

 “(3) The provisions of this section shall *mutatis*
mutandis apply with reference to interns and intern-
psychologists.”.

7. Section 28 of the principal Act is hereby amended—

Amendment of
section 28 of
Act 56 of 1974.

25 (a) by the substitution for subsection (4) of the following
subsection:

 “(4) If a person has passed an examination referred to
in subsection (3) to the satisfaction of the council, or is
exempted from such examination under subsection (5),
it shall exempt such person from all restrictions imposed
30 in respect of such person under section 26 (2).”; and

 (b) by the addition of the following subsection:

35 “(5) The council may exempt a person referred to in
subsection (1) and who has passed the examination
referred to in section 26 (1A), from the examination
referred to in subsection (3) in respect of subsection (2)
(a) of this section.”.

8. Section 35 of the principal Act is hereby amended by the
insertion of the following subsections after subsection (1):

Amendment of
section 35 of
Act 56 of 1974.

40 “(1A) Where a medical practitioner, dentist or psychol-
ogist fails in respect of any provision of a regulation made
under section 61 (1) (p) and applies to have a speciality
registered in terms of this section, the council may require
him to pass to the satisfaction of the council, on a date and at
a place determined by the council, an examination prescribed
45 under subsection (1B) before examiners appointed by the
council, for the purpose of determining whether his profes-
sional knowledge and skill in the professional field of his
speciality is sufficiently adequate to enable him to practise as
a specialist.

50 (1B) The Minister may on the recommendation of the
council from time to time make regulations which prescribe
the examination which shall be conducted for the purposes of
subsection (1A), and the fees which shall be paid by persons
who sit for such examination.”.

55 9. Section 53 of the principal Act is hereby amended by the
addition to subsection (3) of the following paragraph:

Amendment of
section 53 of
Act 56 of 1974.

60 “(d) The council may from time to time determine and
publish the fees used by the council as norm for
the determination of amounts contemplated in para-
graph (a).”.

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10. The following section is hereby inserted in the principal Act after section 53:

Insertion of
section 53A in
Act 56 of 1974.

"Tariff
of fees.

53A. (1) The council—

- 5 (a) shall as soon as possible after the commence-
ment of the Medical, Dental and Supplementary
Health Service Professions Amendment Act,
1978, in respect of medical practitioners and in
respect of dentists; and
- 10 (b) may in respect of psychologists and in respect of
any supplementary health service profession,
conduct an inquiry into, and determine, a tariff of fees
in respect of any service rendered by a medical
practitioner, dentist or psychologist or any such
15 supplementary health service profession to a member,
or a dependant of a member, of a registered medical
scheme.
- (2) The Medical Association of South Africa, the
Dental Association of South Africa, any body of
20 persons which, in the opinion of the council, is
representative of the majority of the persons whose
names appear in the register in respect of a discipline
of medicine or dentistry or in respect of the psychol-
ogy profession or the supplementary health service
25 profession concerned and the Representative Association
of Medical Schemes referred to in section 23A of
the Medical Schemes Act, 1967 (Act No. 72 of 1967),
may make representations to the council that the
council conduct an inquiry for the purposes of
30 determining a tariff of fees under paragraph (a) or
(b), as the case may be, of subsection (1), or for the
purposes of an amendment of the tariff of fees under
subsection (5), and any such Association or body or
the said Representative Association of Medical
35 Schemes may, with the approval of the council, make
representations, oral or written, to the council with
regard to the determination of the tariff of fees or any
amendment thereof under subsection (5).
- (3) (a) The council shall for the purposes of this
40 section, as to witnesses and their evidence which
relates to the conduct of any practice, but subject
to the provisions of paragraph (b) of this
subsection, have the powers of a commission
under the Commissions Act, 1947 (Act No. 8 of
45 1947), and to this end the president of the
council shall have the power to administer an
oath to, or to take an affirmation from, any
witness.
- (b) The provisions of section 42 (4) (b) and (c) shall
50 *mutatis mutandis* apply with reference to an
inquiry under this section.
- (4) Any tariff of fees determined under subsection
(1) and any amendment thereof under subsection (5),
shall be published by the registrar in the *Gazette*.
- (5) The council shall as often as it may become
55 necessary, or when requested thereto by any Associa-
tion or body or the Representative Association of
Medical Schemes referred to in subsection (2), review
a tariff of fees determined under subsection (1), or
review any particular item or items thereof, and may
60 amend such tariff of fees or any such item or items.
- (6) (a) A tariff of fees or an amendment of a tariff
of fees published by the Minister in the *Gazette*
under section 30 of the Medical Schemes Act,
1967, and which was in force immediately prior
65 to the commencement of the Medical, Dental and
Supplementary Health Service Professions
Amendment Act, 1978, shall remain of force
until the date of publication under subsection (4)

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5 of this section of a tariff of fees relating to a
profession with reference to which such first-
mentioned tariff of fees applied, or a date, if any,
fixed by the council for the purpose and specified
in such publication.

10 (b) Subject to the provisions of section 29 (1) of the
Medical Schemes Act, 1967, a tariff of fees and
any amendment thereof published under subsec-
tion (4) shall as from the date of such publica-
tion, or a date, if any, fixed by the council for the
purpose and specified in such publication, be
binding on every person practising the profession
to which such tariff of fees or amendment
relates.

15 (7) In this section the expressions "member",
"dependant", "registered" and "medical scheme"
have the meanings assigned to them in section 1 of
the Medical Schemes Act, 1967."

20 11. The following section is hereby inserted in the principal Act
after section 55: Insertion of
section 55A in
Act 56 of 1974.

"Prohibition
of strike. 55A. (1) No person shall instigate a strike or
go-slow strike by persons registered in terms of this
Act, which is intended, or is likely, to disrupt any
health services rendered by the state, a provincial
administration or a local authority, or incite such
persons to take part in or to continue such a strike or
go-slow strike, or take part in such a strike or go-slow
strike or in the continuation of such a strike or
go-slow strike.

30 (2) (a) Any person who contravenes a provision of
subsection (1) shall be guilty of an offence and
on conviction be liable to a fine not exceeding
one thousand rand or to imprisonment for a
period not exceeding one year or to both such
fine and such imprisonment.

35 (b) The registrar shall remove the name from the
appropriate register of a person who is registered
in terms of this Act and who has been convicted
of an offence under this section."

40 12. This Act shall be called the Medical, Dental and
Supplementary Health Service Professions Amendment Act, 1978,
and shall come into operation on a date to be fixed by the State
President by proclamation in the *Gazette*. Short title and
commencement.