

ALLIED HEALTH PROFESSIONS BILL 2015

ARRANGEMENT OF CLAUSES

PART I

PRELIMINARY

Clause

1. Short title and commencement
2. Interpretation

PART II

THE MALAYSIAN ALLIED HEALTH PROFESSIONS COUNCIL

3. Establishment of Council
4. Functions of Council
5. Membership of Council
6. Temporary exercise of functions of Chairman
7. Secretary
8. Committees

PART III

ALLIED HEALTH PROFESSION

9. Allied Health Profession
10. Amendment of Second Schedule
11. Activity relating to allied health prescribed by regulations
12. Application to include other professions of allied health
13. Practice or activity to continue pending determination of registration

PART IV

REGISTRATION

14. Registrar
15. Register

Clause

16. Qualifications for registration
17. Registration
18. Removal of names from Register
19. Certificate to be surrendered
20. Reinstatement upon removal
21. Registration as an expert
22. Practising certificate
23. Renewal of practising certificate
24. Temporary practising certificate

PART V

DISCIPLINARY PROCEEDINGS

25. Disciplinary authority of Council
26. Investigating Committee
27. Disciplinary Authority
28. Interim orders
29. Disciplinary punishment
30. Appeal
31. Reinstatement upon appeal

PART VI

OFFENCES

32. Advertisement
33. Restrictions on unregistered practitioner
34. Offences relating to certificate
35. Falsely personating, using or holding out as a registered practitioner
36. Employing a person who is not a registered practitioner
37. General penalty

PART VII

ENFORCEMENT

Clause

38. Authorized officers
39. Power of investigation
40. Institution of prosecution

PART VIII

GENERAL

41. Guidelines and directives
42. Compounding of offences
43. Public servant
44. Public Authorities Protection Act 1948
45. Power to make regulations
46. Transitional provisions

FIRST SCHEDULE

SECOND SCHEDULE

A BILL

i n t i t u l e d

An Act to provide for the establishment of the Malaysian Allied Health Professions Council, to provide for the registration of persons practising as allied health practitioners and persons carrying on activities relating to allied health, to regulate the practice of Allied Health Professions, and for related matters.

[]

ENACTED by the Parliament of Malaysia as follows:

PART I

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Allied Health Professions Act 2015.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

Interpretation

2. In this Act, unless the context otherwise requires—

“activity relating to allied health” means any activity which has a direct or an indirect effect on patient care, or on the health of an individual or the population;

“Register” means the register kept and maintained under section 15;

“committee” means a committee established under section 8;

“Investigating Committee” means the Investigating Committee established under section 26;

“Council” means the Malaysian Allied Health Professions Council established under section 3;

“Minister” means the Minister for the time being charged with the responsibility for health;

“authorized officer” means a public officer or a suitably qualified person authorized under section 38;

“Registrar” means the Registrar of the Malaysian Allied Health Professions Council referred to in section 14;

“registered practitioner” means an allied health practitioner who is registered under section 17 and for the purposes of Part V and Part VI includes a non-Malaysian citizen deemed to be a registered practitioner under subsection 24(10);

“certificate” means a certificate of registration, a practising certificate and a temporary practising certificate;

“Disciplinary Authority” means the Disciplinary Authority established under section 27;

“profession of allied health” means any profession which has a direct or an indirect effect on patient care, or on the health of an individual or the population;

“Allied Health Profession” means the profession of allied health specified in the Second Schedule and any activity relating to allied health prescribed by regulations under section 11.

PART II

THE MALAYSIAN ALLIED HEALTH PROFESSIONS COUNCIL

Establishment of Council

3. A council to be known as the Malaysian Allied Health Professions Council is established.

Functions of Council

4. The Council shall have the following functions:

- (a) to register and issue certificates to registered practitioners;
- (b) to determine the appropriate qualifications of Allied Health Professions;
- (c) to determine the necessary prerequisite requirements of Allied Health Professions;
- (d) to regulate the practice of Allied Health Professions;
- (e) to regulate the ethics and professional conduct of registered practitioners;
- (f) to supervise matters relating to Allied Health Professions which includes training, competency and professional development; and
- (g) to do such other things as may be required or permitted to do under this Act.

Membership of Council

5. (1) The Council shall consist of the following members:

- (a) the Director General of Health Malaysia, who shall be the Chairman;
- (b) the Registrar, who shall be the Deputy Chairman; and

(c) a representative of each profession of the Allied Health Professions, from amongst registered practitioners from the public or private sectors or an institution of higher learning, as appointed by the Minister.

(2) The number of members of the Council appointed from the public sector shall be more than the number of members of the Council from the private sector or an institution of higher learning at any one time.

(3) Notwithstanding subsection (1), the first Council shall consist of the following members:

(a) the Director General of Health Malaysia, who shall be the Chairman;

(b) the Registrar, who shall be the Deputy Chairman; and

(c) a representative of each profession of the Allied Health Professions who has the qualification and experience in allied health, from the public or private sectors or an institution of higher learning, as appointed by the Minister.

(4) Where a profession of allied health is added to the Second Schedule or an activity relating to allied health is prescribed under section 11, the Minister shall appoint any person having the qualification and experience in such Allied Health Profession as the first member of the Council representing such Allied Health Profession.

(5) The provisions of the First Schedule shall apply to the members of the Council.

(6) The Minister may, by order, amend the First Schedule.

Temporary exercise of functions of Chairman

6. (1) The Deputy Chairman shall act as the Chairman for the period when—

(a) the office of the Chairman is vacant;

- (b) the Chairman is absent from duty or from Malaysia; or
- (c) the Chairman is, for any other reason, unable to carry out his functions.

(2) The Deputy Chairman shall, during the period in which he is carrying out the functions of the Chairman under this section, be deemed to be the Chairman.

Secretary

7. (1) The Minister shall appoint an officer from amongst registered practitioners in the Ministry of Health to be the Secretary to the Council.

(2) The Secretary shall be responsible for the following:

- (a) the day to day management of the affairs of the Council;
- (b) the implementation of the decisions of the Council; and
- (c) the carrying out any other duties as directed by the Council.

(3) The Secretary shall, in carrying out his responsibilities, act under the power and direction of the Council.

Committees

8. (1) The Council may establish any committee as the Council considers necessary or expedient to assist the Council in the performance of its functions or in the exercise of its powers.

(2) A committee established under subsection (1)—

- (a) shall be chaired by any registered practitioner appointed by the Council;
- (b) shall be subject to, and act in accordance with, any direction given to committee by the Council; and

(c) shall conform to any procedure determined by the Council.

(3) Members of a committee may be appointed from amongst the members of the Council or such other persons as the Council thinks fit.

(4) A member of a committee shall hold office for such term as the Council may specify in his letter of appointment and shall be eligible for reappointment.

(5) The Council may, at any time, revoke the appointment of any member of a committee who is not a member of the Council.

(6) A member of a committee who is not a member of the Council may, at any time, resign by giving a notice in writing to the chairman of the committee.

(7) The Council may, at any time, discontinue or alter the composition of a committee.

PART III

ALLIED HEALTH PROFESSION

Allied Health Profession

9. This Act shall apply to—

(a) the Allied Health Professions as specified in the Second Schedule; and

(b) any activity relating to allied health as prescribed by regulations made under section 11.

Amendment of Second Schedule

10. The Minister may, on the recommendation of the Council, by order published in the *Gazette*, delete from the Second Schedule any Allied Health Profession, or add to the Second Schedule any profession of allied health, to be included as an Allied Health Profession to which this Act shall apply, or in any way amend the Second Schedule.

Activity relating to allied health prescribed by regulations

11. The Minister may, on the recommendation of the Council, by regulations, prescribe any activity relating to allied health as an activity to which this Act shall apply.

Application to include other professions of allied health

12. (1) Any person may apply to the Council to include any profession of allied health, or prescribe any activity relating to allied health, in such manner as may be determined by the Council, as an Allied Health Profession to which this Act shall apply.

(2) Upon receipt of an application under subsection (1), the Council shall make such recommendations to the Minister as the Council deems proper.

(3) Where the Minister approves the application under subsection (1), the Minister may, by order published in the *Gazette*, add such profession of allied health to the Second Schedule, or prescribe such activity relating to allied health by regulations, as the case may be, as an Allied Health Profession to which this Act shall apply.

Practice or activity to continue pending determination of registration

13. (1) Where an Allied Health Profession is added into the Second Schedule, any person practising such Allied Health Profession on the effective date of such addition, shall, within twelve months from such effective date, or any other period as may be extended by the Council, apply to be registered as an allied health practitioner under this Act.

(2) Where an activity is prescribed as an activity relating to allied health to which this Act shall apply, any person carrying on such activity on the effective date of the regulations, shall, within twelve months from such effective date, or any other period as may be extended by the Council, apply to be registered as an allied health practitioner under this Act.

(3) Any person referred to in subsections (1) and (2) may continue to practise such profession or to carry on such activity pending the determination of his application for registration.

(4) Where an application for registration under this section is approved, the applicant shall, within twelve months from the date the registration is approved or any other period as may be extended by the Council, take the necessary action to comply with the terms and conditions imposed on the registration, if any.

(5) Where the applicant fails to comply with the terms and conditions imposed on the registration, the approval on such registration shall lapse.

(6) Where an application for registration under this section is refused, the applicant shall cease to practise or carry on the activity, from the date the applicant is notified of the decision of the Council.

PART IV

REGISTRATION

Registrar

14. (1) The Director of Allied Health Sciences Division who is responsible for the services of the professions of allied health shall be the Registrar.

(2) The Minister may appoint from amongst registered practitioners in the Ministry of Health to be the Deputy Registrar to carry out the functions of the Registrar in his absence or during the vacancy of his office.

(3) The Registrar shall have the following functions:

(a) the issuance of certificates; and

(b) the maintenance of the Register.

Register

15. (1) The Registrar shall maintain in both physical and electronic forms a Register as may be prescribed.

(2) Any person may, on payment of the prescribed fee, inspect and make a copy of or take extracts of an entry in the Register.

(3) The Register maintained under this Act shall be deemed to be a public document within the meaning of the Evidence Act 1950 [*Act 56*].

Qualifications for registration

16. Any person may apply to be registered as an allied health practitioner if—

(a) he is a Malaysian citizen;

(b) he holds any qualification as may be recognized by the Council;

(c) he fulfils other prerequisite requirements as may be determined by the Council; and

(d) he has not been convicted of an offence involving fraud, dishonesty or moral turpitude or an offence punishable with imprisonment, whether in itself only or in addition to or in lieu of a fine, for more than two years.

Registration

17. (1) No person shall practise an Allied Health Profession or carry out any activity prescribed under section 11 unless he is registered under this Act.

(2) An application for registration shall be made to the Council in such manner as may be determined by the Council and such application shall be accompanied by the prescribed fee.

(3) Where the Council approves the application under subsection (1), the Registrar shall issue a certificate of registration to the applicant and make an entry in the Register.

(4) Where the Council refuses the application under subsection (1), the Registrar shall notify the applicant.

Removal of names from Register

18. (1) The Registrar shall remove from the Register the name and other particulars of a registered practitioner—

(a) who has died;

(b) who is of unsound mind or is otherwise incapable of discharging his duties;

(c) who has not applied to the Registrar for a renewal of practising certificate for a lapse of six years continuously; and

(d) whose name has been ordered to be removed under paragraph 29(1)(a).

(2) The Registrar shall notify the registered practitioner of his removal under paragraph (1)(b), (c) or (d).

Certificate to be surrendered

19. (1) A registered practitioner whose name has been removed from the Register under paragraph 18 (1)(b), (c) or (d), shall, within fourteen days of the date of receipt of the notification of the removal, surrender to the Council his certificate of registration.

(2) Any registered practitioner who fails to comply with subsection (1) commits an offence and shall, upon conviction, be liable to a fine not exceeding twenty five thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Reinstatement upon removal

20. (1) Any registered practitioner whose name has been removed from the Register may apply for his name to be reinstated and shall provide reasons for the change in circumstances that had occurred since the date of the removal.

(2) The Council may order the name of the applicant be reinstated or refuse the reinstatement of the name by giving reasons for such refusal.

(3) Upon the order of reinstatement being made, the Registrar shall issue a certificate of registration to the applicant subject to the payment of the prescribed fee.

(4) Where the Council refuses the application for reinstatement, the applicant who is aggrieved by the decision of the Council may, within thirty days from the receipt of the decision, appeal to the Minister whose decision shall be final.

Registration as an expert

21. (1) Any registered practitioner may apply to be registered as an expert if—

(a) he has attended specialized training relating to his Allied Health Profession in a recognised training institution as may be determined by the Council;

(b) he holds a recognised qualification awarded by a recognised training institution; and

(c) he has proven to the satisfaction of the Council that he is a fit and proper person and is of good character.

(2) An application for registration as an expert shall be made to the Council in such manner as may be determined by the Council and such application shall be accompanied by the prescribed fee.

(3) The Council shall establish a committee under section 8 to certify an application for registration as an expert.

(4) Where the Council approves the application under subsection (2), the Registrar shall enter the applicant's name in the Register as an expert.

(5) Where the Council refuses the application under subsection (1), the Registrar shall notify the applicant.

Practising certificate

22. (1) A registered practitioner who intends to practise shall apply to the Council for a practising certificate in such manner as may be determined by the Council and such application shall be accompanied by the prescribed fee.

(2) Where the Council approves the application for a practising certificate, the Registrar shall issue to the registered practitioner a practising certificate.

(3) A practising certificate shall be valid for two years.

(4) The practising certificate shall specify the address of the principal place of practice and all other places of practice of the registered practitioner and any change in any address shall be notified by the registered practitioner within thirty days of such change to the Registrar and the Registrar shall endorse such change.

(5) Where the Council refuses the application under subsection (1), the Registrar shall notify the applicant.

(6) Any person may, upon payment of the prescribed fee, verify the status of a practising certificate of any registered practitioner from the Register and the verification shall be *prima facie* evidence of the particulars contained in the practising certificate.

(7) Any registered practitioner who practises without a practising certificate commits an offence and shall, upon conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Renewal of practising certificate

23. (1) A registered practitioner may apply to renew his practising certificate.

(2) The provision on the application for a practising certificate under section 22 shall apply to an application for renewal of a practising certificate.

(3) Where a registered practitioner whose practising certificate has lapsed for four years or more applies for the renewal of his practising certificate, he shall be subject to an assessment of competency as may be determined by the Council.

Temporary practising certificate

24. (1) A non-Malaysian citizen who has been practising an Allied Health Profession outside Malaysia may apply to the Council to practise in Malaysia if he fulfils the following qualifications:

- (a) he is in Malaysia for the exclusive purpose of teaching, to conduct research or to undergo postgraduate study in such field of allied health in such institution approved by the Council;
- (b) he possesses expertise in such field of allied health which the Council considers necessary for the advancement of healthcare in Malaysia; or
- (c) he has a contract of employment with the public service.

(2) An application by a non-Malaysian citizen to practise shall be in such manner as may be determined by the Council and such application shall be accompanied by the prescribed fee.

(3) Where the Council approves the application under subsection (2), the Registrar shall issue to the non-Malaysian citizen a temporary practising certificate and make an entry in the Register.

(4) No non-Malaysian citizen shall practise any Allied Health Profession unless he is issued with a temporary practising certificate.

(5) The temporary practising certificate shall be valid for one year from the date the certificate is issued.

(6) The Council may revoke the temporary practising certificate if the holder of such certificate fails to abide by the conditions and restrictions specified in the certificate.

(7) The temporary practising certificate may be renewed on an application to the Council and accompanied by the prescribed fee.

(8) The temporary practising certificate shall specify the address of the principal place of practice and all other places of practice of the holder of a temporary practising certificate and any change in any address shall be notified by the holder of such temporary practising certificate within thirty days of such change to the Registrar and the Registrar shall endorse such change.

(9) Any non-Malaysian citizen who practises as an allied health practitioner without a temporary practising certificate commits an offence and shall, upon conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

(10) The holder of a temporary practising certificate shall, while the certificate remains in force and subject to the conditions and restrictions specified in the certificate, be deemed to be a registered practitioner for the purposes of Part V and Part VI.

PART V

DISCIPLINARY PROCEEDINGS

Disciplinary authority of Council

25. (1) The Council shall have disciplinary authority over registered practitioners.

(2) The Council may exercise disciplinary authority over any registered practitioner—

(a) who has been convicted of an offence under this Act;

(b) who has been convicted by a court in Malaysia or elsewhere of any offence involving corruption, fraud, dishonesty or moral turpitude, or any other offence punishable with imprisonment, whether in itself only or in addition to or in lieu of a fine, for more than two years;

- (c) who has had his qualification withdrawn or cancelled by the awarding authority through which it was acquired or by which it was awarded;
- (d) who has since been prohibited from practising an Allied Health Profession in any place outside Malaysia;
- (e) who has been alleged to have committed serious professional misconduct as stipulated in the code of ethics and professional conduct and any other guidelines and directives issued by the Council; and
- (f) who has obtained registration under this Act by fraud or misrepresentation.

Investigating Committee

26. (1) The Council may, from time to time, establish an Investigating Committee to investigate any complaint or information received against a registered practitioner or any disciplinary matter that may be inquired into by the Council.

(2) The Investigating Committee shall consist of the following members:

- (a) a member of the Council who shall be the chairman; and
- (b) such other members from amongst registered practitioners.

(3) The Investigating Committee shall determine whether or not there shall be an inquiry based on its investigation and shall recommend its findings to the Disciplinary Authority.

Disciplinary Authority

27. (1) The Council may, from time to time, establish a Disciplinary Authority.

(2) The Disciplinary Authority shall consist of the following members, not being persons appointed under subsection 26(2):

- (a) a member of the Council who shall be the chairman;
and
- (b) such other members from amongst registered practitioners.

(3) Where the Investigating Committee recommends to the Disciplinary Authority to inquire into any complaint or information received against a registered practitioner, or any disciplinary matters that may be inquired into by the Council, the Disciplinary Authority shall inquire into such complaint, information or any disciplinary matters.

(4) The Disciplinary Authority shall recommend its findings to the Council for the Council's decision.

Interim orders

28. (1) Where, based on the findings of the Investigating Committee and the Disciplinary Authority, the Council is satisfied that it is necessary for the protection of the members of the public or is otherwise in the public interest, the Council may order the following:

- (a) that the registration of such registered practitioner be suspended for such period not exceeding twelve months as may be specified in the order which shall be known as an interim suspension order; or
- (b) that the registration of such registered practitioner be continued on his compliance of such conditions as the Council thinks fit to impose, during such period not exceeding twelve months, as may be specified in the order which shall be known as an order for interim restricted registration.

(2) The Council may extend or further extend an order made under subsection (1) and each extension shall be for a period not exceeding six months.

(3) The Registrar shall notify the registered practitioner of the order made under subsections (1) and (2).

(4) The Council may, upon application by the registered practitioner concerned—

(a) in the case of an interim suspension order, revoke the order;

(b) in the case of an order for interim restricted registration, revoke the order or vary any condition imposed by the order; or

(c) in either case in paragraph (a) or (b), substitute for the period specified in the order or in the order extending it with any other period which could have been specified in the order or in the order extending it, when such order was made.

(5) An interim suspension order or an order for interim restricted registration shall be in force until the end of the period specified in the order or, if extended under subsection (2), in the order extending it or, the date on which proceedings are concluded, whichever is the earlier.

(6) While a person's registration is suspended by virtue of an interim suspension order, he shall not be regarded as being registered notwithstanding that his name still appears in the Register.

(7) Immediately upon the expiry or revocation of the interim suspension order or an order for interim restricted registration, the person's rights and privileges as a registered practitioner shall be revived from the date of such expiry or revocation, provided that he has complied with all the terms of the order.

(8) Any registered practitioner who contravenes the interim suspension order or the order for interim restricted registration imposed on him commits an offence.

(9) Any registered practitioner who is aggrieved by any order made under this section may appeal to the Minister, and the decision of the Minister shall be final.

Disciplinary punishment

29. (1) The Council may, in the exercise of its disciplinary authority, impose any one or more of the following punishments:

- (a) order the name of such registered practitioner to be removed from the Register;
- (b) order the name of such registered practitioner to be suspended from the Register for such period as the Council thinks fit;
- (c) order the registered practitioner to be reprimanded.

(2) The Council may, in any case, make such order as the Council thinks fit with regard to the payment of the costs of the Registrar, if any, and of any complainant, and any costs awarded may be recovered as a civil debt.

Appeal

30. (1) Any person who is aggrieved by an order made against him by the Council in the exercise of its disciplinary authority may, within thirty days from the date of the making of the order, appeal to the Minister.

(2) The Minister may, in considering an appeal under subsection (1), confirm, reverse or vary the order appealed against, and the decision of the Minister shall be final.

Reinstatement upon appeal

31. Any person whose name has been removed from the Register pursuant to an order of the Council under section 29 shall, if his appeal is allowed, be reinstated in the Register and the Registrar shall issue a certificate of registration or a temporary practising certificate, as the case may be, to him.

PART VI

OFFENCES

Advertisement

32. (1) A registered practitioner or any person engaging or employing the registered practitioner shall not—

- (a) make any false claim in any advertisement, journal, article, pamphlet, website or media commercial in respect of the allied health services or any matter relating to health;
- (b) make any false or misleading representation in respect of the allied health services so as to induce, influence or cause any person to enter into a contract for the purchase of such services;
- (c) in carrying out the allied health practice, contravene any written law regulating advertisements for medical and health matters or purposes; or
- (d) in carrying out the allied health practice, act contrary to any guidelines or directives on advertisement issued by the Council.

(2) For the purposes of this section, “misleading representation” means any action which is likely to mislead the public—

- (a) as to the nature, characteristics, suitability for the purpose, or quantity, of the service being provided; or
- (b) as to the provided services of a particular kind, standard, quality, or quantity.

(3) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding six months or to both, and in the case of a continuing offence, shall be liable to a further fine not exceeding five hundred ringgit for every day or part of a day during which the offence continues after conviction.

Restrictions on unregistered practitioner

- 33.** (1) A person who is not registered under this Act—
- (a) shall not practise or carry on or operate, or hold himself out as practising or carrying on or operating, or take up employment, as a registered practitioner;
 - (b) shall not use the title “registered” to the respective Allied Health Professions or any title in any language which may be reasonably construed to imply that he is a registered practitioner;
 - (c) where such person is not registered as an expert under section 21, shall not hold himself out as an expert;
 - (d) shall not use or display any sign, card or other device representing or implying that he is a registered practitioner;
or
 - (e) shall not be entitled to recover in any court, any fee, charge or remuneration for any professional advice or services rendered as a registered practitioner.
- (2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Offences relating to certificate

- 34.** (1) A person shall not—
- (a) procure or cause the procurement of a certificate by making or causing to be made, or producing or causing to be produced, a false or fraudulent declaration, certificate, application or representation;
 - (b) forge, alter or counterfeit a certificate;
 - (c) use a forged, altered or counterfeited certificate;

- (d) buy or fraudulently obtain a certificate; and
- (e) sell, assign or transfer a certificate.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both, and in the case of a continuing offence, shall be liable to a further fine not exceeding one thousand ringgit for every day or part of a day during which the offence continues after conviction.

Falsely personating, using or holding out as a registered practitioner

35. (1) A person who is not registered under this Act shall not—

- (a) falsely personate a registered practitioner;
- (b) take or use any name, title, addition or description implying that he is a registered practitioner or that he is recognized by law as a registered practitioner;
- (c) use any form of diagnostic, investigative or therapeutic equipment or device to induce any person to believe that he is a registered practitioner; or
- (d) hold himself out, by advertisement or otherwise, as being qualified or authorized to practise as a registered practitioner.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both, and in the case of a continuing offence, shall be liable to a further fine not exceeding one thousand ringgit for every day or part of a day during which the offence continues after conviction.

Employing a person who is not a registered practitioner

36. (1) Any person who employs a person who is not registered under this Act to perform the duties and responsibilities of a practitioner of an Allied Health Profession commits an offence and shall, on conviction, be liable—

(a) in the case of an individual person—

- (i) to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both; or
- (ii) for a continuing offence, to a fine not exceeding one thousand ringgit for every day or part of a day during which the offence continues after conviction; and

(b) in the case of a body corporate, partnership or society—

- (i) to a fine not exceeding one hundred thousand ringgit; and
- (ii) for a continuing offence, to a fine not exceeding five thousand ringgit for every day or part of a day during which the offence continues after conviction.

(2) Where an offence under subsection (1) is committed by a body corporate, partnership or a society—

- (a) in the case of a body corporate, the person responsible for the body corporate;
- (b) in the case of a partnership, every partner in the partnership;
or
- (c) in the case of a society, its office bearers,

shall also be guilty of the offence and shall, on conviction, be liable—

- (i) to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding two years or to both; and
- (ii) for a continuing offence, to a fine not exceeding five thousand ringgit for every day or part of a day during which the offence continues after conviction.

General penalty

37. (1) Any person who commits an offence under this Act or any regulations made under this Act for which no penalty is expressly provided shall, on conviction, be liable—

(a) in the case of an individual person—

- (i) in respect of a first offence, to a fine not exceeding twenty five thousand ringgit or to imprisonment for a term not exceeding one year or to both; or
- (ii) in respect of a second or continuing offence, to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both; and

(b) in the case of a body corporate, partnership or society—

- (i) in respect of a first offence, to a fine not exceeding fifty thousand ringgit; and
- (ii) in respect of a second or continuing offence, to a fine not exceeding one hundred thousand ringgit.

(2) Where an offence under subsection (1) is committed by a body corporate, partnership or a society—

(a) in the case of a body corporate, the person responsible for the body corporate;

(b) in the case of a partnership, every partner in the partnership;

(c) in the case of a society, its office bearers,

shall also be guilty of the offence and shall, on conviction, be liable—

- (i) in respect of a first offence, to a fine not exceeding fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both; and
- (ii) in respect of a second or continuing offence, to a fine not exceeding one hundred thousand ringgit or to imprisonment for a term not exceeding five years or to both.

PART VII

ENFORCEMENT

Authorized officers

38. The Minister may in writing authorize any public officer and suitably qualified person to exercise the powers of enforcement under this Act.

Power of investigation

39. (1) An authorized officer shall have all the powers necessary to carry out an investigation under this Act.

(2) For the avoidance of doubt, it is declared that for the purpose of this Act, an authorized officer shall have all or any of the powers of a police officer of whatever rank in relation to police investigations in seizable cases as provided under the Criminal Procedure Code [*Act 593*], and all powers shall be in addition to the powers provided for under this Act and not in derogation thereof.

Institution of prosecution

40. No prosecution shall be instituted for any offence under this Act without the sanction in writing of the Public Prosecutor.

PART VIII

GENERAL

Guidelines and directives

41. The Council may, for the further, better or more convenient implementation of the provisions of this Act, issue such guidelines and directives as the Council may consider necessary or expedient.

Compounding of offences

42. (1) The Minister may, on the recommendation of the Council make regulations prescribing—

- (a) any offence under this Act and any regulations made under the Act that may be compounded;
- (b) criteria for compounding such offence; and
- (c) method and procedure for compounding such offence.

(2) The authorized officer may, with the consent in writing of the Public Prosecutor, compound any offence committed by any person under this Act and prescribed to be a compoundable offence by making a written offer to the person suspected to have committed the offence to compound the offence upon payment to the authorized officer of an amount of money not exceeding fifty per centum of the amount of maximum fine for that offence within such time as may be specified in his written offer.

(3) An offer under subsection (2) may be made at any time after the offence has been committed but before any prosecution for it has been instituted.

(4) If the amount specified in the offer is not paid within the time specified in the offer or such extended time as the authorized officer may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(5) Where an offence has been compounded under subsection (2), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made, and any document or thing seized in connection with the offence may be released by the Council, subject to such terms as the Council thinks fit.

Public servant

43. Any member of the Council or any of its committees, any member of the Investigating Committee, any member of the Disciplinary Authority, any authorized officer, or any employee of the Council, while discharging their duties under this Act as such member of the Council or its committees, or such member of the Investigating Committee or Disciplinary Authority, or such authorized officer or employee of the Council, shall be deemed to be public servants within the meaning of the Penal Code [*Act 574*].

Public Authorities Protection Act 1948

44. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceeding against the Council or against any member including any member of the Investigating Committee or a Disciplinary Authority, employee or agent of the Council or any of its committees in respect of any act, neglect or default done or omitted by him in good faith, in such capacity.

Power to make regulations

45. (1) The Council may, with the approval of the Minister, make regulations as may be necessary or expedient for giving full effect or the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), such regulations may prescribe—

- (a) the procedure for the keeping of the Register, the form and contents of the Register;
- (b) the amount of fees and charges in respect of any matter under this Act;
- (c) any matter relating to disciplinary proceedings and for the carrying out of the disciplinary authority of the Council, and any other matters incidental thereto; and
- (d) any other matter to be prescribed under this Act.

Transitional provisions

46. (1) Any person who, on the date of the coming into operation of this Act, is practising any Allied Health Profession or carrying out any activity relating to allied health prescribed under section 11, shall, within twelve months, or any other period as may be extended by the Council, from the date of the coming into operation of this Act, apply to be registered as an allied health practitioner under section 17.

(2) Any person referred to in subsection (1) may continue to practise such Allied Health Profession or carry on such activity relating to allied health pending the determination of his application.

(3) Where an application for registration under subsection (1) is approved, the applicant, shall, within twelve months from the date the registration is approved or any other period as may be extended by the Council, take the necessary action to comply with the terms and conditions imposed on the registration, if any.

(4) Where the applicant fails to comply with the terms and conditions imposed on the registration, the approval of such registration shall lapse.

(5) Where an application for registration under subsection (1) is refused, the applicant shall cease practice or cease to carry on the activity, from the date the applicant is notified of the refusal.

(6) Any non-Malaysian citizen who, on the date of the coming into operation of this Act, is practising any Allied Health Profession, shall, within six months, or any other period as may be extended by the Council, from the date of the coming into operation of this Act, apply for a temporary practising certificate under section 24.

(7) Any non-Malaysian citizen referred to in subsection (6) may continue to practise such Allied Health Profession pending the determination of his application.

(8) Where an application under subsection (6) is approved, the non-Malaysian citizen, shall, within six months from the date the application is approved or any other period as may be extended by the Council, take the necessary action to comply with the terms and conditions specified in the approval, if any.

(9) Where the non-Malaysian citizen fails to comply with the terms and conditions specified in the approval, such approval shall lapse.

(10) Where an application under subsection (6) is refused, the non-Malaysian citizen shall cease practise from the date the applicant is notified of the refusal.

FIRST SCHEDULE

(Section 5)

Tenure of office

1. (1) A member of the Council from the private sector or an institution of higher learning, unless he sooner resigns or vacates his office or his appointment is sooner revoked, shall hold office for a term of three years and may be eligible for reappointment for a period not exceeding three years.

(2) Such member referred to in subparagraph (1) shall not be eligible to hold office for more than two consecutive terms.

Alternate member

2. (1) The Minister may appoint in respect of each member of the Council from the public sector an alternate member who shall be similarly qualified as the member.

(2) An alternate member may attend meetings of the Council in place of the member when the member is for any reason unable to attend.

(3) An alternate member attending any meeting of the Council shall be deemed for all purposes to be a member of the Council.

(4) An alternate member shall, unless he sooner resigns or his appointment is sooner revoked, cease to be an alternate member when the member in respect of whom he is an alternate member ceases to be a member of the Council.

Vacation of office

3. (1) The office of a member of the Council shall be vacated—

- (a) if he dies;
- (b) if there has been proved against him, or he has been convicted on, a charge in respect of—
 - (i) an offence involving fraud, dishonesty or moral turpitude;
 - (ii) an offence under any law relating to corruption; or
 - (iii) any other offence punishable with imprisonment, whether in itself only or in addition to or in lieu of a fine, for more than two years;
- (c) if he is of unsound mind or is otherwise incapable of discharging his duties;
- (d) if he becomes bankrupt;
- (e) if he absents himself from three consecutive meetings of the Council without leave of the Chairman;
- (f) if he resigns;
- (g) if his appointment is revoked by the Minister; or
- (h) if he ceases to be a registered practitioner or he is suspended as a registered practitioner.

(2) Where the office of a member of the Council from the private sector or an institution of higher learning becomes vacant before the expiration of his term of office, a person from the same profession shall be appointed by the Minister to fill the vacancy to represent the respective profession and shall hold office for the unexpired portion of the term of office of the member whose office has become vacant.

(3) Any period of appointment made under paragraph 1 of this Schedule shall not be taken into consideration in the reckoning of the period of appointment of a member referred to in subparagraph (2).

Revocation of appointment and resignation

4. (1) The Minister may, at any time, revoke the appointment of a member of the Council from the private sector or an institution of higher learning.

(2) Such member referred to in subparagraph (1) may, at any time, resign from his appointment by giving at least thirty days' notice in writing to the Minister.

Chairman

5. (1) The Chairman shall preside at all meetings of the Council.

(2) In the absence of the Chairman at any meeting of the Council for any reason, the Deputy Chairman shall preside at the meeting.

(3) In the absence of the Chairman and the Deputy Chairman at any meeting of the Council for any reason, any other member of the Council appointed by the Chairman shall preside at the meeting.

(4) The Deputy Chairman or the member appointed under subparagraph (2) or (3), as the case may be, shall during the period in which he is performing the functions of the Chairman under this paragraph be deemed to be the Chairman.

Council and committee may invite others to meeting

6. The Council and a committee may invite any person to attend any of the meeting or deliberation of the Council or the committee for the purpose of advising the Council or the committee on any matter under discussion, but such person shall not be entitled to vote at the meeting or deliberation.

Frequency and venue of meetings

7. (1) The Council and the committee shall hold as many meetings as are necessary for the efficient performance of its functions and such meetings are to be held at such places and times as specified in a written notice issued by the Chairman in respect of the Council or chairman of the committee in respect of the committee, provided that meetings are held at least twice a year.

(2) The members of the Council may request a meeting of the Council by submitting a requisition notice to the Secretary in accordance with subparagraph (3).

(3) A requisition notice under subparagraph (2) shall contain the signatures of at least three members of the Council and shall specify the matters to be discussed and decided upon by the Council.

Quorum

8. (1) The quorum for the meeting of the Council shall be eight.

(2) The quorum for the meeting of the committee shall not be less than half of the members of the committee.

Casting vote

9. (1) The decision of the Council shall be adopted by a simple majority of votes of the members present and voting, and in the case of an equality of votes, the Chairman shall have a casting vote in addition to his deliberative vote.

(2) Voting for any deliberation or decision pertaining to a particular Allied Health Profession shall not be done without the presence of the respective Council members representing such Allied Health Profession.

Minutes

10. (1) The Council and the committee shall cause minutes of all its meetings to be maintained and kept in proper form.

(2) The minutes of meetings of the Council and the committee, if duly signed, shall, in any legal proceedings, be admissible as *prima facie* evidence of the facts stated in the minutes without further proof.

(3) Every meeting of the Council and the committee of which minutes have been made in accordance with subparagraphs (1) and (2) shall be deemed to have been duly convened and held and all members at the meeting to have been duly qualified to act.

(4) A committee shall cause copies of the minutes of all its meetings to be submitted to the Council as soon as practicable.

Procedure

11. The Council and the committee may regulate its own procedure.

Allowances

12. The members of the Council, committee and any other person invited to attend any meeting or deliberation of the Council and the committee shall be paid such allowances or expenses as may be determined by the Minister.

Disclosure of interest

13. (1) A member of the Council or a committee or any person invited to attend the meetings of the Council or committee, having directly or indirectly, any interest in relation to any matter under discussion by the Council or committee shall disclose to the Council or committee, as the case may be, the fact and nature of his interest.

(2) A disclosure under subparagraph (1) shall be recorded in the minutes of the meeting of the Council or committee, as the case may be.

(3) After the disclosure under subparagraph (1), the member of the Council or the committee or any person invited to attend the meetings of the Council or the committee—

(a) shall not take part or be present in any deliberation or during the making of any decision of the Council or the committee, as the case may be, about the matter; and

(b) shall be disregarded for the purpose of constituting a quorum of the Council or the committee, as the case may be, in the deliberation or during the making of any decision about the matter.

Validity of acts and proceedings

14. No act done or proceedings taken under this Act shall be questioned on the ground of—

(a) any vacancy in the membership of, or any defect in the constitution of, the Council or a committee; or

(b) any omission, defect or irregularity not affecting the merits of the case.

SECOND SCHEDULE

(Sections 9 and 10)

LIST OF ALLIED HEALTH PROFESSIONS

1. Audiologist
2. Dietitian
3. Entomologist (Public Health)
4. Physiotherapist
5. Medical Physicist

6. Nutritionist
7. Clinical Psychologist
8. Clinical Scientist (Biochemist)
9. Clinical Scientist (Biomedical)
10. Clinical Scientist (Embryologist)
11. Clinical Scientist (Medical Geneticist)
12. Clinical Scientist (Microbiologist)
13. Occupational Therapist
14. Speech-Language Therapist
15. Radiation Therapist
16. Diagnostic Radiographer
17. Medical Laboratory Technologist
18. Dental Technologist
19. Environmental Health Officer
20. Health Education Officer
21. Food Service Officer (Healthcare)
22. Forensic Science Officer
23. Medical Social Officer

EXPLANATORY STATEMENT

The Allied Health Professions Act 2015 (“the Act”) as proposed in this Bill seeks to establish the Malaysian Allied Health Professions Council, to provide for the registration of persons practising as allied health practitioners and persons carrying on activities relating to allied health, to regulate the practice of Allied Health Professions, and for related matters.

PART I

2. Part I deals with preliminary matters.

Clause 1 contains the short title of the Act and seeks to allow the Minister to appoint the date of commencement of the Act.

Clause 2 contains the definition of certain words and expressions used in the Act.

PART II

3. Part II contains provisions relating to the establishment of the Malaysian Allied Health Professions Council.

Clause 3 provides for the establishment of the Council.

Clauses 4 sets out the functions of the Council.

Clause 5 contains provisions on the membership of the Council.

Clause 6 provides for the temporary exercise of functions of the Chairman by the Deputy Chairman.

Clause 7 seeks to provide for the Secretary of the Council.

Clause 8 empowers the Council to establish committees to assist it in the performance of its functions.

PART III

4. Part III contains provisions relating to Allied Health Professions to which this Act applies.

Clause 9 provides for the application of the Act to Allied Health Professions as specified in the Second Schedule and to any activity relating to allied health prescribed by regulations made under *clause 11*.

Clause 10 seeks to allow the Minister to amend the Second Schedule by order published in the *Gazette*.

Clause 12 seeks to allow any person to include other professions of allied health and activity relating to allied health to be subject to this Act.

Clause 13 provides for a practise of a profession of allied health or an activity relating to allied health to continue pending the determination of its inclusion as an Allied Health Profession to which this Act applies.

PART IV

5. Part IV contains provisions relating to the registration of allied health practitioners.

Clause 14 provides for the appointment and duties of the Registrar.

Clause 15 provides that the Registrar shall maintain in both physical and electronic forms a Register.

Clauses 16 and 17 deal with registration of registered practitioners.

Clause 18 provides for the removal of a registered practitioner from the Register.

Clause 19 provides for the surrender of certificate of registration.

Clause 20 provides for the reinstatement of a registered practitioner who has been removed from the Register.

Clause 21 deals with the registration as an expert.

Clause 22 provides for the application for a practicing certificate.

Clause 23 seeks to provide for the renewal of a practising certificate.

Clause 24 seeks to provide for the issuance of a temporary practising certificate to a non-Malaysian citizen who has been practising an Allied Health Profession outside Malaysia subject to such conditions and restrictions specified in such certificate.

PART V

6. Part V deals with disciplinary matters.

Clause 25 provides the disciplinary authority of the Council.

Clause 26 provides for the establishment of an Investigating Committee.

Clause 27 provides for the establishment of a Disciplinary Authority.

Clause 28 sets out the interim orders based on the findings of a disciplinary inquiry.

Clause 29 sets out the disciplinary punishment.

Clause 30 allows an appeal to be made to the Minister against a disciplinary order.

Clause 31 seeks to provide for the reinstatement of a registered practitioner pursuant to a successful appeal.

PART VI

7. Part VI deals with offences.

Clause 32 seeks to provide for offences relating to advertisement.

Clause 33 seeks to provide for the restriction on unregistered practitioners.

Clause 34 seeks to provide for offences relating to practising certificates.

Clause 35 seeks to set out prohibitions against an unregistered practitioner.

Clause 36 seeks to provide for the offence of employing a person who is an unregistered practitioner.

Clause 37 seeks to provide for general penalty.

PART VII

8. Part VII deals with enforcement.

Clause 38 seeks to allow the Minister to appoint authorized officers to perform enforcement powers.

Clause 39 seeks to provide for the power of investigation.

Clause 40 provides that the prosecution for an offence under this Act shall be instituted only with the sanction in writing of the Public Prosecutor.

PART VIII

9. Part VIII deals with general provisions.

Clause 41 provides for power of the Council to issue guidelines and directives.

Clause 42 contains provisions on the compounding of offences.

Clause 43 states that any member of the Council or its committees, any member of the Investigating Committee and the Disciplinary Authority, any authorized officer and any employee of the Council are deemed to be public servants within the meaning of the Penal Code.

Clause 44 provides for the application of the Public Authorities Protection Act 1948 [Act 198] on the Council and any member of the Council, on any committee and any member of the committee, any member of the Investigating Committee and Disciplinary Authority, and on the employee or agent of the Council.

Clause 45 seeks to empower the Council, with the approval of the Minister, to make regulations under the Act.

Clause 46 deals with transitional matters.

FINANCIAL IMPLICATIONS

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.