THE DENTAL COUNCIL ACT 1999

Act 31/1999

Proclaimed by [Proclamation No. 6 of 2000] w.e.f. 1st January 2000
[Sections 29(2)(b) & 37 w.e.f. 1st July 2000]

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To make better provision with regard to the composition and functions of the Dental Council and the discharge of those functions

PART I - PRELIMINARY

1. Short title

This Act may be cited as the Dental Council Act 1999.

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 established under section 12 (c);

"Council" means the Council established under section 3; "dental specialist" means a person registered as such under section 20;

"dangerous drug" has the same meaning as in the Dangerous Drugs Act;

"delegated power" means the powers delegated, under section 89(2)(b)(i) of the Constitution, and subject to Part IVA of the Public Service Commission Regulations, to the Council by the Public Service Commission to enquire and report into any complaint of professional misconduct or negligence against a registered person appointed by the Public Service Commission;

"dental surgeon" means a person registered as such under section 20;

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

"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 responsible for the subject of health;

"Permanent Secretary" means the Permanent Secretary of the Ministry responsible for the subject of health;

“professional misconduct or negligence”, in relation to a registered person, includes –

(a) a breach of the Code of Practice;

(b) a failure to exercise due professional skill or care which results in injury to, or loss of life of, a person;

(c) a failure to exercise the proper and timely care expected from him;

(d) the prescription of a dangerous drug to any person which is in excess of the amount that is properly required for the dental treatment of that person;

(e) the prescription of a dangerous drug to any person knowing that such a prescription is not required for the medical treatment of that person;

(f) an act of fraud or dishonesty in the exercise of his calling;

(g) an improper, a disgraceful, a dishonourable or an unworthy act, or any other act, which brings the dental profession into disrepute;

“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 a full time training of

(a) in the case of a person who obtained his specialist qualification before the prescribed year 2000, not less than one year;

(b) in the case of a person who obtained his specialist qualification after the prescribed year 2000, not less than 2 years,

in a medical institution and obtained after a certificated examination;

"Tribunal" means the Medical Disciplinary Tribunal set up under the Medical Council Act 1999.

Amended by [GN No. 27 of 2000]

PART II – THE COUNCIL

SUBPART A- ESTABLISHMENT AND FUNCTIONS OF THE 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 and who is registered as dental surgeon or dental specialist;

(c) 3 persons who -

(i) shall be appointed by the Minister; and

(ii) are neither dental surgeons nor dental specialists.

(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) 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 professional misconduct or negligence, or breach of trust in the discharge of his duties, as a it 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 by the Council or Public Service Commission, as the case may be.

Amended by [Act No. 12 of 2019]

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 Act 1999 or a registered medical practitioner under the Medical Council Act 1999.

(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 function 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 the 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 deem fit;

(e) promote education and training of dental surgeons and specialists generally;

(f) notwithstanding the Mauritius Qualifications Authority Act and the Higher Education Act 2017, be the sole authority empowered to –

(i) pronounce itself 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.

Amended by [Act No. 23 of 2017]

SUBPART B-DISCIPLINE

13. Preliminary investigation by Council

(1) The Council may investigate into any complaint of professional
misconduct or negligence against a registered person, including a registered person in respect of whom it holds a delegated power.

(2) Where the Council investigates a complaint under subsection (1), it –

(a) shall notify the registered person, whose conduct, act or omission is under investigation, of the nature of the complaint against him;

(b) may visit or inspect the premises where the alleged professional misconduct or negligence has occurred;

(c) may summon and hear the registered person who shall be given an opportunity of being assisted by a legal representative of his choice;

(d) may summon and hear witnesses;

(e) may call for the communication or production of any relevant record, document or article; and

(f) shall submit its report not later than 3 months as from the date the investigation starts.

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

(4) Notwithstanding section 9(1), for the purposes 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 or produce any record, document or article, 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 or produce any record, document or article needed for the purposes of the investigation.

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

(7) A member who –

(a) is closely related to a registered person whose conduct, act or omission is under preliminary investigation;

(b) has any pecuniary or other personal interest in the subject matter of a preliminary investigation,

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

Amended by [Act No. 12 of 2019]

14. Disciplinary proceedings

(1) (a) Where, after having carried out a preliminary investigation, the Council determines that there is prima facie evidence of professional misconduct or negligence against the registered person, the Council may, subject to subsection (3), institute disciplinary proceedings against him before the Tribunal.

(b) Where disciplinary proceedings are instituted under paragraph (a), the Council shall, at the same time, notify the Ministry thereof.
(2) Where, upon a determination under subsection (1), the Council considers that the conduct, act or omission of the registered person is of such a serious nature that he should, in the public interest, instantly cease to practise, the Council –

(a) may, in the case of a registered person in respect of whom the Council does not hold a delegated power, suspend him temporarily as a registered person for a period not exceeding such time as the Council –

(i) takes any disciplinary measures against him under section 17(4)(a); or

(ii) gives him notice, under section 17(6)(a), that the charge against him has not been proved; or

(b) shall, in the case of a registered person in respect of whom the Council holds a delegated power, report the temporary suspension to the Public Service Commission for the Commission's decision on any such suspension.

(3) Where, pursuant to subsection (2)(a), the Council suspends a registered person temporarily, it shall, not later than 7 days of such suspension, institute disciplinary proceedings against him before the Tribunal.

Amended by [Act No. 12 of 2019]

15. Repealed by [Act No. 12 of 2019]

16. Membership of Tribunal
(1) Notwithstanding section 14 (2)(b) of the Medical Council Act 1999, in relation to a matter referred to the Tribunal under section 15, the 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 Minister shall not appoint a member of the Council as a member of the Tribunal.

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

(a) has wide experience in the practice of dentistry;

(c) is registered as dental surgeon or dental specialist outside the Republic of Mauritius.

Amended by [Act No. 12 of 2019]

17. Disciplinary measures

(1) The Tribunal shall, pursuant to disciplinary proceedings instituted against a registered person, hear and determine the matter not later than 90 days after the start of the hearing of the proceedings, except where there is a valid reason, and with the consent of the parties.

(2) The Tribunal shall, not later than 3 days after a determination under
subsection (1), forward to the Council its report and a copy of its proceedings, including any record, document or article produced.

(3) The Tribunal shall not, in its report, make any recommendation regarding the form of disciplinary measure.

(4) Where the report is in relation to a registered person, other than a registered person in respect of whom the Council holds a delegated power, and states that –

(a) the charge has been proved, the Council may, not later than 14 days after receipt of the report –

(i) administer him a reprimand or a severe reprimand;

(ii) suspend him as a registered person for a period not exceeding 2 years; or

(iii) deregister him as a registered person; or

(b) (i) the registered person has prescribed a dangerous drug to any person which is in excess of the amount that is properly required for the medical treatment of that person; or

(ii) the registered person has prescribed a dangerous drug to any person knowing that such a prescription is not required for the medical treatment of that person,

the Council shall, in addition to any disciplinary measures under paragraph (a), make a recommendation to the Minister in accordance with section 9(6) of the Dangerous Drugs Act.

(5) (a) Where the report referred to in subsection (4) is in relation to a registered person in respect of whom the Council holds a delegated power, the Council
shall submit its own report to the Public Service Commission, in accordance with regulation 46E of the Public Service Commission Regulations.

(b) Where the punishment inflicted by the Public Service Commission on a registered person, in respect of whom the Council holds a delegated power, is dismissal or retirement in the interest of the public service, the Council shall, not later than 14 days of the decision of the Public Service Commission, determine whether or not it shall suspend or deregister him as a registered person.

(6) Where there is finding that the charge has not been proved against the registered person, the Council shall, not later than 14 days after receipt of the report –

(a) notify the registered person, in writing, of such finding; and

(b) where the Council holds a delegated power in respect of the registered person, send a copy of the notice required under paragraph (a) to the Public Service Commission.

Amended by [Act No. 12 of 2019]

18. Other disciplinary measures

(1) Without any of the proceedings provided for in sections 13, 14 and 17 being instituted, the Council shall, where a registered person has been convicted of an offence and is serving a sentence of imprisonment or penal servitude –

(a) suspend him as a registered person for such time as the Council may determine; or

(b) give him an opportunity to show cause why he shall not be deregistered as a registered person.
(2) The Registrar shall cause any suspension or deregistration under this Act to be published in the Gazette and in 2 daily newspapers.

Amended by [Act No. 12 of 2019]

19. Summary proceedings

Where the Council is satisfied, after having carried out a preliminary investigation against a registered person, other than a registered person in respect of whom the Council holds a delegated power, that he has committed an act or omission which, in its opinion, is not considered to be of a serious nature, it may, notwithstanding section 14(1) (a), administer him a warning or severe warning.

Amended by [Act No. 12 of 2019]

20. Registers

PART III - REGISTRATION

(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 -
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 subsections (2)(a) and (2)(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.

Amended by [Act No. 38 of 2011]

22. Registration of dental surgeon

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

(a) he is a citizen of the Republic 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) –

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(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 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.

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.

Amended by [Act No. 27 of 2012]

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) Repealed by [Act No. 27 of 2012]

(d) he is recommended to be registered by the Postgraduate Education Board for Dental Specialists; and

(e) he has paid such fee as may be prescribed by the Council.
24. **Examination**

(1) The examination referred to under section 22 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 charge such fee as may be prescribed.

(3) A person wishing to be registered as a dental surgeon may be exempted from undergoing the examination referred to in section 22 where he satisfies such criteria as may be prescribed by the Minister after consultation with the Council.

(4) Notwithstanding section 40, the Minister may, after consultation with the Council, make regulations to provide for the criteria to be satisfied for exemption from compliance with section 22(g).

Amended by [Act No. 27 of 2012]

24A. **Postgraduate Education Board for Dental Specialists**

(1) For the purposes of section 23(d), there shall be set up a Postgraduate Education Board for Dental Specialists.

(2) The Minister may, after consultation with the Council, make such regulations as he considers necessary –

   (a) for the purposes of specifying the objects, functions and composition of the Board; and

   (b) for any ancillary matter.

Added by [Act No. 27 of 2012]
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 pen-nit or is exempted from holding a permit under the Non-Citizens (Employment Restriction) Act;

(b) he satisfies the requirements set out in paragraphs (b) to (g) of section 22; 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 paragraphs (b) and (d) of section 23; 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.
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.

Subsections (3) to (7) shall apply to any application for temporary registration made before and pending on the commencement of section 10 of the Economic and Financial Measures (Miscellaneous Provisions) (No. 2) Act 2011, and the 60-day period referred to in subsection (4) shall run, in relation to such applications, as from the date of submission of all the documents referred to in subsection (3).

Amended by [Act No. 38 of 2011]; [Act No. 27 of 2012]

26. Temporary registration of visiting- dental surgeon/dental specialist

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 the Republic of Mauritius and has been invited to offer his services under a scheme approved by the Ministry; or

(c) is visiting the Republic of 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.

Any dental surgeon or dental specialist of any visiting force and ship lawfully present in the Republic of 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 of 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) commits an offence.

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).

Amended by [Act No. 27 of 2012]; [Act No. 27 of 2013]

PART IV – MISCELLANEOUS

30. Seal of the Council

The Council shall have a seal which shall bear such device as may be approved by the Council.

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 may be determined by the Minister.

(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
34. **Deficiency in quorum**

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

(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 therein 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, counter-claim, 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) commits 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 denial 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) commits an offence.

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;

Added by [Act No. 27 of 2005]

(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.

Amended by [Act No. 27 of 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.

(5) 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, without prejudice to the generality of the foregoing-

(a) prescribe anything which is permitted or required by this Act to be prescribed;
(b) provide for any matters in respect of which regulations may be made under this Act;

(c) provide for the procedure to be followed by the Council at any inquiry under this Act;

(d) provide for the levy of fees;

(e) provide for a Code of Practice for the purposes of section 12(c);

(f) provide that a registered person shall follow such courses, and for such period, as may be prescribed;

(g) provide for a scheme of accreditation of registered persons;

(h) amend the Schedule;

(i) provide that 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.

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

41. Powers of the 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, commits 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 Rs. 10,000 or to imprisonment for a term not exceeding 12 months.

43. Repeal

The Dental Council Act 1989 is repealed.

PART V - SAVINGS AND TRANSITIONAL

44. Continuance of pending proceedings

(1) All investigations or disciplinary proceedings commenced under the Dental Council Act 1989 shall be continued and completed

(a) if the investigations or proceedings have been wholly or partly completed or heard, as if the Dental Council Act 1989 were still in force; and

(b) in other cases, as if the investigations or proceedings had been commenced under this Act.

(2) All judicial or extra judicial proceedings other than those referred to in subsection (1) started by or against the Dental Council established under the Dental Council Act 1989 shall be deemed to have been started by or against the Council.

45. Saving of membership

(1) The Chairman and members of the Dental Council established under the Dental Council Act 1989 who were in office prior to the coming into force of
this Act shall remain in office for the purposes of his Act as if they had been elected or appointed, as the case may be, under this Act until the day members of the Council are elected under this Act.

(2) For the purposes of subsection (1), the election of the members of the Council shall be held within 3 months of the day on which this Act comes into force.

(3) For the purposes of subsection (1), the quorum of the Council shall be the quorum provided under the Dental Council Act 1989.

46. Saving of appointment

The person who holds the office of Registrar under the Dental Council Act 1989 on the day this Act comes into force shall remain in office on the same terms and conditions on which he held the office of Registrar before that day.

47. Saving of registration

A person who immediately before the coming into force of this Act was registered as a dental surgeon under the Dental Council Act 1989 shall, upon the coming into force of this Act, be deemed to be registered as a dental surgeon under this Act.

48. Saving of annual list

The annual list of dental surgeons published under the Dental Council Act 1989 immediately before the coming into force of this Act shall remain valid and be deemed to be the annual list of dental surgeons under this Act until the annual list is published under section 29.

49. Transfer of assets and liabilities
(1) On the day when this Art comes into force, all assets and liabilities of the Dental Council established under the Dental Council Act 1989 shall be transferred to and shall vest in the Council.

(2) The Council shall have all powers necessary to take possession of, recover and deal with those assets and discharge those liabilities.

50. **Agreements**

   Every agreement, whether in writing or not and every other instrument to which the Dental Council established under the Dental Council Act 1989 was a party or which, affected it shall have effect as if the Council were a party to it or affected by it.

51. **Saving of Code of Practice**

   Until the Code of Practice is established, the Code of Practice established under the Dental Council Act 1989 shall be deemed to be the Code of Practice.

52. **Commencement**

   
   Sections 29(2)(b) & 37 w.e.f. 1st July 2000

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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 three 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 -

(i) 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 the Republic of Mauritius;

(ii) he is a citizen of the Republic of Mauritius; and

(iii) his nomination is supported by five 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 whom 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.

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