

No. of 2020

VIRGIN ISLANDS
NURSES AND MIDWIVES ACT, 2020
ARRANGEMENT OF SECTIONS

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No. of 2020

Nurses and Midwives Act, 2020

Virgin
Islands

I Assent

Governor.

, 2020

VIRGIN ISLANDS

NO. OF 2020

AN ACT to repeal and replace the Nurses and Midwives Act, (No. 5 of 2009) to make new provision for registration or enrolment, licensing and discipline of nurses, midwives and assistive nursing personnel and for related matters.

[Gazetted , 2020]

ENACTED by the Legislature of the Virgin Islands as follows:

**PART I
PRELIMINARY**

1. (1) This Act may be cited as the Nurses and Midwives Act, 2020, and shall come into force on such date as the Minister may by Notice published in the *Gazette* appoint. Short title and commencement.

(2) This shall come into force on such date as the Minister may by Notice published in the *Gazette* appoint.

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

“advanced or specialty nursing” means the performance of advanced level nursing tasks approved by the Council which, by virtue of post basic specialised education, training, and experience, are appropriately performed by an advanced practice registered nurse;

“advanced practice registered nurse” means a registered nurse who has met the qualification and is licensed to practice advanced or speciality nursing under this Act;

“assistive nursing” includes the administration of treatments and oral medication in the care of the ill, injured, or infirm and the promotion of wellness, maintenance of health, and prevention of illness;

“assistive nursing personnel” means a person who has completed an approved course of training and is enrolled and licensed to practice assistive nursing under this Act;

“Council” means the Nurses and Midwives Council established under section 3;

“midwife” means a person who has completed an approved course of training leading to a certificate, diploma or degree in Midwifery and is registered and licensed to practice as a midwife under this Act;

“Minister” means the Minister to whom the responsibility for Health is assigned;

“nurse” means a registered nurse, an advance practice registered nurse or any other category of nurse that may be prescribed;

“prescribed” means prescribed by Regulations;

“register” means the register for nurses and midwives specified in section 19 and such other registers as the Council may establish for the purposes of this Act;

“registered nurse” means a person who has completed an approved course of training leading to a certificate, diploma or degree in Nursing and is registered and licensed to practice as a professional nurse under this Act;

“Roll” means the roll of assistive nursing personnel specified in section 19.

PART II
ESTABLISHMENT AND FUNCTIONS OF THE COUNCIL

3. (1) There is established by this Act a Council to be known as the Nurses and Midwives Council (in this Act referred to as “the Council”).

Establishment
of Nurses and
Midwives
Council.

(2) The Council shall consist of seven members at least four of whom shall be nurses and shall be appointed as follows:

- (a) three persons appointed by the Minister;
- (b) one person nominated by the Leader of the Opposition;
- (c) two persons nominated by the B.V.I. Nurses Association;
and
- (d) the Chief Nursing Officer, *ex officio*.

(3) The Minister shall appoint a Chairperson nominated by the members from amongst the members of the Council.

4. (1) A member of the Council shall hold office for a period not exceeding three years but is eligible for reappointment.

Tenure of
office.

(2) In appointing the members of the Council, the Minister shall specify the periods of appointment in such a way that the periods of appointment of not more than one-third of the members shall expire every two years.

(3) An appointment to membership and cessation of membership shall be published in the *Gazette*.

(4) The office of a member of the Council shall become vacant if

- (a) the member dies;
- (b) the member’s term of office expires;
- (c) the member, by notice in writing to the Minister resigns his or her office;
- (d) the Minister, on the recommendation of the Council removes the member from office where that member
 - (i) is unable to discharge his or her functions because of physical or mental illness;

- (ii) having been given notice is, absent from three consecutive meetings of the Council without reasonable excuse, or without the permission of the Chairperson, as the case may be, and the member was given notice of the meetings;
- (iii) is guilty of misconduct incompatible with his or her position as a member;
- (iv) fails to carry out the duties imposed on him or her under this Act;
- (v) is convicted of a criminal offence; or
- (vi) is declared bankrupt under the laws of the Virgin Islands or any other country.

(5) An act or proceeding of the Council shall not be invalid by reason only of the existence of a vacancy among its members or of any defect in the appointment of a member.

Appointment of alternate member.

5. (1) Subject to section 4, where a vacancy occurs in the membership of the Council, the Minister shall appoint another person to the Council who shall serve for the unexpired term of the person he or she is replacing.

(2) Where a vacancy relates to a member nominated by the Leader of the Opposition or the B.V.I. Nurses Association, the Minister shall request the Leader of the Opposition or the B.V.I. Nurses Association respectively to nominate another person for the Minister's appointment.

(3) In the event of the temporary incapacity of a member, whether by reason of illness or other sufficient cause, or if a member is temporarily absent from the Territory, the Minister may appoint some other person to act as a temporary member for so long as the incapacity or absence continues.

Functions of Council.

6. The Council shall

- (a) establish
 - (i) a register for nurses and midwives;
 - (ii) a roll for assistive nursing personnel; and
 - (iii) such other registers, as may be necessary for the purposes of this Act;

- (b) register and keep a list of all nurses and midwives in the Register;
- (c) enrol and keep a list of all assistive nursing personnel in the Roll;
- (d) issue a licence to a person who meets the qualifications of a nurse, midwife or assistive nursing personnel;
- (e) monitor the adherence to and investigate breaches of nursing practice, and the standard of nursing practice and the Nurses Code of Ethics;
- (f) take or cause to be taken disciplinary proceedings against a nurse, midwife or assistive nursing personnel;
- (g) remove from the list contained in the Register or Roll the name of a person who is no longer fit and proper to be a member;
- (h) restore in the Register or Roll the name of a person who has been removed from the Register or Roll, having satisfied the requirements of the Act;
- (i) suspend or revoke the licence of a nurse, midwife or assistive nursing personnel who is no longer fit and proper to be registered or enrolled; and
- (j) generally to perform such other functions as may be assigned to it by the Minister.

7. (1) The Council shall

Powers of Council.

- (a) determine the qualifications, training and experience necessary
 - (i) for the registration of nurses and midwives; and
 - (ii) for enrolment of assistive nursing personnel;
- (b) establish policies and determine the requirements of continuing education as a prerequisite for licence renewal and for acceptance for continuing education certificates;
- (c) establish the scope of nursing practice and the standard of nursing practice;

- (d) establish the Nurses Code of Ethics;
- (e) approve uniforms, badges or any other thing to be worn by persons registered or enrolled under this Act;
- (f) discipline a nurse, midwife or assistive nursing personnel;
- (g) collect any fees payable under this Act, or under any Regulations made under this Act;
- (h) consult with any educational institution, hospital, person or organisation on matters pertaining to nursing, midwifery and assistive nursing education, training and practice; and
- (i) assist nursing schools and other educational institutions, when requested, in the development of curricula for nursing education.

(2) For the purposes of subsection (1), the Council may make rules not inconsistent with this Act, or any Regulations made under this Act.

(3) Rules made under subsection (2) shall be published in the *Gazette*.

Meetings of Council.

8. (1) The Council shall hold meetings at least quarterly at a time to be fixed by the Chairperson and not less than seven days' notice of any meeting together with an agenda must be forwarded to a member of the Council.

(2) The Chairperson may at any time convene an emergency meeting if he or she considers it necessary.

(3) The quorum at any meeting of the Council shall be five members.

(4) In the conduct of its meetings the Council shall regulate its own proceedings.

Disclosure of interests.

9. (1) Where a matter is to be decided by the Council, or a Committee established by the Council at a meeting, any member present at the meeting who has an interest in the matter shall, at the meeting, disclose the nature of the interest in advance of any consideration of the matter.

(2) Where a member discloses an interest under this section

- (a) the disclosure shall be recorded in the minutes of the meeting; and

(b) the member shall not, unless the Council or the Committee, as the case may be, otherwise determines

(i) be present during any deliberations by the Council or the Committee on that matter; or

(ii) take part in any decision relating to the matter.

10. (1) The Council may appoint a Secretary to the Council who is not a member of the Council and who shall Secretary to the Council.

(a) keep a proper record of the proceedings of the Council;

(b) do any other thing as the Council may direct.

(2) The Secretary shall also be responsible for the day to day Administration of the Council.

11. (1) The Council shall establish an Applications Committee, a Disciplinary Committee and such other committees as it considers necessary to assist it in the performance of its functions under this Act. Committees.

(2) A committee established pursuant to subsection (1) shall consist of not less than three members and may include persons who are not members of the Council.

(3) The Applications Committee shall review and determine applications for registration or enrolment under this Act.

12. There shall be a seal for the Council which shall be kept in the custody of the Registrar and shall be authenticated by the Registrar or a member of the Council authorised by the Council to act in that behalf. Seal of Council.

13. A member of the Council is not liable in any action or proceedings for or in respect of any act or matter done or omitted to be done in good faith in the exercise of or discharge of any duty or function under this Act. Liability of Council.

14. The Minister shall provide the Council with staff, accommodation and services and other facilities as appear to the Minister to be necessary or expedient for the performance of the functions of the Council. Minister to provide staff, etc. for Council.

15. The funds of the Council shall consist of such monies as may be placed at its disposal for the purpose of this Act by the House of Assembly and such other monies as may lawfully be paid to the Council. Funds of Council.

Accounts and
audit.
No. 13 of 2003

16. The Council shall keep proper accounts of its receipts, payments, assets and liabilities, and such accounts shall be audited annually in accordance with the Audit Act, 2003.

Annual reports
and estimates.

17. (1) The Council shall in each year prepare and submit to the Minister on or before the thirty-first day of March, a report of its proceedings during the preceding year, including a statement of its accounts audited in accordance with section 16.

(2) The Council shall, on the first day of August in each year or such earlier date as may be required by the Minister, submit to the Minister for approval its estimates of revenue and expenditure in respect of the next ensuing.

PART III REGISTRATION OF NURSES AND MIDWIVES, AND ENROLMENT OF ASSISTIVE NURSING PERSONNEL

Registrar.

18. (1) The person holding the office of Chief Nursing Officer shall *ex officio* be the Registrar under this Act.

(2) In the absence of the Chief Nursing Officer the Minister may appoint, on the recommendation of the Council, a nurse to act as the Registrar for a period not exceeding one month.

Register of nurse
and midwives
and Roll of
assistive nursing
personnel.

19. (1) The Registrar shall maintain and have custody of the Register to be known as the Nurses and Midwives Register and the Roll to be known as the Assistive Nursing Personnel Roll.

(2) The Register and Roll may be kept in electronic form and shall contain

- (a) the full name and address of all persons registered or enrolled under this Act;
- (b) the date of registration or enrolment;
- (c) the qualification and the date on which the qualification was acquired;
- (d) the practice designation of the nurse or assistive nursing personnel;
- (e) in the case of an advance practice registered nurse, the practice environment; and
- (f) such other particulars as the Council may determine.

- (3) For the purposes of subsection (2),
- “practice designation” means the category or categories in which a person is registered or enrolled;
- “practice environment” means the clinical environment in which the advanced practice registered nurse is licensed to work.
- (4) The Register and the Roll shall, at all reasonable times be open to inspection at the registration office.
- (5) The Register shall consist of the following Parts:
- (a) **Part A**, which shall contain the names of the nurses who are qualified for registration as a registered nurse;
 - (b) **Part B**, which shall contain the names of the nurses who are qualified to be registered as an advanced practice registered nurse; and
 - (c) **Part C**, which shall contain the names of persons who are qualified to be registered as a midwife.
- (6) The Registrar shall
- (a) make alternations in the Register or Roll as are necessary; and
 - (b) correct any error or omission in the Register or Roll.
- (7) A person whose name is not entered on the Register or Roll shall not practice nursing, midwifery or assistive nursing in the Virgin Islands.
- (8) A person may be registered in more than one part of the register if he or she is eligible and is a fit and proper person to be registered in the relevant part of the register.
- (9) The Registrar shall receive and collect fees payable under this Act or under any Regulations made under this Act.
- (10) In any court proceedings, a copy of the *Gazette* containing the most recent list of names of persons in the Register or Roll shall be *prima facie* evidence and a certificate under the seal of the Council shall be conclusive evidence as to the registration or enrolment of the person named therein.

Application for
registration.
Schedule 1

20. (1) A person who wishes to be registered as a nurse or midwife shall submit an application to the Council, through the Registrar, in the form set out in Form 1 of Schedule 1.

(2) An application under subsection (1) shall be accompanied by

(a) evidence to the satisfaction of the Council that the applicant

(i) is of good character; and

(ii) is in good physical and mental health;

(b) evidence of completion of a basic professional curriculum from an accredited school of nursing;

(c) where the applicant is seeking to be registered as an advanced practice registered nurse, such proof of knowledge in a specialised branch of nursing as the Council may require;

(d) evidence of registration to practice without limitations in the jurisdiction of training and current practice;

(e) evidence that the applicant has practiced in the requested discipline within the last two years preceding the application;

(f) such other evidence as the Council may require to establish that the person is a fit and proper person and eligible to practice in the Territory; and

(g) the application fee prescribed in Schedule 2.

Schedule 2

(3) The evidence submitted pursuant subsection (1) shall include the original certificate or a certified copy of any certificate or other document.

(4) The Registrar shall receive applications for registration pursuant to subsection (1) and shall forward the completed applications to the Applications Committee for consideration.

(5) The Application Committee shall, within six weeks of receipt of an application for registration, review the application and upon being satisfied that the applicant is eligible and is a fit and proper person to be registered as a nurse or a midwife, approve the application.

(6) Where an applicant has graduated from a programme of study in nursing or midwifery and is awaiting his or her examination results from the

Regional Examination for Nurse Registration or any other organisation which is recognised by the Council, the Committee may approve the application provisionally, subject to such terms and conditions as it may determine.

(7) Where a provisional registration is subsequently approved in full, the registrant shall be subject to payment of the difference in the relevant fees prescribed.

(8) Where the Committee approves an application under this section, whether in full or provisionally, the Registrar shall forthwith inform the applicant of the decision of Committee and shall issue to the applicant, on payment of the fee prescribed in Schedule 2, a certificate of registration under the seal of the Council in the form set out in Form 2 of Schedule 1.

Schedule 2
Schedule 1

21.(1) A person who wishes to be enrolled as an assistive nursing personnel shall submit an application to the Council, through the Registrar, in the form set out in Form 1 of Schedule 1.

Application for
enrolment.
Schedule 1

(2) An application under subsection (1) shall be accompanied by

(a) evidence to the satisfaction of the Council that the applicant

(i) is of good character; and

(ii) is in good physical and mental health;

(b) evidence of completion of an approved high school course of study or the equivalent thereof and meets such other preliminary requirements as the Council may prescribe;

(c) evidence of completion of a basic professional curriculum from an accredited school of nursing;

(d) evidence of certification and enrolment to practice without limitations in the jurisdiction of training and current practice;

(e) such other evidence as the Council may require to establish that the person is a fit and proper person and eligible for enrolment; and

(f) the application fee prescribed in Schedule 2.

Schedule 2

(3) The Application Committee shall, within six weeks of receipt of application for enrolment, review the application and upon being satisfied that the

applicant is eligible and is a fit and proper person to be enrolled as an assistive nursing personnel, approve the application.

(4) Where the Committee approves an application under this section, the Registrar shall forthwith inform the applicant of the decision of Committee and shall issue to the applicant, on payment of the fee prescribed in Schedule 2, a Certificate of Enrolment under the seal of the Council in the form set out in Form 3 of Schedule 1.

Schedule 1
Schedule 2

(5) An assistive nursing personnel shall perform his or her duties under the supervision or direction of a registered medical practitioner, registered dental practitioner, nurse or such other health care professional as determined by the Council.

Publication of
names.

22. In January of each year, the Council shall cause to be published in the *Gazette*, the name of every nurse, midwife and assistive nursing personnel, registered or enrolled, as the case may be, with the Council and shall cause to be published in every quarter the names of any new registrant or enrollee.

Nurses,
midwives and
assistive nursing
personnel from
Commonwealth,
etc.

23. (1) Subject to sections 20 and 21, a person registered or enrolled in any part of the Commonwealth or any foreign country who proves to the satisfaction of the Council that he or she has been registered or enrolled as a nurse, midwife or assistive nursing personnel in the Commonwealth or foreign country may apply to the Council for registration or enrolment under this Act.

(2) Subject to sections 20 and 21, a person who has successfully completed the Regional Examination for Nurse Registration or any other examination for nurses, midwives or assistive nursing personnel that is recognised by the Council is eligible to apply for registration under this Act.

(3) The Council may register or enrol the person referred to in subsections (1) and (2) if it is satisfied that the standard of training and examination required for admission to register a nurse or midwife or to enrol an assistive nursing personnel under the said jurisdiction is not lower than the standard of training and examination required under this Act.

(4) A person who is registered or enrolled pursuant to subsections (1) and (2) shall be registered or enrolled in the appropriate category of the register or the roll, as the case may be, in accordance with his or her professional qualification in a discipline specified in Schedule 3.

Schedule 3

(5) Where there is reciprocity of agreement concerning nurses or midwives between a Commonwealth country or a foreign country and the Virgin Islands, a person who proves to the satisfaction of the Council that he or she is registered in a Commonwealth or foreign country as a nurse or midwife shall

Schedule 1
Schedule 2

submit to the Council an application in the form set out in Form 1 of Schedule 1, together with the fees prescribed in Schedule 2, for registration under this Act. Schedule 1
Schedule 2

24. The Registrar shall remove from the register or roll, the name of any person who Removal of name from Register or Roll.

- (a) makes written application to the Council to have his or her name removed from the register or roll;
- (b) has died, upon receiving proof of the death;
- (c) fails to renew his or her licence for three consecutive years;
- (d) is no longer qualified or fit and proper to practice in the Virgin Islands; or
- (e) the Council, acting under section 38 directs him or her to remove.

(2) The Registrar shall remove a name from the register pursuant to subsection (1)(c), only after consultation with the Council.

25. (1) A person whose name is removed from the register or roll pursuant to section 24 may apply to the Council to have his or her name restored to the register or the roll. Restoration of name to the Register or Roll.

(2) On receipt of an application under subsection (1), the Council shall determine the applicant's fitness to practice, and in so doing, may direct that the applicant's name be restored to the register or roll, as the case may be, on payment of the fees prescribed in Schedule 2. Schedule 2

PART IV LICENSING OF NURSES, MIDWIVES AND ASSISTIVE NURSING PERSONNEL

26. (1) No person shall practice nursing, midwifery or assistive nursing unless that person is registered or enrolled under this Act and holds a valid licence to practice. Licence to practice.

(2) Subject to section 28, the Registrar shall on the registration or enrolment of a person pursuant to section 20 or section 21, as the case may be, and upon payment of the fee prescribed in Schedule 2, issue to the registrant or enrollee a licence to practice.

Schedule 2

Schedule 1 (3) The licence to practice shall be in the form set out in Form 5 of Schedule 1.

Renewal of licence. 27. (1) A licence issued under this Act is valid for a period of two years and shall be renewed in accordance with such Schedule as the Council may determine.

Schedule 1 (2) An application for the renewal of a licence to practice shall be made in the form set out in Form 4 of Schedule 1 and shall be accompanied by the fees prescribed in Schedule 2.

(3) A licence issued under this Act shall be renewed if the applicant continues to fulfil the requirements for registration under this Act and meets any continuing education requirements specified by the Council.

(4) For the purposes of this section, the Registrar may send a renewal notice to every licensee within the period of sixty days prior to the expiration of his or her licence.

(5) Notwithstanding subsection (4), a licensee is responsible for ensuring that his or her licence is valid.

(6) A licence that has expired for a period not exceeding one year may be renewed in accordance with this section.

Provisional licence. 28. (1) The Council shall grant a provisional licence to a person registered pursuant to section 20 (6).

(2) A provisional licence may be issued for a period of at least six months but shall not exceed a period of one year.

(3) A person who is granted a provisional licence under subsection (1) shall only be entitled to practise whilst under the supervision of a nurse and may use the words "licence pending" at the end of his or her name.

(4) For the purposes of this section, the Registrar shall maintain a provisional register on which shall be entered the name of every person who is issued with a provisional licence.

Temporary licence. 29. (1) The Council may grant a temporary licence to a

- (a) nurse educator or other clinician who is invited to the Territory as a supervisor of study groups working in clinical areas;
- (b) nursing consultant who is trained in clinical skills or areas; or

(c) student participating in electives or student exchanges.

(2) The Application Committee may, upon application being made by a person referred to in subsection (1) and on payment of the fee prescribed in Schedule 2, approve a licence to enable such person to temporarily practice in the Territory subject to such conditions as it thinks fit. Schedule 2

(3) Where the Committee approves an application under this section, the Registrar shall issue to the applicant a temporary licence to practice in the Territory.

30.(1) Subject to subsection (2), a suspended licence may be reinstated upon application by the licensee and on payment of the fees prescribed in Schedule 2. Reinstatement of suspended licence. Schedule 2

(2) Before reinstating a suspended licence, the Council shall require the applicant to provide evidence of continuing education in a recognised jurisdiction.

(3) Where the applicant is unable to provide the evidence required under subsection (2), he or she shall complete a formal refresher program as specified by the Council.

31.(1) A nurse or midwife may request, in writing, that the Council temporarily place his or her licence on an inactive status to prevent the licence from lapsing. Temporary Inactive status.

(2) Where a licence has been inactive for less than two years, the person to whom it was issued may apply to the Council requesting that it be reactivated and upon payment of the fees prescribed in Schedule 2, the Council shall reinstate the licence. Schedule 2

(3) Subject to subsection (4), where a licence has been inactive for more than two year, the person to whom it was issued may apply to the Council requesting that it be reactivated and upon payment of the fees prescribed in Schedule 2, the Council shall reinstate the licence. Schedule 2

(4) Before reinstating an inactive licence pursuant to subsection (3), the Council shall require the applicant to provide evidence of continuing education commensurate with the number of years the licence was inactive or evidence of involvement in the practice of nursing.

**PART V
DISCIPLINARY PROCEEDINGS**

Establishment of
Disciplinary
Committee.

32. (1) For the purposes of this Part, the Council shall establish a committee to be known as the "Disciplinary Committee" to

- (a) receive written complaints about its members;
- (b) investigate complaints received; and
- (c) recommend disciplinary actions for the consideration of the Council.

(2) The Chairperson of the Council shall be the Chairperson of the Disciplinary Committee.

(3) In executing its functions under this Act the Disciplinary Committee shall make reasonable efforts to ensure that

- (a) a complainant is kept informed of all decisions made relating to his or her complaint;
- (b) the committee acts expeditiously; and
- (c) complaints are processed in a timely manner.

Complaints.

33. (1) A person, including a member of the Council, may make a complaint in writing to the Disciplinary Committee concerning the conduct of a nurse, midwife or assistive nursing personnel on one or more of the following grounds:

- (a) professional misconduct;
- (b) poor professional performance;
- (c) non-compliance with any applicable code of professional conduct;
- (d) the person concerned is suffering from any illness or disability rendering such person unfit to practice nursing, midwifery or assistive nursing;
- (e) a failure to comply with any conditions under his or her licence;

- (f) a contravention of a provision of this Act or any Rules or Regulations made under this Act;
- (g) an irregularity in relation to the custody, prescription or supply of a controlled drug or another drug that is likely to be abused; or
- (h) a conviction in the Territory for an indictable offence or a conviction outside the Territory for an offence consisting of acts or omissions that, if done or made in the Territory, would constitute an indictable offence.

(2) A complaint may be made on the grounds of professional misconduct or poor professional performance notwithstanding that the matter to which the complaint relates occurred outside the Territory.

(3) No legal proceedings shall be brought or any measures taken at the place of employment against any person who in good faith makes a complaint under this section.

(4) Where a complaint falls within subsection (1)(h), the Disciplinary Committee shall immediately refer the complaint to the Council for determination.

(5) The Disciplinary Committee may require the complainant to verify by statutory declaration or otherwise, anything contained in a complaint.

34. (1) The Council shall consider a complaint referred to it under section 33(4) and if the Council is of the opinion,

Complaints referred to the Council.

- (a) that no interim measures need to be taken, it shall refer the complaint back to the Disciplinary Committee and the committee shall deal with the complaint as if it had never been referred; or
- (b) that the nature of the offence that is the subject of the complaint or the circumstances in which the offence was committed
 - (i) render the person permanently unfit to continue to practice nursing, midwifery or assistive nursing; and
 - (ii) it is in the public interest that it take action immediately,

the Council shall suspend or revoke the licence to practice of the person to whom the complaint relates and direct the Disciplinary Committee to notify the person accordingly.

(2) Before making a decision under subsection (1)(b), the Council shall give the person to whom the complaint relates an opportunity to be heard, whether personally or by a legal representative.

(3) Any nurse, midwife or assistive nursing personnel whose licence has been suspended or revoked shall, within fourteen (14) days of being so notified in writing by the Registrar, surrender his or her licence to the Registrar.

(4) A person who fails to surrender his or her licence in accordance with subsection (3), commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

Investigation by disciplinary committee.

35.(1) Upon receipt of a complaint under section 33, the disciplinary committee shall make such preliminary investigation into the complaint as it thinks fit to determine whether a formal inquiry is warranted.

(2) The disciplinary committee may, by notice in writing, require the complainant to provide to the Committee within a reasonable time, further information relating to the subject matter of the complaint.

(3) The disciplinary committee may refuse to consider or further consider a complaint if the complainant, without reasonable excuse, does not comply with a notice under subsection (2).

(4) Where, after due inquiry, the Committee is of the opinion that

(a) the complaint is without substance and no formal inquiry should be held, the Committee shall dismiss the complaint; or

(b) there is sufficient cause for further investigation, it shall conduct a formal inquiry into the matter.

Inquiry by disciplinary committee.

36.(1) Where the Disciplinary Committee has decided to conduct a formal inquiry it shall give notice in writing, to the person against whom the formal inquiry is to be instituted,

(a) stating the particulars of the complaint;

(b) the time and place at which the inquiry is proposed to be held; and

- (c) informing the person that he or she is entitled to make representations to the Committee.

(2) Where the Disciplinary Committee is inquiring into a matter referred to it by the Council under section 34(1)(a) the Committee shall include in the notice,

- (a) the decision of the Council; and
- (b) any particulars it deems appropriate in respect of the representations that person might have made before the Council.

(3) Notice of the hearing shall be given at least twenty-eight (28) days prior to the date of the hearing.

(4) The person against whom the complaint relates shall be given an opportunity to be heard, whether personally or by a legal practitioner.

37. The Council may restrict or suspend a licence to practice pending disciplinary proceedings and shall inform the licensee.

Power to restrict or suspend licence pending inquiry.

38. (1) Where the Disciplinary Committee, after an inquiry in accordance with section 36, is satisfied that the person against whom the complaint relates has committed the act complained of, the Committee may recommend that the Council

Decision after inquiry.

- (a) reprimand or caution him or her;
- (b) impose conditions on him or her in respect of the practice of nursing;
- (c) suspend his or her registration and licence; or
- (d) revoke his or her registration or enrolment, and licence and direct the Registrar to remove the name of the person concerned from the Register or the Roll, as the case may be.

(2) The Council may, on receipt of a recommendation from the Disciplinary Committee,

- (a) act on the recommendation of the Disciplinary Committee; or
- (b) take any other action specified in subsection (1).

(3) Where a licence is suspended or revoked under this section such licence may be reissued after one year, at the discretion of the Council.

PART VI MISCELLANEOUS PROVISIONS

Appeals.

39. (1) A person who is aggrieved by a decision of the Applications Committee may, within fourteen (14) days of receiving written notice of the decision, appeal to the Council in the prescribed manner.

(2) A person aggrieved by a decision of the Council, may within three months of receipt of notice about the matter appeal against the decision of the Council to the High Court and the appeal shall be heard by a judge in chambers.

Offences.

40. (1) A person who

- (a) not being a person registered or enrolled under this Act, uses the name or title of nurse, midwife or assistive nursing personnel, either alone or in combination with any other word or letter or any name, title, addition, description, uniform or badge, implying that he or she is registered or enrolled under this Act or is recognised by any law as a nurse, midwife or assistive nursing personnel;
- (b) after the expiration of his or her registration or enrolment uses any name, title, addition, description, uniform or badge implying that he or she is registered or enrolled under this Act;
- (c) with intent to deceive, issues to any person, a certificate of registration or enrolment as a nurse, midwife or assistive nursing personnel purporting it to be issued by the Council;
- (d) submits fraudulent documentation so as to secure registration or enrolment,

commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding six months or, both.

(2) A person who knowingly hires a person who is not registered under this Act to perform the duties of a nurse, midwife or assistive nursing personnel commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding one year or, both.

(3) A person who wilfully makes or causes to be made any falsification in any matter relating to the Register or Roll commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or, both.

(4) Subject to subsection (5), a person who, not being registered or enrolled, and licensed under this Act to practice nursing, midwifery or assistive nursing who practices nursing, midwifery or assistive nursing commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or, both.

(5) Subsection (4) shall not apply to a person giving assistance to a woman in child birth where the services of a qualified professional are not available.

41. Any fee received by the Registrar for or on behalf of the Council, shall be paid into the Consolidated Fund.

Disposal of registration fees and fines.

42. (1) The Nurses, and Midwives Act, 2009 is repealed.

Repeal and savings.
No. 9 of 2009

(2) Notwithstanding subsection (1), any Rules or Regulations made under the repealed Act, not being inconsistent with this Act, shall remain in force until revoked or replaced.

43. (1) The members of the Council as constituted immediately prior to the coming into force of this Act shall continue in office for the period for which they were appointed under the repealed Act.

Transitional provisions.

(2) All persons registered or enrolled under the repealed Act shall be deemed to be registered as nurses or midwives, or enrolled as assistive nursing personnel under this Act.

(3) Any application for registration or enrolment made under the repealed Act and pending on the date of coming into force of this Act shall continue to be valid and shall be deemed to be an application for registration or enrolment duly made under this Act.

44. The Minister may, on the advice of the Council, make Regulations

Regulations.

(a) concerning the Register and the Roll;

(b) prescribing the fees to be paid on the registration or enrolment of a nurse, midwife or assistive nursing personnel;

- (c) prescribing uniforms, badges or any other thing for nurses, midwives and assistive nursing personnel as the Minister considers necessary;
- (d) the manner of appealing to the Council and the procedure to be followed in the conduct of such appeals; and
- (e) generally for the purposes of carrying this Act into effect.

Amendment
of Schedules.

45. (1) The Minister may, with the approval of Cabinet and by an Order published in the *Gazette*, amend the Schedules in such manner as the Minister considers necessary.

SCHEDULE 1
FORM 1
NURSES AND MIDWIVES ACT, 2020

[Sections 20(1),
21(1), 23(5)]



APPLICATION FOR REGISTRATION/ENROLMENT



Please Print

NAME: _____
Last *First* *Middle*

OTHER NAMES: _____

PHYSICAL ADDRESS: _____

MAILING ADDRESS: _____

TEL.: _____ **E-MAIL:** _____

PLACE OF BIRTH: _____ **DATE OF BIRTH:** _____
DD/MM/YY

PROSPECTIVE EMPLOYER IN THE VIRGIN ISLANDS:

ADDRESS:

TEL.: _____ **FAX:** _____

Please Print

PROFESSIONAL QUALIFICATION(S)	COUNTRY	DATES	REG. NO.

Please Print

WORKING EXPERIENCE: NURSING POSITION(S) HELD	DATES	EMPLOYER	COUNTRY

**FORM 2
NURSES AND MIDWIVES ACT, 2020**

[Section 20(8)]

CERTIFICATE OF REGISTRATION

No.....

It is hereby certified thatofis
duly registered/ provisionally registered in Partof the Nurses and
Midwives Register under section of the Nurses and Midwives Act, 2020,
and is entitled to practise as.....in the Virgin Islands.

Dated

**FORM 3
NURSES AND MIDWIVES ACT, 2020**

[Section 21(4)]

CERTIFICATE OF ENROLLMENT

No.....

It is certified that.....of is
duly enrolled/ provisionally enrolled in the Assistive Nursing Personnel Roll
under section of the Nurses and Midwives Act, 2020, and is entitled to
practise Assistive Nursing in the Virgin Islands.

Dated

**FORM 4
NURSES AND MIDWIVES ACT, 2020**

[Section 27(2)]

APPLICATION FOR RENEWAL OF LICENCE

PLEASE PRINT

Gender: Male Female Other

Name: _____

Physical Address:

Mailing Address:

E-mail: _____

Phone number(s): _____ (H)(W)(C) _____ (H)(W)(C)

Place of Birth: _____ Date of Birth: _____

Nationality: _____

(Tick all that apply) Belonger Resident Card Work Permit Contract

Highest level of Nursing Education:

Doctoral Degree MSN/MS BSN ADN/ASc.N Diploma
 Certificate

Type of employment: Self Private Public Unemployed

Employer: _____

Practice: Full-time Part-time (less than 35 hrs./wk.) Inactive

Area of practice: General-Hospital General-Clinic Administration
 Specialty-Hospital Specialty-Clinic Education
 Other (Practice outside of the above): _____

Registered Nurse Registered Midwife Assistive Nursing Assistant

Signature: _____ Date: _____

Continuing Education Units or Hrs. completed in the last year [20__].

NB.

Applications will not be processed if the form is submitted without the relevant fees.

Completing this form helps us to keep our database current, please assist us by furnishing all the requested information.

**FORM 5
NURSES AND MIDWIVES ACT, 2020**

[Section 26(3)]

PRACTICE LICENCE

Front of card

Council Logo

**Virgin Islands
Nurses and Midwives Council**

**Licensee's Picture:
Face forward**

Name: First name Last name

Registration Title

Registration Number(s)

Registration Date

Licensee's Signature

Registrars Signature

Licence Expiration Date

Back of card

Council's address and contact number

SCHEDULE 2

[Sections 20(2), 20(8), 21(2),
21(4), 23(5), 24(2), 26(2),
29(2), 30(1), 31(2), 31(3)]

FEES PAYABLE

1. Application for Registration	\$35
2. Certificate of Registration and initial practice licence fee for nurses or midwives	\$75
3. Registration in each additional part	\$25
4. Application for Enrollment	\$35
5. Certificate of Enrollment and initial practice licence fee for assistive nursing personnel	\$40
6. Application for provisional registration or enrollment:	
(a) nurses and midwives	\$35
(b) assistive nursing personnel	\$35
7. Provisional practice licence	\$50
8. Temporary practice licence	
(a) for nurses and midwives	\$50
(b) for students	\$20
9. Renewal of practice licence	
(a) nurses	\$50 each part
(b) midwives	\$30
(c) nurse-midwife	\$70
(d) assistive nursing personnel	\$20
10. Restoration of name to register or roll	\$ 50
11. Reinstatement of suspended licence	\$50
12. Reinstatement of inactive licence	\$50
13. Verification with Form	\$35
14. Verification or Good Standing letter	\$60
15. Replacement of licence	\$20

SCHEDULE 3

[Section 23(4)]

SPECIFIED NURSING AND ASSISTIVE NURSING DISCIPLINES

1. Persons qualified in the following disciplines shall be registered as Registered Nurses

- (a) Registered Nurse (RN)
- (b) Registered Psychiatric Nurse (RPN)

2. Persons qualified in the following disciplines shall be registered as Advanced Practice Registered Nurses

- (a) Registered Nurse Practitioner (NP)
- (b) Registered Nurse Anaesthetist (RNA)
- (c) Clinical Nurse Specialist (CNS)
- (d) Registered Public Health Nurse (PHN)

3. Persons qualified in the following disciplines shall be registered as Assistive Nursing Personnel

- (a) Licensed Practical Nurse (LPN)
- (b) Nursing Assistant (NA)
- (c) Nurse Technician (NT)
- (d) Nurses Aide (CNA)
- (e) Patient Care Assistant (PCA)
- (f) Patient Care Technician (PCT)
- (g) Geriatric Aide (GA)

Passed by the House of Assembly this day of , 2020.

Speaker.

Clerk of the House of Assembly.

OBJECTS AND REASONS

This Bill seeks to repeal and replace the Nurses and Midwives Act 2009.

The Bill is divided into six parts.

Part I (clauses 1-2) provides for preliminary matters.

The preliminary provisions would deal with the short title and commencement of the Bill as well as define certain terms used in the Bill. Specifically, clause 2 would introduce several new definitions including advance or speciality nursing, replace and modernise the term nursing assistants with that of assistive nursing personnel which would encompass a wider category of persons.

Part II (clauses 3-17) provides for the establishment and functions of the Council.

Clause 3 would provide for establishment of the Nurses and Midwives Council and for the Minister to appoint a Chairperson nominated by the members of the Council.

Clause 4 would provide for the tenure of office, whilst clause 5 would provide for the appointment of alternate members in specified circumstances.

Clauses 6 and 7 would provide for the functions and powers of the Council. The Council would be empowered to not only register or enrol qualified nurses, midwives and assistive nursing personnel, but it would also determine the qualifications and training necessary for registration or enrolment, take disciplinary proceedings where necessary, consult with institutions and persons on matters pertaining to nursing and establish policies and rules with respect to continuing education.

Clauses 8 and 9 would provide for meetings of the Council, including the disclosure of interests by members.

Clause 11 would provide for the Council to establish an Applications Committee and a Disciplinary Committee to assist it in the performance of its functions.

The Applications Committee would review applications and determine applications for registration or enrolment.

Clause 12 would provide for the seal of the Council.

Clause 13 would protect members of the Council from liability where those members are acting in good faith in the exercise of their duties.

Clause 14 would provide for the Minister to provide with certain facilities including staff, accommodations etc, whilst clause 15 would provide for the funds of the Council.

Clauses 16 and 17 would require the Council to keep proper accounts and to have those accounts audited annually. In addition, the Council would be required to submit annual reports as well as estimates of its revenue and expenditures for the coming year.

Part III (clauses 18-25) provides for the registration of nurses and midwives and the enrolment of assistive nursing personnel.

Clauses 18 and 19 would provide for the appointment of the Registrar and keeping of the Register and the Roll by the Registrar. The Chief Nursing Officer would be the Registrar *ex officio*; however the absence of the Chief Nursing Officer the Minister would be empowered to appoint a nurse, on the recommendation of the Council, to act as Registrar.

Clauses 20 and 21 would provide for the application for registration or enrolment, as the case may be, of nurses, midwives and assistive nursing personnel. The aforementioned clauses would set out specifically the evidence to be submitted by an applicant in support of his or her application for registration or enrolment. In addition, it would provide for some applications to be approved provisionally.

Clause 22 would provide for the publication of the names of persons registered or enrolled under this Act.

Clause 23 would provide for the registration of qualified persons from the Commonwealth and other foreign countries or countries which have a reciprocity agreement with the Territory.

Clauses 24 and 25 would provide for the removal of names from the register or the roll and for the restoration of names to the register or the roll.

Part IV (clauses 26-31) provides for the licensing of nurses, midwives and assistive nursing personnel.

Clause 26 would prohibit the persons who are not registered or enrolled, and who are not licensed under this Act from practicing nursing, midwifery or assistive nursing.

Clause 27 would provide for the validity and renewal of a licence issued under this Act.

Clause 28 would provide for the Council to issue provisional licence to persons who have graduated from a nursing program but are awaiting examination results.

Clause 29 would provide for the Council to issue temporary licenses to nurse educators, nursing consultants or students participating in student exchange programmes.

Clause 30 would provide for the reinstatement of a suspended licence.

Clause 31 would provide for the Council to temporarily place a licence on an inactive status at the request of the licence holder. It would also provide for the reactivation of such licences on payment of the prescribed fee.

Part V (clauses 32 - 38) provides for disciplinary proceedings.

Clause 32 would provide for the establishment and functions of the Disciplinary Committee which would be empowered to accept complaints and conduct disciplinary proceedings.

Clause 33 and 34 would provide for persons to make complaints to the Disciplinary Committee. Clause 33 would set out the grounds for making complaints and for the referral of complaints which relate to a conviction for an indictable offence to the Council.

Clause 35 would provide for the Disciplinary Committee to investigate complaints and to determine whether a formal inquiry would be necessary. Where it is determined that a formal inquiry is necessary clause 36 would provide for conducting same.

Clause 37 would give the Council the power to restrict or suspend a licence whilst an inquiry is pending.

Clause 38 would provide for the disciplinary actions that may be taken where a person is found to have committed the act complained of.

Part VI (clauses 39 - 46) provides for miscellaneous provisions.

Clause 39 would provide for appeals from the decisions of the Applications Committee and the Council by aggrieved persons.

Clause 40 would provide for offences.

Clause 41 would provide for the fees received by the Council to be paid into the Consolidated Fund.

Clause 42 would provide for repeal and savings.

Clause 43 would provide for transitional matters.

Clause 44 would empower the Minister to make Regulations.

Clause 45 would provide for the Minister, with the approval of Cabinet, to amend the Schedules by Order.

Minister for Health and Social Development

