

PSYCHOLOGICAL PRACTITIONERS ACT 1998



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PSYCHOLOGICAL PRACTITIONERS ACT 1998

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ARRANGEMENT OF SECTIONS

| | | | |
|----|--|----|---|
| 1 | Citation | 11 | Renewal of certificate |
| 2 | Interpretation | 12 | Lapse of certificate |
| 3 | Restriction on use of professional names, etc. | 13 | Voluntary removal of name from Register |
| 4 | Bermuda Psychologists Registration Council | 14 | Striking-off name from Register |
| 5 | Qualifications for registration | 15 | Conduct of registered psychologists |
| 6 | The Register of Psychologists | 16 | Suspension or restriction of certificate |
| 7 | Annual gazetting of particulars | 17 | Restoration of name and termination of suspension, etc. |
| 8 | Registration | 18 | Appeals to the Cabinet |
| 9 | Inactive and provisional status | 19 | False statements |
| 10 | Certificate, period of validity | 20 | Striking-off on conviction under section 19 |

PSYCHOLOGICAL PRACTITIONERS ACT 1998

| | | | |
|----|----------------------------------|----|--------------|
| 21 | Authorized visiting practitioner | 23 | Offences |
| 22 | Regulations | 24 | Transitional |
| | | 25 | Commencement |

WHEREAS it is expedient to establish a scheme of registration of psychological practitioners and to provide for connected matters;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:—

Citation

1 This Act may be cited as the "The Psychological Practitioners Act 1998".

Interpretation

2 In this Act—

"a Bermudian" means a person possessing Bermudian status under the Bermuda Immigration and Protection Act 1956;

"certificate" means a certificate of registration issued under section 8(4)(b);

"the Council" means the Bermuda Psychologists Registration Council established by section 4;

"the Minister" means the Minister responsible for Health;

"prescribed" means prescribed by regulations;

"professional misconduct" has the meaning assigned to it in section 15(3);

"the Register" means the register provided for in section 6;

"registered psychologist" means a person registered under section 6;

"regulations" means regulations made under section 22.

Restriction on use of professional names, etc.

3 (1) Subject to this Act, a person shall not in Bermuda—

- (a) take or use, or practise or carry on business under, any name, style, title or description which includes the word "psychologist"; or

PSYCHOLOGICAL PRACTITIONERS ACT 1998

- (b) take or use any name, style, title or description (including one consisting of initials) which states or implies that he is a registered psychologist,

if he is not a registered psychologist or if he does not hold a valid certificate of registration.

(2) A person shall not in Bermuda take or use or affix to any premises used by him, any name, style, title or description (including one consisting of initials) which states or implies that he possesses qualifications in the discipline of psychology which he does not in fact possess.

(3) Subsection (1) does not prevent a person who is registered as a psychologist by a professional body outside Bermuda and is engaged in Bermuda as a lecturer or researcher in psychology, but is not a registered psychologist, from using the style or title of "psychologist".

Bermuda Psychologists Registration Council

4 (1) There shall be a body corporate called "the Bermuda Psychologists Registration Council".

(2) The functions of the Council are—

- (a) to safeguard the welfare of the public in relation to the services of psychologists;
- (b) to assess applications and decide if applicants qualify for registration;
- (c) to promote and maintain high standards of practice and monitor adherence to ethical guidelines; and
- (d) to exercise disciplinary control over registered psychologists.

(3) The Council shall consist of a chairman and such other members, not being fewer than four, as the Minister may determine.

(4) The provisions of the Schedule have effect in relation to the constitution of, and other matters concerning, the Council.

Qualifications for registration

5 (1) Subject to this Act, an applicant is entitled to be registered as a psychologist under this Act if he is a Bermudian or is ordinarily resident in Bermuda and satisfies the Council that he meets the relevant criteria.

(2) The relevant criteria are—

PSYCHOLOGICAL PRACTITIONERS ACT 1998

- (a) successful completion of a programme of academic training in Clinical Psychology, Counselling Psychology, School Psychology, Industrial-Organizational Psychology or any other applied field of psychology approved by the Council at an institution of higher learning approved by the Council;
 - (b) completion of at least 1,000 hours of relevant experience, not less than 500 of which occurred after completion of the academic training referred to in paragraph (a), under the supervision of—
 - (i) a registered psychologist;
 - (ii) where the supervision occurred outside Bermuda, a supervisor who, in the opinion of the Council, would meet or have met the requirements for registration under this Act (except the residence requirement); or
 - (iii) where the supervision occurred prior to the coming into operation of this Act, a supervisor who, in the opinion of the Council, would have met such requirements if this Act had then been in operation;
 - (c) currency of professional knowledge and skills as demonstrated by—
 - (i) provision of at least 100 hours of psychological services per year in two of the three years preceding the application; or
 - (ii) such evidence relating to refresher programmes or professional development as may be accepted by the Council as indicating currency;
 - (d) evidence of good character.
- (3) The Council may waive the requirement under subsection (2)(b) for post-qualification supervised experience if satisfied that the applicant has sufficient practical experience.

The Register of Psychologists

- 6 (1) There shall be a register, called "the Register of Psychologists", which the Registrar-General shall maintain at his office.
- (2) The Register is an official record and shall set forth—

PSYCHOLOGICAL PRACTITIONERS ACT 1998

(a) the names, addresses, status and qualifications of registered psychologists; and

(b) such other particulars as the Registrar-General considers to be necessary or expedient for identifying registered psychologists or as may be prescribed.

(3) It is the Registrar-General's duty to keep the Register correct in accordance with the provisions of this Act and the regulations, to erase the names of persons who have died, and to make necessary alterations in the registered particulars of registered psychologists.

Annual gazetting of particulars

7 (1) As soon as may be after 1st January in every year the Registrar-General shall publish in the Gazette a notice, in such form as he sees fit, setting forth the names and other particulars entered in the Register on that date.

(2) A copy of the latest-gazetted such notice is *prima facie* evidence in all courts that the persons whose names are included in the notice are registered psychologists; and the absence of a person's name from such a notice is *prima facie* evidence in all courts that he is not a registered psychologist.

Registration

8 (1) A person who desires to be registered as a registered psychologist shall make application to the Council through the Registrar-General.

(2) The application shall be in the prescribed form and be accompanied by the prescribed fee.

(3) The Council shall consider the application and may either approve or reject it.

(4) Where the Council approves the application, it shall direct the Registrar-General to register the applicant, that is to say, to—

(a) enter the required particulars relating to him in the Register; and

(b) issue to him a certificate of registration in the prescribed form.

(5) Where the Council rejects the application, it shall record its decision and the reasons for it in writing, and direct the Registrar-General to inform the applicant.

PSYCHOLOGICAL PRACTITIONERS ACT 1998

(6) An applicant who is aggrieved by a decision of the Council under this section may appeal to the Cabinet against it under section 18.

Inactive and provisional status

9 (1) Where a registered psychologist intends—

- (a) to be absent from Bermuda; or
- (b) to practise outside Bermuda,

for a period of more than 12 months, he may apply to the Council to have his registration designated as inactive and return his certificate to the Registrar-General; and the Council shall direct the Registrar-General to enter a notation on the Register indicating inactive status.

(2) When such registered psychologist seeks to return to practise in Bermuda, he may apply to the Council for reissue of a certificate and the Council shall—

- (a) if satisfied that he continues to meet the qualifications for registration set out in section 5(2), direct the Registrar-General to reissue his certificate and remove the notation of inactive status; or
- (b) if not so satisfied, direct the Registrar-General—
 - (i) to enter a notation on the Register indicating provisional status for such period as the Council may direct and to require him to undergo a programme of continuing education, supervision or monitoring specified in writing by the Council; and
 - (ii) on completion of the programme referred to in subparagraph (i), to reissue his certificate and remove the notation of provisional status.

Certificate, period of validity

10 Unless a shorter term has been imposed by the Council, a certificate expires three years after the date on which it is expressed to come into effect.

Renewal of certificate

11 The Council shall direct the Registrar-General to renew a certificate if the registered psychologist—

- (a) applies to the Council for the renewal of his certificate;

PSYCHOLOGICAL PRACTITIONERS ACT 1998

- (b) pays the prescribed renewal fee by the date on which his certificate expires; and
- (c) provides evidence of—
 - (i) having provided at least 100 hours of psychological services per year in two of the preceding three years; or
 - (ii) having met such requirements relating to continuing education as may be prescribed.

Lapse of certificate

12 A registered psychologist who fails to apply for renewal of his certificate before the expiry date ceases to be a registered psychologist; and the Council shall direct the Registrar-General to delete his name from the Register.

Voluntary removal of name from Register

13 A registered psychologist who desires to have his name removed from the Register shall make application for the purpose to the Registrar-General, surrendering his certificate; and the Registrar shall thereupon make the necessary alterations to the Register.

Striking-off name from Register

- 14 (1) If the Council is satisfied—
- (a) that a registered psychologist has been convicted, whether in Bermuda or elsewhere, of an offence for which he has been sentenced to imprisonment without the option of a fine;
 - (b) that the name of a registered psychologist has been struck off a register kept outside Bermuda by a recognized professional body; or
 - (c) that a registered psychologist is guilty of professional misconduct,

the Council shall, subject to this Act, decide whether the registered psychologist's name should be struck off the Register.

(2) The expression "a recognized professional body" in subsection (1)(b) means a body of psychologists established in a country outside Bermuda, being a body which—

- (a) has disciplinary powers over psychologists in that country; and

PSYCHOLOGICAL PRACTITIONERS ACT 1998

(b) is recognized by the Council for the purposes of this section.

(3) In relation to any particular registered psychologist, a body may be recognized by the Council under subsection (2)(b) for the purposes of this section after he has been struck off by that body.

(4) It is the duty of every registered psychologist who is convicted as mentioned in subsection (1)(a) or whose name is struck off a register as mentioned in subsection (1)(b) to inform the Council forthwith of that fact and the attendant circumstances.

(5) Before the Council decides to strike a registered psychologist's name off the Register, it shall enquire into the matter; and in respect of any such enquiry the Council—

(a) may take evidence on oath, and for that purpose, the chairman of the Council may administer an oath;

(b) shall allow the registered psychologist—

(i) to appear before the Council;

(ii) to be represented by counsel;

(iii) to produce and cross-examine witnesses;

(iv) generally to make a full defence or explanation in the matter.

(6) Where the Council decides to strike a registered psychologist's name off the Register, it shall direct the Registrar-General accordingly; but before such a decision or direction can take effect the Council must inform the registered psychologist in writing of what the Council intends so that he may exercise his rights under subsection (7) if he wishes.

(7) A registered psychologist who receives a notice in writing as mentioned in subsection (6) may appeal to the Cabinet against the decision in question under section 18.

(8) Where a decision to strike a registered psychologist's name off the Register has taken effect, the Registrar-General shall—

(a) inform him by notice in writing that his name has been so struck off;

(b) by the same or another notice require him to return to the Registrar-General his certificate of registration within fourteen days of his receipt of the notice; and

(c) publish in the Gazette notice of the striking-off.

PSYCHOLOGICAL PRACTITIONERS ACT 1998

Conduct of registered psychologists

15 (1) The Council shall establish a Code of Conduct for registered psychologists ("the Code").

(2) The Council shall publish in the Gazette—

- (a) the Code as first established; and
- (b) every amendment of the Code.

(3) The Code shall prescribe the meaning of the expression "professional misconduct".

(4) The general standard of professional conduct required of psychologists is that they practise only within the boundaries of their competence based on their education, training, supervised experience and professional experience.

(5) If an allegation of professional misconduct by a registered psychologist is brought to the notice of the Council, the Council shall enquire into the allegation; and the following provisions of this subsection have effect in relation to any such enquiry—

(a) the Council shall allow him—

- (i) to appear before the Council;
- (ii) to be represented by counsel;
- (iii) to produce and cross-examine witnesses;
- (iv) generally to make a full defence or explanation in the matter;

(b) the proceedings are deemed to be judicial proceedings for the purposes of the provisions of the Criminal Code relating to perjury;

(c) the Council shall exercise its powers under the Code and inform the registered psychologist of its decision by notice in writing;

(d) the registered psychologist may appeal to the Cabinet under section 18.

(6) Without prejudice to subsection (5), the Council may on its own motion investigate any allegation or evidence that appears to show that a registered psychologist has failed to comply with any provision of this Act, the regulations, the Code or any other professional or ethical standards adopted by the Council.

(7) Where the Council is satisfied of such failure, after due enquiry under subsection (5), the Council may exercise any powers

PSYCHOLOGICAL PRACTITIONERS ACT 1998

conferred by this Act to suspend or restrict a certificate or to require the registered psychologist to undergo a programme of continuing education, supervision or remediation.

Suspension or restriction of certificate

16 (1) Where it appears to the Council that a registered psychologist—

- (a) is inefficient or negligent in carrying out his professional functions;
- (b) has become incapable of properly carrying out his professional functions by reason of old age; or
- (c) is addicted to alcohol or drugs to an extent which makes him unfit to carry out his professional functions;

the Council, after holding an enquiry into the matter, may if it finds the matter proved decide—

- (d) to suspend his certificate for such period as the Council may direct; or
- (e) restrict his certificate to practise under the supervision of another registered psychologist until that other registered psychologist certifies to the Council that the supervised psychologist is mentally and physically fit to continue to be registered.

(2) Where the certificate of a registered psychologist is suspended or restricted under subsection (1), the Council shall direct the Registrar-General to enter the notation "Suspended" or "Restricted", as the case may be, in the registered particulars relating to that psychologist.

(3) The provisions of section 14 relating to enquiries, notices, appeals, return of certificates and actions by the Registrar-General apply, with the necessary changes, to a decision to suspend or restrict a certificate as they apply to a decision to strike a registered psychologist's name off the Register.

Restoration of name and termination of suspension etc.

17 (1) A registered psychologist—

- (a) whose name has been removed from the Register under section 13;
- (b) whose name has been struck off the Register under section 14; or

PSYCHOLOGICAL PRACTITIONERS ACT 1998

- (c) whose certificate has been suspended or restricted under section 16,

may, after the expiration of three months after the date of the removal, striking-off, suspension or restriction, as the case may be, apply to the Council for his name to be restored to the Register, or, as the case may be, for the suspension or restriction on his certificate to be terminated.

(2) The application shall be in the prescribed form and be accompanied by the prescribed fee.

- (3) Upon receipt of the application, the Council shall consider—
- (a) the character and professional ability of the applicant;
 - (b) where his name was struck off the Register, the offence for which his name was so struck off;
 - (c) his conduct after his name was removed from or struck off the Register or the suspension or restriction of his certificate was imposed; and any action taken for remediation or rehabilitation;
 - (d) any relevant provision of the Code; and
 - (e) any other circumstance appearing to the Council to be relevant,

and shall then in light of those considerations decide to restore the applicant's name to the Register or not so to restore it, or to terminate any suspension or restriction on his certificate or not to terminate it, as the case may require.

(4) Where the Council has made a decision under subsection (3), it shall give the Registrar-General the requisite directions for implementing the decision including, in the case where the applicant's name is to be restored to the Register, a direction to issue to him a fresh certificate of registration, but before such a decision or direction can take effect the Council must inform the applicant in writing of what the Council intends so that he may exercise his rights under subsection (5) if he so wishes.

(5) A person who is aggrieved by a decision of the Council under this section may appeal to the Cabinet against it under section 18.

Appeals to the Cabinet

18 (1) A person who is aggrieved by a decision to which this section applies may within fourteen days after the relevant date ("the appeal period") appeal to the Cabinet against the decision by notice in writing to the Secretary to the Cabinet setting out the grounds of his

PSYCHOLOGICAL PRACTITIONERS ACT 1998

appeal; and the Cabinet shall decide the appeal and make such order in the appeal as seems just.

(2) Once the Cabinet has decided an appeal under subsection (1), the Council and the Registrar-General shall implement the Cabinet's decision and guide themselves accordingly.

(3) The decisions to which this section applies, and the relevant date in relation to each such decision, are as set forth in the following Table—

| <u>Decision</u> | <u>Relevant date</u> |
|--|--|
| (a) decision referred to in section 8(5): | date on which the aggrieved person received notice of the decision; |
| (b) decision referred to in section 14(6): | date on which the aggrieved person received notice under section 14(6); |
| (c) decision under section 15(5)(c): | date on which the aggrieved person received notice under section 15(5)(c); |
| (d) decision under section 16(1): | date on which the aggrieved person received notice of the decision; |
| (e) decision under section 17(3); | date on which the aggrieved person received notice under section 17(4). |

(4) A decision to which this section applies affecting a person does not take effect in relation to him until the expiry of the appeal period, or where he brings an appeal, until the appeal is decided or abandoned.

False statements

19 Any person who, in connection with any application or other matter falling to be performed under this Act—

- (a) makes any statement knowing or having reason to believe it to be false in a material particular; or
- (b) produces any certificate, diploma or other document knowing or having reason to believe the same to be false,

without prejudice to anything in the Criminal Code, commits an offence against this Act and is liable on summary conviction to a fine not

PSYCHOLOGICAL PRACTITIONERS ACT 1998

exceeding \$2,000 or imprisonment for a term not exceeding 6 months, or to both, and on conviction on indictment to a fine not exceeding \$10,000 or imprisonment for a term not exceeding 12 months, or to both.

Striking-off on conviction under section 19

20 Where any person is convicted of an offence under section 19, if his name has already been entered in the Register, it may, at the discretion of the Minister, be summarily struck off the Register.

Authorized visiting practitioner

21 (1) The Council may, for special reasons, authorize a person who is registered as a psychologist by a professional body outside Bermuda to practise psychology in Bermuda for a limited period and subject to such conditions as the Council may impose.

(2) A person authorized under subsection (1) need not be registered as a psychologist under this Act but shall, for the period specified in the authorization, have the powers and privileges of a registered psychologist.

(3) The following provisions have effect with respect to an authorization under subsection (1)—

- (a) the Council shall be satisfied that there is need for the authorization and that, by virtue of his professional qualifications and suitability, the visiting practitioner would meet that need;
- (b) the authorization shall have effect for a period not exceeding three months, subject to a further extension of six weeks;
- (c) the authorization shall specify the nature of the practice authorized;
- (d) the Council shall specify in the authorization such conditions or restrictions relating to the practice of psychology as the Council may determine;
- (e) notwithstanding paragraph (b), the Council may at any time revoke an authorization or alter its period of validity.

(4) Any person aggrieved by the refusal or revocation of an authorization or by any condition imposed thereby may appeal against that decision to the Cabinet and section 18 shall apply, with the necessary changes.

PSYCHOLOGICAL PRACTITIONERS ACT 1998

(5) A person authorized under subsection (1) shall not practise psychology in Bermuda otherwise than in accordance with such authorization.

Regulations

- 22 (1) The Minister may make regulations—
- (a) prescribing forms, notices or other documents to be used for the purposes of this Act;
 - (b) specifying the manner in which notices shall or may be served;
 - (c) prescribing documents required to be forwarded with applications under this Act;
 - (d) prescribing continuing education and other requirements for the renewal of certificates;
 - (e) prescribing any other matter or thing which by or under this Act may be or is to be prescribed.
- (2) The Minister shall consult the Council before he makes any regulations.
- (3) Regulations are subject to the negative resolution procedure.

Offences

- 23 A person who contravenes—
- (a) section 3(1) or (2);
 - (b) section 14(4);
 - (c) a requirement lawfully made of him under section 14(8)(b); or
 - (d) section 21(5),

is guilty of an offence and is liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months, or to both.

Transitional

- 24 Where a person—
- (a) was a member of the Bermuda Psychological Association on the day this Act comes into operation; but

PSYCHOLOGICAL PRACTITIONERS ACT 1998

(b) does not meet the qualifications for registration under section 5,

the Council may, on payment of the prescribed fee, confer on him provisional registration status, issue a provisional certificate for a period not exceeding 24 months, and require him within that period undergo a programme of study or continuing education in order to meet those qualifications.

Commencement

25 This Act comes into operation on such day as the Minister may appoint for the purpose by notice published in the Gazette.

SCHEDULE

(Section 4(4))

The Bermuda Psychologists Registration Council

1 The members of the Council shall be appointed by the Minister for a term not exceeding six years.

2 (1) In appointing members to the Council, the Minister shall ensure that at any time not fewer than four are registered psychologists and that, on the initial formation of the Council, the appointments are staggered to establish a rotation.

(2) For the purposes of the first constitution of the Council, paragraph (1) has effect as if for the words "registered psychologists" the words "persons who in the Minister's opinion are eligible for registration under section 5" were substituted.

3 The chairman shall be appointed annually by the Minister from among the members of the Council, but so that, if at any time a person holding office as chairman ceases to hold office as such or ceases to be a member of the Council, the Minister shall appoint another member to be chairman in his stead.

4 A member whose term has expired may be re-appointed.

5 If the Minister is satisfied that a member is by reason of ill-health or absence from Bermuda or other sufficient cause unable to perform his duties as a member, the Minister may appoint a registered psychologist to act for that member during the period of his incapacity.

6 A member may at any time resign his office by giving the Minister a signed notice in writing of his resignation.

7 The Minister may at any time declare the office of a member vacant if he is satisfied that the member—

PSYCHOLOGICAL PRACTITIONERS ACT 1998

- (a) has failed without sufficient cause to attend three consecutive meetings of the Council; or
- (b) is incapacitated by physical or mental illness; or
- (c) has otherwise become unable or unfit to perform his duties as a member.

8 A person appointed to fill a vacancy left by a member who did not complete his term of office may be appointed for the unexpired portion of that member's term and no longer, but an appointment to such a vacancy need not be made where the unexpired portion of the term is less than three months.

9 Three members constitute a quorum at any meeting of the Council.

10 If the chairman is absent from a meeting of the Council, the members present shall elect one of their number to act as chairman at that meeting.

11 Any question for decision by the Council shall be decided by a majority of the members present and voting. Each member has one vote, except that the person presiding has a second vote if there is a tie.

12 An act of the Council is not invalid by reason only of a vacancy in the Council's membership or a defect in a member's appointment.

13 Subject to the above provisions, the Council may regulate its proceedings as it sees fit.