



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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WINDHOEK - 12 December 1996

No. 1460

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## Government Notices

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### MINISTRY OF HEALTH AND SOCIAL SERVICES

No. 313

1996

#### COUNCIL FOR HEALTH AND SOCIAL SERVICES PROFESSIONS ACT, 1993: ANNUAL FEES PAYABLE TO THE COUNCIL BY BOARDS

Under section 16(1) of the Council for Health and Social Services Professions Act, 1993 (Act 29 of 1993), I hereby determine, upon the recommendation of the Council for Health and Social Services Professions, that a Board as defined in section 1 of that Act, shall not later than 31 March of each year, pay to the Council an annual fee

- (a) in respect of the year 1996, seven comma five per cent; and
- (b) in respect of the year 1997, and in respect of every year subsequent to that year, ten per cent,

of the aggregate of the annual fees payable to a Board by the members of such Board in respect of the year concerned.

**DR. L. AMATHILA.**  
**MINISTER OF HEALTH**  
**AND SOCIAL SERVICES**

**Windhoek, 3 December 1996**

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### **MINISTRY OF HEALTH AND SOCIAL SERVICES**

No. 314

1996

#### **COUNCIL FOR HEALTH AND SOCIAL SERVICES PROFESSIONS ACT, 1993: REGULATIONS RELATING TO THE HANDLING OF FUNDS BY AND BOOKKEEPING OF THE COUNCIL FOR HEALTH AND SOCIAL SERVICES PROFESSIONS.**

The Minister of Health and Social Services has, on the recommendation of the Council for Health and Social Services Professions, under the provisions of section 17 of the Council for Health and Social Services Professions Act, 1993 (Act 29 of 1993) made the regulations set out in the Schedule.

#### **SCHEDULE**

##### **Definitions**

1. In these regulations, unless the context otherwise indicates, an expression defined in the Act has a corresponding meaning, and -

"bank" means a bank as defined in the Banks Act, 1965 (Act 23 of 1965), and includes a Building Society registered in terms of the Building Societies Act, 1986 (Act 2 of 1986);

"banking account" includes a current account, savings account or fixed deposit;

"Committee" means the Finance Committee established by the Council under section 11(3);

"section" means a section of the Act; and

"the Act" means the Council for Health and Social Services Professions Act, 1993 (Act 29 of 1993).

## Banking Accounts

2. (1) A banking account shall be opened in the name of the Council for Health and Social Services Professions with any bank in Namibia approved by the Committee, and more than one banking account may be so opened with one or more banks.

(2) Such moneys as the Committee from time to time may determine shall be deposited to the credit of, invested in or withdrawn from, any banking account contemplated in subregulation (1).

(3) Except as provided in subregulation (5), all payments by the Council or by the Committee shall be made by cheque, drawn on a banking account of the Council.

(4) All cheques referred to in subregulation (3) shall -

- (a) be made payable to the payee and not to bearer;
- (b) be crossed; and
- (c) be signed by the registrar and co-signed for and on behalf of the Council by any member of the Committee designated by the Committee for such purpose,

and particulars of the transaction to which such cheque relates, shall be entered in the counterfoil of such cheque.

(5) An amount as the Committee may determine, may be withdrawn from the Council's banking account and in cash be advanced to the registrar from time to time to keep in his or her possession for the purpose of meeting petty expenditure which may be incurred by the Council, and the registrar shall retain, and furnish to the Committee, proof of all moneys so expended.

(6) The Committee shall cause receipts to be issued in respect of all moneys received by the Council, which receipts shall -

- (a) be numbered in sequence and be issued in such sequence;
- (b) be issued in the name of the person making the payment;
- (c) specify the purpose for which the payment is made, and the amount of such payment;
- (d) bear the date of issue of the receipt concerned; and
- (e) be signed on behalf of the Council.

**Bookkeeping**

3. (1) The accounts to be kept in terms of section 12(4)(a) shall include full particulars of the expenditure, including expenditure referred to in regulation 2(5), and of the income, assets and liabilities of the Council.

(2) The Committee shall -

(a) bring the accounts referred to in subregulation (1) up to date and balance such accounts; and

(b) reconcile the Banking accounts of the Council,

monthly before the 14th day of the following month.

**Auditing**

4. (1) For the purpose of section 12(4)(b), "auditor" means an auditor registered as such under the Public Accountants' and Auditors' Act, 1951 (Act 51 of 1951).

(2) The statement of income and expenditure and the balance sheet referred to in section 12(4)(b) shall, together with all the relevant vouchers and documents, be retained by the Council for a period of five years.

**Reports by Committee**

5. The Committee shall, at the request of the Council, submit to the Council all books and accounts referred to in these regulations.

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**MINISTRY OF HEALTH AND SOCIAL SERVICES**

No. 315

1996

**COUNCIL FOR HEALTH AND SOCIAL SERVICES PROFESSIONS  
ACT, 1993: REGULATIONS RELATING TO ALLOWANCES PAYABLE TO  
MEMBERS OF THE COUNCIL AND OF COMMITTEES**

The Minister of Health and Social Services has, on the recommendation of the Council for Health and Social Services Professions, under section 17 of the Council for Health and Social Services Professions Act, 1993 (Act 29 of 1993), made the regulations set out in the Schedule.

**SCHEDULE****Definitions**

1. In these regulations, unless the context otherwise indicates, an expression defined in the Act has a corresponding meaning, and -

"chairperson" means the chairperson of the Council, or any person acting as chairperson in terms of section 9;

"Finance Committee" means the Finance Committee established under section 11;

"member" means a member of the Council or a member of any committee of the Council;

"section" means a section of the aforesaid Act; and

"the Act" means the Council for Health and Social Services Professions Act, 1993 (Act 29 of 1993).

### **Allowances payable to members of the Council**

2. The allowances payable by the Council to a member, including a co-opted member, for services rendered for or on behalf of the Council or a committee thereof, per day or part of a day, subject to regulations 3 and 4, are:

(1) Attending meetings of the Council or of a committee, or performing any task upon the instructions of the Council:

- |     |                  |   |            |
|-----|------------------|---|------------|
| (a) | The Chairperson  | : | N\$ 320-00 |
| (b) | Any other member | : | N\$ 285-00 |

(2) If a member has to travel to a place outside the district in which he or she is residing in order to attend a meeting or to perform a task as contemplated in section 17(1)(b) or in subregulation (1):

- |      |  |   |             |
|------|--|---|-------------|
| (a)  | Travelling allowance per kilometre actually travelled from and to his or her place of residence                            | : | N\$ 1-60    |
| (b)  | Subsistence allowance, if the member has to be away from his or her place of residence for a period of more than 24 hours: |   |             |
| (i)  | accommodation per night spent away from the member's place of residence  | : | N\$ 250-00  |
| (ii) | meals per day, if not paid for or provided by the Council when members take meals together                                 | : | N\$ 100-00. |

### **Submission of claims**

3. Members shall submit claims for the payment of allowances in terms of these regulations -

- (a) to the registrar; and
- (b) in such form as the registrar may determine.

#### **Payment of claims**

4. (1) Claims submitted to the registrar in terms of regulation 3, shall be scrutinized by the Finance Committee.

(2) After having scrutinized a claim in terms of subregulation (1), the Finance Committee may -

- (a) if the claim complies with these regulations, pay to the member the amount of the claim;
- (b) amend the claim to comply with these regulations and pay to the member the amount of the amended claim; or
- (c) refer the claim to the member with the request to furnish the Finance Committee with additional particulars as the Finance Committee may consider necessary.

#### **Disputes relating to claims**

5. Any dispute between the Finance Committee and a member relating to a claim submitted by a member shall be referred to the Council for a decision.

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### **MINISTRY OF HEALTH AND SOCIAL SERVICES**

No. 316

1996

#### **COUNCIL FOR HEALTH AND SOCIAL SERVICES PROFESSIONS ACT, 1993: REGULATIONS RELATING TO APPEALS TO THE COUNCIL FOR HEALTH AND SOCIAL SERVICES PROFESSIONS**

The Minister of Health and Social Services has, on the recommendation of the Council for Health and Social Services Professions, under section 17 of the Council for Health and Social Services Professions Act, 1993 (Act 29 of 1993) made the regulations set out in the Schedule.

## SCHEDULE

**APPEALS TO THE COUNCIL FOR HEALTH AND SOCIAL SERVICES  
PROFESSIONS****Definitions**

1. In these regulations, unless the context otherwise indicates, an expression defined in the Act has a corresponding meaning, and -

"appeal" means an appeal to the Council against a decision of or finding by a Board;

"appellant" means the person who appeals against a decision of or a finding by a Board;

"Committee" means the Committee of Preliminary Investigation established under section 11;

"section" means a section of the Act; and

"the Act" means the Council for Health and Social Services Professions Act, 1993 (Act 29 of 1993).

**Lodging of Appeal**

2. An appellant who wishes to lodge an appeal against a decision of or a finding by a Board shall in writing lodge a notice of appeal with the registrar and shall serve a copy of such notice of appeal upon the secretary of the Board against whose decision or finding is being appealed.

3. The notice of appeal referred to in regulation 2 shall -

- (a) be lodged with the registrar and with the secretary of the Board concerned within a period of 30 days from the date upon which the decision or finding concerned was made, and the registrar and secretary shall in writing acknowledge receipt of the notice of appeal;
- (b) specify the Board against whose decision or finding the appeal is lodged;
- (c) state the full names and physical address of the appellant;
- (d) set out in full the decision or finding against which is appealed and the date of such decision or finding;
- (e) state whether the whole or part of the decision or finding is appealed against, and if against a part only, the specific part concerned;
- (f) clearly and specifically state the grounds on which the appeal is based; and

- (g) be signed by the appellant.

### **Furnishing of particulars by Board**

4. The Board against whose decision or finding the appeal is lodged, shall within a period of 21 days after receipt of the copy of the notice of appeal referred to in regulation 2, furnish the registrar of the Council with a copy of the minutes of the inquiry relating to the decision or finding appealed against, including copies of all documents relating to such inquiry, and a statement in writing specifying -

- (a) the facts the Board found to have been proven; and
- (b) the Board's reasons for deciding or finding as it had done,

which minutes, copies of documents and statement in writing shall be certified by the chairperson of the Board as true copies of the originals and shall for the purpose of the appeal to the Council, constitute the record of the proceedings before the Board concerned.

### **Appeal referred to Committee of Preliminary Investigation**

5. Upon receipt by the Council of the documents and information referred to in regulation 4, the Council shall refer the appeal, including such documents and information, to the Committee for investigation.

### **Committee may request further particulars**

6. The Committee may in writing direct the Board -
- (a) to obtain and to submit to the Committee such further information on any matter relating to the appeal as the Committee may direct; or
  - (b) to furnish the Committee with further information or particulars relating to, or more precise reasons for, the decision or finding appealed against,

within such period of time as the Committee may determine and inform such Board in writing.

### **Investigations by Committee**

7. (1) The Committee shall appoint a *pro forma* complainant and may conduct such investigations relating to the appeal concerned as it may consider appropriate or necessary, or as the Council may direct.

- (2) An investigation contemplated in subregulation (1) may include -
  - (a) the evaluation of the minutes relating to the enquiry held by the Board concerned;



- (b) the inspection of any place or item relating to the appeal; or
- (c) the obtaining of further or additional information which may affect the appeal, including the taking of statements from witnesses, whether or not such witnesses have given evidence at the enquiry held by the Board.

(3) After having completed its investigation contemplated in subregulation (1), the Committee shall in writing submit its findings to the Council and shall recommend that -

- (a) the Council proceed with the hearing of the appeal; or
- (b) the Council not proceed with the hearing of the appeal; or
- (c) the matter be referred to the Board concerned for further investigation, or the conducting of a further inquiry, in respect of the issues specified,

giving reasons for its recommendation.

(4) Upon receipt of the recommendations made by the Committee contemplated in subregulation (2), the Council may take such further action -

- (a) as the Committee has recommended; or
- (b) as the Council may consider appropriate.

### **Procedures Relating to the Hearing of the Appeal**

8. The Council shall at least 21 days before the commencement of the hearing of the appeal, deliver to the appellant and to the secretary of the Board against whose decision or finding the appeal has been lodged, a notice in writing informing the date, time and venue of such hearing.

9. Service of a notice in terms of regulation 8 shall be performed by the registrar or by a person designated for such purpose by the registrar.

10. In the event of the appellant or a representative of the Board concerned not being present at the commencement of the hearing of the appeal, the Chairperson of the Council may at his or her discretion have such hearing conducted in the absence of any such person.

11. The summons referred to in Section 14(3)(a) shall be in the form of "Annexure A", shall be signed by the Chairperson of the Council or by the registrar and shall be served -

- (a) by the registrar or by any person designated by the registrar for such purpose; and
- (b) on the person to whom the summons is directed.

12. The allowances payable by the Council to a witness referred to in section 14(8) shall be as set out in "Annexure B".

13. The appellant has the right to, at the hearing of the appeal by the Council, appear before the Council in person and may, if he or she so appears, be represented by a legal practitioner registered as such under the provisions of the Legal Practitioners Act, 1995 (Act 15 of 1995) and may at such hearing -

- (a) submit to the Council any statement, document, book, record or other item relevant to the appeal;
- (b) examine any witness called by, and giving evidence before, the Council; or
- (c) address the Council on any issue pertaining to the appeal.

14. The Board concerned may at the hearing of an appeal by the Council be represented by any of its serving members, which members shall *mutatis mutandis* have the same rights as an appellant at such hearing, as set out in regulation 13.

15. The Chairperson of the Council may appoint one or more persons with adequate experience in the administration of justice to act as an assessor or as assessors at the hearing of an appeal and to advise the council on matters of law, procedure or evidence.

16. For the purpose of the hearing of an appeal by the Council, one-half of the serving members of the Council shall form a quorum.

17. Decisions by the Council shall be taken by a majority vote and in the event of an equality of votes, the chairperson shall, in addition to his or her deliberative vote, have a casting vote.

18. Minutes of the meeting of the Council at which the appeal is considered shall be kept by the registrar and such minutes and any document, book, record or other item submitted to the Council during such hearing, shall be retained in safe custody by the Council for a period of five years.

19. The decision of the Council referred to in section 14(9) shall be furnished to the appellant and to the secretary of the Board concerned *mutatis mutandis* in accordance with the provisions of regulation 9.

20. For the purpose of the computation of any period of time in terms of these regulations, no public holiday referred to in or declared under the Public Holidays Act, 1990 (Act 26 of 1990), or any Saturday or Sunday, shall be regarded as a day.

21. Oral evidence by any person at a hearing shall be taken on oath or affirmation, administered by the chairperson of the Council.

22. Subject to the provisions of regulation 23, evidence in the form of an affidavit may be admitted by the Council.

23. Any party may object to the submission of an affidavit in accordance with the provisions of regulation 22 if such party is not afforded the opportunity to cross-examine the deponent concerned on the contents of such affidavit, and such objection shall be sustained.

24. The record or any part of such record of the proceedings in any court, including the proceedings at an inquest, shall be admitted by the Council as *prima facie* evidence, if such record or part of such record has been certified as a true copy by the proper authority.

25. The hearing of an appeal by the Council shall be open to the public, unless the Council, subject to the proviso to Article 12(1)(a) of the Namibian Constitution, determines otherwise.

26. Upon the conclusion of the hearing of an appeal, the Council shall before taking its decision, deliberate in *camera*.

27. The decision taken by the Council after the hearing of an appeal shall, subject to Article 18 of the Namibian Constitution, substitute the decision or finding of the Board concerned against which the appeal had been lodged.

**ANNEXURE A****COUNCIL FOR HEALTH AND SOCIAL SERVICES PROFESSIONS ACT,  
1993 (ACT 29 OF 1993)****SUMMONS TO APPEAR BEFORE THE COUNCIL FOR HEALTH AND  
SOCIAL SERVICES PROFESSIONS  
(SECTION 14(3)(a))**

In the matter between:

..... Appellant

and

..... Respondent

TO: ..... (Full Names)

of .....  
.....  
.....

(Physical Address)

You are hereby summoned to appear in person before the Council for Health and

Social Service Professions, at .....

(venue)

on the ..... day of ..... (date) at ..... (time), and to  
there and then -

(a) give evidence before the Council relating to the above appeal; and

(b) submit to the Council the documents specified hereunder.

Thus done and signed at ..... this ..... day of ..... 199...

.....  
**Council for Health and Social Services Professions**

List of documents to be submitted to the Council:

DESCRIPTION	ORIGINAL OR COPY

Your attention is drawn to the following provisions of the Council for Health and Social Services Professions Act, 1993:

Section 14(6): "Any person who, when summoned to give evidence or produce any documents, fails, without reasonable excuse, to comply with the terms of the summons or who, whether summoned or not, refuses, while under examination, to answer to the best of his or her knowledge or belief, all questions put to him or her by or with the concurrence of the Council or who wilfully interrupts the proceedings thereof, shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment: Provided that any witness shall have the same privileges in respect of answering any question or producing any document as he or she would have if he or she were to answer such question before, or to produce such document to the High Court.

(7) Any person who gives false evidence on oath or affirmation at the hearing of any appeal before the Council, knowing such evidence to be false, shall be guilty of an offence and on conviction be liable to the penalties prescribed by law for the crime of perjury."

#### **ANNEXURE B**

#### **COUNCIL FOR HEALTH AND SOCIAL SERVICES PROFESSIONS ACT, 1993 (ACT 29 OF 1993)**

#### **ALLOWANCES PAYABLE BY THE COUNCIL TO A WITNESS UNDER SECTION 14(8) AND REGULATION 10**

1. Travelling expenses from the witness's place of residence to the venue where the appeal is conducted and back to the witness's place of residence calculated at the rate of N\$ 1-60 per kilometre, shall be payable to a witness.

2. A subsistence allowance calculated at the rate of N\$150-00 per day or part of a day provided that no subsistence allowance shall be payable to a witness who, for the purpose of giving evidence, is away from his or her work-place or place of residence, as the case may be, for a period of less than eight hours.

3. If public transport is available to a witness, the Council may, at its discretion, pay to the witness an amount equal to the cost pertaining to such public transport in lieu of the travelling expenses in terms of paragraph 1.

4. Claims for payment of allowances shall be submitted by the witness concerned to the registrar in such form as the registrar may determine.

5. The registrar shall submit all claims for payment of allowances to the Finance Committee to evaluate the claims and to pay to the witness the allowances determined by this Annexure.

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