

# BILL NO. 27 OF 2018

## A BILL

### FOR AN ACT TO AMEND THE NURSING ACT 2011

ENACTED by the Parliament of the Republic of Fiji—

*Short title and commencement*

- 1.—(1) This Act may be cited as the Nursing (Budget Amendment) Act 2018.
- (2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.
- (3) In this Act, the Nursing Act 2011 is referred to as the “Principal Act”.

*Section 2 amended*

2. Section 2 of the Principal Act is amended by inserting the following new definitions—
  - ““public private partnership hospital” and “public private partnership dispensary” mean respectively a hospital or dispensary operated, maintained or managed by a private entity through a public private partnership, and includes a health centre and a nursing station, notwithstanding the ownership of the hospital or dispensary;”.

*Section 26 amended*

3. Section 26 of the Principal Act is amended after subsection (7) by inserting the following new subsections—

“(8) Notwithstanding subsections (1) to (5), a person may apply in writing to the Minister for an exemption from the requirements for an application for registration.

(9) The Minister may exempt a person from the requirements for an application for registration upon consideration of the following—

- (a) whether the person is registered or licensed in another jurisdiction;
- (b) whether the person’s qualifications and experience do not require supervision;
- (c) whether there is a need, in the public or national interest, for nurses, midwives, nurse practitioners or specialised nurses of that person’s qualifications and experience; and
- (d) any additional information or documentation related to the person’s application as the Minister considers necessary.

(10) An application made under subsection (8) must be accompanied by an approved fee.

(11) The Minister must, within 14 days of receipt of an application made under subsection (8), determine the application.

(12) Upon the granting of an exemption under subsection (9), the Minister must, within 7 days, issue a written directive—

- (a) to the Council to register the person; and
- (b) to the Registrar to issue a practising certificate to the person,

subject to terms and conditions as the Minister considers necessary.

(13) A person granted an exemption must comply with such disciplinary rules, guidelines and procedures issued for the profession or as issued by the Council.

(14) The Council and the Registrar must, within 7 days, comply with the written directive issued under subsection (12).

(15) Where the Council or the Registrar contravenes any written directive issued under subsection (12)—

- (a) in the case of the Council, the Council commits an offence and is liable upon conviction to a fine not exceeding \$10,000 and the members of the Council are severally liable upon conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding 2 years or both; and

- (b) in the case of the Registrar, the Registrar commits an offence and is liable upon conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or both.

(16) Where an exemption is refused, the Minister must inform the person in writing of the decision including the reasons for the decision.”.

*Section 29 amended*

4. Section 29 of the Principal Act is amended after subsection (3) by inserting the following new subsections—

“(4) If the holder of temporary registration holds a current practising certificate in his or her usual place of residence, he or she does not need to obtain a practising certificate from the Council for the period of temporary registration.

(5) Notwithstanding subsection (2), a person may apply in writing to the Minister for an exemption from the requirements for an application for temporary registration.

(6) The Minister may exempt a person from the requirements for an application for temporary registration upon consideration of the following—

- (a) whether the person is registered or licensed in another jurisdiction;
- (b) whether the person’s qualifications and experience do not require supervision;
- (c) whether there is a need, in the public or national interest, for nurses, midwives, nurse practitioners or specialised nurses of that person’s qualifications and experience; and
- (d) any additional information or documentation related to the person’s application as the Minister considers necessary.

(7) An application made under subsection (5) must be accompanied by an approved fee.

(8) The Minister must, within 14 days of receipt of an application made under subsection (5), determine the application.

(9) Upon the granting of an exemption under subsection (6), the Minister must, within 7 days, issue a written directive—

- (a) to the Council to register the person;
- (b) to the Registrar to issue a practising certificate to the person; or
- (c) both (a) and (b),

as the case may be, subject to terms and conditions as the Minister considers necessary.

(10) For the purpose of subsections (2)(b) and (c) and (9), where a person is employed, including contractually engaged, at a public private partnership hospital or public private partnership dispensary during a period of temporary registration—

- (a) any nursing care administered by the person must take place at a public private partnership hospital or public private partnership dispensary operated, maintained or managed by the person’s employer; and
- (b) the person’s nursing care must be supervised by a registered nurse, midwife, nurse practitioner or specialised nurse employed, including contractually engaged, at a public private partnership hospital or public private partnership dispensary operated, maintained or managed by the person’s employer.

(11) A person granted an exemption must comply with such disciplinary rules, guidelines and procedures issued for the profession or as issued by the Council.

(12) The Council or the Registrar or both, as the case may be, must, within 7 days, comply with the written directive issued under subsection (9).

(13) Where the Council or the Registrar contravenes any written directive issued under subsection (9)—

- (a) in the case of the Council, the Council commits an offence and is liable upon conviction to a fine not exceeding \$10,000 and the members of the Council are severally liable upon conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding 2 years or both; and
- (b) in the case of the Registrar, the Registrar commits an offence and is liable upon conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 2 years or both.

(14) Where an exemption is refused, the Minister must inform the person in writing of the decision including the reasons for the decision.”

*Section 30 amended*

**5.** Section 30 of the Principal Act is amended after subsection (3) by inserting the following new subsection—

“(4) For the purpose of subsection (3)(b) and (d), where a person is employed, including contractually engaged, at a public private partnership hospital or public private partnership dispensary during a period of conditional registration—

- (a) any nursing care administered by the person must take place at a public private partnership hospital or public private partnership dispensary operated, maintained or managed by the person’s employer; and

- (b) the person's nursing care must be supervised by a registered nurse, midwife, nurse practitioner or specialised nurse employed, including contractually engaged, at a public private partnership hospital or public private partnership dispensary operated, maintained or managed by the person's employer."

July 2018

## **NURSING (BUDGET AMENDMENT) BILL 2018**

### **EXPLANATORY NOTE**

*(This note is not part of the Bill and is intended only to indicate its general effect)*

#### **1.0 BACKGROUND**

- 1.1 The Nursing Act 2011 (**‘Act’**) provides for the establishment of the Fiji Nursing Council and the registration of nurses, student nurses, midwives, nurse practitioners and specialised nurses.
- 1.2 The Nursing (Budget Amendment) Bill 2018 (**‘Bill’**) seeks to amend the Act by inserting the definitions of “public private partnership hospital” and “public private partnership dispensary”, which mean respectively a hospital or dispensary operated, maintained or managed by a private entity through a public private partnership, and includes a health centre and a nursing station, regardless of the ownership of the hospital or dispensary.
- 1.3 The Bill also amends the Act to provide a mechanism for an application for exemption from the requirements for an application for registration and temporary registration as a nurse, midwife, nurse practitioner or specialised nurse.
- 1.4 The Bill further amends the Act to provide clarification in relation to, *inter alia*, the supervision of a person employed, including contractually engaged, at a public private partnership hospital or public private partnership dispensary during a period of temporary or conditional registration.

#### **2.0 CLAUSES**

- 2.1 Clause 1 of the Bill provides for the short title and commencement. If passed by Parliament, the amending legislation will come into force on a date or dates appointed by the Minister by notice in the Gazette.
- 2.2 Clause 2 of the Bill amends section 2 of the Act by inserting the definitions of “public private partnership hospital” and “public private partnership dispensary”, which mean respectively a hospital or dispensary operated, maintained or managed by a private entity through a public private partnership, and includes a health centre and a nursing station, regardless of the ownership of the hospital or dispensary.

- 2.3 Clause 3 of the Bill amends section 26 of the Act to provide for applications for exemption from the requirements for an application for registration as a nurse, midwife, nurse practitioner or specialised nurse.
- 2.4 Clause 3 of the Bill also provides that the Minister may exempt a person from the requirements for an application for registration upon consideration of, *inter alia*, whether the person is registered or licensed in another jurisdiction, whether the person's qualifications and experience do not require supervision and whether there is a need, in the public or national interest for that person's qualifications and experience.
- 2.5 Clause 3 of the Bill further provides that the Minister must provide his or her determination of the application for exemption within 14 days of receipt of the application and where the Minister grants the exemption, the Minister must, within 7 days, issue a written directive to the Council to register the person and to the Registrar to issue the person with a practising certificate. Clause 3 of the Bill also provides that upon receipt of the written directive, the Council and the Registrar must comply within 7 days.
- 2.6 Clause 3 of the Bill also stipulates the offence of failing to comply with a written directive issued by the Minister under the proposed section 26(12) and the penalties that the Council, members of the Council and the Registrar will be liable to upon conviction for the offence.
- 2.7 Clause 3 of the Bill also provides that where the Minister refuses an application for exemption, the Minister must inform the person in writing of the decision including the reasons for the decision.
- 2.8 Clause 4 of the Bill amends section 29 of the Act by inserting similar provisions to those provided in clause 3 of the Bill but in relation to the temporary registration of nurses, midwives, nurse practitioners and specialised nurses.
- 2.9 Clause 4 of the Bill also amends section 29 of the Act to provide that a person employed, including contractually engaged, at a public private partnership hospital or public private partnership dispensary during a period of temporary registration must be, *inter alia*, supervised by a registered nurse, midwife, nurse practitioner or specialised nurse employed, including contractually engaged, at a public private partnership hospital or public private partnership dispensary operated, maintained or managed by the person's employer.
- 2.10 Clause 5 of the Bill amends section 30 of the Act to provide that a person employed, including contractually engaged, at a public private partnership hospital or public private partnership dispensary during a period of conditional registration must be, *inter alia*, supervised by a registered nurse, midwife, nurse practitioner or specialised nurse employed, including contractually engaged, at a public private partnership hospital or public private partnership dispensary operated, maintained or managed by the person's employer.

**3.0 MINISTERIAL RESPONSIBILITY**

- 3.1 The Act comes under the responsibility of the Minister responsible for health and medical services.

A. SAYED-KHAIYUM  
Attorney-General