

LAWS OF BRUNEI

CHAPTER 139

MIDWIVES

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REVISED EDITION 2012

CHAPTER 139
MIDWIVES

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MIDWIVES ACT

An Act to provide for the regulation and control of midwifery, the registration of midwives and all matters ancillary thereto

Commencement: 1st January 1956

Citation and application.

1. (1) This Act may be cited as the Midwives Act.

(2) This Act shall come into force in each of the areas specified in the first column of the First Schedule on the date specified in the corresponding part of the second column of the Schedule.

Interpretation.

2. In this Act —

“register” means the register of midwives maintained under section 3;

“registered midwife” means, despite any reference to the feminine gender, a midwife of either sex registered under this Act whose name has not been removed from the register under section 5;

“midwife” does not include a *tukang urut* so long as such *tukang urut* does not habitually or for gain deliver or superintend the delivery of children, or any child, as the case may be and “midwifery” shall be construed accordingly;

“Registrar” means the Director of Nursing Services and includes any officer appointed by His Majesty the Sultan and Yang Di-Pertuan by notification published in the *Gazette* to be a Deputy Registrar or an Assistant Registrar.

[S 47/02]

Register of midwives.

3. (1) The Registrar shall maintain a register of midwives.

(2) The Registrar shall as soon as may be after the first day of March of every year prepare and publish in the *Gazette* a list of the names and addresses of all the persons whose names appear in the register on the first day of February immediately preceding such publication.

(3) The publication of such list shall raise a presumption unless the contrary is proved that any person named therein is a registered midwife.

(4) The absence of the name of any person from such list shall raise a presumption unless the contrary is proved that such person is not a registered midwife.

(5) A certificate purporting to be signed by the Registrar that the name of a person has been entered in or removed from the register shall be conclusive evidence of the facts so certified unless it is proved that such certificate is signed by a person other than the Registrar.

Registration of midwives.

4. Subject to any regulations made under this Act, any person other than a person whose names has been removed from the register under section 5 and not restored thereto under section 7 who —

(a) has undergone a course of training for not less than one year in an institution approved by the Registrar or who has passed an examination in midwifery held by the Registrar; and

(b) satisfies the Registrar that she is competent to practise as a midwife,

shall be entitled to be registered as a midwife, and shall be issued with a certificate of registration in the form set out in the Second Schedule, and in the case of a midwife registered by virtue of section 18, specifying the area or areas in which such midwife may practise.

Removal from register.

5. (1) The Registrar may remove from the register the name of any registered midwife —

(a) who has ceased for a year or more to practise as a midwife in Brunei Darussalam;

(b) against whom an allegation of malpractice, negligence or misconduct has been proved to the satisfaction of, and after due enquiry by, the Registrar in accordance with the rules set out in the Third Schedule; or

(c) who has been convicted of an offence against this Act or any regulations made thereunder or of any offence for which a court may impose a sentence of imprisonment without the option of a fine.

(2) A midwife whose name has been removed from the register under subsection (1) shall, within one month from the date upon which she is notified thereof, surrender her certificate to the Registrar and, if she fails to do so, shall be guilty of an offence: Penalty, a fine of \$400.

Appeal against suspension or removal from register.

6. Any registered midwife aggrieved by any decision of the Registrar removing her name from the register may within one month from the date upon which she is notified of such decision, or within such further period as His Majesty the Sultan and Yang Di-Pertuan in Council may allow, appeal by way of petition to His Majesty the Sultan and Yang Di-Pertuan in Council, and the decision of His Majesty the Sultan and Yang Di-Pertuan in Council on any such petition shall be final.

Restoration to register of person whose name has been removed therefrom under section 5(1).

7. The Registrar may in his discretion and shall, if His Majesty the Sultan and Yang Di-Pertuan in Council has so decided under section 6, restore to the register, subject to any conditions which he or His Majesty the Sultan and Yang Di-Pertuan in Council, as the case may be, may impose on such midwife, the name of any midwife whose name has been removed from the register under section 5(1).

Suspension of midwives.

8. (1) The Registrar may in his discretion suspend from practising any registered midwife if —

(a) he is satisfied that such suspension is necessary to prevent the spread of infection;

(b) any criminal proceedings have been instituted against such midwife; or

(c) he is investigating an allegation of malpractice, misconduct or negligence made against such midwife.

(2) The Registrar shall terminate the suspension of any person if —

(a) the name of such person has been restored to the register under section 7;

(b) in the case of a person suspended under subsection (1)(a), he is satisfied that such suspension is no longer necessary in order to prevent the spread of infection;

(c) in the case of a person suspended under subsection (1)(b), the person has been found not guilty by the court or the charge against her has been withdrawn or if the offence of which she has been found guilty is an offence to which section 5(1)(c) applies; or

(d) in the case of a person suspended under subsection (1)(c), if the allegation has not been proved to his satisfaction.

Practising as midwife without registration.

9. (1) No person in any area to which this Act applies, other than a midwife registered in respect of that area, shall habitually or for gain deliver, or superintend the delivery of, children or any child, as the case may be:

Provided that the provisions of this subsection shall not apply —

(a) to any duly qualified medical practitioner;

(b) to any person acting under the direction of a duly qualified medical practitioner;

(c) to any person rendering assistance in a case of emergency where no qualified aid can be obtained; or

(d) to any person or class of persons exempted by any order made by the Registrar with the approval signified in the *Gazette* of His Majesty the Sultan and Yang Di-Pertuan in Council.

(2) Any person contravening the provisions of subsection (1) shall be guilty of an offence: Penalty, a fine of \$800.

(3) Any person whose name has been removed from the register under section 5(1) and has not been restored thereto under section 7, and any person who has been suspended from practice under section 8(1) and whose suspension has not been terminated under subsection (2) of that section, who practises midwifery shall be guilty of an offence: Penalty, a fine of \$2,000.

Posing as midwife without registration.

10. (1) No person in any area to which this Act applies, other than a midwife registered in respect of that area, shall —

(a) take or use any name, title, addition or description implying that such person is registered under this Act in respect of such area and that such person is entitled to practise midwifery in such area; or

(b) hold himself or herself out in any manner whatsoever as a person entitled to practise midwifery in such area.

(2) Any person contravening the provisions of this section shall be guilty of an offence: Penalty, a fine of \$8,000.

Notification by midwives of intention to practise.

11. (1) Every registered midwife shall, before holding herself out as a practising registered midwife, or commencing to practise as a midwife, give notice of her intention to do so to the Registrar not later than 48 hours after such midwife commences so to practise or act, and shall give a like notice in

the month of January in every year thereafter during which she continues to practise.

(2) Every notice under this section shall contain such particulars as may be required by any regulations made under this Act.

(3) If a registered midwife omits to give the notice required by this section to be given, or knowingly or wilfully makes or causes or procures any other person to make a false statement in any such notice, she shall be guilty of an offence: Penalty, a fine of \$400.

Notification of change of address.

12. When a registered midwife has given a notice in compliance with section 11 and subsequently changes her address she shall, within one month after the change, give notice of the change to the Registrar and, if she omits to do so, shall be guilty of an offence: Penalty, a fine of \$200.

Local supervision of midwives.

13. (1) It shall be the duty of the Registrar —

(a) to exercise general supervision over all registered midwives;
and

(b) to investigate any allegation of malpractice, negligence or misconduct on the part of a registered midwife.

(2) The Registrar may, subject to the instructions of His Majesty the Sultan and Yang Di-Pertuan in Council, issue directions to apply generally or in a particular area or in particular circumstances regulating the practice of midwives; and any registered midwife who, without reasonable cause, fails to comply with any such direction which applies to her shall be deemed guilty of misconduct.

(3) The Registrar shall ensure that all directions issued by him are brought to the notice of all registered midwives to whom such directions apply, and shall cause to be posted at the premises specified in the Fourth Schedule hereto a copy of all directions applicable to the registered midwives practising in the area in which such premises are situated.

(4) Every midwife shall, until the contrary is proved, be presumed to have had brought to her notice the contents of all directions posted in accordance with the provisions of subsection (3).

Other offences.

14. Any person who —

(a) procures or attempts to procure a certificate under this Act or any regulations made thereunder by making or producing or causing to be made or produced any false or fraudulent declaration, certificate or representation, either in writing or otherwise; or

(b) wilfully makes or causes to be made any falsification in any matter relating to the register,

shall be guilty of an offence: Penalty, imprisonment for one year and a fine of \$16,000.

Regulations.

15. (1) His Majesty the Sultan and Yang Di-Pertuan in Council may make regulations for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing, such regulations may provide for —

(a) the issue of certificates;

(b) the form, maintenance and publication of the register;

(c) the particulars required to be given in any notice issued under this Act; and

(d) the fees and payment thereof.

(3) Such regulations may provide that the contravention of any specified regulation shall constitute an offence and may prescribe penalties not exceeding \$800.

Power to vary Schedules.

16. His Majesty the Sultan and Yang Di-Pertuan in Council may by order signified in the *Gazette* alter, add to or amend the Schedules hereto.

Provision for applying section 16 to areas specified in First Schedule.

17. Notwithstanding that the provisions of this Act shall come into force in the areas specified in the first column of the First Schedule on the dates specified in the corresponding part of the second column of the said Schedule, such provisions shall, for the purpose of the amendment or suspension thereof, be deemed to have been contained in an order duly made under section 16 and the provisions of the Interpretation and General Clauses Act (Chapter 4) or any written law repealing and replacing the same shall apply accordingly.

Entitlement to be registered as midwife.

18. Notwithstanding the provisions of section 4, any person who satisfies the Registrar that —

(a) she has, for a period of at least one year immediately preceding the date of the coming into force of this Act in any area specified in the first column of the First Schedule at the date of the enactment of this Act, been in *bona fide* practice as a midwife in such area; and

(b) she possesses a competent practical knowledge of conducting midwifery cases,

shall be entitled to be registered as a midwife in respect of such area.

FIRST SCHEDULE

(sections 1, 17 and 18(a))

SPECIFIED AREAS

- | | |
|--------------------------------|------------------|
| 1. Brunei Municipal Area | 1st January 1956 |
| 2. Kuala Belait Municipal Area | 1st January 1956 |
| 3. Seria Municipal Area | 1st January 1956 |

SECOND SCHEDULE

(section 4)

CERTIFICATE OF REGISTRATION

Brunei

Midwives Act, Cap. 139

CERTIFICATE OF REGISTRATION

THIS IS TO CERTIFY THAT
of has this day been registered as a midwife under the
provisions of the Midwives Act, and is entitled to practise as a midwife in the following
areas*:

.....

Dated this day of 20

.....

Registrar of Midwives

*Save where a midwife is registered under section 18, in which case the area should be that in which she practised immediately before the Act came into operation, the area should be Brunei.

THIRD SCHEDULE

(section 5(1)(b))

MIDWIVES (ENQUIRIES) RULES

1. These Rules may be cited as the Midwives (Enquiries) Rules.
2. The registered midwife shall be informed of the grounds upon which it is intended to remove her name from the register and she shall be given a full opportunity of exculpating herself.
3. If any witnesses are called to give evidence, such midwife shall be entitled to be present and put questions to the witnesses.
4. No documentary evidence shall be used against such midwife unless she has previously been supplied with a copy thereof or given access thereto.
5. For the purposes of an enquiry under these Rules, the Registrar shall have all the powers of a First Class Magistrate for the summoning and examination of witnesses and the administration of oaths or affirmations and for compelling the production of documents and material objects and the Registrar shall be deemed to be a civil court for the purposes of section 132 and of Chapter XXXII of the Criminal Procedure Code (Chapter 7).
6. The Registrar shall make a brief memorandum of the substance of the evidence of every witness as the examination and cross examination of the witness proceeds, and such memorandum shall be signed by the Registrar with his own hand and shall form part of the record.
7. Any person who in any way wilfully obstructs the service of or obedience to any summons issued under these Rules and any person summoned who neglects to attend and to produce documents as required in such summons and any person who commits in respect of an enquiry under these Rules any offence described in Chapter X of the Penal Code (Chapter 22) shall be punishable as provided in that Chapter.
8. Every person who gives evidence before the Registrar shall be bound to answer truthfully all questions put to him by the Registrar and by the registered midwife concerning whom the enquiry is being held, and any person who wilfully makes any false statement or who gives any evidence in any enquiry under these Rules which he knows to be untrue, or who does any other act, which if done is a judicial proceeding would be punishable under Chapter XI of the Penal Code (Chapter 22), shall be punishable as provided in that Chapter.

THIRD SCHEDULE — (continued)

9. No evidence taken under these Rules shall be admissible in any civil or criminal proceedings whatsoever against the person who gave such evidence except when such person is charged with an offence under Chapter X or XI of the Penal Code (Chapter 22).

FOURTH SCHEDULE

(section 13(3))

PREMISES WHERE DIRECTIONS ISSUED BY REGISTRAR
SHALL BE POSTED

Area	Premises
1. Bandar Seri Begawan	(a) Health Clinic. (b) Government Hospital.
2. Kuala Belait	(a) Government Hospital. (b) British Malayan Petroleum Hospital.
3. Seria	Government Health Clinic.

