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OF THE

REPUBLIC OF NAMIBIA

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CONTENTS

Page

GOVERNMENT NOTICE

No. 218 Promulgation of Medical and Dental Amendment Act, 2018 (Act No. 9 of 2018), of the Parliament 1

Government Notice

OFFICE OF THE PRIME MINISTER

No. 218

2018

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 9 of 2018: Medical and Dental Amendment Act, 2018.

Act No. 9, 2018 MEDICAL AND DENTAL AMENDMENT ACT, 2018**EXPLANATORY NOTE:**

- _____ Words underlined with a solid line indicate insertions in existing provisions.
- [] Words in bold type in square brackets indicate omissions from existing provisions.

ACT

To amend the Medical and Dental Act, 2004, so as to make provision for the appointment of members of the Medical and Dental Council; and to provide for incidental matters.

(Signed by the President on 20 August 2018)

BE IT ENACTED as passed by the Parliament, and assented to by the President, of the Republic of Namibia, as follows:

Amendment of section 1 of Act No. 10 of 2004

1. Section 1 of the Medical and Dental Act, 2004 (hereafter referred to as the “Principal Act”) is amended by the substitution for the definition of “member of the Council” of the following definition -

““member of the Council” means a member of the Council appointed [**, designated or elected, as the case may be,**] in terms of section 7;”.

Substitution of section 7 of Act No. 10 of 2004

2. The following section is substituted for section 7 of the Principal Act -

“Composition of Council

7. (1) The Council consists of the following members appointed by the Minister -

- (a) the Permanent Secretary as an *ex officio* member, and if the Permanent Secretary is not registered as a medical practitioner, the Minister must appoint a staff member of the Ministry who is registered as a medical practitioner and whom the Minister regards as a suitable person to be a member of the Council;
- (b) one person, nominated by the Vice Chancellor of the University of Namibia, who is a registered person involved in the tuition, education or training of persons to qualify, on the completion of the tuition, education or training, for registration in terms of this Act;
- (c) a legal practitioner nominated by the Council of the Law Society referred to in section 45 of the Legal Practitioners Act, 1995 (Act No. 15 of 1995);

Act No. 9, 2018**MEDICAL AND DENTAL AMENDMENT ACT, 2018**

- (d) one person who is not a registered person; and
 - (e) not less than four but not more than eight persons nominated by the associations, societies or unions representing the interests of the medical and dental professions -
 - (i) of whom there must be an equal number of registered medical practitioners; and
 - (ii) of whom there must be an equal number of registered dentists.
- (2) Persons to be appointed as members of the Council in terms of subsection (1) must have the necessary knowledge and expertise relating to the functions of the Council.
- (3) In appointing the members of the Council in terms of subsection (1) the Minister must ensure, in so far as is practicably possible, that the membership of the Council, achieves -
- (a) gender representation; and
 - (b) regional representation.
- (4) For the purpose of appointing the persons referred to in subsection (1)(b), (c) and (e), the Minister must in writing request the institutions referred to in that subsection to nominate within the period specified by the Minister the persons required to be nominated in terms of that subsection.
- (5) If, in terms of subsection (4), no nominations are made the Minister may, having regard to the provisions of this section, appoint any suitable person to be a member of the Council and a person appointed under this subsection holds office as if he or she was nominated in accordance with that subsection.
- (6) The Minister must, as soon as possible after the appointment of all members of the Council in terms of subsection (1), notify in the *Gazette* -
- (a) the name of every person appointed as a member of the Council;
 - (b) the period for which the appointment is made; and
 - (c) the date from which the appointment takes effect.
- (7) Despite subsection (6), a failure to notify the names of members of the Council in terms of that subsection does not invalidate any action or decision taken by the Council.

Act No. 9, 2018**MEDICAL AND DENTAL AMENDMENT ACT, 2018**

(8) A member of the Council holds office for a period of five years and is eligible for re-appointment or re-nomination, as a member at the expiration of that period.

(9) The Minister may by notice in the *Gazette* extend the term of office of a member of the Council.

(10) Before assuming office, a member of the Council must subscribe to the following oath or solemn affirmation before the Minister:

“I,, do swear or solemnly affirm that, at all times during my term of office as a member of the Medical and Dental Council of Namibia, I will be faithful to the Republic of Namibia and uphold its Constitution and laws, and exercise and perform my powers and functions and further the aims and objects of the Medical and Dental Council to the best of my ability without fear, favour or prejudice. So, help me God / I solemnly affirm ”.”.

Amendment of section 9 of Act No. 10 of 2004

3. Section 9 of the Principal Act is amended by the substitution for paragraphs (a) and (b) of subsection (3) of the following paragraphs -

- “(a) Any vacancy on the Council arising from any of the circumstances referred to in subsection (1) or (2), or caused by the death of any member, must be filled in the same manner in terms of section 7 as the person who has vacated his or her office or has died, as the case may be, had been appointed **[or elected, as the case may be,]** to such office.
- (b) If any **[designated or elected member]** member who is nominated in terms of section 7 has vacated his or her office or has died and the **[Vice-Chancellor of the University of Namibia or the profession concerned]** institution concerned [as the case may be,] fails or refuses to **[designate or elect,]** nominate within a reasonable period of time a member to the Council as contemplated in paragraph (a), the Minister may appoint, at his or her discretion and in writing, any person as such a member.”.

Amendment of section 21 of Act No. 10 of 2004

4. Section 21 of the Principal Act is amended by the substitution for subsection (5) of the following subsection -

“(5) A person conditionally registered in terms of this section may not be appointed, **[or] elected or nominated** as a member of the Council or of a committee of the Council **[, or vote or otherwise participate in the election of the members of the Council].”.**

Amendment of section 59 of Act No. 10 of 2004

5. Section 59 of the Principal Act is amended by the substitution for paragraph (n) of subsection (1) of the following paragraph -

Act No. 9, 2018 MEDICAL AND DENTAL AMENDMENT ACT, 2018

“(n) the procedures relating to the convening and the conducting of meetings [, and to the election of the members of the Council, including the nomination of candidates for election];”.

Short title and commencement

6. This Act is called the Medical and Dental Amendment Act, 2018.
