

**NO. 40 OF 1995: CHIROPRACTORS, HOMEOPATHS AND ALLIED HEALTH SERVICE PROFESSIONS AMENDMENT ACT, 1995.**

It is hereby notified that the President has assented to the following Act which is hereby published for general information:-

**GENERAL EXPLANATORY NOTE:**

Words in ***bold italics*** indicate omissions from existing enactments.

Words in *italics* indicate insertions in existing enactments.

**ACT**

To amend the Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982, so as to amend certain definitions and to define certain expressions; to provide for the establishment of the Chiropractors, Homeopaths and Allied Health Service Professions Interim Council; to provide for the abolition of the Chiropractors, Homeopaths and Allied Health Service Professions Council; and to provide for the rationalisation of certain laws relating to chiropractors, homeopaths and allied health service professions that remained in force in various areas of the national territory of the Republic by virtue of section 229 of the Constitution; and to provide for matters connected therewith.

(English text signed by the President.) (Assented to 23 August 1995.)

**BE IT ENACTED** by the Parliament of the Republic of South Africa, as follows:-

**Amendment of section 1 of Act 63 of 1982, as amended by section 1 of Act 108 of 1985, section 1 of Act 10 of 1990 and section 1 of Act 63 of 1993**

1. Section 1 of the Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982 (hereinafter referred to as the principal Act), is hereby amended-

(a) by the substitution for the definition of "council" of the following definition:

" 'council' means the Chiropractors, Homeopaths and Allied Health Service Professions <<Interim>> Council established by section **2(1) 2** ;";

(b) by the insertion after the definition of "council" of the following definitions:

" '*Director-General*' means the Director-General: Health or his or her nominee;

*'former council'* means the Chiropractors, Homeopaths and Allied Health Service Professions Council established by section 2 of this Act prior to the amendment of the said section 2 by the Chiropractors, Homeopaths and Allied Health Service Professions Amendment Act, 1995;"; and

(c) by the substitution for the definition of "Minister" of the following definition:

" 'Minister' means the Minister of **National** Health;".

**Substitution of heading to Chapter 1 of Act 63 of 1982, as substituted by section 2 of Act 63 of 1993**

2. The following heading is hereby substituted for the heading to Chapter I of the principal Act:

"The Chiropractors, Homeopaths and Allied Health Service Professions <<Interim>> Council: Objects and Functions".

**Substitution of section 2 of Act 63 of 1982, as substituted by section 3 of Act 63 of 1993**

3. The following section is hereby substituted for section 2 of the principal Act:

"Establishment of Chiropractors, Homeopaths and Allied Health Service Professions Interim Council

2. There is hereby established a juristic person to be known as the Chiropractors, Homeopaths and Allied Health Service Professions *Interim Council and the first meeting of the council shall be convened by the Director-General.*".

**Amendment of section 3 of Act 63 of 1982**

4. Section 3 of the principal Act is hereby amended-

(a) by the deletion of the word "and" at the end of paragraph (c); and

(b) by the addition of the following paragraphs:

*"(e) to make recommendations to the Minister on the constitution of a new council within a period not exceeding two years from the date of the commencement of the Chiropractors, Homeopaths and Allied Health Service Professions Amendment Act, '1995; and*

*(f) to advise the Minister on the amendment or adaptation of this Act so as to place greater emphasis on professional practice, democracy, transparency, equity, accessibility and community involvement."*

**Amendment of section 4 of Act 63 of 1982, as amended by section 2 of Act 10 of 1990 and section 4 of Act 63 of 1993**

5. Section 4 of the principal Act is hereby amended by the deletion of subsection (2).

**Substitution of section 5 of Act 63 of 1982**

6. The following section is hereby substituted for section 5 of the principal Act:

"Constitution of council

5. *(1) The council shall consist of the following members, appointed by the Minister, namely-*

*(a) three persons registered or deemed to be registered as chiropractors in terms of this Act, designated by the former council;*

*(b) three persons registered or deemed to be registered in terms of this Act as homeopaths, naturopaths, osteopaths or herbalists, designated by the former council;*

*(c) six other persons;*

*(d) one person appointed on account of his or her knowledge of the law;*

*(e) one person who, in the opinion of the Minister, has knowledge of tertiary education;*

*(f) an officer of the Department of Health;*

*(g) a medical practitioner registered in terms of the Medical, Dental and Supplementary Health Service Professions Act, 1974.*

*(2) The former council shall, within 14 days of the date of the commencement of the Chiropractors, Homeopaths and Allied Health Service Professions Amendment Act, 1995, inform the Director-General in writing of the names of the persons designated by it in terms of the relevant provisions of subsection (1).*

(3) (a) *If the former council fails to designate persons in terms of the relevant provisions of subsection (1) or fails to inform the Director-General under subsection (2) of the names of the persons so designated, the Minister shall appoint any qualified persons up to the number required, as members of the council.*

(b) *The Director-General shall, in the case of a failure contemplated in paragraph (a), immediately inform the Minister thereof in writing.*

(4) *As soon as possible after the appointment of the members of the council the Minister shall inform the Director-General of the names of the persons appointed by him or her.*

(5) *The names of the members of the council and the date of commencement of their period of office shall be published by the Director-General in the Gazette as soon as possible after the constitution of the council.*

(6) *Subject to the provisions of section 6, the members of the council shall hold office as from the date contemplated in subsection (5) until the date of the constitution of a new council but not exceeding a period of two years."*

#### **Amendment of section 6 of Act 63 of 1982**

7. Section 6 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) Any vacancy on the council arising from a circumstance referred to in subsection (2) or caused by the death of a member shall be filled by appointment by the Minister of a person in the vacancy, ***with, in the case of a member who was appointed in accordance with section 5(1)(b) or (c), observance mutatis mutandis of the provision concerned*** and every member appointed in terms of this subsection shall hold office for the unexpired portion of the period of office of the member whose office became vacant."

#### **Amendment of section 16C of Act 63 of 1982, as inserted by section 6 of Act 108 of 1985 and substituted by section 9 of Act 63 of 1993**

8. Section 16C of the principal Act is hereby amended-

(a) by the deletion of subparagraph (i) of paragraph (a) of subsection (2);

(b) by the deletion of paragraph (b) of subsection (2); and

(c) by the substitution for subsection (5) of the following subsection:

"(5) If at the expiration of the period referred to in subsection (2)(a) the council is satisfied that a person registered in terms of subsection (1) complies with the requirements of subsection (2)(a) ***(i) and*** (ii), it shall exempt such person from all restrictions imposed in respect of him *or her* under this section, and if the council is not so satisfied, ***he it*** shall remove the name of such person from the register."

#### **Insertion of section 41A in Act 63 of 1982**

9. The following section is hereby inserted in the principal Act after section 41:

"Abolition of former council, and transitional arrangements

*41A. The former council shall cease to exist on the day immediately preceding the date of the first meeting of the council, and all rights, obligations, assets and liabilities acquired or incurred, as the case may be, by the former council shall immediately vest in the council and the council shall be deemed to have acquired or incurred such rights, obligations, assets and liabilities in terms of this Act."*

#### **Substitution of long title of Act 63 of 1982**

10. The following long title is hereby substituted for the long title of the principal Act:

"ACT"

To provide for the control of the practice of the professions of chiropractor and homeopath and allied health professions, and for that purpose to establish a Chiropractors, Homeopaths and Allied Health Service Professions *Interim* Council and to determine its functions; and for matters connected therewith."

### **Repeal of laws, and savings**

11. (1) Subject to the provisions of this section, the laws mentioned in the second column of the Schedule are, from the date on which the Chiropractors, Homeopaths and Allied Health Service Professions Council is abolished in terms of section 41A of the Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982 (Act No. 63 of 1982) (in this section referred to as the principal Act), repealed as indicated in the third column of the Schedule, to the extent that such laws were in force in the various areas of the national territory of the Republic as set out in the fourth column of the Schedule, immediately prior to the commencement of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993).

(2) Any proclamation, notice, regulation, authorisation or order issued, made, granted or done in terms of a provision of any law repealed in terms of subsection (1) shall, unless inconsistent with any provision of the principal Act, be deemed to have been issued, made, granted or done under the corresponding provision of the principal Act, and shall remain in force until withdrawn or repealed, as the case may be, by the Chiropractors, Homeopaths and Allied Health Service Professions Interim Council established by section 2 of the principal Act (in this section referred to as the interim council).

(3) Any registration of a person, or any removal from a register, or any appointment or any other thing done in terms of a provision of any law repealed in terms of subsection (1) shall be deemed to have been done under the principal Act.

(4) The registers kept in terms of a provision of any law repealed in terms of subsection (1) shall be kept up to the date of the first meeting of the interim council, and shall then be incorporated with and form part of the appropriate registers required to be kept in terms of the principal Act.

(5) Notwithstanding the provisions of subsection (1), an inquiry into alleged improper or disgraceful conduct by a chiropractor, homeopath or a person who practises in an allied health service profession and which has not been concluded at the date of the first meeting of the interim council shall be continued and concluded by the interim council in accordance with the provisions of the law under which the inquiry was instituted, as if such law had not been repealed.

(6) Notwithstanding the provisions of subsection (1), the interim council shall have the power to institute and conclude disciplinary proceedings under the relevant provisions of the repealed laws in accordance with the procedures as prescribed by regulations made under section 38 of the principal Act, against any person who, at any time prior to the first meeting of the interim council, is alleged to have committed an act which may have constituted improper or disgraceful conduct in terms of the provisions of the repealed acts or any regulation made thereunder: Provided that the interim council shall not institute proceedings against any person, unless the nature of the contravention which such person is alleged to have committed in terms of the repealed laws or any regulation made thereunder, is substantially the same as that of a contravention contemplated in the corresponding provisions of the principal Act or any regulation made thereunder.

(7) Any act performed or decision taken in terms of a provision of any law repealed in terms of subsection (1) shall be deemed to have been performed or to have been taken, as the case may be, in terms of the corresponding provisions of the principal Act.

(8) Any person who was employed by the Chiropractors, Homeopaths and Allied Health Service Professions Council immediately prior to the date referred to in subsection (1), shall be deemed to have been appointed by the interim council in terms of section 11 of the principal Act.

(9) The person who was the registrar of the Chiropractors, Homeopaths and Allied Health Service Professions Council immediately prior to the date referred to in subsection (1), shall continue to hold office and to perform the functions assigned to him or her in terms of the principal Act, as well as such functions as may be or may have been assigned to him or her by the said council or the interim council, until a registrar has been appointed by the interim council in accordance with the provisions of section 11 of the principal Act.

(10)(a) The person referred to in subsection (9) shall, within 14 days after the commencement of this Act, furnish the Director-General: Health with the registers, minutes, financial statements and any other relevant documents of his or her council.

(b) The Director-General of the Department of Health of the former Republic of Transkei shall, within 14 days after the commencement of this Act, furnish the Director-General: Health with the registers with regard to homeopaths registered in the said former Republic.

### **Extension of application of Act 63 of 1982**

12. The Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982 (Act No. 63 of 1982), as it was in force immediately prior to the date of commencement of the Chiropractors, Homeopaths and Allied Health Service Professions Amendment Act, 1995, in the national territory of the Republic excluding the areas which comprised the former Republics of Transkei, Bophuthatswana, Venda and Ciskei and the areas which comprised the territories declared under section 26 of the Self-governing Territories Constitution Act, 1971 (Act No. 21 of 1971), to be self-governing territories shall, from the date referred to in section 11(1) of the Chiropractors, Homeopaths and Allied Health Service Professions Amendment Act, 1995, also apply in all the aforesaid areas of the national territory of the Republic.

### **General provision**

13. During the period of existence of the Chiropractors, Homeopaths and Allied Health Service Professions Interim Council the name "Chiropractors, Homeopaths and Allied Health Service Professions Council" shall be deemed to be the name of the said interim council, for the purpose of the issue of certificates, diplomas and distinguishing devices, as well as for the use on letterheads or on any other place where the emblem and name of the Chiropractors, Homeopaths and Allied Health Service Professions Council is used.

### **Short title**

14. This Act shall be called the Chiropractors, Homeopaths and Allied Health Service Professions Amendment Act, 1995.

## **SCHEDULE**

### **LAWS REPEALED BY SECTION 10**

Number and year of law	Short title	Extent of repeal	Area of national territory in respect of which law is repealed
Act No. 76 of 1971	Chiropractors Act, 1971	The whole	The territories of the former Republics of Ciskei and Venda and the territories of the former self-governing territories of Lebowa, Gazankulu, Qwaqwa, KwaZulu and KwaNdebele
Act No. 96 of 1972	Chiropractors Amendment Act, 1972	The whole	The territories of the former Republics of Ciskei and Venda and the territories of the former self-governing territories of Lebowa, Gazankulu, Qwaqwa, KwaZulu and KwaNdebele
Act No. 52 of 1974	Homeopaths, Naturopaths, Osteopaths and Herbalists Act, 1974	The whole	The territories of the former Republics of Ciskei and Venda and the territories of the former self-governing territories of Lebowa, Gazankulu, Qwaqwa, KwaZulu and KwaNdebele
Act No. 20 of 1976	Chiropractors Amendment Act, 1976	The whole	The territories of the former Republics of Ciskei and Venda and the territories of the former self-governing territories of Lebowa, Gazankulu, Qwaqwa, KwaZulu and KwaNdebele
Act No. 45 of 1979 (Bophuthatswana)	Associated Health Practices Registration Act, 1979	The whole	The territory of the former Republic of Bophuthatswana

Act No. 40 of 1980	Homeopaths, Naturopaths, Osteopaths and Herbalists Amendment Act, 1980	The whole	The territory of the former self-governing territory of KwaNdebele
Act No. 15 of 1982 (Transkei)	Health Professions and Related Health Practices Amendment Act, 1982	In so far provisions thereof relate to chiropractors, homeopaths, naturopaths and osteopaths	The territory of the former Republic of Transkei
Act No. 63 of 1982	Chiropractors, Homeopaths and Allied Health Service Professions Act, 1982	The whole	The territory of the former self-governing territory of KaNgwane
Act No. 9 of 1984	Homeopaths, Naturopaths, Osteopaths and Herbalists Amendment Act, 1984	The whole	The territory of the former Venda (Venda)
Act No. 36 of 1984	Health Professions and Related Health Practices Act, 1984	In so far provisions thereof relate to homeopaths, naturepaths and osteopaths	The territory of the former Ciskei (Ciskei)
Decree No.18 of 1989 (Transkei)	Homeopaths, Naturopaths, Osteopaths and Herbalists Decree, 1989	The whole	The territory of the former Republic of Transkei