

Chapter:	162	<b>MIDWIVES REGISTRATION ORDINANCE</b>	Gazette Number	Version Date
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		<b>Long title</b>		30/06/1997
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To amend the law relating to midwives by incorporating more adequate provisions for their registration and the better control of the practice of midwifery.

[9 December 1960]

(Originally 57 of 1960)

Part:	I	<b>CITATION AND INTERPRETATION</b>		30/06/1997
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Section:	1	<b>Short title</b>		30/06/1997
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This Ordinance may be cited as the Midwives Registration Ordinance.

Section:	2	<b>Interpretation</b>	10 of 2005	08/07/2005
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(1) In this Ordinance, unless the context otherwise requires- (Amended 34 of 1995 s. 20)

"appointed member" (獲委任的成員) means a member appointed by the Chief Executive under section 3(2); (Added 61 of 1997 s. 2. Amended 37 of 2000 s. 3)

"certificate of registration" (註冊證明書) means a certificate issued under section 9; (Added 61 of 1997 s. 2)

"chairman" (主席) means the chairman of the Council and includes any person elected to act as chairman under section 3(6C); (Amended 6 of 1988 s. 2)

"Council" (管理局) means the Midwives Council of Hong Kong established under section 3; (Added 61 of 1997 s. 2)

"Director" (署長) means the head of the nursing service in the Department of Health; (Amended 6 of 1988 s. 2; L.N. 76 of 1989; 68 of 1990 s. 24)

"member" (成員) means a member of the Council;

"practising certificate" (執業證明書) means a certificate entitling its holder to practise as a registered midwife in Hong Kong; (Added 61 of 1997 s. 2)

"prescribed" (訂明) means provided by regulations made under section 23;

"register" (註冊助產士名冊) means the register of midwives kept in accordance with section 5;

"registered" (註冊) means registered in accordance with section 8; (Added 61 of 1997 s. 2)

"registered midwife" (註冊助產士) means a person whose name is registered on the register; (Added 61 of 1997 s. 2)

"secretary" (秘書) means the secretary of the Council.

(2) (Repealed 61 of 1997 s. 2)

(3) For the purposes of sections 10(8)(b) and 14(2), an appeal to the Court of Appeal shall be deemed to be finally determined when the earliest of the following events occurs, whichever is applicable in the circumstances-

- (a) when the appeal to the Court of Appeal is withdrawn or abandoned;
- (b) when the specified period expires without an application for leave to appeal having been made to the Court of Appeal;
- (c) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Appeal-
  - (i) when the application is withdrawn or abandoned;
  - (ii) if the application is refused, when the specified period expires without an application for leave to appeal having been made to the Court of Final Appeal; or
  - (iii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of; or

(d) if, before the expiry of the specified period, an application for leave to appeal is made to the Court of Final Appeal-

(i) when the application is withdrawn, abandoned or refused; or

(ii) if the application is granted, when the appeal to the Court of Final Appeal is withdrawn, abandoned or disposed of. (Added 10 of 2005 s. 66)

(4) In subsection (3)-

"application for leave to appeal" (上訴許可申請) means an application made to the Court of Appeal or the Court of Final Appeal under section 24 of the Hong Kong Court of Final Appeal Ordinance (Cap 484) for leave to appeal to the Court of Final Appeal from a judgment of the Court of Appeal;

"specified period" (指明限期)-

(a) in the case of an application for leave to appeal made to the Court of Appeal, means-

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(2) of the Hong Kong Court of Final Appeal Ordinance (Cap 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Appeal extends that period, the period as so extended; or

(b) in the case of an application for leave to appeal made to the Court of Final Appeal, means-

(i) subject to subparagraph (ii), the period of 28 days within which the notice of motion referred to in section 24(4) of the Hong Kong Court of Final Appeal Ordinance (Cap 484) is required to be filed; or

(ii) if, on an application made within the 28-day period referred to in subparagraph (i), the Court of Final Appeal extends that period, the period as so extended. (Added 10 of 2005 s. 66)

(Amended 61 of 1997 s. 2)

Part:	II	<b>THE MIDWIVES COUNCIL OF HONG KONG*</b>	L.N. 247 of 1999; 37 of 2000	30/09/1999
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**Note:**

**\* (Amended 61 of 1997 s. 3)**

Section:	3	<b>Establishment and composition of Midwives Council</b>	L.N. 247 of 1999; 37 of 2000	30/09/1999
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**Remarks:**

Adaptation amendments retroactively made - see 37 of 2000 s. 3

(1) There is established by this Ordinance a council called the Midwives Council of Hong Kong. (Replaced 61 of 1997 s. 4)

(2) The Council shall consist of the Director, the Supervisor of Midwives of the Department of Health and members appointed by the Chief Executive. (Replaced 61 of 1997 s. 4. Amended 37 of 2000 s. 3)

(3) The appointed members are to comprise-

(a) a registered midwife in the public service of Hong Kong to be nominated by the Director of Health;

(b) a registered medical practitioner to be nominated by the University of Hong Kong;

(c) a registered medical practitioner to be nominated by The Chinese University of Hong Kong;

(d) a registered midwife to be nominated by the Hospital Authority within the meaning of the Hospital Authority Ordinance (Cap 113);

(e) a registered midwife to be nominated by each hospital declared by the Council under regulations made under this Ordinance to be a training school for midwives;

(f) 3 registered midwives nominated by the Hong Kong Midwives Association;

(g) 2 lay members. (Replaced 61 of 1997 s. 4)

(4) Subject to this section, an appointed member holds office for a period of 3 years, or such lesser period as the Chief Executive may appoint, and is eligible for re-appointment from time to time. (Replaced 61 of 1997 s. 4. Amended 37 of 2000 s. 3)

(5) If an appointed member is temporarily absent from Hong Kong or is for any other reason unable to attend to

the business of the Council, the Chief Executive may appoint an additional member during the absence or disability of that member. (Amended 67 of 1985 s. 16; 61 of 1997 s. 4; 37 of 2000 s. 3)

(5A) An appointed member may resign by giving notice in writing to the chairman. (Added 61 of 1997 s. 4)

(5B) The Chief Executive may revoke an appointed member's appointment if the member- (Amended 37 of 2000 s. 3)

- (a) is sentenced to imprisonment for an offence;
- (b) is the subject of an order made under section 10;
- (c) becomes bankrupt or makes a voluntary arrangement with creditors;
- (d) is, in the opinion of the Chief Executive, incapacitated from carrying out the duties of office because of physical or mental illness; (Amended 37 of 2000 s. 3)
- (e) is no longer ordinarily resident in Hong Kong; or
- (f) is, in the opinion of the Chief Executive, unable or unfit to perform the functions of a member. (Added 61 of 1997 s. 4. Amended 37 of 2000 s. 3)

(6) The chairman of the Council shall-

- (a) be elected by the members from amongst themselves;
- (b) subject to subsection (6D), hold office for 3 years or until he ceases to hold office as a member, whichever is the earlier; and
- (c) be eligible for re-election. (Replaced 6 of 1988 s. 3)

(6A) If the office of chairman becomes vacant due to effluxion of time, or as a result of resignation or otherwise, the secretary shall convene a meeting of the Council within 3 months of the occurrence of such vacancy for the purpose of electing a chairman. (Added 6 of 1988 s. 3)

(6B) The secretary shall preside at a meeting held under subsection (6A) until the chairman is elected and assumes office, but he shall not have an original or a casting vote. (Added 6 of 1988 s. 3)

(6C) If the chairman is unable to perform the functions of his office for any period due to absence from Hong Kong or any other reason, the members of the Council shall at a meeting of the Council elect one of themselves to act in his place for the duration of that period and notwithstanding any provision in this Ordinance the secretary may, where necessary, convene a meeting for the purpose of such election. (Added 6 of 1988 s. 3)

(6D) The chairman may at any time resign his office by giving notice in writing to the secretary. (Added 6 of 1988 s. 3)

(7) There shall be a secretary of the Council and a legal adviser to the Council, both of whom shall be appointed by the Chief Executive. (Amended 37 of 2000 s. 3)

(Amended 61 of 1997 s. 27)

Section:	4	<b>Meetings of Council</b>	L.N. 247 of 1999	30/09/1999
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(1) The Council shall meet at such times and in such places-

- (a) as the chairman may from time to time appoint; or
- (b) as may be requested in writing addressed to the chairman by not less than 7 members. (Amended 61 of 1997 s. 5)

(2) At any meeting of the Council 7 members shall be a quorum. (Amended 61 of 1997 s. 5)

(3) The validity of any proceedings of the Council shall not be affected by any vacancy among the members of the Council or by any defect in the appointment thereto of any member.

(4) All questions for determination at any meeting of the Council shall be decided by a majority vote of the members present at such meeting and voting thereon:

Provided that nothing in this subsection shall be construed to prevent any question for determination by the Council being so determined by a majority opinion of the members upon circulation to them of papers relating thereto.

(5) The chairman at any meeting of the Council shall have an original vote and also, if upon any question the votes shall be equally divided, a casting vote except at an inquiry under section 10 at which he shall have only an original vote.

(6) The Council may make standing orders for regulating the procedure at, or in connection with, its meetings.

(Amended 61 of 1997 s. 27)

Part:	III	<b>REGISTRATION OF MIDWIVES</b>		30/06/1997
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Section:	5	<b>Register of midwives</b>	L.N. 247 of 1999	30/09/1999
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(1) The Council shall cause a register of midwives to be kept which shall contain such particulars as may from time to time be prescribed. (Amended 61 of 1997 s. 27)

(2) The roll kept in accordance with the provisions of the repealed Midwives Ordinance\* shall be deemed to be the register required to be kept, and to have been kept, by virtue of is section and shall continue to be maintained in accordance with the provisions of this Ordinance; and every person whose name appears thereon at the commencement of this Ordinance shall be deemed to have been registered as a midwife in accordance with section 8 of this Ordinance.

(3) The register or a copy thereof shall be open to inspection free of charge during usual business hours by any person upon application in writing addressed to the secretary.

(4) Each entry in the register shall include, with respect to the person to whom the entry relates, an indication of the manner in which the person became entitled to registration as a midwife.

(5) The Council shall cause to be published in the Gazette in relation to successive periods, in such manner as the Council may think fit and at intervals of not more than 12 months, lists of all persons whose names have been entered in, removed from or restored to the register during these periods. (Replaced 38 of 1973 s. 2. Amended 61 of 1997 s. 27)

(6) A certificate purporting to be under the seal of the Council and signed by the chairman or secretary of the Council stating that a person is or was at any date or is not or was not at any date duly registered shall be evidence in all courts of law of the facts stated in such certificate until the contrary is proved. (Replaced 38 of 1973 s. 2. Amended 61 of 1997 s. 27)

(7) Any person who wilfully makes, or causes to be made, any falsification in any matter relating to the register, or the registration of any name therein, commits an offence and is liable on summary conviction to a fine at level 5 and to imprisonment for 2 years.

(Amended 61 of 1997 s. 6)

**Note:**

\* See Cap 162, 1950 Ed.

Section:	6	<b>Correction of the register</b>	L.N. 247 of 1999	30/09/1999
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(1) The secretary may from time to time amend the register as to the address or other relevant particulars relating to a person whose name appears thereon upon his being satisfied that such amendment is necessary for the purpose of preserving the accuracy of the register. (Amended 61 of 1997 s. 7)

(2) Subject to the provisions of section 14, the secretary shall add to or remove from the register the name of any person whose name the Council directs shall be added thereto or removed therefrom, as the case may be. (Amended 61 of 1997 ss. 7 & 27)

(3) The Council may direct the removal from the register of the name of any registered midwife who-

- (a) has died;
- (b) is not practising midwifery in Hong Kong;
- (c) has practised midwifery in Hong Kong for a period exceeding 6 months without having obtained a practising certificate; or
- (d) has failed to notify the secretary of the midwife's current address in Hong Kong at which all notices from the Council may be served upon the midwife. (Replaced 61 of 1997 s. 7)

(4) If the secretary has sent a registered letter addressed to a registered midwife at the midwife's address last known to the secretary, but the midwife fails to acknowledge receipt of the letter within 12 months from the date of its despatch, the midwife is taken to have failed to notify the secretary of the midwife's current address in Hong Kong. (Added 61 of 1997 s. 7)

Section:	7	<b>Qualification for registration</b>	L.N. 247 of 1999	30/09/1999
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(1) Subject to the provisions of this Ordinance, a person is not qualified to be registered under this Ordinance unless the Council is satisfied that the person-

- (a) (Repealed 61 of 1997 s. 8)
- (b) is a person of good character;

and in addition thereto-

- (c) has completed such training as may be prescribed and has passed such examinations as may be required by the Council; or
- (d)-(f) (Repealed 68 of 1995 s. 2)
- (g) possesses a certificate to practise as a midwife issued by such certifying body as may be recognized by the Council from time to time. (Amended 68 of 1995 s. 2)

(2) Notwithstanding anything contained in subsection (1), the Council may require any applicant for registration to prove the applicant's competency in midwifery by examination conducted by examiners appointed by the Council, and, if required, to undergo such further training as the Council may specify. (Amended 28 of 1976 s. 3)  
(Amended 61 of 1997 ss. 8 & 27)

Section:	8	<b>Registration</b>	L.N. 247 of 1999	30/09/1999
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(1) A person who claims to be qualified for registration as a midwife may apply in the manner provided to the secretary for registration. (Replaced 61 of 1997 s. 9)

(2) The name of a person qualified to be registered in accordance with section 7 who has complied with subsection (1) and with any regulations relating thereto shall, subject to payment of the prescribed fee and to subsection (3), be entered upon the register by the Council. (Replaced 67 of 1985 s. 16)

(3) If, after an inquiry in accordance with regulations made under section 23 into any case referred to it by the Preliminary Investigation Committee, the Council is satisfied that a person applying under subsection (1) has in Hong Kong or elsewhere-

- (a) been convicted of an offence punishable with imprisonment; or
- (b) been guilty of unprofessional conduct,

the Council may, in its discretion, refuse to enter the name of that person upon the register. (Added 67 of 1985 s. 16)

(4) Such provisions of section 10 as are capable of application to an inquiry held for the purposes of this section shall apply to any such inquiry, and any such provision may be construed with such modifications not affecting the substance as may be necessary to render it applicable.

(Amended 61 of 1997 ss. 9 & 27)

Section:	9	<b>Certificate of registration</b>	L.N. 82 of 2002	12/07/2002
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(1) When the name of a person is registered under section 8, the secretary shall issue to the person a certificate in the form prescribed. (Amended 61 of 1997 s. 10)

(2) (Repealed 9 of 2002 s. 3)

(3) Any certificate issued in accordance with the provisions of the repealed Midwives Ordinance\* shall be deemed to have been validly issued in accordance with the provisions of this Ordinance.

(4)-(5) (Repealed 61 of 1997 s. 10)

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**Note:**

\* See Cap 162, 1950 Ed.

Part:	IV	<b>DISCIPLINARY PROCEEDINGS AND OFFENCES</b>		30/06/1997
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Section:	10	<b>Disciplinary powers of Council</b>	10 of 2005	08/07/2005
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(1) If, after an inquiry in accordance with regulations made under section 23 into any case referred to it by the Preliminary Investigation Committee established by such regulations, the Council is satisfied that any registered midwife-

- (a) has been convicted, in Hong Kong or elsewhere, of any offence punishable with imprisonment;
- (b) has been guilty, in Hong Kong or elsewhere, of unprofessional conduct;
- (c) has obtained registration by fraud or misrepresentation;
- (d) was not at the time of registration qualified to be registered;
- (e) has contravened any prohibition imposed under the provisions of section 19; (Amended 61 of 1997 s. 11)

- (f) has failed to comply with any direction of the Council issued under section 24; or (Amended 61 of 1997 s. 11)
- (g) has failed to comply with a condition imposed by the Council under section 22, (Added 61 of 1997 s. 11)

the Council, in its discretion, may-

- (i) make an order that the name of such midwife be removed from the register;
- (ii) make an order that the name of such midwife be removed from the register for such specified period as it may think fit;
- (iii) make an order that such midwife be reprimanded; or
- (iv) make any other order imposing a condition on the registered midwife with respect to the practice of midwifery. (Replaced 61 of 1997 s. 11)

and may, in any case, make such order as the Council thinks fit with regard to the payment of costs of the secretary or of any complainant or of the registered midwife. (Amended 61 of 1969 s. 4; 67 of 1985 s. 16; 61 of 1997 ss. 11 & 27)

(1A) In making an order referred to in subsection (1)(i) to (iii), the Council may direct the operation of the order to be suspended so that the order will not take effect unless, during a period specified in the direction not exceeding 2 years-

- (a) a finding is made against the registered midwife under subsection (1); or
- (b) the registered midwife contravenes a condition that was imposed by the Council when the direction was given. (Added 61 of 1997 s. 11)

(2) Any costs awarded in pursuance of subsection (1) may be recovered as a civil debt. (Replaced 38 of 1973 s. 3. Amended 61 of 1997 s. 11)

(3) For the purposes of section 8 and this section, "unprofessional conduct" (不專業行為) means an act or omission of a registered midwife which could be reasonably regarded as disgraceful or dishonourable by registered midwives of good repute and competency.

(4) Nothing in this section shall be construed to require the Council to inquire into the question whether a registered midwife was properly convicted but the Council may consider any record of the case in which such conviction was recorded and any other evidence which may be available and is relevant as showing the nature and gravity of the offence. (Amended 61 of 1997 s. 27)

(5) (Repealed 61 of 1997 s. 11)

(6) If the Council makes an order under subsection (1)(i) to (iii), the Council shall, within 30 days after the relevant date, publish the order or, if the order is varied on appeal, the order as so varied in the Gazette. (Replaced 61 of 1997 s. 11. Amended 10 of 2005 s. 67)

(7) If the Council makes an order under subsection (1)(iv), the Council may, within 30 days after the relevant date, publish the order or, if the order is varied on appeal, the order as so varied in the Gazette. (Added 61 of 1997 s. 11. Amended 10 of 2005 s. 67)

(8) For the purpose of subsections (6) and (7), the relevant date is-

- (a) if no appeal is made under section 15 against the order within the period allowed by that section, the last day of that period; or
- (b) if such an appeal has been made, the date on which the appeal is finally determined. (Replaced 10 of 2005 s. 67)
- (c) (Repealed 10 of 2005 s. 67)

(Added 61 of 1997 s. 11)

(9) When publishing an order in the Gazette under this section, the Council-

- (a) shall also publish with the order-
  - (i) sufficient particulars to inform the public of the nature of the matter to which the order relates; and
  - (ii) if a direction has been given under subsection (1A) suspending the operation of the order, details of the direction; and
- (b) may publish with the order an account of the proceedings at the inquiry at which the order was made. (Added 61 of 1997 s. 11)

Section:	11	<b>Powers of Council with regard to obtaining evidence and the conduct of proceedings</b>	L.N. 247 of 1999	30/09/1999
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(1) For the purpose of any inquiry under section 8 or 10 the Council shall have the following powers-

(Amended 61 of 1997 s. 27)

- (a) to take evidence and examine witnesses on oath;
- (b) to summon any person to attend the inquiry to give evidence or to produce any document or other thing in his possession and to examine him as a witness or to require him to produce any document or other thing in his possession;
- (c) to admit or exclude the public or any member of the public from the inquiry;
- (d) to admit or exclude the press from the inquiry; and
- (e) to award any person summoned to attend the inquiry such sum or sums as in the opinion of the Council may have been reasonably expended by him by reason of his attendance. (Amended 61 of 1997 s. 27)

(2) Summonses to witnesses may be in such form as may be prescribed and shall be signed by the chairman or secretary.

Section:	12	<b>Penalty for failure to give evidence</b>	L.N. 247 of 1999	30/09/1999
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Any person who, being summoned to attend as a witness or to produce any document or other thing at any inquiry held in accordance with the provisions of section 10, refuses or neglects to do so or to answer any question put to him by or with the leave of the Council commits an offence and is liable on summary conviction to a fine at level 3 and to imprisonment for 6 months: (Amended 61 of 1997 s. 12)

Provided that no person shall be required to answer any question or produce any document or other thing which, in the opinion of the Council, may tend to incriminate himself, and every witness shall, in respect of any evidence given by him before the Council, be entitled to the same privileges to which he would be entitled if he were giving evidence before a court of justice.

(Amended 61 of 1997 s. 27)

Section:	13	<b>Appearance of counsel, etc.</b>	L.N. 247 of 1999	30/09/1999
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The complainant in any inquiry held in accordance with the provisions of section 10 and the person whose conduct is the subject of such inquiry shall be entitled to be represented by counsel or solicitor or by a friend throughout the inquiry.

(Amended 61 of 1997 s. 13)

Section:	14	<b>Provisions relating to orders of Council</b>	10 of 2005	08/07/2005
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(1) The secretary shall cause a copy of any order made under section 10(1) or of any decision of the Council to refuse to enter the name of an applicant upon the register under section 8(3) to be served, as soon as may be after the making thereof, upon the person concerned, either personally or by registered post addressed to the person at the last address known to the secretary. (Amended 67 of 1985 s. 16)

(2) The secretary shall not remove the name of any midwife from the register before the expiration of 30 days after the service upon the midwife of the copy of the order referred to in subsection (1), or, in the case of an appeal made to the Court of Appeal against the order under section 15, before the appeal is finally determined. (Amended 10 of 2005 s. 68)

(3) A midwife whose name is removed from the register in accordance with the provisions of this Ordinance may apply to the Council for restoration of the name to the register. (Replaced 9 of 2002 s. 3)

(4) An application under subsection (3) shall be accompanied by a prescribed fee. (Added 9 of 2002 s. 3)

(5) After such inquiry and subject to such conditions as the Council may consider expedient, the Council may either allow or refuse an application under subsection (3), and if it allows the application, it shall direct the secretary to restore the name of the relevant midwife to the register. (Added 9 of 2002 s. 3)

(Amended 61 of 1997 ss. 14 & 27)

Section:	15	<b>Appeals</b>	10 of 2005	08/07/2005
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(1) A person who is aggrieved by any decision of the Council to refuse to enter the person's name upon the register under section 8(3) or by any order made in accordance with the provisions of section 10 may appeal therefrom to the Court of Appeal and the Court of Appeal may affirm, vary or reverse the decision or order of the Council, and

may exercise any power which the Council might have exercised. (Amended 67 of 1985 s. 16; 68 of 1995 s. 2; 61 of 1997 ss. 15 & 27; 10 of 2005 s. 69)

(2) (Repealed 10 of 2005 s. 65)

(3) The procedure in relation to appeals under this section shall be subject to any rules of court made under the High Court Ordinance (Cap 4): (Amended 25 of 1998 s. 2)

Provided that the Court of Appeal shall not hear any such appeal unless notice thereof has been given to the court within 30 days after the service upon the appellant in accordance with section 14 of a copy of the order to which the appeal relates.

(4) The Court of Appeal may make such order for costs in respect of an appeal under this section as it considers appropriate. (Added 61 of 1997 s. 15)

(Amended 92 of 1975 s. 59)

Part:	V	<b>MISCELLANEOUS OFFENCES AND PROHIBITIONS</b>		30/06/1997
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Section:	16	<b>Registration not to imply possession of medical qualifications</b>	L.N. 247 of 1999	30/09/1999
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Registration under this Ordinance shall not confer upon a person any right or title to be registered under the Medical Registration Ordinance (Cap 161), or to assume a name, title or designation implying that the person is by law recognized as a medical practitioner or that the person is authorized to grant a medical certificate or a certificate of death or to undertake the charge of any case of abnormality or disease in connection with parturition.

(Amended 61 of 1997 s. 16)

Section:	17	<b>Penalty for assumption of title of registered midwife</b>	L.N. 247 of 1999	30/09/1999
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(1) A person who, not being a registered midwife-

(a) uses the name or title of midwife, either alone or in combination with any other expression; or

(b) uses any name, title, description, uniform or badge,

implying that the person is a registered midwife or is a person specially qualified to practise midwifery or is recognized by law as a midwife, commits an offence and is liable on summary conviction to a fine at level 5 and to imprisonment for 2 years.

(2) A person who makes use of any certificate of registration with intent to deceive commits an offence and is liable on summary conviction to a fine at level 5 and to imprisonment for 2 years.

(3) A person who, knowing that another person is not a registered midwife, makes a statement, or does any other act, that suggests that the other person is a registered midwife commits an offence and is liable on summary conviction to a fine at level 5 and to imprisonment for 2 years.

(Replaced 61 of 1997 s. 17)

Section:	18	<b>Prohibition of persons other than a registered medical practitioner or registered midwife attending women in childbirth</b>	L.N. 82 of 2002	12/07/2002
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(1) A person who, not being a registered medical practitioner or a registered midwife, attends a woman in childbirth commits an offence and is liable on summary conviction to a fine at level 5 and to imprisonment for 2 years.

(2) Subsection (1) does not apply to-

(a) a person who, while undergoing training with a view to becoming a registered medical practitioner-

(i) attends a woman in childbirth; and

(ii) is, during that attendance, under the direction and personal supervision of a registered medical practitioner or a registered midwife; or

(b) a person who, while undergoing training with a view to becoming a registered midwife-

(i) attends a woman in childbirth as part of a course of training in midwifery recognized by the Council; and (Amended 9 of 2002 s. 3)

(ii) is, during that attendance, under the direction and personal supervision of a registered medical



- practitioner or a registered midwife; or  
(c) a person who attends a woman in childbirth in case of an emergency.

(Replaced 61 of 1997 s. 18)

Section:	19	<b>Power of Council to prohibit registered midwives suffering from certain diseases from attending women in childbirth</b>	L.N. 202 of 2008	14/07/2008
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(1) If any registered midwife contracts any scheduled infectious disease within the meaning of the Prevention and Control of Disease Ordinance (Cap 599), which, in the opinion of the Council, is likely to endanger the health of any woman attended by the midwife in the course of the midwife's practice, the Council may prohibit such registered midwife from attending women in childbirth in any capacity during the continuance of such disease. (Amended 61 of 1997 ss. 19 & 27; 14 of 2008 s. 18)

(2) Any contravention of a prohibition imposed under this section shall constitute a ground for disciplinary proceedings under section 10.

Section:	20	<b>Power of Council to prohibit disqualified midwives, etc. from attending women in childbirth</b>	L.N. 247 of 1999	30/09/1999
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(1) Where the Council orders that the name of a person be removed from the register under section 10 or refuses to enter the name of a person who applies for registration upon the register under section 8, the Council may prohibit the person from attending in any capacity women in childbirth. (Amended 67 of 1985 s. 16; 61 of 1997 ss. 20 & 27)

(2) A person who contravenes a prohibition imposed under this section commits an offence and is liable on summary conviction to a fine at level 5 and to imprisonment for 2 years, unless it is proved that the person acted in an emergency. (Replaced 61 of 1997 s. 20)

Section:	21	<b>Prohibition of employment by registered midwives of unregistered substitutes</b>	L.N. 247 of 1999	30/09/1999
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A registered midwife who employs as a substitute a person who, to the knowledge of the midwife, is not a registered midwife commits an offence and is liable on summary conviction to a fine at level 5 and to imprisonment for 2 years.

(Replaced 61 of 1997 s. 21)

Section:	22	<b>Person not to practise as registered midwife without practising certificate</b>	L.N. 313 of 1999	01/01/2000
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(1) A registered midwife shall not practise as such unless the midwife is the holder of a current practising certificate.

(2) A registered midwife may apply to the secretary for a practising certificate.

(3) An application under this section shall be accompanied by-

- (a) the prescribed fee for the issue of a practising certificate;
- (b) a declaration signed by the applicant stating whether or not the applicant has been convicted of a criminal offence that is punishable with imprisonment, in Hong Kong or elsewhere and, if the applicant has been convicted of such an offence, giving details of the conviction.

(4) On receipt of an application that complies with this section, the secretary shall issue the applicant with a practising certificate.

(5) A practising certificate is subject to such conditions with respect to the practice of midwifery as the Council may impose and are specified in the certificate.

(6) If the secretary issues a practising certificate for a period that is to begin in the year in which the application for the certificate is made, the secretary shall issue a certificate for the period beginning with the date of its issue and ending the end of the third year beginning on 1 January of the year of issue.

(7) If the secretary issues a practising certificate for a period that is to begin in the year following the year in which the application for the certificate was made, the secretary shall issue a certificate for 3 years beginning on 1

January of the first year of the relevant period.

(8) A practising certificate ceases to have effect if the name of its holder is removed from the register.

(9) A person who is required under this section to be the holder of a practising certificate is taken to have obtained the certificate on making an application for such a certificate in accordance with this section and paying the prescribed fee.

(Replaced 61 of 1997 s. 22)

Section:	22AA	<b>Replacement copies of certificates of registration or of practising certificates</b>	L.N. 82 of 2002	12/07/2002
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(1) The holder of a current certificate of registration or practising certificate issued under section 9 or 22 respectively may apply to the secretary for a replacement copy of the certificate of registration or of the practising certificate (as the case may be) if the original certificate of registration or practising certificate (as the case may be) is lost, destroyed or defaced.

(2) Subject to subsection (3), the secretary shall issue to the applicant a replacement copy of the certificate on receipt of an application accompanied by a prescribed fee.

(3) The secretary shall not issue a replacement copy of the certificate unless the applicant proves to the satisfaction of the secretary that the original certificate is lost, destroyed or defaced.

(Added 9 of 2002 s. 3)

Section:	22A	<b>Recovery of practising fees</b>	L.N. 313 of 1999	01/01/2000
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(1) If a registered midwife contravenes section 22(1), the Council may, by proceedings brought in a court of competent jurisdiction, recover the prescribed fee for a practising certificate as a civil debt.

(2) In proceedings under this section, a certificate purporting to be signed by the secretary to the effect that the registered midwife concerned had not paid the prescribed fee for the issue of a practising certificate is admissible as evidence of the non-payment of the fee.

(3) On recovery of a prescribed fee for a practising certificate, the secretary shall issue a practising certificate to the registered midwife concerned.

(Added 61 of 1997 s. 23)

Part:	VI	<b>REGULATIONS, DIRECTIONS AND EXEMPTIONS</b>		30/06/1997
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Section:	23	<b>Regulations</b>	L.N. 130 of 2007	01/07/2007
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Remarks:

For the saving and transitional provisions relating to the amendments made by the Resolution of the Legislative Council (L.N. 130 of 2007), see paragraph (12) of that Resolution.

(1) The Chief Executive in Council may make regulations- (Amended 37 of 2000 s. 3)

(a) prescribing fees payable under this Ordinance; and

(b) providing for the disposal of any fee paid or recovered under this Ordinance.

(1A) Regulations made under subsection (1)(a) may prescribe different fees for cases of different classes or description. (Added 9 of 2002 s. 3)

(2) The Secretary for Food and Health may make regulations- (Amended L.N. 106 of 2002; L.N. 130 of 2007)

(a) prescribing the functions of the legal adviser to the Council; and

(b) prescribing the functions to be performed by the secretary.

(3) Subject to the approval of the Secretary for Food and Health, the Council may make regulations- (Amended L.N. 106 of 2002; L.N. 130 of 2007)

(a) prescribing the nature of the particulars to be entered in the register and the manner in which the register is to be kept;

(b) prescribing the procedure to be followed at meetings of the Council;

(c) providing for the manner in which applications for registration and restoration of the name of a person

to the register are to be made; (Amended 9 of 2002 s. 3)

- (d) providing for examinations and courses of training in midwifery;
- (e) providing for the receipt of complaints or information regarding a registered midwife or an applicant for registration;
- (f) providing for the establishment of a committee to be known as the Preliminary Investigation Committee to make preliminary investigations into those complaints or that information and to determine whether or not an inquiry should be held under section 10;
- (g) prescribing the procedure to be followed in relation to-
  - (i) the submission of any such complaints and information to the Committee;
  - (ii) the preliminary investigation by the Committee of those complaints or that information;
  - (iii) the formulation of charges arising out of those complaints or that information;
  - (iv) the reference to the Council of cases arising out of those complaints or that information; and
  - (v) inquiries held by the Council under section 10;
- (h) if a person is a member of the Preliminary Investigation Committee and also a member of the Council, prohibiting the person from attending such an inquiry if the person also took part in an investigation which gave rise to the inquiry;
- (i) providing for matters relating to the conduct and the practice in midwifery; and
- (j) generally providing for the provisions of this Ordinance to be carried into effect.

(4) Regulations made under subsection (3) may require documents submitted under those regulations to be in a form specified by, and to be verified by statutory declaration or by a declaration as is acceptable to, the Council.

(Replaced 61 of 1997 s. 24)

Section:	24	<b>Directions to midwives</b>	L.N. 247 of 1999	30/09/1999
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(1) The Council may from time to time issue free of charge to registered midwives directions in writing, not being inconsistent with any of the provisions of this Ordinance or of any regulations made thereunder, relating to the conduct and the practice in midwifery: (Amended 61 of 1997 s. 27)

Provided that-

- (a) one copy of every such direction shall be sent to each registered midwife, who is for the time being carrying on practice in Hong Kong, at the midwife's registered address; and (Amended 67 of 1985 s. 16; 61 of 1997 s. 25)
- (b) copies are obtainable free of charge on request at every training school for midwives.

(2) Failure to comply with any direction issued in accordance with subsection (1) shall constitute a ground for disciplinary proceedings under section 10.

Section:	25	<b>Exemption from registration</b>	2 of 2012	17/02/2012
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Persons serving in the Chinese People' s Liberation Army as midwives while acting in the discharge of their duty shall be deemed to be registered midwives.

(Replaced 34 of 1995 s. 21. Amended 2 of 2012 s. 3)