

LAWS OF MALAYSIA

ACT 436

MIDWIVES ACT 1966 (REVISED - 1990)

Incorporating latest amendment - Act A724/1989

First enacted :	1966 (Act No. 54 of 1960)
Date of coming into operation :	West Malaysia- 1st August 1968 [P.U. 283/68]; East Malaysia- 15th January 1990 [P.U.(B). 33/90]
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ARRANGEMENT OF SECTIONS

PART I - PRELIMINARY

Section 1. Short title and application.

(1) This Act may be cited as the **Midwives Act 1966**, and shall apply throughout Malaysia.

(2) *(Omitted)*.

Section 2. Interpretation.

In this Act -

"authorized officer" means an officer authorized under subsection 19A (1);

"community nurse" means a person who holds a certificate certifying that such person has undergone a course of training for community nurses and passed the examination conducted by the Board;

"Director General" means the Director General of Health, Malaysia;

"emergency" means a sudden unforeseen event occurring during the course of pregnancy, childbirth, and puerperium needing prompt intervention to save the life of the mother or child;

"midwife" means a person who for a fee, salary or other reward or compensation, performs services requiring an understanding of the principles and applications of procedures and techniques for the care of normal child-bearing women from the beginning of pregnancy until the end of puerperium and the care of their normal infants during the neonatal period but shall not include students in midwifery schools or training institutions who perform midwifery services under the supervision of their instructors;

"nurse" means a person registered as a nurse in accordance with any written law relating to the registration of nurses for the sick;

"Register" means the Register of Midwives maintained by the Registrar of Midwives in accordance with this Act;

"registered medical practitioner" means a medical practitioner registered under the Medical Act 1971 [Act 50];

"rural health nurse" means a person who holds a certificate certifying that such person has undergone a course of training for rural health nurses and passed the examination conducted by the Board;

"rural nurse" means a person who holds a certificate certifying that such person has undergone a course of training for rural nurses and passed the examination conducted by the Board.

PART II - MIDWIVES BOARD

Section 3. Establishment and composition of the Midwives Board.

(1) There shall be established a Midwives Board (hereinafter referred to as "the Board") which shall consist of the following members:

- (i) the Director General, who shall be the Chairman;
- (ii) the Principal Matron, Ministry of Health, who shall be the Secretary;
- (iii) the Assistant Principal Matron (Health);
- (iv) the Assistant Principal Matron (Training);
- (v) four midwifery tutors to be appointed by the Minister representing the following:
 - (a) tutor of training of nurse student midwives;
 - (b) tutor of training of student midwives;
 - (c) tutor of training of rural nurses; and
 - (d) tutor of training of either community nurses or rural health nurses;
- (vi) three nurses to be appointed by the Minister representing the following:
 - (a) State Matrons;
 - (b) Health Matrons; and
 - (c) maternity hospitals or units;
- (vii) two midwives to be appointed by the Minister representing the following:
 - (a) midwives registered under Part II of the Register; and
 - (b) midwives registered under Part III of the Register;

(viii) two medical practitioners in the public service to be appointed by the Minister representing the following:

(a) State Directors of Medical and Health Services; and

(b) Obstetricians; and

(ix) two registered medical practitioners to be appointed by the Minister representing the following:

(a) Malaysian Medical Council; and

(b) Malaysian Medical Association.

(2) A member of the Board shall, unless his appointment is sooner resigned or revoked, hold office for three years, and shall be eligible for reappointment.

(3) If the office of any member of the Board is vacated, an appointment in respect of that officer for the unexpired period shall be made in like manner as the appointment in respect of that office was originally made.

Section 4. Quorum and voting.

(1) At any meeting of the Board seven members shall form a quorum.

(2) If on any question to be determined by the Board there is an equality of votes, the Chairman or any other member presiding as Chairman shall have a casting vote.

(3) Subject to the foregoing provisions the Board shall determine its own procedure.

PART III - POWERS AND DUTIES OF THE BOARD

Section 5. Powers and duties.

(1) The Board shall have power to-

(a) approve institutions as Training Schools to provide training for the purpose of any examination qualifying for registration under this Act;

(b) regulate the course of training, conduct of examinations, issue of diplomas, certificates, badges and type of uniform;

(c) determine the qualifications of lecturers and teachers;

(d) regulate the practice of midwifery and conduct of midwives;

(e) prescribe the procedure to be followed in relation to investigations and enquiries into complaints relating to the conduct of midwives;

(f) prescribe any fees payable; and

(g) prescribe anything which may be prescribed under this Act.
(2) Without prejudice to any of the foregoing provisions as to the powers of the Board, the Board may direct the removal from the Register of the name of any person who-

(a) is deceased; or

(b) is of unsound mind or by reason of some other infirmity is, in the opinion of the Board, not a fit person to remain on the Register; or

(c) has not supplied the Board an address at which he or she can be found.

(3) The Board shall, after removing the name of any person from the Register under this Part publish a notification to that effect in the *Gazette* and shall cancel the registration of such person under this Act; and such person shall, upon being required so to do, deliver to the Registrar his or her certificate of registration.

(4) For the purpose of paragraph (2) (c), it shall be lawful for the Board to direct the removal from the Register of the name of any person on the Register who has failed to supply to the Board his or her new address or to reply to the Board within three months of the date of despatch of a registered letter from the Board addressed to such person at his or her last known address with respect of such enquiry.

Section 6. Appeal against removal of names from the Register.

(1) Any person aggrieved by the removal of his or her name from the Register under subsection 5 (2) may, within three months of publication of such notice in the *Gazette*, appeal in writing to the Minister against such removal.

(1A) The Minister may, in considering an appeal under subsection (1), affirm, reverse or vary the decision appealed against.

(2) The decision of the Minister with regard to any appeal under this section shall be final.

(3) Any person whose name has been removed from the Register pursuant to subsection 5 (2) shall, if his appeal is allowed, forthwith be reinstated and issued with a fresh certificate of registration by the Board; and the fact of such reinstatement shall be published in the *Gazette* within thirty days of the reinstatement.

Section 7. Appointment of Committees.

(1) The Board shall have power to appoint Committees to assist in carrying out the provisions of this Act.

(2) The Board shall have power to co-opt members as it deems necessary.

Section 8. Directions to midwives and investigations.

(1) The Board may, from time to time, issue directions, in writing, not being inconsistent with any of the provisions of this Act or any regulations thereunder, relating to the conduct and practice of midwifery.

(2) The Board may appoint any person to investigate into any allegation made against any midwife of non-compliance with any direction issued under this section.

PART IV - REGISTRATION OF MIDWIVES

Section 9. Registrar.

For the purposes of this Act there shall be a Registrar of Midwives (hereinafter referred to as "the Registrar"), and the Principal Matron, Ministry of Health shall be the Registrar.

Section 10. Register.

(1) The Registrar shall maintain a Register containing the names, addresses and qualifications of persons eligible to practise as midwives, and such other particulars as the Registrar may require.

(2) The Register shall consist of four parts, that is to say -

(a) Part I, containing the names, addresses, qualifications and other particulars of any nurse possessing the qualifications specified in subsection 11 (1);

(b) Part II, containing the names, addresses, qualifications and other particulars of any person possessing the qualifications mentioned in subsection 11 (2);

(c) Part III, containing the names, addresses, qualifications and other particulars of any person specified in subsection 11 (3); and

(d) Part IV, containing the names, addresses, qualifications and other particulars of any person possessing the qualifications specified in subsection 11 (4).

(3) The Registrar shall after entering the name of any person in the Register issue to such person a certificate of registration; and the certificate shall state in what part of the Register such person has been registered.

(4) A certificate under the hand of the Registrar stating that a person is or is not registered under this Act, and if registered, in what part of the Register the person is so registered, shall be conclusive evidence of the fact stated therein; and for that purpose any certificate purported to be under the hand of the Registrar aforesaid shall, unless the contrary is proved, be deemed to have been signed by the Registrar.

Section 11. Qualifications for registration.

(1) The following persons shall be eligible to practise as midwives under Part I of the Register, that is to say -

(a) any nurse who has been trained in the States of Malaya before the commencement of this Act and who-

(i) possesses a certificate issued under any written law relating to midwives, stating that such nurse was under that law qualified to practise midwifery and continued to be so qualified immediately before the commencement of this Act;

or

(ii) possesses on the date of the commencement of this Act a diploma certifying that such nurse has undergone a course of training and passed the examinations prescribed by the Ministry of Health; or

(iii) is eligible to practise midwifery by reason that such nurse is entitled to the certificate or diploma aforementioned;

(b) any nurse or person who has passed the examination prescribed by the Board as the examination qualifying any successful examinee to be registered under Part I of the Register; and

(c) any nurse or person who possesses the qualifications acceptable to the Board or a certificate to practise midwifery issued by such body as the Board may recognize.

(2) The following persons shall be eligible to practise as midwives under Part II of the Register, that is to say -

(a) any person who immediately before the commencement of this Act was authorized to practise midwifery in any State by reason that the name of such person was contained in the Register of Midwives kept by the Chief Medical and Health Officer of the State;

(b) any person untrained in the practice of midwifery, who within four years of the commencement of this Act, satisfies the Registrar that such person has during the period of two years immediately preceding application for registration under Part II of the Register, attended to women during childbirth;

(c) any person who has passed any examination prescribed by the Board as an examination qualifying any successful examinee to be registered under Part II of the Register; and

(d) any person who possesses the qualifications acceptable to the Board or a certificate to practise midwifery issued by such body as the Board may recognize.

(3) Any rural nurse, community nurse and rural health nurse shall be eligible to practise as midwives under Part III of the Register.

(4) Any person who, within ten years of the commencement of this subsection, satisfies the Registrar that he or she has, during the period of two years immediately preceding application for registration under Part IV of the Register, attended to women in childbirth according to purely Malay, Chinese, Indian or other native methods under the supervision of any person registered under Part I, II or III of the Register, and is a fit and proper person to practise as midwives, shall be eligible to practise as midwives under Part IV of the Register.

Section 12. Applications and refusal to register.

(1) Any person wishing to be registered under this Act may apply to the Board in that behalf in the manner prescribed; and the Registrar may in any case refuse to register his or her name in the Register.

(2) A person aggrieved by the refusal of the Registrar to register his or her name may appeal to the Minister against such refusal; and the decision of the Minister thereon shall be final.

Section 13. Change of name and address.

Every registered midwife shall notify the Registrar of any change of name or address within 14 days of such change.

PART IVA - DISCIPLINARY PROCEEDINGS

Section 13A. Disciplinary jurisdiction of the Board.

- (1) The Board shall have disciplinary jurisdiction over all persons registered under this Act.
- (2) The Board may exercise disciplinary jurisdiction over any registered person who-
 - (a) has been convicted of an offence in Malaysia or elsewhere;
 - (b) is, in the opinion of the Board, guilty of improper conduct or gross negligence;
 - (c) has obtained registration by fraud or misrepresentation;
 - (d) was not at the time of registration entitled to be registered; or
 - (e) is or has been certified to be a drug dependant by a government medical officer or a registered medical practitioner under the Drug Dependents (Treatment and Rehabilitation) Act 1983 [Act 283].

Section 13B. Disciplinary punishments.

The Board may, in the exercise of its disciplinary jurisdiction, impose any of the following punishments:

- (a) order the name of such registered person to be removed from the Register;
- (b) order the name of such registered person to be suspended from the Register for such period as it may think fit;
- (c) order the registered person to be reprimanded; or
- (d) make any of the above orders but suspend its application, subject to such conditions as the Board may think fit, for a period, or periods in the aggregate, not exceeding two years.

Section 13C. Appeal against orders of the Board.

(1) Any person aggrieved by any order made against him by the Board in the exercise of its disciplinary jurisdiction may, within one month from the date of the making of the order, appeal in writing to the Minister.

(2) The Minister may, in considering an appeal under subsection (1), affirm, reverse or vary the

order appealed against.

(3) The decision of the Minister under this section shall be final.

Section 13D. Surrender of certificate, annual practising certificate and badge.

Any person whose name has been removed or suspended from the Register under section 13B shall, within fourteen days after notification to such person by registered post of the removal or suspension, surrender to the Board the certificate of registration, annual practising certificate and badge issued to such person under this Act or any regulations made thereunder.

Section 13E. Restoration of name to the Register.

(1) No person whose name has been removed from the Register under paragraph 13B (a) shall thereafter be entitled to be registered as a midwife under this Act, but the Board may, if it thinks fit in any case to do so, on the application of the person concerned, order that the name of such person be restored to the Register; and where the name of a person has been suspended from the Register under paragraph (b) of that section such person shall be entitled at the expiration of such period, but not earlier, to apply for the certificate of registration and the annual practising certificate (if the period for which it is issued is still unexpired) to be returned to him.

(2) An application under subsection (1) shall be made in such manner or form and accompanied by such documents, photographs, particulars and fees as may be prescribed.

PART V - OFFENCES

Section 14. Practising midwifery without registration.

(1) Any person who, not being a midwife registered under this Act, practises midwifery, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand ringgit or to imprisonment for a period not exceeding one year or to both.

(2) *(Repealed by Act A724).*

Section 14A. Exemption from section 14.

Subsection 14 (1) shall not, until the expiry of ten years from the date of coming into force of this section, apply in the case of a person who, with the view of obtaining the required experience in order to be entitled to be registered under Part IV of the Register, attends to women in childbirth under the supervision of a midwife registered under Part I, Part II or Part III of the Register.

Section 15. General penalty.

If any person without lawful authority or excuse (proof whereof shall be on him) contravenes any of the provisions of this Act or of any regulations made thereunder for which no other penalty is provided, or does or omits to do anything which under such provisions he ought not to do or omit to do, he shall be liable to a fine not exceeding two thousand ringgit or to imprisonment for a period not exceeding one year or to both.

PART VI - GENERAL

Section 16. Intention to practise midwifery.

Every person registered under this Act, except those in the government service, intending to practise midwifery shall before so practising and thereafter on the 1 January every year, in the prescribed form, inform the Registrar of such intention.

Section 17. Registrar may require person to be examined.

The Registrar may require any person applying for registration under this Act to prove his or her competency in midwifery by taking any examination prescribed and conducted by the Board.

Section 18. Cases of emergency.

In the case of an emergency a midwife shall call to his or her assistance a registered medical practitioner or advise that the case be transferred to a hospital:

Provided that any fees so incurred shall be payable in the same manner as if the emergency services had been engaged by the patient herself.

Section 19. Powers and duties of Director General.

(1) The Director General shall exercise general supervision over all midwives in accordance with the regulations made under this Act.

(2) The Director General may in writing delegate his power under this section to any person or persons as he may deem fit.

(3) The Director General may temporarily suspend any midwife from practising midwifery if he is of the opinion that such suspension is necessary to prevent the spread of infection.

Section 19A. Appointment and powers of authorized officers.

(1) The Director General may authorize in writing any public officer to exercise the powers of an authorized officer under this Act.

(2) An authorized officer shall have the power to do at any reasonable time any of the following things, that is to say -

(a) to investigate the commission of any offence under this Act or any regulations made thereunder;

(b) to investigate charges of malpractices, negligence or misconduct on the part of any midwives practising in any area and to submit a written report of such investigations to the Board;

(c) to enter, search and examine any premises in which such officer has reasonable ground to believe that an offence under this Act or any regulations made thereunder has been or is being committed and to inspect, remove and detain any substance, book,

document, equipment, instrument, material or any other article found therein which in the opinion of such officer may furnish evidence of the commission of an offence under this Act or any regulations made thereunder.

(3) In exercising any of the powers under this section, the authorized officer shall on demand produce to the person against whom he is acting the authorization given to him by the Director General.

(4) An authorized officer making an investigation under subsection (2) may examine orally any person supposed to be acquainted with the facts and circumstances of the case.

(5) Such person shall be bound to answer all questions relating to the case put to him by such officer:

Provided that such person may refuse to answer any question if such officer fails or refuses on demand to produce to him the authorization given by the Director General to the officer under subsection (1) and that such person may refuse to answer any question the answer to which would have a tendency to expose him to a criminal charge or penalty.

(6) A person making a statement under this section shall be legally bound to state the truth whether or not such statement is made wholly or partly in answer to questions.

(7) An authorized officer examining a person under subsection (4) shall first inform that person of the provisions of subsections (5) and (6).

(8) A statement made by any person under this section shall, whenever possible, be reduced into writing and, after it has been read to the person in the language in which he made it and he has been given an opportunity to make any corrections he may wish, shall be signed by him or affixed with his thumbprint.

(9) Any owner, occupier or person in charge of any premises entered by an authorized officer pursuant to paragraph (2) (c), or any person found therein, who does not give to the authorized officer all reasonable assistance in his power or furnish him with all information as he may reasonably require, shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(10) Any person who obstructs or impedes any authorized officer in the exercise of his power under this section shall be guilty of an offence and shall be liable, on conviction, to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding one year or to both.

(11) Any authorized officer may appear in court and conduct any prosecution in respect of any offence against this Act.

Section 20. Regulations.

The Minister may make regulations for the purpose of carrying out the provisions of this Act.

Section 21. Repeal.

(1) The Midwives Ordinance 1954 [*Ord. 22 of 1954*], is hereby repealed.

(2) The Midwives Ordinance of Sabah [*Sabah Cap. 78*] and the Midwives Ordinance of Sarawak

[Sarawak Cap. 113] are repealed.

Section 21A. Saving.

Upon the repeal of the Ordinances specified in subsection 21 (2) the names of midwives or other persons kept under the repealed Ordinances shall be transferred to and entered (and until that has been done, shall be deemed to have been transferred to and entered) in such Part of the Register as the Board considers to be appropriate.

LIST OF AMENDMENTS

Amending law	Short title	In force from
P.U. (A) 65/71	Emergency (Essential Powers) Ordinance No. 80, 1971	18-2-1971
Act A109	Midwives (Amendment) Act, 1972	4-4-1972
Act A724	Midwives (Amendment and Extension) Act 1989	15-1-1990

LIST OF LAWS OR PARTS THEREOF SUPERSEDED

<i>No.</i>	<i>Title</i>
Act 54/1966	Midwives Act, 1966

LIST OF AMENDMENTS MADE BY THE COMMISSIONER OF LAW REVISION UNDER SECTION 6 OF THE REVISION OF LAWS ACT 1968 (ACT 1)

<i>Provision</i>	<i>Particulars of Amendment</i>	<i>Authority for Amendment</i>
Long title	Amended	s. (6) (1) (vi)
Effective date	Inserted	s. (6) (1) (i) (d); P.U. 283/68; P.U. (B)
s. 1	Subsection (2) omitted; marginal note amended	s. 6 (1) (i) (d); (vii)
s. 2, definition of "Minister"	Omitted	s. 6 (1) (iii) Act 388 , s. 3

"authorised officer"	the words "section 19A (1)" substituted for the words "subsection (1) of section 19A"	s. 6 (1) (iii)
s. 5 (4)	The words "subsection 2 (c)" substituted for the words "paragraph (c) of sub-section (2)"	s. 6 (1) (iii)
s. (6) (1) & s. (7) (3)	The words "section 5 (2)" substituted for the words "subsection (2) of section 5"	s. (6) (1) (iii)
s. 10	1. The word "practise" substituted for the word "practice" appearing in subsection (1)	s. (6) (1) (xv)
	2. The words "section 11(1)" and "section 11(2)" substituted for the words "sub-section (1) of section 11" and "sub-section (2) of section 11" respectively appearing in subsection (2) (a) and (b)	s. (6) (1) (iii)
	3. The words "section 11 (3)" and "section 11 (4)" substituted for the words "subsection (3) of section 11" and "subsection (4) of section 11" respectively appearing in subsection (2) (c) and (d)	s. (6) (1) (iii)
s. 13E	The words "section 13B (a)" substituted for the words "paragraph (a) of section 13B"	s. (6) (1) (iii)
s. 14 (2)	The words "of this section" and "of this Act" omitted	s. (6) (1) (iii)
s. 14A	The words "section 14 (1)" substituted for the words "Subsection (1) of section 14"	s. 96) (1) (iii)
s. 19A (9)	The words "subsection (2) (c)" substituted for the words "paragraph (c) of subsection (2)"	s. (6) (1) (iii)
Throughout	1. The word "ringgit"	s. (6) (1) (iii);

the Act

substituted for the word
"dollars"

[Act 160](#)

s. (6) (1) (iv) (b)

2. The words "such fine
and Imprisonment"
omitted from the penalty
clause

s. (6) (1) (iii)

3. The words "the
provisions of" omitted
where appropriate