

# NATIONAL POLICY FOR HEALTH ACT NO. 116 OF 1990

[ASSENTED TO 28 JUNE, 1990]

[DATE OF COMMENCEMENT: 16 NOVEMBER, 1990]

(English text signed by the State President)

as amended by

Health and Welfare Matters Amendment Act, No. 118 of 1993

ACT

To provide for control measures with a view to promoting the health of the inhabitants of the Republic, and for that purpose to provide for the determination of a national policy for health, for the establishment of a Health Matters Committee and a Health Policy Council, and for matters connected therewith.

ARRANGEMENT OF SECTIONS

1. Definitions

PART I

NATIONAL POLICY FOR HEALTH

2. Determination of national policy for health

3. Carrying out of policy

PART II

HEALTH MATTERS COMMITTEE, ADMINISTRATORS HEALTH COUNCIL AND HEALTH  
POLICY COUNCIL

4. Establishment of Health Matters Committee

5. Functions of Committee

6. Constitution of Committee
7. Term of office of members of Committee and filling of vacancies
8. Vacating of office by members of Committee
9. Sub-committees
10. Allowances of members of Committee and sub-committees
11. . . . .
12. . . . .
13. . . . .
14. Establishment of Health Policy Council
15. Functions of Council
16. Constitution of Council
17. Meetings of health bodies
18. Performance of administrative work of health bodies

PART III

GENERAL

19. Draft legislation affecting health
20. Amendment or repeal of laws, and savings
21. Short title and commencement

Schedule. Laws amended or repealed (section 20)

[Long title substituted by s. 10 of Act No. 118 of 1993.]

1. Definitions.-In this Act, unless the context indicates otherwise-  
“Administrators Council” . . . . .

[Definition of "Administrators Council" deleted by s. 4 (a) of Act No. 118 of 1993.]

#### Wording of Sections

"Committee" means the Health Matters Committee established by section 4;

"Council" means the Health Policy Council established by section 14;

"Department" means the Department of National Health and Population Development;

"Director-General" means the Director-General: National Health and Population Development;

"health body" means the Committee, any sub-committee established under section 9 (1), or the Council, as the case may be;

[Definition of "health body" substituted by s. 4 (b) of Act No. 118 of 1993.]

#### Wording of Sections

"local authority" means any institution or body-

(a) established by or under any law with a view to performing local government functions in respect of a particular area or region; and

(b) providing a comprehensive health service in such area or region;

"Minister" means the Minister of National Health and Population Development.

## PART I

### NATIONAL POLICY FOR HEALTH

2. Determination of national policy for health.-(1) Subject to the provisions of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983), and of this section, the Minister may determine the national policy to be applied in respect of any matter which in his opinion will promote the health of the inhabitants of the Republic, including-

(a) the obtaining and processing of statistical returns;

(b) the determination of targets and priorities relating to health services provided by the State and local authorities;

(c) the determination of norms and standards for the provision or financing of health services in the Republic;

(d) the making available of persons for those professions which have as their object the prevention, treatment, cure, correction or mitigation of physical or mental defects, illnesses or deficiencies in man;

(e) the efficient co-ordination of health services provided by the State and local authorities:

Provided that such policy shall be determined within the framework of the following guidelines:

(i) That an inhabitant of the Republic, if he is capable of doing so, shall primarily be responsible for his own and his family's physical, mental and social well-being, but that the State and local authorities shall share responsibility in this regard by providing an efficient and comprehensive health service;

(ii) that such inhabitant shall pay the costs incidental to his medical treatment, but that the financial circumstances of a patient shall not take precedence over the necessity for treatment, and that indigent persons shall be accommodated;

(iii) that the provision of a comprehensive health service by the State and local authorities shall be directed in a responsible manner at the needs of the individual and those of society, but that the available financing sources, natural resources and manpower of the Republic shall be taken into account;

(iv) that the private sector shall be encouraged to provide health services in the Republic, but that the provision of such services shall be in the public interest.

(2) The policy contemplated in subsection (1) shall be determined by the Minister-

(a) after consultation with the Council;

(b) in respect of any matter relating to the training of persons mentioned in subsection (1) (d), with the concurrence of every Minister of a department of State responsible for education;

(c) in respect of any matter relating to staff in the employment of the State, with the concurrence of the Minister for Administration and Economic Co-ordination; and

(d) in respect of any matter which involves or is likely to involve public spending, with the concurrence of the Minister of Finance.

(3) The Minister shall-

(a) within 21 days after he has determined policy on any matter referred to in subsection (1) give notice thereof in the Gazette and indicate in such notice where the document setting out such policy may be obtained;

(b) table the document setting out the policy referred to in paragraph (a) in Parliament within 21 days after it has been determined if Parliament is then in session or, if Parliament is not then in session, within 21 days after the commencement of its next ensuing session.

(4) (a) Subject to the provisions of subsection (2), the Minister may at any time replace, amend or revoke the policy determined by him under subsection (1).

(b) The provisions of subsection (3) shall mutatis mutandis apply in respect of any such replacement, amendment or revocation.

3. Carrying out of policy.-Every Minister of a department of State responsible for health, Administrator of a province and local authority to whom or to which any power, duty or function relating to health has been entrusted by or under any law, shall exercise or perform such power, duty and function in accordance with the policy determined under section 2.

## PART II

### HEALTH MATTERS COMMITTEE, ADMINISTRATORS HEALTH COUNCIL AND HEALTH POLICY COUNCIL

4. Establishment of Health Matters Committee.-There is hereby established a committee to be known as the Health Matters Committee.

5. Functions of Committee.-(1) The Committee-

(a) may of its own accord, or shall at the request of the Minister, investigate and consider any matter relating to health, and shall-

(i) in respect of any matter referred to in section 2 (1), make recommendations to the Council in regard thereto; or

(ii) in respect of any matter other than a matter referred to in subparagraph (i), make recommendations to the Minister in regard thereto;

(b) may, when so requested by any other Minister of a department of State responsible for health, make recommendations to the relevant Minister in regard to any such matter;

[Para. (b) substituted by s. 5 of Act No. 118 of 1993.]

#### Wording of Sections

(c) may in general perform the acts that are necessary or considered by the Committee to be expedient to ensure that the objects of this Act and the Health Act, 1977 (Act No. 63 of 1977), are achieved.

(2) For the purposes of an investigation referred to in subsection (1) (a), the Committee may-

(a) in its discretion consult any person, body or authority; or

(b) take evidence from, or hear representations by, any such person, body or authority.

6. Constitution of Committee.-(1) The Committee shall consist of the following members, namely-

(a) the Director-General, who shall be chairman of the Committee;

(b) the holder of any office whom the Minister, after consultation with the Council, appoints as a member;

[Para. (b) substituted by s. 6 (a) of Act No. 118 of 1993.]

#### Wording of Sections

(c) the head of the branch responsible for health or hospital services in each provincial administration;

(d) the Surgeon-General in the South African Defence Force;

(e) three members appointed by the Minister, who shall be officers of the Department; and

( f ) three members appointed by the Minister, who shall be in the employment of a local authority.

(1A) The Committee may allow the holder of any office to attend a meeting of the Committee in which case the holder of that office may take part in the proceedings at the meeting and shall have the same powers as a member of the Committee referred to in subsection (1).

[Sub-s. (1A) inserted by s. 6 (b) of Act No. 118 of 1993.]

(2) (a) A member of the Committee referred to in paragraph (b), (c) or (d) of subsection (1) may, with the concurrence of the chairman of the Committee, designate any person to act in his stead as an alternate member of the Committee.

(b) A member of the Committee referred to in paragraph (e) of subsection (1) may, with the consent of the Minister, designate any officer of the Department to act in his stead as an alternate member of the Committee.

(c) The Minister shall appoint an alternate member, who shall be in the employment of a local authority, in respect of every member referred to in paragraph ( f ) of subsection (1).

(d) Any alternate member contemplated in paragraph (a), (b) or (c) may attend, and take part in the proceedings at, any meeting of the Committee whenever the member in respect of whom he has been designated or appointed as an alternate member is absent from such meeting.

(3) At its first meeting and thereafter as often as it may become necessary, the Committee shall from among its members elect a vice-chairman of the Committee, and the vice-chairman shall hold office for such period as the Committee may determine at the time of his election.

(4) The vice-chairman may, if the chairman is absent or for any reason unable to act as chairman, perform the functions of the chairman.

7. Term of office of members of Committee and filling of vacancies.-(1) A member of the Committee-

(a) referred to in paragraph (e) of section 6 (1) shall be appointed at the Minister's pleasure;

(b) referred to in paragraph ( f ) of that section shall be appointed for such period, but not exceeding three years, as the Minister may determine at the time of his appointment.

(2) If a member of the Committee referred to in paragraph ( f ) of section 6 (1) for any reason ceases to hold office, the Minister may appoint a person, who shall be in the employment of a local authority, in his place for the unexpired period of his term of office.

(3) Any person whose period of office as a member of the Committee has expired, shall be eligible for reappointment.

8. Vacating of office by members of Committee.-(1) A member of the Committee referred to in paragraph (e) or ( f ) of section 6 (1) shall vacate his office-

(a) if he ceases to hold the qualification by virtue of which he was appointed as a member of the Committee; or

(b) if he is removed from office under subsection (2).

(2) The Minister may at any time remove a member of the Committee mentioned in subsection (1) from office if in the opinion of the Minister sound reasons exist for doing so.

9. Sub-committees.-(1) (a) The Committee may, with the approval of the Minister, establish one or more sub-committees to inquire into, and to report to the Committee in regard to, any matter falling within the scope of the Committee's functions.

(b) The provisions of section 5 (2) shall mutatis mutandis apply in respect of a sub-committee established under subparagraph (a).

(2) A sub-committee established under subsection (1) shall consist of such number of-

(a) members of the Committee;

(b) such members and persons who are not such members; or

(c) such persons,

as the Committee may determine, and the Committee may at any time dissolve or reconstitute such sub-committee.

(3) One of the members of a sub-committee established under subsection (1) shall be designated by the Committee as chairman of such sub-committee.

10. Allowances of members of Committee and sub-committees.-A member of the Committee or a sub-committee established under section 9 (1) who is not in the full-time employment of the State may from money appropriated for that purpose by Parliament be paid such travelling and subsistence and other allowances in respect of the services rendered by him in connection with the affairs of the Committee or sub-committee as the Minister, with the concurrence of the Minister of Finance, may determine.

11. . . . .

[S. 11 repealed by s. 7 of Act No. 118 of 1993.]

Wording of Sections

12. . . . .



[S. 12 repealed by s. 7 of Act No. 118 of 1993.]

Wording of Sections

13. . . . .

[S. 13 repealed by s. 7 of Act No. 118 of 1993.]

Wording of Sections

14. Establishment of Health Policy Council.-There is hereby established a council to be known as the Health Policy Council.

15. Functions of Council.-The Council-

(a) shall consider any recommendation referred to in section 5 (1) (a) (i) and make recommendations to the Minister in regard thereto;

(b) shall consider all draft bills on health relating to a matter referred to in section 2 (1) and make recommendations to the relevant Minister in regard thereto;

(c) may consider such other matters relating to health as the Minister may refer to the Council or as the Council may consider necessary and make recommendations to the relevant Minister in regard thereto.

16. Constitution of Council.-(1) The Council shall consist of-

(a) the Minister, who shall be chairman of the Council;

(b) . . . . .

[Para. (b) deleted by s. 8 (a) of Act No. 118 of 1993.]

Wording of Sections

(c) the Administrator of each province;

[Para. (c) added by s. 8 (b) of Act No. 118 of 1993.]

(d) the holder of any office whom the Minister, after consultation with the Council, appoints as a member.

[Para. (d) added by s. 8 (b) of Act No. 118 of 1993.]

(2) The Council may allow the holder of any office to attend a meeting of the Council in which case the holder of that office may take part in the proceedings at the meeting and shall have the same powers as a member of the Council referred to in subsection (1).

[Sub-s. (2) added by s. 8 (c) of Act No. 118 of 1993.]

(3) (a) Any member of the Council may, subject to the directions of the Council, designate any person to act in his stead as member of the Council.

(b) Any alternate member referred to in paragraph (a) may attend, and take part in the proceedings, at any meeting of the Council whenever the member in respect of whom he has been designated as an alternate member, is absent from that meeting.

[Sub-s. (3) added by s. 8 (c) of Act No. 118 of 1993.]

17. Meetings of health bodies.-(1) A meeting of a health body shall be held at the time and place determined by the chairman of that health body.

(2) The majority of the members of a health body shall form a quorum for a meeting of the health body.

(3) If the chairman and the vice-chairman, if there is a vice-chairman, are absent from a meeting of a health body, the members present shall from among their number elect a person to preside at such meeting.

(4) The decision of a majority of the members of a health body present at a meeting of the health body shall constitute a decision of the health body, and, in the event of an equality of votes on any matter, the person presiding at the meeting in question shall have a casting vote in addition to his deliberative vote.

(5) A health body may determine the procedure at its meetings as it thinks fit.

18. Performance of administrative work of health bodies.-The administrative work incidental to the performance of the functions of a health body shall be performed by officers of the Department designated for such purpose by the Director-General.

PART III

GENERAL

19. Draft legislation affecting health.-(1) No bill on health relating to a matter referred to in section 2 (1) shall be introduced in Parliament unless a draft of the bill has been submitted to the Council for its consideration and recommendation.

(2) . . . . .

[Sub-s. (2) deleted by s. 9 of Act No. 118 of 1993.]

#### Wording of Sections

20. Amendment or repeal of laws, and savings.-(1) Subject to the provisions of this section, the laws mentioned in the Schedule are hereby amended or repealed to the extent indicated in the third column thereof.

(2) Any person who immediately prior to the commencement of this Act held office as a member of the Health Matters Advisory Committee referred to in section 4 (1) (d) or (e) of the Health Act, 1977 (Act No. 63 of 1977), shall as from that commencement be deemed to be appointed as a member of the Committee under section 6 (1) ( f ) of this Act for the unexpired period of the term for which he was appointed as a member of the first-mentioned Committee.

(3) Any sub-committee which was appointed under section 6 (1) or (2) of the Health Act, 1977, and was in existence immediately prior to the commencement of this Act, shall as from that commencement be deemed to be a sub-committee established under section 9 (1) of this Act.

21. Short title and commencement.-This Act shall be called the National Policy for Health Act, 1990, and shall come into operation on a date fixed by the State President by proclamation in the Gazette.

#### Schedule

##### LAWS AMENDED OR REPEALED (SECTION 20)

No. and year of law Short title Extent of amendment or repeal

Act No. 63 of 1977 Health Act, 1977 1. The amendment of section 1 by the deletion of the definitions of "committee" and "council".

2. The repeal of sections 2 to 13.

3. The substitution for the long title of the following long title:

“To provide for measures for the promotion of the health of the inhabitants of the Republic; to that end to provide for the rendering of health services; to define the duties, powers and responsibilities of certain authorities which render health services in the Republic; to provide for the co-ordination of such health services; to repeal the Public Health Act, 1919; and to provide for incidental matters.”.

Act No. 69 of 1986 Provincial Government Act, 1986 The amendment of section 14 by the substitution for the proviso to paragraph (a) of subsection (2) of the following proviso:

“Provided that such a proclamation shall only be issued-

(aa) if it is a proclamation on health which relates to any matter referred to in section 2 (1) of the National Policy for Health Act, 1990, with the approval of the Minister of National Health and Population Development; and

(bb) after it has been approved by a standing committee of Parliament contemplated in section 64 of the Constitution Act;”