

A BILL

entitled

PSYCHOLOGICAL PRACTITIONERS ACT 2018

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SCHEDULE 1  
Bermuda Psychologists Council

SCHEDULE 2  
Psychological Practitioners Professional Conduct Committee

WHEREAS it is expedient to repeal and replace the Psychological Practitioners Act 1998 to modernize the practice of psychology and the registration of psychological practitioners to ensure a high standard of practice and provide the necessary safeguards for the public;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

PART I  
PRELIMINARY

Citation

1 This Act may be cited as the Psychological Practitioners Act 2018.

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### Interpretation

2 In this Act—

“Association” means the Bermuda Psychological Association;

“authorized visiting psychologist” has the meaning given in section 15(1);

“certificate” means a certificate of registration issued under section 10(5)(b);

“Code” means the Code of Conduct provided for in section 8(1);

“Committee” means the Psychological Practitioners Professional Conduct Committee established under section 24(1);

“Council” means the Bermuda Psychologists Council established under section 4;

“locum tenens” has the meaning given in section 16(1);

“Minister” means the Minister responsible for health;

“professional misconduct” includes—

- (a) incompetence or negligence in the provision of psychological treatment;
- (b) improper or unethical conduct in relation to professional practice; and
- (c) a contravention of or failure to comply with—
  - (i) a provision of this Act or, in relation to professional practice, any requirement or condition under any other statutory provision; or
  - (ii) the Code of Conduct prescribed under section 8(1);

“register” means the register provided for in section 20;

“registered psychologist” means a person registered under section 10.

### Restriction on use of professional names, etc.

3 (1) Subject to this Act, a person shall not in Bermuda—

- (a) take or use, or practise or carry on business under, any name, style, title or description which includes the word “psychologist”; or
- (b) take or use any name, style, title or description (including one consisting of initials) which states or implies that he is a registered psychologist,

if he is not a registered psychologist or if he does not hold a valid certificate of registration.

(2) A person shall not take or use or affix to any premises used by him, any name, style, title or description (including one consisting of initials) which states or implies that he possesses qualifications in the discipline of psychology which he does not in fact possess.

(3) Subsection (1) does not prevent a person who is registered as a psychologist by a professional body outside Bermuda and is engaged in Bermuda as a lecturer or researcher in psychology, but is not a registered psychologist, from using the style or title of “psychologist”.

PART II

BERMUDA PSYCHOLOGISTS COUNCIL

Bermuda Psychologists Council

4 (1) There shall continue in being a body known as the Bermuda Psychologists Council (referred to as the Bermuda Psychologists Registration Council in the Psychological Practitioners Act 1998 (“the repealed Act”) whose general function is to secure high standards of professional competence and conduct in the practice of psychology in Bermuda, and who shall have such other functions as may be assigned to the Council by this Act or any other statutory provision.

(2) The Council shall consist of five members, of whom—

- (a) two shall be appointed by the Minister from a list of three registered psychologists in good standing who are nominated by the Bermuda Psychological Association;
- (b) two shall be appointed by the Minister from a list of three registered psychologists in good standing who are nominated by the Council;
- (c) one shall be a person, not being registered psychologists, appointed by the Minister as persons appearing to him to be qualified by their training or experience, or both, to assist the Council in matters of a legal or ethical nature.

(3) The person appointed by the Minister as Chairman of the Council shall be a registered psychologist.

(4) The Minister shall appoint to act whenever needed as the alternate to each person appointed under subsection (2)(a), (b) or (c), a second person having the same qualifications.

(5) An alternate member shall be appointed in accordance with the requirements for the appointment of the member, and his term of appointment shall, if not sooner terminated, end at the expiration of the term of the member.

(6) The Minister shall appoint one of the persons appointed to the Council under subsection (2)(a) or (c) to be Chairman, and another to be Vice-Chairman, of the Council, in each case for a term not extending beyond the expiration of the term for which he has been appointed a member of the Council.

(7) Upon the death or resignation of an appointed member, a person shall be appointed in his place in accordance with the provisions applying to the appointment of the person dying or retiring.

Functions of the Council

5 The functions of the Council are—

- (a) to safeguard the welfare of the public in relation to the services of psychologists;

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- (b) to assess applications and decide if applicants qualify for registration;
- (c) to promote and maintain high standards of practice and monitor adherence to ethical guidelines;
- (d) to exercise disciplinary control over registered psychologists.

### Protection from personal liability

6 A member of the Council shall not be personally liable for damages for anything done or omitted to be done in the discharge or purported discharge of the Council's functions under this Act, unless the act or omission was done or made in bad faith.

### Proceedings of the Council

7 Schedule 1 shall have effect in relation to the constitution of, and other matters concerning, the Council.

### Code of Conduct

8 (1) It shall be the duty of the Council to prepare, and from time to time as it thinks fit, amend a code of conduct which the Council considers to be conduct that is proper for registered psychologists in a professional respect (hereinafter in this Act called "the Code").

(2) The Council shall send by post to each registered psychologist at his address on the register a copy of the Code and of any amendment made to the Code.

(3) The Code may contain guides to ethical conduct, standards of practice or scopes of practice.

(4) The general standard of professional conduct required of psychologists is that they practise only within the boundaries of their competence based on their education, training, supervised experience and professional experience.

(5) In exercise of its powers under section 26, the Council shall, subject to subsection (4), be guided by any relevant provision of the Code.

(6) Where an inquiry has been conducted by the Council under section 26 or 27, the Council may find a registered psychologist guilty of negligence, incompetence or other improper conduct notwithstanding that the conduct in question is not prohibited by the Code, but it shall not find a registered psychologist guilty of improper conduct if that conduct is authorized by the Code.

## PART III

### REGISTRATION OF PSYCHOLOGISTS

#### Requirements for registration

9 (1) Subject to this Act, an applicant is entitled to be registered as a psychologist under this Act if he has either Bermudian status or the right to work in Bermuda and satisfies the Council that he meets the relevant criteria.

- (2) The relevant criteria are—
- (a) successful completion of a programme of academic training in Clinical Psychology, Counselling Psychology, School Psychology, Industrial-Organizational Psychology or any other applied field of psychology approved by the Council at an institution of higher learning approved by the Council;
  - (b) completion of at least 1,000 hours of relevant experience, not fewer than 500 of which occurred after completion of the academic training referred to in paragraph (a), under the supervision of—
    - (i) a registered psychologist;
    - (ii) where the supervision occurred outside Bermuda, a supervisor who, in the opinion of the Council, would meet or have met the requirements for registration under this Act (except the residence requirement); or
    - (iii) where the supervision occurred prior to the coming into operation of this Act, a supervisor who, in the opinion of the Council, would have met such requirements if this Act had then been in operation;
  - (c) currency of professional knowledge and skills as demonstrated by—
    - (i) provision of at least 100 hours of psychological services per year in two of the three years preceding the application; or
    - (ii) such evidence relating to refresher programmes or professional development as may be accepted by the Council as indicating currency;
  - (d) evidence of good character.

(3) The Council may waive the requirement under subsection (2)(b) for post-qualification supervised experience if satisfied that the applicant has sufficient practical experience.

#### Registration

10 (1) Any person who applies to be registered under this Act (hereinafter referred to as an “applicant for registration”) shall apply in the prescribed by the Minister to the Registrar General, and shall forward with the application—

- (a) such documents relating to professional qualifications, experience and character in support of the application as may be required;
- (b) such documents relating to malpractice insurance; and
- (c) the fee prescribed in the Government Fees Regulations 1976.

(2) An applicant for registration whose first language is not English must satisfy the Council that he has sufficient knowledge of the English language to be able to function as a psychologist in Bermuda.

(3) The Registrar General shall forward the application and accompanying documents to the Council which shall meet to consider the application.

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(4) The Council shall consider the application and may either approve or reject it.

(5) After considering the application, if the Council is satisfied that the applicant for registration is a duly eligible applicant, the Council shall instruct the Registrar General to—

- (a) enter in the register the applicant for registration's name and such other particulars as may be required;
- (b) issue to him a certificate of registration in the form prescribed by the Minister.

(6) Where the applicant for registration does not appear to the Council to be a duly eligible applicant, the Council shall inform the Registrar-General and the applicant of its decision, in writing, and the reasons for such decision.

(7) A person aggrieved by a decision of the Council under subsection (4) may appeal to the Supreme Court against the decision in the manner provided in section 31.

(8) In this section, "duly eligible applicant" means an applicant for registration—

- (a) who has satisfactorily completed a course of study that is approved by the Council and has such practical experience as the Council considers sufficient evidence of his competence, knowledge and skill efficiently to practise the profession of psychology; and
- (b) who is of good character.

Certificate; period of validity

11 Unless a shorter term has been imposed by the Council, a certificate expires three years after the date on which it is expressed to come into effect.

Re-registration

12 (1) Every person ("an applicant psychologist") whose name is entered in the register shall apply in the form prescribed by the Minister for re-registration every three years after—

- (a) the date on which his name is first entered in the register; or
- (b) such later day as the Minister may specify by notice published in the Gazette.

(2) The Council may re-register an applicant psychologist under subsection (1) if the Council is satisfied that the applicant psychologist—

- (a) has malpractice insurance;
- (b) continues to meet the qualifications, experience and conduct specified in this Act;
- (c) has within the three years preceding the date of the application for re-registration met the requirements of—

- (i) at least 100 hours of psychological services per year in two of the preceding three years; and
  - (ii) continuing education as may be prescribed.
- (d) pays the re-registration fee prescribed under the Government Fees Regulations 1976.

Lapse of certificate

13 (1) Subject to subsections (2), (3), (4) and (5), a registered psychologist who fails to apply for re-registration before the expiry date ceases to be a registered psychologist and the Council shall direct the Registrar General to delete his name from the register.

(2) An applicant psychologist who submits an application for re-registration within three months after the expiry date of his certificate and before the expiration of three years, shall be treated as an applicant for re-registration and shall meet the requirements and pay the re-registration fee provided in section 12(2).

(3) An applicant psychologist who submits an application for re-registration within three months after the expiry date of his certificate shall be assessed a late fee as prescribed under the Government Fees Regulations 1976.

(4) An applicant psychologist who submits an application for re-registration three years after the expiry date of his certificate shall be treated as a new applicant for registration and shall meet the requirements in section 10 and pay the registration fee provided in section 10(1)(c).

(5) Section 23(4) applies, with the necessary changes, to the deletion of a name from the Register under subsection (1).

Inactive and provisional status

14 (1) A registered psychologist who intends to be absent from Bermuda or practise outside Bermuda for a period a 12 months or more may apply to have his registration designated as inactive and shall return his certificate to the Registrar-General.

(2) The Registrar General shall make a notation in the register indicating the inactive status.

(3) When such registered psychologist seeks to return to practise in Bermuda, he may apply to the Council for reissue of a certificate and the Council shall—

- (a) if satisfied that he continues to meet the relevant criteria for registration set out in section 9(2), direct the Registrar-General to reissue his certificate and remove the notation of inactive status; or
- (b) if not so satisfied, direct the Registrar General—
  - (i) to enter a notation on the register indicating provisional status for such period as the Council may direct and to require him to undergo a programme of continuing education, supervision or monitoring specified in writing by the Council; and

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- (ii) on completion of the programme referred to in subparagraph (i), to reissue his certificate and remove the notation of provisional status.

### Authorized visiting psychologist

15 (1) Notwithstanding anything in the foregoing provisions of this Act, it shall be lawful for the Council, subject to this section, to authorize for special reasons a person lawfully practising psychology overseas (in this section referred to as an “authorized visiting psychologist”) to practise psychology for a limited period and in practice areas that are not available in Bermuda.

(2) Subject to the terms of the authorization and to this section, an authorized visiting psychologist shall have the powers and privileges conferred by this or any other Act upon a registered psychologist.

(3) The following provisions shall have effect with respect to the granting to an authorized visiting psychologist of an authorization to practise psychology—

- (a) the Council shall satisfy itself—
  - (i) as to the need for the authorization; and
  - (ii) as to the professional qualifications and general suitability of the authorized visiting psychologist to satisfy that need;
- (b) the authorization shall not be expressed to have effect for a period longer than two years from the date of its being granted, subject to a power of the Council to extend the period by a further period of six weeks;
- (c) an authorization shall not allow more than three months total hours of practice during a twelve-month period;
- (d) the authorization shall specify the nature of the practice authorized;
- (e) the Council shall specify in the authorization such conditions or restrictions relating to the practice of psychology as the Council may determine;
- (f) notwithstanding paragraph (b), the Council may at any time revoke an authorization or alter its period of validity.

(4) A person who is aggrieved by a decision of the Council under this section may appeal to the Supreme Court in the manner provided in section 31.

(5) A person authorized under subsection (1) shall not practise psychology in Bermuda otherwise than in accordance with such authorization.

### Locum tenens

16 (1) Notwithstanding anything in this Act, where it appears to the Council that any registered psychologist is, or will be, absent from his practice and that it is desirable or necessary that his duties as a psychologist be carried out for the period during which he is so absent, then the Council may authorize a qualified person (hereinafter referred to as

a “locum tenens”) to practise as a psychologist in Bermuda for the purpose of discharging those duties.

(2) Subject to the terms of an authorization, any locum tenens shall have the powers and privileges conferred by this Act upon a registered psychologist and shall, for the purposes of this Act, while he is so acting, be deemed to be a registered psychologist.

(3) Before granting an authorization to practise as a locum tenens, the Council must be satisfied that—

- (a) there is a need for the authorization; and
- (b) the professional qualifications and general suitability of the locum tenens satisfy that need.

(4) The authorization shall—

- (a) be valid only for a period of three months from the date of its being granted, subject to the power of the Council to extend the period for one further three-month period;
- (b) specify the nature and extent of the practice which is permitted; and
- (c) specify such other special conditions or restrictions connected with practising as a psychologist in Bermuda by the locum tenens as the Council may see fit to impose.

(5) An authorization granted under this section shall be revocable by the Council at any time and upon its revocation the authorization shall cease to have any effect.

(6) Any person aggrieved by a refusal of the Council to grant an authorization under this section or by the revocation by the Council of any such authorization and any locum tenens aggrieved by any term contained in any such authorisation may appeal to the Supreme Court in the manner provided in section 31 against such refusal, revocation or term.

(7) Nothing in this section shall derogate or abridge from any provision of the Bermuda Immigration and Protection Act 1956.

(8) A person authorized under subsection (1) shall not practise psychology in Bermuda otherwise than in accordance with such authorization.

#### Suspension or restriction of certificate

17 (1) Where it appears to the Council that a registered psychologist—

- (a) is inefficient or negligent in carrying out his professional functions;
- (b) is unfit to practise by reason of adverse physical or mental health; or
- (c) is addicted to alcohol or drugs to an extent which makes him unfit to carry out his professional functions,

the Council, after holding an enquiry into the matter, may if it finds the matter proved decide—

- (d) to suspend his certificate for such period as the Council may direct; or
- (e) to restrict his certificate to practise under the supervision of another registered psychologist until that other registered psychologist certifies to the Council that the supervised psychologist is mentally and physically fit to continue to be registered.

(2) Where the certificate of a registered psychologist is suspended or restricted under subsection (1), the Council shall direct the Registrar General to enter the notation "Suspended" or "Restricted", as the case may be, in the registered particulars relating to that psychologist.

(3) The provisions of section 23 relating to enquiries, notices, appeals, return of certificates and actions by the Registrar General apply, with the necessary changes, to a decision to suspend or restrict a certificate as they apply to a decision to strike a registered psychologist's name off the Register.

Restoration of name and termination of suspension etc.

18 (1) A registered psychologist—

- (a) whose certificate has been suspended or restricted under section 17;
- (b) whose name has been removed from the register under section 22; or
- (c) whose name has been struck off the Register under section 23,

may, after the expiration of three months after the date of the suspension or restriction, removal or striking-off, as the case may be, apply to the Council for his name to be restored to the register, or, as the case may be, for the suspension or restriction on his certificate to be terminated.

(2) Upon receipt of the application, the Council shall consider—

- (a) the character and professional ability of the applicant;
- (b) where his name was struck off the register, the offence for which his name was so struck off;
- (c) his conduct after his name was removed from or struck off the register or the suspension or restriction of his certificate was imposed; and any action taken for remediation or rehabilitation;
- (d) any relevant provision of the Code; and
- (e) any other circumstance appearing to the Council to be relevant,

and shall in light of those considerations decide to restore the applicant's name to the Register or not to so restore it, or to terminate any suspension or restriction on his certificate or not to terminate it, as the case may require.

(3) Where the Council has made a decision under subsection (3), it shall give the Registrar General the requisite directions for implementing the decision including, in the case where the applicant's name is to be restored to the register, a direction to issue to him a fresh certificate of registration, but before such a decision or direction can take effect the

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Council must inform the applicant in writing of what the Council intends so that he may exercise his rights under subsection (4) if he so wishes.

(4) A person who is aggrieved by a decision of the Council under this section may appeal to the Supreme Court in the manner provided in section 31.

### Mandatory reporting of impaired registered psychologists

19 (1) Any person, other than a person mentioned in subsection (2), who reasonably believes that a registered psychologist is drug or alcohol impaired while performing his professional functions shall immediately report this belief to the Committee, whether orally or in writing, outlining the circumstances or information upon which the reasonable belief is based.

(2) A health care professional who reasonably believes that a registered psychologist is drug or alcohol impaired while performing his professional functions shall immediately report this belief in writing to the Committee for its attention.

(3) In this section, "health care professional" means a person acting in the course of his professional or official duties in any hospital or institution administering health or dental care to persons, including—

- (a) a registered person;
- (b) a nurse;
- (c) a medical practitioner;
- (d) a dentist;
- (e) a pharmacist;
- (f) the Chief of Staff of a hospital; and
- (g) any other person who performs professional or official duties.

(4) Subsections (1) and (2) apply whether or not the information is confidential or privileged, except that nothing in this section affects or abrogates the legal professional privilege that attaches to a communication between a barrister and attorney at law and his client.

(5) No civil action lies against a person by reason of that person's reporting information pursuant to subsection (1) or (2) unless the reporting of that information is done falsely, maliciously or with intent to deceive.

(6) No person shall reveal or be compelled to reveal the identity of a person who has reported information to the Committee pursuant to subsection (1) or (2).

(7) Every person who—

- (a) contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding \$1,000;
- (b) contravenes subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding \$2,000; or

- (c) falsely, maliciously or deceptively reports information indicating that he reasonably believes that a registered psychologist is drug or alcohol impaired while performing his professional functions, commits an offence and is liable on summary conviction to a fine not exceeding \$2,000.

PART IV

REGISTER OF PSYCHOLOGISTS

Register of Psychologists

20 (1) There shall continue in being a register called the "Register of Psychologists", which the Registrar General shall maintain at his office.

(2) The register is an official record and shall set forth—

- (a) the names, addresses, status and qualifications of registered psychologists; and  
(b) such other particulars as the Registrar General considers to be necessary or expedient for identifying registered psychologists or as may be required.

(3) It is the Registrar General's duty to keep the register correct in accordance with the provisions of this Act and the regulations, to delete the names of persons who have died, and to make necessary alterations in the registered particulars of registered psychologists.

Annual gazetting of particulars

21 (1) As soon as may be after 1st January in every year, the Registrar General shall publish in the Gazette a notice, in such form as he sees fit, setting forth the names and other particulars entered in the register as of that date.

(2) A copy of the latest-gazetted such notice is *prima facie* evidence in all courts that the persons whose names are included in the notice are registered psychologists; and the absence of a person's name from such a notice is *prima facie* evidence in all courts that he is not a registered psychologist.

Voluntary removal of name from Register

22 A registered psychologist who desires to have his name removed from the register shall make application for the purpose to the Registrar General, surrendering his certificate; and the Registrar General shall thereupon make the necessary alterations to the register.

Striking off

23 (1) Where a registered psychologist—

- (a) is convicted either in Bermuda or elsewhere of any offence and as a result of that conviction is sentenced to a term of imprisonment without the option of a fine; or  
(b) is found by the Council to be guilty of professional misconduct; or

- (c) is ordered to have his name struck off any register of psychologists maintained and kept in any place outside Bermuda,

then in any such case—

- (i) it shall be the duty of the registered psychologist to inform the Council in the circumstances set out in paragraphs (a) and (c); and
- (ii) it shall be the duty of the Council, if it is satisfied as to the truth of any of the matters specified in paragraphs (a), (b) and (c), and after giving the registered psychologist every opportunity to make such explanation as he may wish to do, to decide as soon as may be whether the name of the registered psychologist should be struck off the register:

Provided that the name of a registered psychologist shall not be struck off the register on account of his adopting or refraining from adopting the practice of psychology.

(2) Where the Council decides that the name of a registered psychologist should be struck off the register, it shall so inform the Registrar General who shall cause the registered psychologist to be informed by written notice accordingly.

(3) A registered psychologist shall be entitled to appeal to the Supreme Court in the manner provided in section 31 against any such decision of the Council.

(4) The Council shall, where it decides that the name of a registered psychologist should be struck off the register—

- (a) on the twenty-eighth day after the Registrar General has given notice to the registered psychologist in accordance with subsection (2), cause the name of the registered psychologist to be struck off the register, unless in the meantime an appeal has been duly entered in respect of the decision; or
- (b) where an appeal is duly entered, and where the appeal is subsequently dismissed by the Supreme Court, cause the name of the registered psychologist to be struck off the register immediately after the determination of the appeal,

and in either such case the Council—

- (i) shall cause the person to be informed by written notice that his name has been struck off the register; and
- (ii) shall by the same or another notice require the person to return his certificate of registration to the Registrar General within 14 days after receiving the notice; and
- (iii) shall cause a notification of the striking off to be made in the Gazette.

(5) Any registered psychologist who contravenes or fails to comply with subsection (1)(a)(i) commits an offence against this Act and is liable on summary conviction to a fine of \$3,000.

(6) Any formerly registered psychologist who fails to return his certificate of registration to the Registrar General, in accordance with any notice duly given under subsection (4)(b)(ii), commits an offence against this Act and is liable on summary conviction to a fine of \$420.

PART V

PROFESSIONAL CONDUCT COMMITTEE

Psychological Practitioners Professional Conduct Committee

24 (1) There is established, in accordance with Schedule 2, a committee to be known as the "Psychological Practitioners Professional Conduct Committee".

(2) The functions of the Committee are—

(a) to receive and investigate, or cause to be investigated, complaints against any registered psychologist, including any allegation that—

(i) the registered psychologists's registration was improperly obtained;

(ii) the registered psychologist is guilty of professional misconduct;

(iii) the registered psychologist is unfit to practise a specialty or to be registered;

(iv) the person is unfit to practise by reason of a conviction of an indictable offence, adverse physical or mental health, or being drug or alcohol impaired in the course of performing professional functions; and

(b) to perform such other functions as may be assigned to it by the Council.

(3) The Committee may investigate any complaint based on matters alleged to have occurred—

(a) inside or outside of Bermuda;

(b) and at any time, whether or not at a time when the person was a registered psychologist.

(4) A complaint referred to in subsection (2)(a)—

(a) shall be in writing;

(b) shall be made—

(i) by the complainant;

(ii) if the complainant is a child or is physically or mentally unable to make the complaint, by the parent or guardian, friend or a person acting on behalf of the complainant;

(iii) if the conduct complained of relates to a person who is dead, by his executor or personal representative;

- (c) shall be addressed to the Committee;
  - (d) shall set out the matters alleged to constitute grounds for disciplinary action to be taken against the registered psychologist or who is the subject of the complaint; and
  - (e) may be required by the Council to be in a form approved by the Council.
- (5) Where—
- (a) in the absence of a complaint made under subsection (4), a matter comes to the attention of the Committee which appears to constitute grounds for disciplinary action against a registered psychologist; or
  - (b) a complaint is made under subsection (4) but the matter is withdrawn,

the Committee may treat, or continue to treat, the matter as if it were a complaint made under subsection (4).

(6) Schedule 2 has effect as to the appointment and proceedings of the Committee and other matters relating to the Committee.

#### Investigation of complaint by Committee

25 (1) Where a complaint is made (or treated as made) under section 24(4), or is received under section 19, the Committee shall investigate the complaint and determine whether, in its opinion, the complaint—

- (a) is frivolous or vexatious, is made in bad faith, is an abuse of process, or for any other reason ought not to be referred to the Council;
- (b) arose from a misapprehension on the part of the complainant or a misunderstanding between the complainant and the registered psychologist; or
- (c) ought to be referred to the Council for decision.

(2) The Committee may, if it considers it necessary for the protection of the public, recommend to the Council that it make an interim order suspending the registered psychologist from the register for such period as the Council considers appropriate.

- (3) The Committee—
- (a) shall give written notice to the registered psychologist who is the subject of the complaint that a complaint has been made, together with a summary of the matters alleged in the complaint;
  - (b) shall request that the registered psychologist who is the subject of the complaint show cause in writing, within a specified time after the notice is given, explaining why the matter should not be placed before the Council for determination;
  - (c) may require any person (whether or not a registered psychologist) to provide information or documentation that appears to be relevant to a

matter, if the disclosure of that information or documentation is not prohibited under any Act;

(d) may take evidence from witnesses on oath or affirmation, administered by the Chairman; and

(e) shall give the registered psychologist the opportunity to be heard.

(4) A person or registered psychologist under subsection (3)(c) may be summonsed to appear before the Committee and provide evidence that is determined by the Committee to be relevant to a matter.

(5) If the Committee determines that a complaint is frivolous or vexatious, is made in bad faith, is an abuse of process or otherwise ought not to be considered by the Committee, it shall dismiss the complaint and give written notice to the complainant of the dismissal and the reasons for the dismissal.

(6) If the Committee considers that a complaint arose from a misunderstanding by the complainant or between the complainant and the registered psychologist complained of, the Committee may, before proceeding further with the investigation of the complaint, require the parties to appear before it in order to discuss the matter with a view to clarifying the misunderstanding and resolving the matter informally.

(7) The Committee may recommend to the Council that guidelines on future conduct be issued by the Council to all registered psychologists concerning any of the matters coming to the Committee's attention in the course of the investigation.

(8) If the Committee determines that a complaint ought to be referred to the Council for decision, the Committee shall, as soon as practicable, refer the matter to the Council.

(9) The Committee—

(a) shall inform the Council of its findings; and

(b) may make to the Council such recommendations as it thinks fit, including a recommendation that no further action be taken.

#### Inquiry into complaint by Council

26 (1) If, pursuant to an investigation under section 25, the Committee places the matter before the Council for determination, the Council shall inquire into the matter.

(2) For the purposes of an inquiry under this section, the Council—

(a) may take evidence from witnesses on oath or affirmation, and for that purpose the Chairman of the Council may administer an oath or affirmation;

(b) may require any person (whether or not a registered psychologist) to provide information or documentation that appears to be relevant to a matter, if the disclosure of that information or documentation is not prohibited under any Act;

- (c) shall afford the registered psychologist and the Committee, or a member of the Committee, every facility—
  - (i) to appear before the Council;
  - (ii) to be represented by a barrister and attorney;
  - (iii) to call or cross-examine witnesses; and
  - (iv) generally to make a full defence or explanation in the matter of the complaint.

(3) A person or registered psychologist under subsection (2)(b) may be summonsed to appear before the Council and provide evidence that is determined by the Council to be relevant to a matter.

(4) Following its inquiry, the Council shall make a decision as to whether the complaint is proved or not proved, in whole or in part, together with reasons for its decision.

(5) If the Council decides that a complaint is not proved, in whole or in part, it shall dismiss the complaint to the extent that it is not proved.

(6) If the Council decides that a complaint is proved, in whole or in part, it shall record a finding to that effect and it may make any order of a disciplinary nature as it sees fit in respect of a registered psychologist against whom the complaint is made, including an order—

- (a) admonishing the registered psychologist;
- (b) suspending the registered psychologist from practice as a psychologist for such period as it sees fit or for an indefinite period;
- (c) striking the name of the registered psychologist off the register;
- (d) imposing conditions or limitations with regard to the registered psychologist's practice as a psychologist.

(7) The Council shall give written notice to the complainant and the registered psychologist against whom a complaint is made of its decision under subsection (4) and any order made by the Council under subsection (6), together with reasons.

(8) The registered psychologist against whom the complaint is made may appeal to the Supreme Court in the manner provided in section 31 against a decision or order of the Council .

(9) Any proceedings in connection with the holding of an inquiry by the Council under this section shall, for the purpose of the provisions of the Criminal Code Act 1907 relating to perjury, be deemed to be judicial proceedings.

(10) A member of the Council who was involved in the matter complained of may not participate in an inquiry by the Council under this section.

(11) A registered psychologist who is suspended from practice under this section shall, for the duration of the suspension, be deemed not to be registered.

Inquiry by Council of its own initiative

27 (1) In the absence of a complaint, the Council may, of its own initiative, hold an inquiry into any matter referred to in section 24(2) that could have formed the subject of an investigation by the Committee.

(2) The provisions of section 26 that apply in respect of an inquiry by the Council under that section shall apply to an inquiry under this section with any necessary modification.

PART VI

OFFENCES AND APPEALS

Offences

28 A person who contravenes—

- (a) section 3(1) or (2);
- (b) section 15(5); or
- (c) 16(8),

is guilty of an offence and is liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 12 months, or to both.

False statements

29 Any person who, in connection with any application or other matter falling to be performed under this Act—

- (a) makes any statement knowing or having reason to believe it to be false in a material particular; or
- (b) produces any certificate, diploma or other document knowing or having reason to believe the same to be false,

without prejudice to anything in the Criminal Code Act 1907, commits an offence against this Act.

Punishment on summary conviction: a fine of \$1,680 or imprisonment for 6 months or both such fine and imprisonment.

Punishment on conviction on indictment: a fine of \$8,400 or imprisonment for 12 months or both such fine and imprisonment.

Striking off on conviction under section 29

30 Where any person is convicted of an offence under section 29, and his name has already been entered in the register, it may, at the discretion of the Minister, be summarily struck off the register.

Appeals

31 (1) A person aggrieved by a decision of the Council under this Act may, within 28 days after the date on which the decision is given to the person by the Council, appeal to the Supreme Court against the decision.

(2) On an appeal under this section, the Supreme Court may make such order in the matter as it thinks proper, including an order as to the costs of the appeal.

(3) An order of the Supreme Court under subsection (2) is final.

(4) The practice and procedure to be followed in relation to an appeal under this section are as prescribed by rules of court.

(5) The Council may appear as respondent on such appeal and, whether it appears at the hearing of the appeal or not, it shall be deemed to be a party to the appeal for the purpose of enabling directions to be given as to the costs or expenses of the appeal.

PART VII  
MISCELLANEOUS

Regulations

32 (1) The Minister may make regulations—

- (a) specifying the manner in which notices shall or may be served;
- (b) prescribing documents required to be forwarded with applications under this Act;
- (c) prescribing continuing education and other requirements for the renewal of certificates;
- (d) prescribing the procedure to be followed on an investigation pursuant to sections 24 and 25;
- (e) prescribing the procedure to be followed on an inquiry pursuant to section 26;
- (f) prescribing any other matter or thing which by or under this Act may be or is to be prescribed.

(2) The Minister shall consult the Council before he makes any regulations.

(3) The negative resolution procedure shall apply to regulations made under this section.

Consequential amendments

33 (1) The Government Authorities (Fees) Act 1971 is amended by deleting the line item for the “Bermuda Psychologists Registration Council” and substituting—

“Bermuda Psychologists Council - established under section 4 of the Psychological Practitioners Act 2018”.

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(2) The Government Fees Regulations 1976 are amended by deleting Head 52 and substituting it with—

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Head 52	
Psychological Practitioners Act 2018	
(1) Applying for registration as a psychologist under section 10(1)(c)	\$234
(2) Application for re-registration as a psychologist under section 12(2)(d)	\$156
(3) Requesting a certificate of professional standing	\$ 21
(4) Fee for late application to renew registration under section 13(3)	\$42
(5) Applying for authorization—	
(a) for a visiting practitioner under section 15	\$68
(b) for a locum tenens under section 16	\$68

”

(3) The Parole Board Act 2001 is amended in section 4(1)(b) by deleting “Psychological Practitioners Act 1998” and substituting “Psychological Practitioners Act 2018”.

### Repeal and revocation

34 (1) The Psychological Practitioners Act 1998 is hereby repealed.

(2) The Psychological Practitioners Registration Regulations 2003 are hereby revoked.

### Transitional provisions

35 (1) A person who, before the commencement of this Act, was registered as a psychologist under the repealed Act shall be deemed to be a registered psychologist for the purpose of this Act.

(2) An application for a certificate of registration which was wholly or partly heard at the commencement of this Act, shall be dealt with under the provisions of this Act.

(3) A certificate of registration obtained by any person under the repealed Act shall be deemed to be valid under this Act until its expiration date.

(4) The person who, immediately before the coming into operation of this Act, was appointed under the repealed Act as Chairman of the Bermuda Psychologists Registration Council continues as Chairman of the Bermuda Psychologists Council until the expiration of his term.

(5) A person who, immediately before the coming into operation of this Act was appointed under the repealed Act as a member of the Bermuda Psychologists Registration

## PSYCHOLOGICAL PRACTITIONERS ACT 2018

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Council continues as a member of the Bermuda Psychologists Council until the expiration of his term.

(6) Any complaint or other proceeding in respect of a registered psychologist that was filed before the commencement of this Act shall be dealt with, or continue to be dealt with, under the procedures in operation under this Act.

(7) All proceedings in respect of offences committed or alleged to be committed against the repealed Act, before the repeal came into effect, may be commenced or continued as if this Act had not been enacted.

(8) Any appeal in respect of section 18 of the repealed Act that was filed before the commencement of this Act shall be dealt with, or continue to be dealt with, under the procedures in operation under this Act.

### Commencement

36 This Act shall come into operation on such date as the Minister may appoint by notice published in the Gazette, and the Minister may appoint different days for the coming into operation of different provisions.

SCHEDULE 1

(Section 7)

BERMUDA PSYCHOLOGISTS COUNCIL

1 (1) A member shall hold office for the period of three years (or such longer period as the Minister may determine), and a person may be so appointed who has previously been a member.

(2) A member may not at any time be appointed to a third consecutive term of membership, but, subject to that, a member may be re-appointed.

2 The Chairman or, in his absence, the Vice-Chairman, shall preside at any meeting of the Council.

3 A meeting of the Council may not be held unless three members of the Council, being members entitled to vote at meetings of the Council, are present.

4 (1) The Council shall meet as often as may be necessary for it to dispatch its business under this Act.

(2) There shall not be fewer than two Council meetings in a calendar year.

5 A minute shall be made of every meeting of the Council in such form as the Minister may direct.

6 All acts of the Council shall be decided by the votes of a majority of members present at any meeting so, however, that—

(a) if the votes are equal, the person presiding shall have, in addition to his vote as a member of the Council, a casting vote; and

(b) the members of the Council appointed under section 4(2)(c) shall not have a vote.

7 (1) A member of the Council shall advise the Chairman if he is personally acquainted with any matter before the Council and may, with the leave of the Chairman, withdraw on that ground or for any other reason which the Chairman deems sufficient, and the Chairman may himself withdraw on any such ground.

(2) Where a member has so withdrawn, the Chairman may request the Minister to appoint some person to be a member of the Council for the purpose of those proceedings, and the Minister may, if he thinks fit, make such an appointment, whereupon the person so appointed shall be deemed to be a member of the Council for such purpose.

8 A member of the Council may resign his office at any time by giving notice in writing to the Minister of his resignation.

- 9 The Minister may declare the office of a member of the Council vacant if—
- (a) the Minister is satisfied that the member is unable through mental or physical incapacity to perform the functions of his office; or
  - (b) the member has failed without adequate cause to attend three successive meetings of the Council.
- 10 Where a member's place becomes vacant before the expiration of his term, the vacancy shall be filled in the same manner as that by which he became a member.
- 11 A person appointed or elected to fill the place of a member of the Council who vacates office before the expiry of his term of office shall hold office for so long only as the member whose place he fills would have held office.
- 12 Where a member of the Council vacates his office three months or less before the expiry of his term of office, the vacancy need not be filled.
- 13 (1) Subject to sections 9 and 10 of this Act, the Council may, in its discretion, appoint from among its own members or from among other persons, such number of committees as it thinks fit for purposes which, in the opinion of the Council, would be more expediently carried out and managed by such committees.
- (2) The Chairman of any committee appointed under subsection (1) shall be a member of the Council.
- 14 Subject to this Act, the Council may regulate its affairs and proceedings as it thinks fit.

SCHEDULE 2

(Section 24)

PSYCHOLOGICAL PRACTITIONERS PROFESSIONAL CONDUCT COMMITTEE

1 The Committee shall consist of three members appointed by the Minister, as follows—

- (a) one from a list of at least three registered psychologists in good standing nominated by the Bermuda Psychological Association;
- (b) one from a list of at least three registered psychological practitioners in good standing nominated by the Council;
- (c) one professionally qualified person who is not a registered psychologist.

2 A person who is a member of the Council may not be appointed as a member of the Committee.

3 Appointment as a member under paragraph 1 shall be made for a term not exceeding three years and a member is eligible for re-appointment.

4 The Minister may appoint a second person to act as alternate to a member appointed under paragraph 1.

5 An alternate member shall be appointed in accordance with the requirements for the appointment of the member, and his term of appointment shall, if not sooner terminated, end at the expiration of the term of the member.

6 The Minister shall appoint a member of the Committee to be the Chairman, who shall—

- (a) preside at Committee meetings; and
- (b) perform any other functions assigned to him in accordance with this Act.

7 If at any time the Chairman ceases to be a member of the Committee, or for any other reason ceases to be the Chairman, the Minister shall, as soon as may be, appoint from among the members of the Committee another person to be Chairman in his stead.

8 Three members of the Committee shall form a quorum at any meeting.

9 (1) Where any complaint is before the Committee, a member of the Committee shall advise the Chairman if he is personally acquainted with the facts of the case and may, with leave of the Chairman, withdraw on that ground or for any other reason which the Chairman deems sufficient; and the Chairman may himself withdraw on any such ground.

(2) Where a member has so withdrawn, the Chairman may request the Chairman of the Council to nominate a member of equal standing as the withdrawn member to be a

## PSYCHOLOGICAL PRACTITIONERS ACT 2018

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member of the Committee for the purpose of those proceedings, and the Minister may make such appointment, whereupon the person so appointed shall be deemed to be a member of the Committee for such purpose.

10 A minute shall be made of every meeting of the Committee in such form as the Minister may direct.

11 Fees shall be paid to members of the Committee in accordance with the Government Authorities (Fees) Act 1971.

12 The validity of any act or proceedings of the Committee shall not be affected by any vacancy among the members of the Committee or by any defect in the appointment of a member of the Committee or of the Chairman.

13 The Committee shall, not later than 31 January after the end of each calendar year, submit a report to the Council on its activities for the preceding year.

14 A member of the Committee may resign his office at any time by giving notice in writing to the Minister of his resignation.

15 The Minister may declare the office of a member of the Committee vacant if—

- (a) the Minister is satisfied that the member is unable through mental or physical incapacity to perform the functions of his office; or
- (b) the member has failed without adequate cause to attend three successive meetings of the Committee.

16 Where a member's place becomes vacant before the expiration of his term of office, the vacancy shall be filled in the same manner as that by which he became a member.

17 A person appointed or selected to fill the place of a member of the Committee who vacates office before the expiry of his term of office shall hold office for so long only as the member whose place he fills would have held office.

18 Where a member of the Committee vacates his office three months or less before the expiry of his term of office, the vacancy need not be filled.

19 Subject to this Act, the Committee shall regulate its own proceedings.

## PSYCHOLOGICAL PRACTITIONERS BILL 2018

### EXPLANATORY MEMORANDUM

This Bill seeks to repeal and replace the Psychological Practitioners Act 1998 to modernize the practice of psychology and the registration of psychological practitioners to ensure a high standard of practice and provide the necessary safeguards for the public.

Clause 1 provides the title of the Bill.

Clause 2 provides the interpretation of terms used in the Bill.

Clause 3 provides that a person who is not a registered psychologist in Bermuda shall not practise as or use the name “psychologist”.

Clause 4 establishes the Bermuda Psychologists Council.

Clause 5 provides the functions of the Council.

Clause 6 provides protection for members of the Council from personal liability.

Clause 7 provides that Schedule 1 has effect in relation to the constitution of the Council.

Clause 8 provides for the preparation, content and dissemination of a code of conduct.

Clause 9 sets out the requirements to be registered as a psychologist.

Clause 10 provides the registration process to become a psychologist.

Clause 11 provides the period of time a certificate of registration is valid.

Clause 12 sets out the requirements for re-registration as a psychologist.

Clause 13 provides what occurs when there is a lapse of a certificate of registration.

Clause 14 is the procedure a registered psychologist follows when intending to be absent from Bermuda or practising outside of Bermuda for a period of 12 months.

Clause 15 provides that the Council may, for special reasons, authorize a person who practises psychology in an overseas jurisdiction (referred to as an “authorized visiting psychologist”) to practise psychology in Bermuda for a limited time and in limited practice areas.

Clause 16 provides that a qualified person (referred to as a “locum tenens”) may be authorised to practise as a registered psychologist should a registered psychologist be absent from practise.

Clause 17 provides the grounds the Council has for suspending or restricting a certificate of registration.

Clause 18 provides for the restoration of a registered psychologists name to the Register of Psychologists.

## PSYCHOLOGICAL PRACTITIONERS BILL 2018

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Clause 19 provides for the mandatory reporting of a registered psychologist performing his duties while impaired to the Psychological Practitioners Professional Conduct Committee.

Clause 20 provides for the Register of Psychologists, to be maintained by the Registrar General.

Clause 21 provides that the Registrar General is to publish, by notice in the Gazette, the names and particulars in the Register.

Clause 22 provides for the voluntary removal of a registered psychologist from the Register.

Clause 23 provides the ways a registered psychologist may be struck off the Register.

Clause 24 establishes the Psychological Practitioner Professional Conduct Committee.

Clause 25 provides the means by which the Committee investigates a complaint made against a registered psychologist.

Clause 26 provides that the Council conducts an inquiry into a complaint investigated by the Committee.

Clause 27 provides that in the absence of a complaint, the Council may of its own initiative, hold an inquiry for specified reasons.

Clause 28 creates certain offences under the Act.

Clause 29 creates the offence for persons making a false statement in connection with an application or a matter falling to be performed under the Act.

Clause 30 provides that a person convicted of the offence of making a false statement will have his name struck off the Register.

Clause 31 provides that a person aggrieved by a decision of the Council to the Supreme Court.

Clause 32 gives the Minister the power to make regulations.

Clause 33 provides the consequential amendments.

Clause 34 revokes the Psychological Practitioners Act 1998 and the Psychological Practitioners Registration Regulations 2003.

Clause 35 provides transitional provisions.

Clause 36 provides for the commencement of the Bill.