

Bill No. XXII of 2013

THE INDIAN MEDICAL COUNCIL (AMENDMENT) BILL, 2013

A

BILL

further to amend the Indian Medical Council Act, 1956.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Medical Council (Amendment) Act, 2013.

Short title and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

102 of 1956. 5

2. In the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), for the long title, the following shall be substituted, namely:—

Amendment
of long title.

“An Act to provide for the reconstitution of the Medical Council of India and for the determination, coordination, maintenance, and regulation of standards of medical education, to regulate the practice of medicine, ensure adequate availability of doctors in all States and
10 maintain the Indian Medical Register and for matters connected therewith or incidental thereto.”.

Amendment
of section 3.

3. In section 3 of the principal Act,—

(a) in sub-section (1),—

(i) after clause (a), the following clause shall be inserted, namely:—

“(aa) one member, to represent the Union territories by rotation, to be nominated by the Central Government;”;

(ii) in clause (b), the following proviso shall be inserted, namely:—

“Provided that where there is a Health University in a State, that University shall elect, in such manner as may be provided by the rules made by the Central Government, one representative for every ten medical colleges affiliated to it to represent such medical colleges:

Provided further that a Health University with less than ten medical colleges affiliated to it, shall also be eligible to elect one representative to represent such medical colleges:

Provided also that such number of representatives shall be reviewed by the Central Government after every five years;”;

(iii) clause (d) shall be omitted;

(b) in sub-section (2), the following proviso shall be inserted, namely:—

“Provided that no person shall hold office as the President or the Vice-President for more than two terms.”;

(c) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) The term of the Council shall be for a period of four years from the date of notification issued under sub-section (1).”.

Insertion of
new section
3AA.

4. After section 3A of the principal Act, the following section shall be inserted, namely:—

“3AA. The Central Government shall, as soon as possible, after the commencement of the Indian Medical Council (Amendment) Act, 2013, by notification in the Official Gazette, reconstitute the Council:

Provided that the Board of Governors constituted under sub-section (4) of section 3A shall continue to exercise the powers and perform the functions of the Council till the new Council is reconstituted.”.

Reconstitu-
tion of
Council.

Amendment
of section 4.

5. In section 4 of the principal Act, in sub-section (1),—

(a) the words, brackets and letter “or clause (d)” shall be omitted;

(b) the words, brackets, letter and figures “and any rules so made may provide that pending the preparation of the Indian Medical Register in accordance with the provisions of this Act, the members referred to in clause (d) of sub-section (1) of section 3 may be nominated by the Central Government instead of elected as provided therein” shall be omitted.

Amendment
of section 7.

6. In section 7 of the principal Act,—

(a) in sub-section (1), for the words “five years”, the words “four years” shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Subject to the provisions of the Act, a member, whether nominated or elected, shall hold office for a term of four years.”;

(c) in sub-section (6), for the words “five years”, the words “four years” shall be substituted.

7. After section 9 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
9A.

5 “9A. (1) The Council shall, subject to the provisions of the Act and rules made thereunder, take measures to determine, coordinate and maintain the standards of medical education and practice in medicine, and ensure adequate availability of doctors to all States.

Functions of
Council.

10 (2) Without prejudice to the generality of the foregoing provisions, the measures referred to in sub-section (1), may, *inter alia*, provide for all or any of the following matters, namely:—

(a) lay down the standards of professional ethics in the practice of medicine;

(b) grant or withdraw permission for establishment of medical college and course of study in medical education and ensure compliance of its terms and conditions for such permission;

15 (c) maintain the Indian Medical Register;

(d) render advice to the Central Government or the State Government on matters relating to the medical education and practice in medicine;

(e) facilitate medical education in the institutions situated outside the country;

20 (f) undertake and recommend to the Central Government or the State Government such measures as may be necessary to regulate medical education in or outside the country;

(g) organise seminars, symposiums and workshops in order to promote continuous medical education and practice in medicine; and

25 (h) perform such other functions as may be provided by the rules made by the Central Government.”.

8. In section 13 of the principal Act,—

Amendment
of section 13.

(a) in sub-section (2), for the words “a citizen of India”, the words “a citizen of India or an overseas citizen of India” shall be substituted;

30 (b) in sub-section (3), for the words “a citizen of India”, the words “a citizen of India or an overseas citizen of India” shall be substituted;

(c) in sub-section (4A), for the words “a citizen of India”, the words “a citizen of India or an overseas citizen of India” shall be substituted;

(d) after sub-section (5), the following *Explanation* shall be inserted, namely:—

35 *Explanation.*— For the purposes of this section, the expression “overseas citizen of India” shall have the meaning assigned to it in clause (ee) of sub-section (1) of section 2 of the Citizenship Act, 1955.

57 of 1955.

9. In section 14 of the principal Act, in the proviso to sub-section (1), the words “for the time being for the purposes of teaching, research or charitable work” shall be omitted.

Amendment
of section 14.

40 10. In section 21 of the principal Act,—

Amendment
of section 21.

(a) in sub-section (1), for the words “the names”, the words “the names and biometric details” shall be substituted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

‘(2A) The Council shall, in addition to the Indian Medical Register referred to in sub-section (1), maintain the Electronic Medical Register containing the particulars specified in the Indian Medical Register.

Explanation.— For the purpose of this sub-section, the expressions,— 5

(i) “Electronic Medical Register” means the Indian Medical Register published in the electronic form;

(ii) “electronic form” shall have the meaning assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000.’. 21 of 2000.

Insertion of new section 23A.

11. After section 23 of the principal Act, the following section shall be inserted, namely:— 10

Renewal of enrolment.

“23A. The enrolment of a person as a medical practitioner on the Indian Medical Register or the State Medical Register shall be valid for a period of ten years from the date of such enrolment:

Provided that a medical practitioner who has completed ten years of enrolment, may apply to the Council for renewal of his enrolment immediately after the commencement of the Indian Medical Council (Amendment) Act, 2013, within a period of twelve months in such form, in such manner and with such fees, as may be prescribed: 15

Provided further that the Council may extend the period of twelve months, if applicant shows that he was prevented by sufficient cause from preferring the application within time.”. 20

Insertion of new section 30A.

12. After section 30 of the principal Act, the following section shall be inserted, namely:—

Resignation, removal and suspension of President, Vice-President or members of Council.

“30A. (1) The President, Vice-President or any member of the Council may, by notice in writing under his hand addressed to the Central Government, resign from office: 25

Provided that the President, Vice-President or any member of the Council shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest. 30

(2) Notwithstanding anything contained in sub-section (1), the Central Government may remove from office the President, Vice-President, or any member of the Council, who—

(a) has been adjudged an insolvent; or

(b) has become physically or mentally incapable of acting as such President, Vice-President, or other member; or 35

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(e) has acquired such financial or other interest as is likely to affect prejudicially the exercise of his functions as such President, Vice-President, or other member; or 40

(f) in the opinion of the Central Government, has so abused his position as to render his continuance in office detrimental to the overall public interest; or

(g) has been guilty of proved misbehaviour.

5 (3) No person shall be removed from his office on the grounds specified in clause (e) or clause (f) or clause (g) of sub-section (2) unless he has been given a reasonable opportunity of being heard in the matter.”.

13. In section 32 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

Amendment of section 32.

10 “(2) In particular, and without prejudice to the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of electing the representative of the medical colleges under the first proviso to clause (b) of sub-section (1) of section 3;

(b) the mode of election of the Council under sub-section (1) of section 4;

15 (c) the other functions of the Council under clause (h) of sub-section (2) of section 9A;

(d) the conditions relating to the payment of a fee for filing an appeal before the Central Government under sub-section (2) of section 24;

(e) any other matter which is required to be, or may be, provided by rules or in respect of which provision is to be made by rules.”.

20 14. In section 33 of the principal Act, after clause (ma), the following clause shall be inserted, namely:—

Amendment of section 33.

“(mb) the form, manner and payment of fee for renewal of enrolment under section 23A;”.

25 15. After section 33 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 33A, 33B and 33C.

30 33A. (1) Without prejudice to the foregoing provisions of this Act, the Authority shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time:

Power of Central Government to issue directions.

Provided that the Council shall, as far as practicable, be given opportunity to express its views before any direction is given under this sub-section.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

35 33B. (1) Where the Central Government considers it expedient so to do, it may, by order in writing, direct the Council to make any regulations or to amend or revoke any regulations already made within such period as it may specify in this behalf.

Powers of Central Government to direct regulations to be made or to make or amend regulations.

40 (2) If the Council fails or neglects to comply with such order within the specified period, the Central Government may make the regulations or amend or revoke the regulations made by the Council, as the case may be, either in the form specified in the order or with such modifications thereof as the Central Government thinks fit.

33C. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or

Laying of rules and regulations.

more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, regulation or both Houses agree that the rule and regulation should not be made, the rule and regulation shall, thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation. 5

STATEMENT OF OBJECTS AND REASONS

The Indian Medical Council Act, 1956 was enacted for the purpose of reconstituting the Medical Council of India (Council) and to provide for the maintenance of the Indian Medical Register and for matters connected therewith. The Act was amended, *inter alia*, by the Indian Medical Council (Amendment) Act, 2010 superseding the Council for one year with effect from the 15th May, 2010 and providing for the constitution of a Board of Governors of not more than seven persons to exercise the powers and to perform the functions of the Council under the said Act. Subsequently, the term of the Board of Governors was extended to one year at a time by amending the Act in 2011 and 2012 and as per the provisions of the Indian Medical Council (Amendment) Act, 2012 the Council has to be reconstituted within a period of three years from the date of its supersession, that is latest by the 14th May, 2013.

2. Now, it is proposed to amend the Indian Medical Council Act, 1956 to reconstitute the Council and review the composition of the said Council so as to give representation to Union territories and to remove the anomaly where States having larger number of medical colleges, but having formed a medical university, were having fewer seats in the Council as compared to States having fewer colleges affiliated to several Universities, by inserting a proviso in clause (b) of sub-section (1) of section 3.

3. The Council's main functions as contained in the Indian Medical Council Act, 1956 is to make recommendations to the Central Government in matters of recognition of medical qualifications, determining the courses of study and examinations required to obtain such qualifications, inspection of examinations and maintenance of register of medical practitioners, etc. By the amendment of the said Act in 1993, the power to grant permission for establishment of new Medical Colleges, increase in admission capacity or for starting new or higher course of study or training in the established colleges was entrusted to the Central Government from the respective State Governments. For this purpose, the Council became a recommendatory body to the Central Government for taking final decisions in these matters. After reviewing the working of the Council in this area, and the problems being faced, a need has been felt to empower the Central Government to give such directions to the Council wherever necessary on matters of policy and public importance and to ensure their proper compliance.

4. The Indian Medical Council (Amendment) Bill, 2013, *inter alia*, provides the following, namely:—

(a) to amend long title of the Indian Medical Council Act, 1956 (Act) so as to make it more comprehensive;

(b) to amend sub-section (2) of the section 3 of the Act so as to provide that no person shall hold the post of President or the Vice-President for more than two terms;

(c) to amend section 13 of the Act relating to recognition of medical qualifications granted to a citizen of India by medical institutions not included in the First or Second Schedule so as to extend the benefit to the overseas citizen of India;

(d) to amend section 14 of the Act relating to the medical practice by the persons having medical qualifications granted by medical institutions in any country outside India. It is proposed to provide that the practice by such persons shall be limited for a specified period in the institution to which they are attached;

(e) to amend section 21 of the Act relating to the Indian Medical Register so as to provide that the biometric details of all persons enrolled on any State Medical Register shall be verified at the time of renewal of registration;

(f) to provide for renewal that every medical practitioner whose name has been enrolled as such on the Indian Medical Register or State Medical Register shall be valid for a period of ten years from the date of such enrolment and thereafter, it may be renewed;

(g) to insert a new section 30A in the Act relating to resignation by the President, Vice-President and Members of the Council and the power of the Central Government to remove from the office the President, Vice-President or a Member; and

(h) to insert a new section 33A in the Act relating to power of the Central Government to give directions to the Council in the matters of policy and for making any regulation.

5. The proposed amendments will make the composition of the Council compact, and representative, and empower the Central Government to discharge its functions effectively to ensure proper development of medical education in the country.

6. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 13th March, 2013.

GHULAM NABI AZAD

ANNEXURE

EXTRACTS FROM THE INDIAN MEDICAL COUNCIL ACT, 1956

(102 OF 1956)

An Act to provide for the reconstitution of the Medical Council of India, and the maintenance of a Medical Register for India and for matters connected therewith.

* * * * *

3. (1) The Central Government shall cause to be constituted a Council consisting of the following members, namely:—

Constitution and composition of the Council.

* * * * *

(b) one member from each University, to be elected from amongst the members of the medical faculty of the University by members of the Senate of the University or in case the University has no Senate, by members of the court;

* * * * *

(d) seven members to be elected from amongst themselves by persons enrolled on any of the State Medical Registers who possess the medical qualifications included in Part I of the Third Schedule;

* * * * *

(2) The President and Vice-President of the Council shall be elected by the members of the Council from amongst themselves.

* * * * *

4. (1) An election under clause (b), clause (c) or clause (d) of sub-section (1) of section 3 shall be conducted by the Central Government in accordance with such rules as may be made by it in this behalf, and any rules so made may provide that pending the preparation of the Indian Medical Register in accordance with the provisions of this Act, the members referred to in clause (d) of sub-section (1) of section 3 may be nominated by the Central Government instead of being elected as provided therein.

Mode of election.

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7. (1) The President or Vice-President of the Council shall hold office for a term not exceeding five years and not extending beyond the expiry of his term as member of the Council.

Term of office of President, Vice-President and members.

(2) Subject to the provisions of this section, a member shall hold office for a term of five years from the date of his nomination or election or until his successor shall have duly nominated or elected, whichever is longer.

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(6) Where the said term of five years is about to expire in respect of any member, a successor may be nominated or elected at any time within three months before the said term expires but he shall not assume office until the said term has expired.

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13. (1) * * * * *

Recognition of medical qualifications granted by certain medical institutions whose qualifications are not included in the First or Second Schedule.

(2) The medical qualifications granted to a citizen of India—

(a) before the 15th day of August, 1947, by medical institutions in the territories now forming part of Pakistan, and

(b) before the 1st day of April, 1937, by medical institutions in the territories now forming part of Burma,

which are included in Part I of the Third Schedule shall also be recognised medical qualifications for the purposes of this Act.

(3) The medical qualifications granted by medical institutions outside India before such date as the Central Government may, by notification in the Official Gazette, specify which are included in Part II of the Third Schedule shall also be recognised medical qualifications for the purposes of this Act, but no person possessing any such qualification shall be entitled to enrolment on any State Medical Register unless he is a citizen of India and has undergone such practical training after obtaining that qualification as may be required by the rules or regulations in force in the country granting the qualification, or if he has not undergone any practical training in that country he has undergone such practical training as may be prescribed.

* * * * *

(4A) A person who is a citizen of India and obtains medical qualification granted by any medical institution in any country outside India recognised for enrolment as medical practitioner in that country after such date as may be specified by the Central Government under sub-section (3), shall not be entitled to be enrolled on any Medical Register maintained by a State Medical Council or to have his name entered in the Indian Medical Register unless he qualifies the screening test in India prescribed for such purpose and such foreign medical qualification after such person qualifies the said screening test shall be deemed to be the recognised medical qualification for the purposes of this Act for that person.

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Special provision in certain cases for recognition of medical qualifications granted by medical institutions in countries with which there is no scheme of reciprocity.

14. (1) The Central Government after consultation with the Council may, by notification in the Official Gazette, direct that medical qualifications granted by medical institutions in any country outside India in respect of which a scheme of reciprocity for the recognition of medical qualifications is not in force, shall be recognised medical qualifications for the purposes of this Act or shall be so only when granted after a specified date:

Provided that medical practice by persons possessing such qualifications—

(a) shall be permitted only if such persons are enrolled as medical practitioners in accordance with the law regulating the registration of medical practitioners for the time being in force in that country;

(b) shall be limited to the institution to which they are attached for the time being for the purposes of teaching, research or charitable work; and

* * * * *

The Indian Medical Register.

21. (1) The Council shall cause to be maintained in the prescribed manner a register of medical practitioners to be known as the Indian Medical Register, which shall contain the names of all persons who are for the time being enrolled on any State Medical Register and who possess any of the recognised medical qualifications.

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Power to make rules.

32. (1) * * * * *

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to make regulations.

33. The Council may, with the previous sanction of the Central Government, make regulations generally to carry out the purposes of this Act, and, without prejudice to the generality of this power, such regulations, may provide for—

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further to amend the Indian Medical Council Act, 1956.

(Shri Ghulam Nabi Azad, Minister of Health and Family Welfare)