

MEDICAL COUNCIL ACT

Act 30 of 1999 – 1 January 2000

(unless otherwise indicated)

Amended 38/11; 11/12 (P44/12 – cio 15/10/12); 27/12 (cio 1/1/13, 1/8/13, 1/10/13)

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MEDICAL COUNCIL ACT

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Medical Council Act.

2. Interpretation

In this Act—

“annual list” means the annual list of general practitioners and specialists published under section 30;

“Chairperson” means the Chairperson of the Council;

“Code of Practice” means the code of practice established under section 12 (c);

“Council” means the Council established under section 3;

“delegated power” means the power to enquire and report into allegations of professional misconduct or negligence against a public officer delegated to the Council by the Public Service Commission pursuant to section 89 (2) (b) of the Constitution;

“diploma in medicine” means any diploma, degree, licence or other like qualification or authority to practise medicine granted by a medical institution and obtained after the successful completion of the course provided by the institution for the obtention of the qualification within the time laid down by the institution;

“general practitioner” means a person who is registered as such under section 20;

“infamous conduct” includes causing or bringing disrepute to the medical profession by improper behaviour;

“malpractice” includes a failure to exercise due professional skill or care which results in injury to, or loss of life of, a person;

“medical institution” means a university, faculty, college or other similar body which—

(a) is authorised under the law of any country to provide courses leading to a diploma in medicine; and

(b) is prescribed;

“medicine”—

- (a) means scientific medicine in all its branches; and
- (b) includes surgery and obstetrics; but
- (c) does not include veterinary medicine or surgery;

“member” means a member of the Council and includes the Chairperson;

“Minister” means the Minister to whom responsibility for the subject of health is assigned;

“negligence” includes failure on the part of a registered person to exercise the proper and timely care expected from a registered person;

“Permanent Secretary” means the Permanent Secretary of the Ministry responsible for the subject of health;

“preliminary investigation” means an investigation conducted in accordance with section 13;

“professional misconduct” includes improper, disgraceful, dishonourable or unworthy conduct;

“recognised professional body” means such body as may be prescribed;

“recognised specific training” means such qualification as may be prescribed;

“register” means a register kept under section 20;

“registered medical practitioner” means a person registered as general practitioner or a specialist under section 20;

“registered person” means a person whose name is on one of the registers kept under section 20;

“Registrar” means the Registrar of the Council appointed under section 10;

“specialist” means a person registered as a specialist under section 20;

“specialist qualification” means —

- (a) a postgraduate qualification in a medical speciality obtained from a medical institution after having followed a course of training of not less than 3 years and passed the appropriate examination pertaining to the course;
- (b) a postgraduate qualification in a medical speciality issued by a recognised professional body; or
- (c) a recognised specific training in a sub-speciality undertaken after obtaining a qualification under paragraph (a) or (b);

“Tribunal” means the Medical Disciplinary Tribunal referred to in section 15.

[S. 2 amended by GN 22 of 2000; s. 3 of Act 1 of 2002 w.e.f. 29 January 2002; s. 3 of Act 28 of 2007 w.e.f. 27 December 2007.]

PART II – THE COUNCIL

Sub-Part A – Establishment and Functions of Council

3. Establishment of Council

(1) There is established for the purposes of this Act a Council which shall be known as the Medical Council of Mauritius.

(2) The Council shall be a body corporate.

4. Composition of Council

(1) The Council shall consist of—

- (a) 14 registered medical practitioners;
- (b) a representative of the Ministry responsible for the subject of health, who is a registered medical practitioner;
- (c) a representative of the Prime Minister's Office;
- (d) a representative of the Attorney-General's Office; and
- (e) 5 persons who, not being medical practitioners, shall be appointed by the Minister.

(2) The 14 members referred to in subsection (1) (a) shall, subject to subsections (3) and (4), be elected in the manner set out in the First Schedule from among registered medical practitioners having not less than 15 years' experience.

(3) Eight of the 14 members referred to in subsection (1) (a) shall be public officers, out of whom 4 shall be specialists and 4 shall be general practitioners.

(4) Out of the 6 remaining members referred to in subsection (1) (a) who are not public officers, 3 shall be specialists and 3 shall be general practitioners.

(5) The composition of the Council shall be published in the *Gazette*.

[S. 4 amended by s. 4 of Act 1 of 2002 w.e.f. 29 January 2002; s. 4 of Act 28 of 2007 w.e.f. 27 December 2007.]

5. Tenure of office of members

The members of the Council shall hold office for a period of 3 years and shall—

- (a) in the case of the members referred to in section 4 (1) (a), be eligible for re-election;

- (b) in the case of the members referred to in section 4 (1) (e), be eligible for reappointment.

[S. 5 amended by s. 4A of Act 1 of 2002 w.e.f. 29 January 2002.]

6. Vacation of office of member

- (1) The Council may require a member to vacate his office if he—
 - (a) commits a gross negligence, misconduct, default or breach of trust in the discharge of his duties, as a member or otherwise, which in the opinion of the Council renders him unfit to be a member;
 - (b) is incapacitated by prolonged physical or mental illness;
 - (c) retires, resigns or is dismissed from the public service after having been elected from among registered medical practitioners who are public officers;
 - (d) becomes a public officer after having been elected from amongst registered medical practitioners who are not public officers;
 - (e) is convicted of an offence of such nature as, in the opinion of the Council, renders him unfit to be a member;
 - (f) is absent without leave of the Council from 2 consecutive meetings of the Council of which he had notice; or
 - (g) is disqualified under this Act from practising his profession.

(2) A member may resign by giving notice in writing to the Registrar.

(3) Where a member resigns under subsection (2), his seat shall become vacant when the Registrar receives the notice.

(4) The Council may suspend a member of the Council against whom—

- (a) criminal proceedings are instituted for an offence punishable by imprisonment;
- (b) disciplinary proceedings are instituted—
 - (i) by the Council on any ground involving fraud, dishonesty, gross negligence, infamous conduct or breach of the Code of Practice; or
 - (ii) by the Public Service Commission on any ground involving fraud, dishonesty, gross negligence, or infamous conduct.

7. Filling of vacancies on Council

(1) If a member of the Council dies, resigns or is removed from office, the vacancy shall be filled—

- (a) in the case of a member appointed by the Minister, by a fresh appointment;
- (b) in the case of a member elected from amongst public officers, by appointing the public officer who obtained the highest number of votes after the elected public officers at the election held immediately before the vacancy arose;
- (c) in the case of a member who is not a public officer, by appointing the person who, not being a public officer, obtained the highest number of votes after the members elected, from among persons who are not public officers, at the election held immediately before the vacancy arose; or
- (d) by holding a fresh election, if no person qualifies for appointment under paragraph (b) or (c).

(2) Where a member absents himself for a continuous period of 6 months or more, whether after, or without, having informed the Council of his absences, the Council may cause him to be replaced in the manner specified in subsection (1) (a), (1) (b) or (1) (c), as the case may be.

(3) A member appointed or elected pursuant to subsection (1) or (2), as the case may be, shall hold office for the remainder of the term of office of the person whom he replaces.

[S. 7 amended by s. 5 of Act 28 of 2007 w.e.f. 27 December 2007.]

8. Chairperson of Council

(1) The Council shall elect a Chairperson from among the members elected under section 4 (2).

(2) The Chairperson shall preside at every meeting of the Council.

(3) The Chairperson shall, in the event of an equality of votes, have a casting vote.

(4) When the Chairperson is absent from a meeting, the members present shall elect one of the members elected under section 4 (2) to chair the meeting.

(5) A member who intends to stand as candidate for the office of Chairperson under subsection (1) shall, not less than 3 days before the date fixed for the election of the Chairperson, notify the Registrar by registered post of his intention.

[S. 8 amended by s. 5 of Act 1 of 2002 w.e.f. 29 January 2002.]

9. Meetings of Council

(1) Eleven members, including the Chairperson, shall constitute a quorum at any meeting.

(2) The validity of any decision, proceeding or act of the Council, or act done on the authority of the Council, shall not be affected by—

- (a) any vacancy among the members;
- (b) any defect in the appointment of a member; or
- (c) the fact that some person who was not entitled to do so took part in the deliberations of the Council.

(3) The Council shall meet at least 3 times a year.

(4) A special meeting of the Council—

- (a) may be convened by the Chairperson at any time;
- (b) shall be convened by the Registrar within 7 days of the receipt by him of a request in writing signed by not less than 11 other members of the Council and specifying the purpose for which the meeting is to be convened.

(5) The Council may set up a committee of 2 or more members for such purpose as it may determine.

[S. 9 amended by s. 6 of Act 1 of 2002 w.e.f. 29 January 2002; s. 6 of Act 28 of 2007 w.e.f. 27 December 2007.]

10. Registrar

(1) There shall be a Registrar who shall be a registered medical practitioner.

(2) The Registrar shall be appointed by the Council and shall hold office on such terms and conditions as the Council thinks fit.

(3) The Registrar shall be responsible to the Council for—

- (a) the proper administration of the Council;
- (b) executing all decisions of the Council; and
- (c) carrying out such duties as may be assigned to him by the Council.

(4) In the exercise of his functions, the Registrar shall act in accordance with such directions as he may receive from the Council.

(5) The Registrar shall also be the Secretary to the Council.

(6) If the Registrar is for any reason unable to carry out his functions, the Council may appoint another person to act as Registrar.

(7) Service of any process by, or on behalf of, the Council shall be sufficient if made by, or on behalf of, the Registrar.

11. Appointment of employees

(1) The Council may, on such terms and conditions as it thinks fit, appoint such employees as it considers necessary for the proper discharge of its functions under this Act.

(2) Every employee of the Council shall be under the administrative control of the Registrar.

12. Functions of Council

The Council shall—

- (a) exercise and maintain discipline in the practice of medicine with the assistance and support of its Disciplinary Tribunal—
 - (i) in relation to public officers, in respect of whom it holds a delegated power, to the extent and within the limits of that delegation of power; and
 - (ii) in relation to any other registered medical practitioner, in accordance with this Act;
- (b) advise the Minister on any matter governed by this Act or any matter connected with, or incidental to, it;
- (c) establish a Code of Practice for the medical profession on standards of professional conduct and medical ethics and monitor compliance with such a code;
- (d) promote the education and training of medical practitioners generally;
- (e) keep a record of all its proceedings and decisions;
- (f) publish the annual list.

[S. 12 amended by s. 7 of Act 1 of 2002 w.e.f. January 2002; s. 7 of Act 28 of 2007 w.e.f. 27 December 2007.]

Sub-Part B – Discipline

13. Preliminary investigation by Council

(1) Subject to section 18, the Council may investigate any complaint of professional misconduct, malpractice, fraud, dishonesty or negligence or of a breach of the Code of Practice against a registered person, including a public officer in respect of whom it holds a delegated power.

(2) Where the Council investigates a complaint, it—

- (a) shall notify the person whose conduct, act or omission is under investigation, of the nature of the complaint;

- (b) may summon and hear the person;
- (c) may summon and hear witnesses; and
- (d) may call for relevant documents and make copies of them.

(3) The Council shall keep a proper record of its proceedings under subsection (2).

(4) Notwithstanding section 9 (1), for the purposes of an investigation under subsection (1), the Council may appoint an investigating committee consisting of not less than 3 members.

(5) Where, in the course of an investigation, a person refuses to give evidence or, to communicate any document, on the ground of confidentiality, the Registrar may apply to a Judge in Chambers for an order directing that person to disclose the evidence required, or communicate any document needed, for the purposes of the investigation.

(6) The Judge shall make an order under subsection (5) if he is satisfied that the information or document the disclosure of which is sought is *bona fide* required for the purposes of the investigation.

[S. 13 amended by s. 8 of Act 1 of 2002 w.e.f. 29 January 2002; s. 8 of Act 28 of 2007 w.e.f. 27 December 2007.]

14. Disciplinary proceedings

(1) Where after having carried out a preliminary investigation, the Council is satisfied that a registered person has committed—

- (a) a breach of the Code of Practice;
- (b) an act of fraud, dishonesty or negligence;
- (c) an act of professional misconduct or malpractice; or
- (d) any other act likely to bring the medical profession into disrepute,

the Council may, subject to section 19, institute disciplinary proceedings against him.

(2) Notwithstanding subsection (1), where, after an investigation under section 13, the Council considers that—

- (a) there is *prima facie* evidence of negligence, incompetence, or grave misconduct by a registered person; and
- (b) public interest requires that the registered person should instantly cease to practise medicine,

the Council may suspend the registered person from the practice of medicine for a period not exceeding 6 months, and shall, in the case of a public officer in respect of whom it holds delegated power, report the suspension to the Public Service Commission for the Commission's decision on any such suspension.

[S. 14 amended by s. 9 of Act 1 of 2002 w.e.f. 29 January 2002; s. 9 of Act 28 of 2007 w.e.f. 27 December 2007.]

15. Disciplinary Tribunal

(1) There is set up, for the purposes of this Act, a Disciplinary Tribunal which shall consist of—

- (a) a President who—
 - (i) holds or has held judicial office for not less than 10 years; or
 - (ii) has been a law officer for not less than 10 years; and
- (b) 2 other persons who are—
 - (i) registered medical practitioners with not less than 10 years' experience in the practice of medicine; but
 - (ii) are not members.

(2) Notwithstanding subsection (1) (b), either or both of the persons referred to in that subsection may be persons registered as medical practitioners outside Mauritius and who have wide experience in the practice of medicine.

(3) The persons referred to in subsections (1) and (2) shall be appointed by the Prime Minister on such terms and conditions as he may determine.

(4) The Minister shall designate a public officer to be the Secretary to the Tribunal.

[S. 15 repealed and replaced by s. 10 of Act 28 of 2007 w.e.f. 27 December 2007.]

16. Proceedings of Tribunal

(1) The Tribunal shall sit at such place and time as the President of the Tribunal may determine.

(2) The law of evidence shall apply to proceedings before the Tribunal.

(3) The Tribunal may—

- (a) require in writing any person to appear before it to give evidence or produce any document or other article as it may need; and
- (b) take evidence on oath and, for that purpose, administer the oath.

[S. 16 repealed and replaced by s. 10 of Act 28 of 2007 w.e.f. 27 December 2007.]

17. Disciplinary measures

(1) Where the Council decides to institute disciplinary proceedings against a registered person and prefers charges against him, it shall require the Tribunal to inquire into the charges on its behalf into the matter.

(2) The Tribunal shall, after conducting the enquiry, forward to the Council its report and a copy of the proceedings including any document or exhibit produced, not later than 14 days after the completion of the proceedings.

(3) The Council shall, after considering the contents of the documents referred to in subsection (2), determine whether or not, in its opinion—

- (a) the charges against the registered person have been proved; and
- (b) there is any circumstance that aggravates or alleviates the charges.

(4) The Council shall, where it determines that the charges against a registered person have been proved—

- (a) in the case of a public officer in respect of whom it holds a delegated power, forward its report on the matter to the Public Service Commission; and
- (b) in every other case, impose on the registered person such disciplinary measures as it thinks fit, namely—
 - (i) a warning or a severe warning;
 - (ii) a reprimand or a severe reprimand;
 - (iii) a suspension from medical practice for a period not exceeding 12 months; or
 - (iv) the removal of the registered person's name from the register.

(5) Where the punishment inflicted by the Public Service Commission on a public officer is dismissal or retirement from the public service, the Council shall determine whether or not the person's name should be removed from the register.

(6) A decision of the Council under subsection (4) or (5) shall be communicated to the registered person not later than 14 days from the date of the decision.

[S. 17 repealed and replaced by s. 10 of Act 28 of 2007 w.e.f. 27 December 2007.]

18. Conviction of registered person

Where a registered person who is not a public officer has been convicted of an offence involving negligence, professional misconduct, fraud or dishonesty in the exercise of his calling, the Council may, after giving him an opportunity to show cause in writing why disciplinary measures should not be taken against him, inflict upon him any of the punishments specified in section 17 (4) (b).

[S. 18 repealed and replaced by s. 10 of Act 28 of 2007 w.e.f. 27 December 2007.]

19. Summary proceedings

Where after having carried out a preliminary investigation and after giving a registered medical practitioner an opportunity to show cause why disciplinary action should not be taken against him, the Council is satisfied that the registered person has committed an act specified in section 14 (1) which, in the opinion of the Council, constitutes a minor fault, it may inflict upon that person a warning or a severe warning.

[S. 19 amended by s. 10 of Act 1 of 2002 w.e.f. 29 January 2002; repealed and replaced by s. 10 of Act 28 of 2007 w.e.f. 27 December 2007.]

PART III – REGISTRATION

20. Registers

- (1) The Registrar shall keep—
 - (a) a register of general practitioners;
 - (b) a register of specialists;
 - (c) a register of pre-registration trainees;
 - (d) a register of temporarily registered general practitioners and specialists; and
 - (e) such other registers as the Council may determine.
- (2) The Registrar shall enter in the appropriate register—
 - (a) the names, addresses, qualifications and other particulars of every person who is—
 - (i) registered as a general practitioner;
 - (ii) registered as a specialist;
 - (iii) undergoing pre-registration training in Mauritius; or
 - (iv) temporarily registered as a general practitioner or specialist;
 - (b) any alterations in the names, addresses, qualifications and other particulars of registered persons;
 - (c) an annotation as to whether a registered person has—
 - (i) died;
 - (ii) been struck off as a general practitioner or specialist by the Council;
 - (iii) been suspended from practising medicine; or
 - (iv) left Mauritius with the intention of settling abroad.

21. Application for registration

(1) Every person who wishes to be registered under section 20 shall apply in person to the Registrar in such form as may be prescribed.

(2) An applicant under subsection (1) shall submit with his application—

- (a) in the case of a general practitioner, the original or a certified copy of his diploma in medicine;
- (b) in the case of a specialist, the original or a certified copy of his specialist qualification;
- (c) where the document referred to in paragraph (a) or (b) is written in a language other than English or French, a certified translation in English or French of his diploma in medicine or

specialist qualification;

- (d) evidence of any pre-registration training, where he has completed a pre-registration training;
- (e) his birth certificate or other acceptable evidence of his identity;
- (f) such other particulars as the Council may require.

(3) Where the Registrar is satisfied that an applicant qualifies for registration under this Act, he may cause the name of the applicant to be entered in the appropriate register and inform the Council accordingly.

(4) (a) Notwithstanding subsection (2) (a) and (b), the Registrar may, subject to such conditions as the Chairperson may determine, register an applicant if the applicant produces evidence to the satisfaction of the Chairperson that the applicant has obtained a diploma in medicine or a specialist qualification.

[Amended 38/11 (cio 2/4/12).]

(b) Where the name of the applicant has been entered in the register pursuant to subsection (3) or paragraph (a), the Registrar shall, not later than 21 days from the date of receipt of the application, notify the applicant in writing of his registration.

[Inserted 38/11 (cio 2/4/12).]

(5) Where the Registrar does not register an applicant under subsection (3) or (4), the Registrar shall refer the application to the Council for its decision.

(6) Where the Council refuses an application, the Registrar shall, not later than 21 days from the date of receipt of the application, notify the applicant accordingly, stating the reasons for the refusal.

[Amended 38/11 (cio 2/4/12).]

[S. 21 amended by s. 11 of Act 1 of 2002 w.e.f. 29 January 2002; s. 18(a) of Act 38 of 2011 w.e.f. 2 April 2012.]

22. Registration of general practitioner

(1) A person shall be entitled to be registered as a general practitioner if he—

- (a) is a citizen of the Republic of Mauritius;
- (aa) produces a certificate, or a certified copy of a certificate, stating that he has passed at one sitting any 3 subjects at Advanced ('A') level (or its equivalent), with a minimum of 21 points, based on the following scale (or such equivalent scale as may be approved by the Council on the recommendation of the Ministry responsible for the subject of education) –

A Level Grade	A Level Points
A+	10
A	9
B	8
C	7
D	6
E	4

[Repealed and replaced 27/12 (cio 1/1/13).]

- (b) holds a diploma in medicine or in the case of a graduate who obtained his diploma after studying in 2 or more medical institutions, where he—
- (i) establishes to the satisfaction of the Council that he has obtained the qualification after following the relevant modules for the course during the time laid down by the awarding institution;
 - (ii) produces to the Council an exemption or equivalence certificate from the awarding institution; and
 - (iii) produces any other information that may be required by the Council;
- (c) establishes to the satisfaction of the Council that he has undergone not less than 18 months practical (including clinical) training in medicine;

[Amended 27/12 (cio 1/1/13).]

- (ca) has successfully undergone such examination as the Council thinks fit for the purpose of determining whether he possesses adequate professional medical knowledge;

[Inserted 27/12 (cio 1/8/13).]

- (d) is of good character and has not been convicted of an offence in any country involving fraud or dishonesty;
- (e) has not been disqualified from practice as a general practitioner in any country;
- (f) has not in any country been removed from the list of general practitioners on account of professional misconduct or negligence;
- (g) does not suffer from any mental or physical incapacity which will hamper the discharge of his duties;
- (h) —
- (i) has paid such fee as may be prescribed.

[Amended 27/12 (cio 1/1/13).]

(2) Subsection (1)(aa) shall not apply to a person who has, on the commencement of this section, already enrolled on a course leading to a diploma in medicine.

[Added 27/12 (cio 1/1/13).]

(3) Subsection (1)(ca) shall not apply to a person who satisfies such criteria as may be prescribed under section 42(1)(a).

[Added 27/12 (cio 1/1/13).]

[S. 22 amended by s. 12 of Act 1 of 2002 w.e.f. 29 January 2002; s. 11 of Act 28 of 2007 w.e.f. 27 December 2007; s. 16 of Act 27 of 2012 w.e.f. 1 January 2013, 1 August 2013.]

23. Registration of specialists

(1) A person shall be entitled to be registered as a specialist if he—

- (a) is registered as a general practitioner in Mauritius;
- (b) holds a specialist qualification which is recognised by the Council acting after consultation with the Post Graduate Medical Education Board; and

[Amended 27/12 (cio 1/10/13).]

(c) —

(d) —

(e) has paid such fee as may be prescribed.

(2) Notwithstanding subsection (1), a registered person who, before 1 July 2000, obtained a postgraduate qualification specified in the Second Schedule, may be registered as a specialist if the Council is satisfied that the person has, since obtaining his qualification, practised as a specialist in the field in which he has specialised.

[S. 23 amended by s. 13 of Act 1 of 2002 w.e.f. 29 January 2002; s. 12 of Act 28 of 2007 w.e.f. 27 December 2007; ; s. 16 of Act 27 of 2012 w.e.f. 1 October 2013.]

23A. Postgraduate Medical Education Board

(1) For the purposes of section 23(1)(b), there shall be set up a Postgraduate Medical Education Board.

(2) The Minister may, after consultation with the Council, make such regulations as he considers necessary –

- (a) for the purposes of specifying the objects, functions and composition of the Board; and
- (b) for any ancillary matter.

[S. 23A inserted by s. 16 of Act 27 of 2012 w.e.f. 1 October 2013.]

24. Pre-registration trainees

(1) The Council may require a person applying for registration as a general practitioner under section 21 to undergo such training as it may determine before registering him.

(2) The person applying for registration as a general practitioner who is required to undergo the training referred to in subsection (1) shall be registered as a pre-registration trainee.

(3) Where a person who holds a diploma in medicine is required by the country, or the medical institution where he qualified, to complete a course of training, without which training he would not be eligible for registration as medical practitioner in that country, he may be registered as a pre-registration trainee until he has completed such course of training in an institution approved by the Council.

(4) Every student in medicine who is undergoing pre-qualification training in Mauritius shall so inform the Council in writing, giving such particulars as the Council may require.

25. —

[S. 25 repealed by s. 14 of Act 1 of 2002 w.e.f. 29 January 2002.]

26. Temporary registration of non-citizens

(1) Notwithstanding section 22 (a), a non-citizen shall be entitled to be temporarily registered as a general practitioner if he—

- (a) holds a work permit or is exempted from holding a permit under the Non-citizens (Employment Restriction) Act or holds an occupation permit under section 9A of the Immigration Act;
- (b) satisfies the requirements set out in paragraphs (b) to (g) of section 22; and
- (c) has paid the fee prescribed by the Council.

(2) A non-citizen shall be entitled to be temporarily registered as a specialist if he complies with the requirements set out in section 23.

(3) No application for temporary registration under this section shall be processed unless the applicant has submitted all the documents referred to in subsection (1) (a) and section 21(2).

[Inserted 38/11 (cio 15/12/11).]

(4) Every application under this section, which has been duly submitted to the Registrar, shall be determined within 21 days of the date of the submission.

[Inserted 38/11 (cio 15/12/11).]

(5) Where the Registrar is satisfied that an applicant qualifies for registration under this Act, he shall temporarily register the applicant as general practitioner or specialist, as the case may be.

[Inserted 38/11 (cio 15/12/11).]

(6) Where the Registrar does not register an applicant under subsection (5), the Registrar shall refer the application to the Council for its decision.

[Inserted 38/11 (cio 15/12/11).]

(7) Where the Council refuses an application, the Registrar shall, not later than 21 days from the date of receipt of the application, notify the applicant accordingly, stating the reasons for the refusal.

[Inserted 38/11 (cio 15/12/11).]

(8) Subsections (3) to (7) shall apply to any application for temporary registration made before and pending on the commencement of section 18 of the Economic and Financial Measures (Miscellaneous Provisions) (No. 2) Act 2011, and the 21-day period referred to in subsection (4) shall run, in relation to such applications, as from the date of submission of all the documents referred to in subsection (3).

[Inserted 38/11 (cio 15/12/11).]

[S. 26 amended by s. 15 of Act 1 of 2002 w.e.f. 29 January 2002; s. 13 of Act 28 of 2007 w.e.f. 27 December 2007; s. 18(b) of Act 38 of 2011 w.e.f. 15 December 2011.]

27. Temporary registration of visiting medical practitioners

(1) A medical practitioner who is—

- (a) engaged in Mauritius in the implementation of a Government scheme agreed upon by the Government and the World Health Organisation or some other similar international agency;
- (b) visiting Mauritius and has been invited to offer his services under a scheme approved by the Ministry; or
- (c) visiting Mauritius for the purpose of teaching, research or study in a medical field under such scheme as may be approved by the Government,

shall be entitled to be temporarily registered as a general practitioner.

(2) Any medical practitioner of any visiting force or ship lawfully present in Mauritius shall be exempted from registration for the discharge of his duties.

(3) A medical practitioner registered under subsection (1) shall be exempted from the payment of any fee.

[S. 27 amended by s. 14 of Act 28 of 2007 w.e.f. 27 December 2007.]

28. Certificate of registration

(1) The Registrar shall issue to every registered person a certificate of registration in such form as the Council may prescribe.

(2) The Registrar may issue to a registered person a duplicate certificate if he is satisfied that the registered person has lost his certificate of registration.

29. Additional qualifications

Where after registration, a registered person obtains a qualification from a medical institution, the Council may, on application made to it, add the qualification to the register if the Council is satisfied that the qualification is an appropriate qualification to be included in the register.

30. Annual list

(1) The Council shall, not later than 15 February in every year, publish in the *Gazette*, an annual list.

(2) Notwithstanding section 37, a person shall not—

(a) practise medicine as, or profess to be, a general practitioner;

(b) practise as, or profess to be, a specialist,

(Para. (b) came into operation on 1 July 2000.)

unless his name is on the annual list.

(3) Every general practitioner or specialist who wishes to have his name on the annual list shall—

(a) in the case of a newly registered general practitioner or specialist, on registration;

(b) in any other case, not later than 31 January in every year,

pay to the Council such fee as may be prescribed.

(4) The Registrar shall, on receipt of the fee under subsection (3), enter the name of the general practitioner or specialist in the annual list.

(5) A general practitioner or specialist who fails to comply with subsection (3) (b) may apply to the Council to have his name added to the annual list.

(6) A general practitioner or specialist who makes an application under subsection (5), shall state in writing the reason why he was unable to comply with subsection (3) (b).

(7) Where a general practitioner or specialist makes an application under subsection (5), the Council may, if it is satisfied that there are reasonable grounds to explain his failure to comply with subsection (3) (b), cause the name of the general practitioner or specialist to be added to the annual list on payment of such fees as may be prescribed by the Council.

(8) Any person who contravenes subsection (2) shall commit an offence.

30A. Continuing professional development

(1) Notwithstanding section 30 but subject to subsection (2), no registered person shall have his name entered on the annual list unless he has followed such continuing professional development courses or training programmes as may be prescribed by the Council.

(2) Subsection (1) shall not apply to a registered person who is excused by the Council on such ground as may be prescribed.

[S. 30A inserted by s. 16 of Act 27 of 2012 w.e.f. 1 October 2013.]

PART IV – MISCELLANEOUS

31. Seal of Council

The Council shall have a seal which shall bear such device as may be approved by the council.

32. Validity of documents

All deeds, instruments, contracts and other documents shall be deemed to be duly executed by or on behalf of the Council if signed by the Registrar or any member authorised by the Council for that purpose.

33. Remuneration and protection from liability

(1) Every member shall be paid such allowance as may be determined by the Minister.

(2) No civil or criminal proceedings shall lie against a member or the Registrar in respect of any act or omission done by him in good faith in the performance of his duties under this Act.

34. Duty of disclosure

Every member who—

- (a) is closely related to a registered person whose conduct, act or omission is under investigation;
- (b) has any pecuniary or other personal interest in the subject-matter of any such investigation,

shall disclose his relationship or interest, as the case may be, and refrain from participating in the investigation.

35. Deficiency in quorum

(1) Where, by virtue of section 34 or for any other cause specified in section 7 (1), a quorum cannot be obtained by the Council, the quorum shall be constituted in accordance with paragraph (a), (b) or (c) of that subsection.

(2) Where a quorum cannot be obtained without a fresh election and the Council is of the opinion that it is urgent to hold an investigation, the Minister may appoint one or more persons, as appropriate, to make up any deficiency in quorum for the purpose of such investigation.

(3) An appointment made by the Minister under subsection (2) shall not lapse, notwithstanding that a quorum can be obtained if the investigation in respect of which he is appointed is not completed.

36. Restoration of name to register

(1) Subject to any order which may be made by the Supreme Court, where the name of any person has been removed from the register in accordance with this Act, the name of that person shall not be restored to it except by order of the Council.

(2) Where the name of a person has been removed from the register, the Council may—

- (a) after the expiry of 12 months from the date of such removal;
- (b) either of its own motion or on application of the person; and
- (c) after holding such inquiry as it thinks fit,

cause the name of that person to be restored to the register.

37. Illegal practice of medicine

(1) No person shall practise medicine in Mauritius unless he is a registered person or is exempted from registration.

(2) No person shall demand, or sue for, or recover in any Court any charge by way of claim, counter-claim, set-off or otherwise in relation to any medical advice or treatment provided by him unless he is registered as a general practitioner or a specialist under this Act or exempted from such registration.

(3) No person shall—

- (a) take or use any name, title, addition or description—
 - (i) implying a qualification to practise medicine in Mauritius; or
 - (ii) implying or tending to the belief that he is a registered person; or
- (b) by any wilful act or omission, cause or induce any person to believe that he is a registered person,

unless he is registered.

(4) For the purposes of this section, the performance of any single act relating to the practice of medicine may be held to be sufficient evidence of such practice.

(5) No person, who has been suspended from the practice of medicine or whose name has been removed from the register, shall practise medicine during the period of suspension or so long as his name has not been restored to the register, as the case may be.

(6) Any person who contravenes subsection (1), (3) or (5) shall commit an offence.

(7) Where a person is convicted of an offence under this section, any drug, poison, medicine or any surgical, medical or diagnostic instrument or

appliance used by him or belonging to him or found in his possession may be forfeited, destroyed or otherwise disposed of as the Court thinks fit.

38. Illegal practice as specialist

(1) No person shall—

- (a) take or use any title implying that he is a specialist; or
- (b) practise as, or profess to be, a specialist,

unless he is registered as a specialist.

(2) Any person who contravenes subsection (1) shall commit an offence.

(S. 38 came into operation on 1 July 2000.)

38A. Provision of treatment in prescribed institution

(1) Subject to section 235A of the Criminal Code, a specialist in obstetrics and gynaecology registered as such under this Act may provide treatment to terminate a pregnancy in a prescribed institution.

(2) (a) Subject to paragraph (c), no person shall be under any duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment to which he has a conscientious objection.

(b) In any legal proceedings, the burden of proof of conscientious objection shall rest on the person claiming to rely on it.

(c) Nothing in paragraph (a) shall affect any duty to participate in treatment which is necessary to save the life or to prevent grave permanent injury to the physical or mental health of a pregnant person.

(3) The Permanent Secretary or a public officer deputed by him may –

- (a) enter and inspect a prescribed institution for the purpose of ensuring that this section is complied with;
- (b) require the person in charge of the institution to provide him with such information as he may require;
- (c) examine and make copies of, or take extracts from, any record or other document relating to any treatment.

(4) Any person who –

- (a) being or having been involved in the keeping of a record or in providing any treatment, without the consent of the pregnant person, discloses any matter

relating to the record or the treatment to an unauthorised person;

(b) wilfully obstructs the Permanent Secretary or the public officer deputed by him in the exercise of his functions under subsection (2); or

(c) otherwise contravenes this section,

shall commit an offence.

(5) (a) The Minister may make such regulations as he thinks fit for the purposes of this section.

(b) Any regulations made under paragraph (a) may provide for –

(i) the institutions, hospitals, clinics or other places where treatment may be provided;

(ii) the form in which the opinion of the specialists referred to in section 235A(2) of the Criminal Code and the informed consent of the pregnant person concerned shall be certified;

(iii) the manner in which a record shall be kept, preserved, used, disclosed, communicated or disposed of;

(iv) the form and manner in which notice of a treatment and other information relating to it shall be given.

(6) In this section –

“prescribed institution” means such institution, hospital, clinic or other place for providing treatment as may be prescribed under subsection (5);

“record” means a record which relates to any treatment;

“treatment” means treatment to terminate a pregnancy for the purposes of section 235A of the Criminal Code.

[S.38A inserted by s. 5 of Act 11 of 2012 w.e.f. 15 October 2012.]

39. Exemptions from application of Act

Nothing in this Act shall be deemed to prohibit or prevent—

- (a) any person duly authorised by the Permanent Secretary and employed by, or attached to, any voluntary organisation in Mauritius from rendering, in the course of his duties, medical assistance under the supervision of, or pursuant to the instructions of, a general practitioner or specialist;
- (aa) any person from doing any act which is authorised under section 235A of the Criminal Code;
- [inserted 11/12 (cio 15/10/12).]
- (b) any nurse from carrying out his duties under the supervision of, or pursuant to the instructions of, a registered person;
- (c) a registered midwife from practising midwifery;
- (d) a dental surgeon from carrying out his duties in accordance with any law regulating his profession or calling in Mauritius;
- (e) an oral surgeon authorised in writing to do so by the Permanent Secretary from carrying out maxillo-facial surgery.

[S. 39 amended by s. 4 of Act 11 of 2012 w.e.f. 15 October 2012.]

40. Traditional medicine

Nothing in this Act shall be deemed to prohibit the practice of systems of therapeutics according to homeopathy, Ayurvedic or Chinese traditional methods.

41. Funds and audit

(1) All fees payable under any regulations made under this Act shall form part of the revenue of the Council and any expenses incurred in carrying out the provisions of this Act shall be paid out of such revenue.

(2) The Council shall keep proper accounts of all sums received or paid and the accounts for each financial year shall be audited by a qualified auditor appointed by the Council.

(3) The Council may borrow money or accept any donation.

42. Regulations

(1) (a) The Minister may make such regulations as he thinks fit for the purpose of prescribing any matter which is required to be prescribed under section 2, 22 or 23A.

[Amended 11/12 (cio 15/10/12); 27/12 (cio 1/8/13).]

(b) Any regulations made under paragraph (a) shall be made after consultation with the Council and with such other bodies, including the World Health Organisation, as the Minister may deem appropriate.

(2) (a) The Council may, for the purposes of this Act, other than for the purposes of prescribing matters referred to in subsection (1) (a), make such regulations as it thinks fit.

- (b) Any regulations made under paragraph (a) may provide for—
 - (i) the amendment of the Schedules;
 - (ii) the drawing up of the Code of Practice; and
 - (iii) the levying of fees and charges.

[S. 42 amended by s. 16 of Act 1 of 2002 w.e.f. 29 January 2002; s. 15 of Act 28 of 2007 w.e.f. 27 December 2007; s. 5(c) of Act 11 of 2012 w.e.f. 15 October 2012 ; s. 16 of Act 27 of 2012 w.e.f. 1 January 2013, 1 August 2013 .]

43. Powers of Minister

The Minister may give to the Council such directions of a general nature, not inconsistent with this Act, as he thinks fit, and the Council shall comply with such directions.

(2) —

[S. 43 amended by s. 17 of Act 1 of 2002 w.e.f. 29 January 2002; s. 16 of Act 28 of 2007 w.e.f. 27 December 2007.]

44. Offences

(1) Any person who—

- (a) fails to attend the Tribunal after having been required to do so;
- (b) refuses to take an oath before the Tribunal or to answer fully and satisfactorily to the best of his knowledge and belief any question lawfully put to him in any proceedings before the Tribunal or to produce any article or document when required to do so by the Tribunal;
- (c) gives false evidence or evidence which he knows to be misleading before the Tribunal;
- (d) at any sitting of the Tribunal—
 - (i) wilfully insults any member thereof;
 - (ii) wilfully interrupts the proceedings or commits any other contempt of the Tribunal;
- (e) fraudulently procures or attempts to procure his registration;
- (f) being required in writing by the Council to attend as a witness or to procure any document for the purposes of this Act, fails to do so without any reasonable or lawful justification or excuse;
- (g) obstructs the proceedings of the Council or the Tribunal during any investigation or proceedings;
- (h) molests any member of the Council or the Tribunal in the course of, or on account of, any investigation or proceedings under this Act;
- (i) contravenes any regulations made under this Act,

shall commit an offence.

(2) Any person who commits an offence under this Act or any regulations made under it shall, on conviction, be liable to a fine not exceeding 10,000 rupees or to imprisonment for a term not exceeding 12 months.

45. —

PART V —

46. – 54. —

First Schedule

[Section 4]

RULES OF ELECTION OF MEMBERS OF THE COUNCIL

1. Calling for nominations and appointment of nomination day

Not less than one month before the expiry of the term of office of the members specified in section 5, the Registrar shall publish in the *Gazette* and such newspaper as the Council may direct, a notice inviting the submission of nominations and appointing a day on which and the time at which nominations must be submitted.

[Para. 1 replaced by Act 2 of 2000; amended by s. 17 (a) of Act 28 of 2007 w.e.f. 27 December 2007.]

2. Nomination of candidates

No person shall be eligible for election as a member of the Council unless—

- (a) on nomination day, he is a fully registered medical practitioner and is not otherwise suspended and reckons at least 10 years' experience as a medical practitioner in Mauritius;
- (b) he is a citizen of Mauritius; and
- (c) his nomination is supported by 5 fully registered medical practitioners.

2A. Person not qualified

No person shall be qualified to be nominated as a candidate where he is under investigation for misconduct by the Council, or has been subject to disciplinary sanction by the Council during the 5 years preceding the nomination.

[Para. 2A inserted by s. 17 (b) of Act 28 of 2007 w.e.f. 27 December 2007.]

3. Procedure after nomination

(1) If the number of persons duly nominated exceeds the number of persons to be elected, the Registrar shall publish in the *Gazette* and such newspaper as the Council may direct a notice—

- (a) specifying the names of the persons duly nominated;
- (b) appointing a day, time and place, being not less than 15 days after the publication of the notice, for the holding of an election.

(2) A person who has been duly nominated shall not publish or distribute any manifesto which is calculated or likely to induce persons to vote for him to be a member of the Council.

4. Persons entitled to vote

(1) Every person who, on nomination day, is fully registered as a general practitioner or specialist under this Act shall be entitled to vote at an election of the members of the Council.

(2) Every general practitioner or specialist voting pursuant to subparagraph (1) shall vote for such number of candidates as there are vacancies available in the membership of the Council representing the public or private sector or general practitioners or specialists, as the case may be.

(3) Any vote which is cast contrary to subparagraph (2) shall be null and void.

[Para. 4 amended by s. 17 (c) of Act 28 of 2007 w.e.f. 27 December 2007.]

5. Election

(1) The election of members of the Council shall be conducted by the Office of the Electoral Commissioner who shall communicate the results to the Registrar.

(2) The Registrar shall submit to the Minister the results of the election forthwith.

(3) The Minister shall, within 21 days of the receipt of the results of the election, publish in the *Gazette* the composition of the Council.

[First Sch. amended by s.18 of Act 1 of 2002 w.e.f. 29 January 2002.]

Second Schedule

[Section 23]

LIST OF POSTGRADUATE QUALIFICATIONS

1. AUSTRALIA

Master in Psychological Medicine ... Psychiatry

2. BELGIUM

D. Phys. Med. ... Physical Medicine

3. EGYPT

Master's Degree ... Anaesthesiology

Master's Degree ... Dermatology

Master's Degree ... General Surgery

Master's Degree ... Gynaecology

Master's Degree ... Internal Medicine

Master's Degree ... Ophthalmology

Master's Degree	...	Paediatrics
Master's Degree	...	Pathology
Master's Degree	...	Orthopaedic Surgery

4. INDIA

D.M.R.D.	...	Radio-diagnosis
D.M.R.E.	...	Radio-diagnosis
D.T.C.D.	...	Chest Diseases
D.A.	...	Anaesthesia
D.O.M.S.	...	Ophthalmology

5. REPUBLIC OF IRELAND

M.R.C.P.I.	...	Internal Medicine
M.R.C.P.I.	...	Paediatrics
D.M.R.D.	...	Radio-diagnosis
D.C.H.	...	Paediatrics
D.A.	...	Anaesthesiology

6. KENYA

M. Med.	...	Internal Medicine
M. Med.	...	Paediatrics

7. SOUTH AFRICA

D.A.	...	Anaesthesia
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8. UNITED KINGDOM

D.P.M.	...	Psychiatry
D.C.H.	...	Paediatrics
D.C.P.	...	Pathology
D. Reh. Med.	...	Rehabilitation Medicine
D.M.J.	...	Forensic Medicine
D. Phys. Med.	...	Physical Medicine
D.O.	...	Ophthalmology
D.M.R.D.	...	Radio-diagnosis
D.M.R.T.	...	Radio-therapy
M.R.C.P.	...	Internal Medicine
M.R.C.P.	...	Paediatrics
M.R.C.O.G.	...	Obstetrics and Gynaecology
M.R.C. (Path)	...	Pathology
M.R.C. (Psych)	...	Psychiatry

[Second Sch. added by s. 19 of Act 1 of 2002 w.e.f. 29 January 2002;
amended by GN 209 of 2006 w.ef. 28 October 2006.]