

Medical Registration (Amendment) Bill 2016

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A BILL

To

Amend the Medical Registration Ordinance to increase the number of lay persons on the Medical Council of Hong Kong and its committees; to enable the Council to establish more than one Preliminary Investigation Committee; to extend the term of registration of medical practitioners with limited registration; to change the quorum for disciplinary inquiries and increase the number of assessors; to enable solicitor or counsel to be appointed to carry out the Secretary's duties in respect of inquiries; to increase the number of legal advisers to the Council; and to provide for incidental matters and make related technical amendments.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title

This Ordinance may be cited as the Medical Registration (Amendment) Ordinance 2016.

2. Enactments amended

- (1) The enactments specified in Parts 2, 3 and 4 are amended as set out in those Parts.
 - (2) For each item in column 1 of a Part of a Schedule, the provision set out in column 2 is amended by—
 - (a) repealing the words and characters set out in column 3 (wherever appearing in the provision); and
 - (b) substituting the words and characters set out in column 4.
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Part 2

Amendments to Medical Registration Ordinance (Cap. 161)

3. Section 2 amended (interpretation)

(1) Section 2(1), English text, definition of *Preliminary Investigation Committee*—

Repeal

“the”

Substitute

“a”.

(2) Section 2(1)—

Add in alphabetical order

“*lay assessor* (業外審裁顧問) means a lay person appointed under section 21B(2)(f);

legal adviser (法律顧問) means a legal adviser to the Council appointed under section 3B;”.

4. Section 3 amended (establishment and composition of Council)

Section 3(2)(g)—

Repeal

“4”

Substitute

“8”.

5. Section 3B amended (secretary of, and legal adviser to the Council)

Section 3B—

Repeal

“, one or more deputy secretaries and a Legal Adviser”

Substitute

“and one or more deputy secretaries and legal advisers”.

6. Section 14A amended (limited registration)

Section 14A(3)(a) and (7)(a)—

Repeal

“1 year”

Substitute

“3 years”.

7. Section 20BA amended (establishment of committees and sub-committees)

Section 20BA(2)(d)—

Repeal

“the Preliminary Investigation Committee”

Substitute

“one or more Preliminary Investigation Committees”.

8. Section 20S amended (Preliminary Investigation Committee)

(1) Section 20S(1)(f), after “Council;”—

Add

“and”.

(2) Section 20S(1)(g)—

Repeal

“1 of the 4 lay members of the Council”

Substitute

“2 relevant lay persons”.

- (3) Section 20S(2)—

Repeal

“lay member”

Substitute

“relevant lay person”.

- (4) Section 20S(5)—

Repeal

“3”

Substitute

“12”.

- (5) After section 20S(5)—

Add

“(6) In this section—

relevant lay person (相關業外人士) means a lay member of the Council or a lay assessor.”.

9. Section 20U amended (Health Committee)

Section 20U(1)(g)—

Repeal

“1 of the 4”

Substitute

“2 of the 8”.

10. Section 21 amended (disciplinary powers of Council)

After section 21(6)—

Add

“(7) In relation to an inquiry, a reference in this section to Council (other than the first reference in subsection (4A), and in subsections (5), (5A) and (6)) is a reference to the members and assessors mentioned in section 21B(1) who participate in the inquiry.”.

11. Section 21B amended (meetings of Council for purpose of an inquiry)

(1) Section 21B—

Repeal subsection (1)**Substitute**

“(1) At each meeting of the Council (within the meaning of section 21(7)) held for an inquiry under section 21, 5 persons form a quorum if—

- (a) at least one of them is a member of the Council mentioned in section 3(2) who is a registered medical practitioner;
- (b) at least one of them is a lay member of the Council mentioned in section 3(2), or a lay assessor; and
- (c) at least one of them is a registered medical practitioner mentioned in subsection (2).

(1A) In addition, the majority of the persons present at the meeting must be registered medical practitioners.”.

(2) Section 21B(2)(a), (b), (c), (d) and (e)—

Repeal

“2”

Substitute

“4”.

- (3) Section 21B(2)(f)—

Repeal

“4”

Substitute

“14”.

- (4) Section 21B—

Repeal subsection (3).

12. Section 33 amended (regulations)

Section 33(3)(b)—

Repeal

“the Legal Adviser to the Council”

Substitute

“a legal adviser”.

Part 3

Amendments to Medical Registration (Miscellaneous Provisions) Regulation (Cap. 161 sub. leg. D)

13. **Section 6 amended (duties of Legal Adviser in inquiry by Council)**
- (1) Section 6, English text, heading—
Repeal
“Legal Adviser”
Substitute
“legal adviser”.
- (2) Section 6(1)—
Repeal
“The Legal Adviser to the Council”
Substitute
“A legal adviser”.
- (3) Section 6(1)—
Repeal
“the Legal Adviser”
Substitute
“the legal adviser”.
- (4) Section 6(2)—

Repeal

“The Legal Adviser to the Council”

Substitute

“A legal adviser”.

Part 4

Amendment to Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161 sub. leg. E)

14. Section 21 amended (representation)

Section 21(2), after “appoint”—

Repeal

“a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87)”

Substitute

“any solicitor or counsel, including a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87),”.

Schedule 1

[s. 2]

Amendments Relating to Establishment of More than One Preliminary Investigation Committee

Part 1

Amendments to Medical Registration Ordinance (Cap. 161)

Column 1	Column 2	Column 3	Column 4
Item	Provision	Repeal (wherever appearing)	Substitution
1.	Section 20N(1), English text	the Preliminary Investigation Committee	a Preliminary Investigation Committee
2.	Section 20S(1) and (5), English text	the Preliminary Investigation Committee	a Preliminary Investigation Committee
3.	Section 20T(1), English text	The	A
4.	Section 20V(1)(a), English text	the Preliminary Investigation Committee	a Preliminary Investigation Committee
5.	Section 21(1) and (4A), English text	the Preliminary Investigation Committee	a Preliminary Investigation Committee

Column 1	Column 2	Column 3	Column 4
Item	Provision	Repeal (wherever appearing)	Substitution
6.	Section 33(4)(a), English text	the Preliminary Investigation Committee	a Preliminary Investigation Committee
7.	Schedule 2, English text, section 5(2)	the Preliminary Investigation Committee	a Preliminary Investigation Committee

Part 2

Amendments to Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161 sub. leg. E)

Column 1	Column 2	Column 3	Column 4
Item	Provision	Repeal	Substitution
1.	Section 2, English text, definition of <i>Committee</i>	the	a
2.	Section 2, English text, definition of <i>defendant</i>	the Preliminary Investigation Committee	a Preliminary Investigation Committee

Schedule 2

[s. 2]

Amendments Relating to Appointment of More than One Legal Adviser to Medical Council

Part 1

Amendments to Medical Registration (Miscellaneous Provisions) Regulation (Cap. 161 sub. leg. D)

Column 1 Item	Column 2 Provision	Column 3 Repeal	Column 4 Substitution
1.	Section 7, English text, heading	Legal Adviser	legal adviser
2.	Section 7	the Legal Adviser to the Council	a legal adviser
3.	Section 7	, the Legal Adviser	, the legal adviser
4.	Section 8, English text, heading	Legal Adviser	legal adviser
5.	Section 8(1), English text	the Legal Adviser to the Council	a legal adviser
6.	Section 8(1)	that the Legal Adviser	that the legal adviser

Column 1 Item	Column 2 Provision	Column 3 Repeal	Column 4 Substitution
7.	Section 8(2)	the Legal Adviser to the Council	the legal adviser

Part 2

Amendment to Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161 sub. leg. E)

Column 1 Item	Column 2 Provision	Column 3 Repeal	Column 4 Substitution
1.	Section 32(4)	the Legal Adviser to the Council	legal advisers

Explanatory Memorandum

This Bill mainly amends the Medical Registration Ordinance (Cap. 161) (*principal Ordinance*) in relation to the operation of the Medical Council of Hong Kong (*Council*).

2. Clause 3 adds the definitions of *lay assessor* and *legal adviser* to the principal Ordinance. With the amended section 3B, the Council may have more than one legal adviser. Meanwhile, section 20BA of the principal Ordinance as amended by clause 7 enables the Council to establish more than one Preliminary Investigation Committee (*Committee*). Schedules 1 and 2 to the Bill amend certain references to the Committee and the legal adviser in the principal Ordinance and the related subsidiary legislation accordingly.
3. Clause 4 amends section 3 of the principal Ordinance to increase the number of lay members on the Council. A similar amendment is made by clause 9 to increase the number of lay members on the Health Committee of the Council.
4. Clause 6 amends section 14A of the principal Ordinance to extend the term of registration and renewal of medical practitioners with limited registration.
5. Clause 8 amends section 20S of the principal Ordinance so that—
 - (a) assessors may form part of the quorum of a meeting of the Committee;
 - (b) the number of lay persons on the Committee is increased; and

- (c) the term of appointment of a lay person on the Committee is extended to not more than 12 months.
- 6. Clause 10 amends section 21 of the principal Ordinance to clarify that only the Council that conducts an inquiry under that section can review a decision or order made in the inquiry.
- 7. Clause 11 amends the quorum of a meeting of the Council held for a disciplinary inquiry. It also increases the number of persons who may be appointed to the panel of assessors for conducting inquiries.
- 8. Clause 14 amends section 21 of the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161 sub. leg. E) so that the Secretary for Justice may appoint any solicitor or counsel to assist in an inquiry.