

Medical Registration (Amendment) Bill 2016

Draft committee stage amendments proposed by the Government

(version as of 2 June 2016)

The wording of the committee stage amendments proposed by the Government and marked-up version of relevant sections of the Medical Registration Ordinance are at **Annex A** and **Annex B** respectively.

Food and Health Bureau
June 2016

Medical Registration (Amendment) Bill 2016

Committee Stage

Amendments to be moved by the Secretary for Food and Health

<u>Clause</u>	<u>Amendment Proposed</u>
4	<p>By deleting the clause and substituting—</p> <p>“4. Section 3 amended (establishment and composition of Council)</p> <p>(1) Section 3(2)—</p> <p>Repeal paragraph (g)</p> <p>Substitute</p> <p>“(g) 8 lay members appointed by the Chief Executive—</p> <p>(i) 3 of whom are elected by the organizations specified by the Secretary for Food and Health under subsection (3AA) in accordance with the guidelines issued by the Secretary in consultation with those organizations; and</p> <p>(ii) 1 of whom is nominated by the Consumer Council;”.</p> <p>(2) Section 3(2)(h)—</p> <p>Repeal</p> <p>everything after “practitioners”</p> <p>Substitute</p> <p>“elected by the Academy of Medicine in accordance with its regulations or procedures;”.</p> <p>(3) Section 3(3)—</p> <p>Repeal</p> <p>“, (g) or (h)”</p>

Substitute

“or (g)”.

(4) After section 3(3)—

Add

“(3AA) The Secretary for Food and Health may, for the purposes of subsection (2)(g)(i), specify, by notice published in the Gazette, organizations that, in the Secretary’s opinion, represent the interests of patients.”.

(5) Section 3(3A)—

Repeal

“(2)(i) or”

Substitute

“(2)(h), (i) or”.

(6) Section 3(5A)—

Repeal

everything after “holding office under” and before “the member elected”

Substitute

“subsection (2)(h) or (i), the member resigns or the member’s office becomes vacant—

(a) the Academy of Medicine or the Hong Kong Medical Association (as the case requires) must, as soon as possible, conduct an election to elect a person qualified under subsection (2)(h) or (i) (as the case requires) to fill that vacancy; and

(b) ”.

8

By adding—

“(3A) Section 20S(4)—

Repeal

everything after “a meeting,” and before “to preside at”

Substitute

“the other members present and forming a quorum must elect a person from among themselves”.”.

10 By renumbering the clause as clause 10(3).

10 By adding—

“(1) Section 21(1)(c)—

Repeal

“; or”

Substitute a semicolon.

(2) Section 21(1)(d)—

Repeal the comma

Substitute a semicolon.”.

New By adding after clause 12—

“12A. Section 35 amended (transitional)

After section 35(9)—

Add

“(10) If, on the commencement date of section 4 of the Medical Registration (Amendment) Ordinance 2016 (of 2016), the term of office of a member of the Council referred to in section 3(2)(h) as in force immediately before that date has not yet expired, the member may continue to hold office until the member’s term of office expires.”. ”.

Medical Registration (Amendment) Bill 2016
Committee Stage
Amendments to be moved by the Secretary for Food and Health

Marked-up version of relevant clauses

(version as of 2 June 2016)

Clause 4 of the Bill – Section 3 of the Medical Registration Ordinance (Cap. 161)
amended (establishment and composition of Council)

Section:	3	Establishment and composition of Council	37 of 2000	01/07/1997
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- (1) There shall be established within Hong Kong a Council to be called the Medical Council of Hong Kong. (Amended 25 of 1984 s. 10)
- (2) The Council shall consist of-
- (a)-(b) (Repealed 7 of 1996 s. 3)
 - (c) 2 registered medical practitioners to be nominated by the Director and appointed by the Chief Executive; (Amended 25 of 1984 s. 10)
 - (d) 2 registered medical practitioners nominated by the University of Hong Kong and appointed by the Chief Executive; (Amended 63 of 1982 s. 3)
 - (da) 2 registered medical practitioners nominated by The Chinese University of Hong Kong and appointed by the Chief Executive; (Added 63 of 1982 s. 3)
 - (db) 2 registered medical practitioners to be nominated by the Hospital Authority and appointed by the Chief Executive; (Added 68 of 1990 s. 24)
 - (e)-(f) (Repealed 7 of 1996 s. 3)
 - (g) ~~84 lay members to be appointed by the Chief Executive;—(Added 3 of 1988 s. 3)~~ 8 lay members appointed by the Chief Executive—
 - (i) 3 of whom are elected by the organizations specified by the Secretary for Food and Health under subsection (3AA) in accordance with the guidelines issued by the Secretary in consultation with those organizations; and
 - (ii) 1 of whom is nominated by the Consumer Council;
 - (h) 2 registered medical practitioners ~~nominated by the Academy of Medicine and appointed by the Chief Executive;—(Added 7 of 1996 s. 3)~~ elected by the Academy of Medicine in accordance with its regulations or procedures;
 - (i) 7 registered medical practitioners who are members of the Hong Kong Medical Association and nominated in accordance with the regulations or procedures of the Association relating to the filling of offices under this paragraph and elected by the Council members of the Association in accordance with those regulations or procedures; (Added 7 of 1996 s. 3)
 - (j) 7 registered medical practitioners registered in Part I of the General Register and ordinarily resident in Hong Kong elected by all registered medical practitioners registered in Parts I and III of the General Register pursuant to an election held under the Election Regulation. (Added 7 of 1996 s. 3)
(Replaced 14 of 1960 s. 2. Amended 37 of 2000 s. 3)
- (3) Subject to subsections (4) and (6), a member of the Council appointed under subsection (2)(c), (d), (da), ~~(g) or (h)~~ or (g) shall hold office for a period of 3 years from the

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Revisions made in **blue** are amendments proposed by the Government's draft Committee Stage Amendments.

date of his appointment and, at the expiry of his period of appointment or of any period for which he is reappointed, shall be eligible for reappointment for further periods of 3 years each. (Amended 63 of 1982 s. 3; 3 of 1988 s. 3)

(3AA) The Secretary for Food and Health may, for the purposes of subsection (2)(g)(i), specify, by notice published in the Gazette, organizations that, in the Secretary's opinion, represent the interests of patients.

(3A) Subject to subsections (4) to (6), a member elected under subsection ~~(2)(i) or~~ (2)(h), (i) or (j), other than the first 14 members elected under subsection (2)(i) and (j) and a member elected to fill a vacancy caused by an elected member ceasing to be a member in accordance with subsection (4), (6) or (6A), shall hold office for 3 years from the date of notification in the Gazette of his having been elected, and shall be eligible for re-election. (Added 7 of 1996 s. 3)

(3B) Subject to subsection (5A), the Hong Kong Medical Association shall, within 3 months before the expiry of the period of office of a member of the Council holding office under subsection (2)(i), conduct an election to elect a person qualified under subsection (2)(i) to succeed that member. (Added 7 of 1996 s. 3)

(4) Any member of the Council may at any time resign by giving notice in writing to the Chairman.

(5) Where, before the expiry of the period of his appointment, any member of the Council appointed by the Chief Executive resigns or his office becomes vacant, the Chief Executive may appoint a person who is suitably qualified for appointment under subsection (2) to hold office in place of that member until the expiry of the period for which he was appointed. (Amended 37 of 2000 s. 3)

(5A) Where, before the expiry of the office of a member holding office under ~~subsection (2)(i), the member resigns or his office becomes vacant, the Hong Kong Medical Association shall, as soon as possible, conduct an election to elect a person qualified under subsection (2)(i) to fill that vacancy, and~~ subsection (2)(h) or (i), the member resigns or the member's office becomes vacant

- (a) the Academy of Medicine or the Hong Kong Medical Association (as the case requires) must, as soon as possible, conduct an election to elect a person qualified under subsection (2)(h) or (i) (as the case requires) to fill that vacancy; and
- (b) the member elected to fill the vacancy shall hold office from the date of election until the expiry of the original term of office of the person whom he succeeds. (Added 7 of 1996 s. 3)

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Clause 8 of the Bill – Section 20S(4) of the Medical Registration Ordinance (Cap. 161)
(Preliminary Investigation Committee)

Section:	20S	Preliminary Investigation Committee	30/06/1997
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(1) If the Council decides to establish a Preliminary Investigation Committee ~~the Preliminary Investigation Committee~~, the Council shall appoint to the Committee-

- (a) a chairman who shall be elected by the Council from among its members;
- (b) a deputy chairman who shall be elected by the Council from among its members;
- (c) 1 registered medical practitioner, not being a member of the Council, nominated by the Hong Kong Medical Association;
- (d) 1 registered medical practitioner, not being a member of the Council, nominated by the Director;
- (e) 1 registered medical practitioner, not being a member of the Council, nominated by the Hospital Authority;
- (f) 1 registered medical practitioner, not being a member of the Council, nominated by any member of the Council; and
- (g) 2 relevant lay persons ~~1 of the 4 lay members of the Council~~.

(2) The quorum of a meeting of the Preliminary Investigation Committee is 3, at least 1 of whom shall be a ~~lay member~~ relevant lay person, subject to the majority being registered medical practitioners, including the chairman or deputy chairman, or both.

(3) At a meeting of the Preliminary Investigation Committee, the chairman or, in his absence, the deputy chairman, shall preside.

(4) Notwithstanding subsection (3), if both the chairman and the deputy chairman declare their interest in respect of a particular case which is to be decided at a meeting, ~~neither of them may preside at the meeting and the members present (including the chairman and the deputy chairman) shall elect another member~~ the other members present and forming a quorum must elect a person from among themselves to preside at the meeting.

(5) A member of ~~the Preliminary Investigation Committee~~ a Preliminary Investigation Committee appointed under subsection (1)(g) shall hold office for such period not exceeding ~~3~~12 months as the Council may specify in his letter of appointment. Other members of ~~the~~ a Preliminary Investigation Committee shall hold office for 12 months.

(6) In this section-

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

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Clause 10(1) and (2) of the Bill – Section 21(1)(c) of the Medical Registration Ordinance (Cap. 161) (Disciplinary powers of Council)

Section:	21	Disciplinary powers of Council	10 of 2005	08/07/2005
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(1) If, after due inquiry into any case referred to it by a **Preliminary Investigation Committee** ~~the Preliminary Investigation Committee~~, the Health Committee or the Education and Accreditation Committee in accordance with regulations made under section 33, the Council is satisfied that any registered medical practitioner-

- (a) has been convicted in Hong Kong or elsewhere of any offence punishable with imprisonment; (Amended 25 of 1984 s. 10)
- (b) has been guilty of misconduct in any professional respect; (Amended 33 of 1971 s. 2)
- (c) has obtained registration by fraud or misrepresentation;~~or;~~
- (d) was not at the time of his registration entitled to be registered;
- (e) has breached a condition previously imposed under paragraph (iv); (Added 7 of 1996 s. 26)
- (f) is physically or mentally unfit to practise medicine, surgery or midwifery; or (Added 7 of 1996 s. 26)
- (g) where applicable, has procured his name to be included in the Specialist Register by fraud or misrepresentation, (Added 7 of 1996 s. 26)

the Council may, in its discretion-

- (i) order the name of the registered medical practitioner to be removed from the General Register; or (Amended 7 of 1996 s. 26)
- (ii) order the name of the registered medical practitioner to be removed from the General Register for such period as it may think fit; or (Amended 7 of 1996 s. 26)
- (iii) order the registered medical practitioner to be reprimanded; or
- (iiia) order that the name of the registered medical practitioner be removed from the Specialist Register; or (Added 7 of 1996 s. 26)
- (iiib) order that the name of the registered medical practitioner be removed from the Specialist Register for such period as it may think fit; or (Added 7 of 1996 s. 26)
- (iv) make any such order as aforesaid but suspend the application thereof, subject to such conditions as the Council may think it, for a period, or periods in the aggregate, not exceeding 3 years; or (Replaced 12 of 1962 s. 3.)
- (iva) make any such order as aforesaid (except an order under paragraph (iv)) and further order that such order take effect upon its publication in the Gazette if the Council is satisfied that it is necessary to do so for the protection of the public or in the best interest of the registered medical practitioner; or (Added 7 of 1996 s. 26)
- (ivb) refer the case to the Health Committee; or (Added 7 of 1996 s. 26)
- (v) order that a warning letter be served on the registered medical practitioner; (Added 39 of 1974 s. 2)

and may, in any case, make such order as the Council thinks fit with regard to the payment of the costs of the Registrar, the Secretary, any complainant or any person presenting the case to the Council or of the registered medical practitioner, and any costs awarded may be recovered summarily as a civil debt in accordance with the provisions of section 67 of the Magistrates Ordinance (Cap 227). (Amended 30 of 1966 s. 4; 95 of 1970 s. 4; 7 of 1996 s. 26)

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Clause 12A of the Bill – Section 35 of the Medical Registration Ordinance (Cap. 161)
amended (transitional)

After section 35(9) — Add section 35(10)

Section:	35	Transitional	25 of 1997	30/06/1997
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(9) For the purposes of section 35(7) and (8), the definition of "recognized Commonwealth diploma" (獲承認的英聯邦文憑) in the Original Provisions shall be construed to mean a diploma granted by any of the recognized Commonwealth institutions or bodies specified in Schedule 4. (Added 25 of 1997 s. 5)

(10) If, on the commencement date of section 4 of the Medical Registration (Amendment) Ordinance 2016 (of 2016), the term of office of a member of the Council referred to in section 3(2)(h) as in force immediately before that date has not yet expired, the member may continue to hold office until the member's term of office expires.

Food and Health Bureau
June 2016

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