

Medical Registration (Amendment) Bill 2017
Composition of the Medical Council of Hong Kong
Revised Proposal

Draft Committee Stage Amendments Proposed by the Government
(Version as of 31 October 2017)

Regarding the revised proposal on the composition of the Medical Council of Hong Kong, 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
October 2017

Medical Registration (Amendment) Bill 2017

Committee Stage

Amendments to be moved by the Secretary for Food and Health
(Version as of 31 October 2017)

<u>Clause</u>	<u>Amendment Proposed</u>
3(2)	By adding in alphabetical order— “ Fellow (院士) has the meaning given by section 2 of the Hong Kong Academy of Medicine Ordinance (Cap. 419);”.
4	By adding— “(1A) Section 3(2)— Repeal paragraph (c) Substitute “(c) the Director, or his or her representative, as an ex officio member;”.
	(1B) Section 3(2)— Repeal paragraph (db) Substitute “(db) the Chief Executive of the Hospital Authority, or his or her representative, as an ex officio member;”.
4	By deleting subclause (4).
4	By adding— “(4A) After section 3(2)(h)— Add “(ha) 2 registered medical practitioners who are Fellows nominated and elected by Fellows in accordance with the regulations or procedures of the Academy of Medicine;”.

- 4 By deleting subclause (6) and substituting—
“(6) Section 3(3)—
Repeal
“(c), (d), (da), (g) or (h) shall hold office for a period of”
Substitute
“(d), (da), (g) or (h) holds office for”. ”.
- 4(7) In the proposed section (3AA), by adding “or (ha)” after “subsection (2)(ga)”.
- 4(8) By deleting the proposed section 3(3AAC).
- 4(9) In the proposed section 3(3AB),by deleting “(2)(h)” and substituting “(2)(ha)”.
- 4(12) In the proposed section 3(5AAE),by deleting “(2)(h)” and substituting “(2)(ha)”.
- 4(27) In the proposed section 3(9), by deleting “(h) or (i)” and substituting “(ha), (i) or (j)”.
- 6 By deleting subclause (2) and substituting—
“(2) Section 3C(1A)—
Repeal
everything after “Council or” and before “for any”
Substitute
“the member described in section 3(2)(gb) is, because of illness, absence from Hong Kong or any other reason, unable to perform the member’s duties and exercise the member’s powers”. ”.
- 34 In the proposed Schedule 6, in Part 2, heading, by deleting “**Certain Council Members and**”.
- 34 In the proposed Schedule 6, by deleting section 2.
- 35(3) By deleting “3(2)(h)” and substituting “3(2)(ha)”.

**Draft Committee Stage Amendments Proposed by the Government
Marked-up Version of the Relevant Provisions**

**Sections 2, 3 and 3C, Schedule 6
of the Medical Registration Ordinance (Cap. 161)**

(Version as of 31 October 2017)

(Note:

Revisions made in **blue** are amendments proposed by the Medical Registration (Amendment) Bill 2017.

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

Section:	2	Interpretation	10 of 2005	08/07/2005
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- (1) In this Ordinance, unless the context otherwise requires- (Amended 10 of 2005 s. 61)
Fellow (院士) has the meaning given by section 2 of the Hong Kong Academy of Medicine Ordinance (Cap. 419);

Section:	3	Establishment and composition of Council	37 of 2000	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 37 of 2000 s. 3

- (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~~ **is to consist of the following members-**
- (a)-(b) (Repealed 7 of 1996 s. 3)
 - ~~(e) 2 registered medical practitioners to be nominated by the Director and appointed by the Chief Executive/ (Amended 25 of 1984 s. 10);~~
 - (c) the Director, or his or her representative, as an ex officio member;
 - (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)~~
 - (db) the Chief Executive of the Hospital Authority, or his or her representative, as an ex officio member;
 - (e)-(f) (Repealed 7 of 1996 s. 3)
 - (g) 4 lay members to be appointed by the Chief Executive; (Added 3 of 1988 s. 3)
 - (ga) 3 lay members elected under the Patient Organizations Election Regulation by patient organizations;
 - (gb) 1 lay member 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;~~
 - (ha) 2 registered medical practitioners who are Fellows nominated and elected by

Fellows in accordance with the regulations or procedures of the Academy of Medicine;

- (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 [Medical Practitioners 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)~~(e), (d), (da), (g) or (h)~~ shall hold office for a period of, ~~(db) or (g)~~ holds office for (d), (da), (g) or (h) holds office for 3 years from the 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) Subject to subsections (4) and (6A), a member described in subsection (2)(ga) or (ha)—

- (a) holds office for 3 years from the date of notification in the Gazette of the member's election; and
- (b) is eligible for re-election.

(3AAB) Subject to subsections (4) and (6A), a member described in subsection (2)(gb)—

- (a) holds office for 3 years from the date of notification in the Gazette of the member's nomination; and
- (b) is eligible for re-nomination.

~~(3AAC) Subject to subsections (4) and (6A), a member described in subsection (2)(ha)—~~

- ~~— (a) holds office for 3 years from the date of notification in the Gazette of the member's election; and~~
- ~~— (b) is eligible for re-election.~~

~~(3A) Subject to subsections (4) to (6), a member elected under subsection (2)(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)~~

(3A) Subject to subsections (4) and (6A), a member described in subsection (2)(i) or (j), other than a member described in subsection (5C) or (5D) or elected to fill a vacancy caused by a person ceasing to be a member in accordance with subsection (4) or (6A)—

- (a) holds office for 3 years from the date of notification in the Gazette of the member's election; and
- (b) is eligible for re-election.

(3AB) Subject to subsection (5AAE), the Academy of Medicine must, within 3 months before the term of office of a member described in subsection ~~(2)(h)~~(2)(ha) expires, conduct an election in accordance with its regulations or procedures to elect a person to succeed that member.

(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)~~ term of office of a member described in subsection (2)(i) expires, 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)

(5AA) If, before the term of office of a member described in subsection (2)(ga) expires, the member resigns or the office otherwise becomes vacant, and—

(a) the unexpired term of the office is not less than one year when the vacancy arises, an election under the Patient Organizations Election Regulation must be conducted to fill the vacancy; or

(b) the unexpired term of the office is less than one year when the vacancy arises, the Council must, as soon as possible, on the nomination of any lay member of the Council, appoint a person who, in its opinion, represents the interests of patients to fill the vacancy.

(5AAB) A member elected or appointed to fill a vacancy under subsection (5AA) holds office from the date of election or appointment until the end of the unexpired term.

(5AAC) If, before the term of office of a member described in subsection (2)(gb) expires, the member resigns or the office otherwise becomes vacant, the Consumer Council must, as soon as possible, nominate a person to fill the vacancy.

(5AAD) A member nominated to fill a vacancy under subsection (5AAC) holds office from the date of nomination until the end of the unexpired term.

(5AAE) If, before the term of office of a member described in subsection ~~(2)(h)~~(2)(ha) expires, the member resigns or the office otherwise becomes vacant, the Academy of Medicine must, as soon as possible, conduct an election in accordance with its regulations or procedures to fill the vacancy.

(5AAF) A member elected to fill a vacancy under subsection (5AAE) holds office from the date of election until the end of the unexpired term.

(5A) Where, before the ~~expiry of the office of a member holding office under subsection (2)(i)~~ term of office of a member described in subsection (2)(i) expires, 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 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~~ end of the unexpired term. (Added 7 of 1996 s. 3)

(5B) Where, before the ~~expiry of the period of office of a member holding office under subsection (2)(j)~~ term of office of a member described in subsection (2)(j) expires, the member resigns or his office becomes vacant, and-

(a) if the unexpired period of his office at the time the vacancy arises is not less than 1 year, an election under the ~~Election Regulation shall be conducted for the purpose of filling that vacancy;~~ Medical Practitioners Election Regulation must be conducted to fill the vacancy; or;

(b) if the unexpired period of his office at the time the vacancy arises is less than 1 year, the Council shall, as soon as possible, on the nomination of any member of the Council who is a registered medical practitioner, appoint a registered medical practitioner whom the Council considers appropriate to fill that vacancy,

and the member so elected or appointed to fill the vacancy shall hold office from the date of election or appointment, as the case may be, until the ~~expiry of the original term of office of the person whom he succeeds~~ end of the unexpired term. (Added 7 of 1996 s. 3)

(5C) Of the first 7 members elected to hold office under subsection (2)(i)-

(a) 3 shall hold office for 3 years;

(b) 2 shall hold office for 2 years; and

(c) 2 shall hold office for 1 year,
all from the date of notification in the Gazette of their having been elected and the Council of the Hong Kong Medical Association shall, in its absolute discretion, determine the respective term of office of each such elected member in accordance with this subsection. (Added 7 of 1996 s. 3)

(5D) Of the first 7 members elected to hold office under subsection (2)(j)-

- (a) 3 shall hold office for 3 years;
- (b) 2 shall hold office for 2 years; and
- (c) 2 shall hold office for 1 year,

all from the date of notification in the Gazette of their having been elected, and the respective term of office of each such member shall be determined in accordance with the [Medical Practitioners Election Regulation](#). (Added 7 of 1996 s. 3)

(6) If any member appointed by the Chief Executive-

- (a) is sentenced to a term of imprisonment for any offence;
- (b) is the subject of an order made under section 21 or 21A;
- (c) becomes bankrupt or ~~makes an arrangement with his creditors~~ enters into a composition or arrangement with his or her creditors without paying them in full;
- (d) is found by the Health Committee after due hearing to be incapacitated from carrying out the duties of his office by reason of physical or mental illness;
- (e) is no longer ordinarily resident in Hong Kong; or
- (f) is, in the opinion of the Chief Executive, unable or unfit to perform his duties and exercise his powers as a member of the Council,

the Chief Executive may declare the member's office of membership of the Council to be vacant. (Amended 37 of 2000 s. 3)

~~(6A) If an elected member or any member appointed by the Council~~ a member of the Council, other than a member appointed by the Chief Executive-

- (a) is sentenced to a term of imprisonment for any offence;
- (b) is the subject of an order made under section 21 or 21A;
- (c) becomes bankrupt or ~~makes an arrangement with his creditors~~ enters into a composition or arrangement with his or her creditors without paying them in full;
- (d) is found by the Health Committee after due hearing to be incapacitated from carrying out the duties of his office by reason of physical or mental illness;
- (e) is no longer ordinarily resident in Hong Kong; or
- (f) is, in the opinion of the Council, unable or unfit to perform his duties and exercise his powers as a member of the Council,

the Council may declare the member's office of membership of the Council to be vacant. (Added 7 of 1996 s. 3)

(7) Notwithstanding anything in this section, a person-

- (a) against whom an order under section 21 has at any time been made; or
- (b) who is-
 - (i) undergoing a sentence of imprisonment;
 - (ii) detained in a mental hospital; or
 - (iii) an undischarged bankrupt,

~~shall not be eligible for~~ is not eligible for nomination, re-nomination, appointment, re-appointment, election or re-election, as the case may be, as a member of the Council.

~~(8) In this section, "Election Regulation" (選舉規例) means the regulation made under section 33(4)(b).~~ (Added 7 of 1996 s. 3)

(Amended 70 of 1975 s. 3; 7 of 1996 s. 3)

(9) After a person is elected or nominated to hold office under subsection (2)(ga), (gb), ~~(h) or (i)~~, (ha), (i) or (j) the Secretary must publish a notification in the Gazette of the person's election or nomination.

Section:	3C	Temporary members	37 of 2000	01/07/1997
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Remarks:

Adaptation amendments retroactively made - see 37 of 2000 s. 3

(1) If any member of the Council appointed by the Chief Executive is, because of illness, absence from Hong Kong or any other reason, unable to perform ~~his duties and exercise his powers as a member of the Council~~ the member's duties and exercise the member's powers for any period, the Chief Executive may appoint another person who is suitably qualified for appointment under section 3(2) (not being one who is disqualified from holding office under section 3 or who has been removed from office under that section) to be a temporary member of the Council in the place of the member during that period. (Amended 7 of 1996 s. 5; 37 of 2000 s. 3)

(1A) If any elected member of the Council or ~~the member described in section 3(2)(gb) is, because of illness, absence from Hong Kong or any other reason, unable to perform the member's duties and exercise the member's powers~~ elected member of the Council or any member appointed by the Council under section 3 is, because of illness, absence from Hong Kong or any other reason, unable to perform his duties and exercise his powers as a member of the Council member of the Council who is not appointed by the Chief Executive is, because of illness, absence from Hong Kong or any other reason, unable to perform the member's duties and exercise the member's powers for any period, the Council may appoint another person who is suitably qualified for appointment under section 3(2) (not being one who is disqualified from holding office under section 3 or who has been removed from office under that section) to be a temporary member of the Council in the place of the member during that period. (Added 7 of 1996 s. 5)

(2) While any person is acting as a temporary member of the Council, he shall be capable of performing all the duties and of exercising all the powers of the member whom he is temporarily replacing.

(Added 70 of 1975 s. 4)

Schedule:	6	Transitional and savings provisions for Medical Registration (Amendment) Ordinance 2017		
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Part 2

~~Certain Council Members and Assessors~~

~~2. Council member described in section 3(2)(h) of pre-amended Ordinance~~

~~If, immediately before the commencement, the term of office of a member of the Council described in section 3(2)(h) of the pre-amended Ordinance has not yet expired, then, on and after the commencement, the member—~~

- ~~(a) is taken to be a member of the Council described in section 3(2)(h) of the amended Ordinance for the remainder of the term; and~~
- ~~(b) may, for the remainder of the term, continue to be a member of any committee or sub-committee established under section 20BA(1) of the pre-amended Ordinance of which he or she was a member immediately before the commencement.~~

3. Assessors appointed under section 21B(2)(a) to (e) of pre-amended Ordinance

If, immediately before the commencement, the term of office of an assessor appointed under section 21B(2)(a), (b), (c), (d) or (e) of the pre-amended Ordinance has not yet expired, then, on and after the commencement, the assessor is taken to be holding office under section 20BC(4) of the amended Ordinance for the remainder of the term.

4. Assessors appointed under section 21B(2)(f) of pre-amended Ordinance

If, immediately before the commencement, the term of office of an assessor appointed under section 21B(2)(f) of the pre-amended Ordinance has not yet expired, then, on and after the commencement, the assessor is taken to be holding office under section 20BB(4) of the amended Ordinance for the remainder of the term.

**Section 4 of the Medical Practitioners (Electoral Provisions)
(Procedure) Regulation (Cap. 161B)**

Section:	4	Qualifications for nomination as a candidate and disqualification for election and holding office	L.N. 55 of 2000	03/03/2000
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- (1) A registered medical practitioner who-
- (a) has been registered in Part I of the General Register for at least 2 months immediately before the issue of a notice of election;
 - (b) has been ordinarily resident in Hong Kong for the 12 months immediately before the date of his nomination; and
 - (c) is not disqualified under subsection (2),
- is qualified for nomination as a candidate in an election.
- (2) A registered medical practitioner is disqualified from being nominated in an election or holding office under section 3(2)(j) of the Ordinance if-
- (a) he is the subject of an order ~~of the Council~~ made under section 21 or 21A of the Ordinance;
 - ~~(b) he has been convicted in Hong Kong or elsewhere of any offence punishable with imprisonment;—~~
 - (c) he is nominated as a candidate for election to fill a vacancy in an office under section ~~3(2)(i)~~ ~~3(2)(h)~~ 3(2)(ha) or (i) of the Ordinance, irrespective of whether or not he is subsequently elected to that office under that section;
 - (d) he is an undischarged bankrupt or, within the previous 5 years, he has either obtained his discharge in bankruptcy or has entered into composition ~~or arrangement~~ with his creditors, in either case without paying his creditors in