
Medical Registration (Amendment) Ordinance 2018

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HONG KONG SPECIAL ADMINISTRATIVE REGION

ORDINANCE NO. 15 OF 2018



Carrie LAM
Chief Executive
4 April 2018

An Ordinance to amend the Medical Registration Ordinance and its subsidiary legislation to change the composition of the Medical Council of Hong Kong; to change the arrangements for preliminary investigation, disciplinary inquiries and Health Committee meetings; to extend the period of limited registration of medical practitioners; and to provide for related or minor technical amendments.

[6 April 2018]

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title and commencement

- (1) This Ordinance may be cited as the Medical Registration (Amendment) Ordinance 2018.
- (2) Subject to subsection (3), this Ordinance comes into operation on the day on which it is published in the Gazette.

- (3) The following provisions come into operation on a day to be appointed by the Secretary for Food and Health by notice published in the Gazette—
- (a) section 4(4), (9) and (14);
 - (b) sections 4(31) and 7 (in so far as they relate to section 3(2)(ga) of the Medical Registration Ordinance (Cap. 161) as added by section 4(4));
 - (c) section 34 (in so far as it relates to item 1 of Table 1 in Schedule 5 to the Medical Registration Ordinance (Cap. 161) as added by that section);
 - (d) sections 43(4) and 45(2) (in so far as they relate to section 3(2)(ga) of the Medical Registration Ordinance (Cap. 161) as added by section 4(4)).

2. Enactments amended

The enactments specified in Parts 2 to 5 are amended as set out in those Parts.

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), definition of *Secretary*—

Repeal

“section 3B”

Substitute

“section 3B(1)”.

- (3) Section 2(1)—

Add in alphabetical order

“*assessor* (審裁員) means—

- (a) a lay assessor; or
- (b) a medical assessor;

Fellow (院士) has the meaning given by section 2 of the Hong Kong Academy of Medicine Ordinance (Cap. 419);

inquiry panel (研訊小組) means an inquiry panel appointed under section 20X(1);

lay assessor (業外審裁員) means an assessor appointed under section 20BB(4);

legal adviser (法律顧問) means a legal adviser appointed under section 3B(1);

medical assessor (醫生審裁員) means an assessor appointed under section 20BC(4);

Medical Practitioners Election Regulation (《醫生選舉規例》) means the Medical Practitioners (Electoral Provisions) (Procedure) Regulation (Cap. 161 sub. leg. B);

mental hospital (精神病院) has the meaning given by section 2(1) of the Mental Health Ordinance (Cap. 136);

patient organization (病人組織) means an organization that satisfies the eligibility requirements prescribed by the Patient Organizations Election Regulation;

Patient Organizations Election Regulation (《病人組織選舉規例》) means the regulation made under section 33(3A);

Permanent Secretary (常任秘書長) means the Permanent Secretary for Food and Health (Health);”.

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

(1) Section 3(2)—

Repeal

“shall consist of”

Substitute

“is to consist of the following members”.

(2) Section 3(2)—

Repeal paragraph (c)

Substitute

“(c) the Director, or his or her representative, as ex officio member (*ex officio member*);”.

(3) Section 3(2)—

Repeal paragraph (db)

Substitute

“(db) the Chief Executive of the Hospital Authority, or his or her representative, as ex officio member;”.

(4) After section 3(2)(g)—

Add

“(ga) 3 lay members elected under the Patient Organizations Election Regulation by patient organizations;”.

(5) Before section 3(2)(h)—

Add

“(gb) 1 lay member nominated by the Consumer Council;”.

(6) 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;”.

(7) Section 3(2)(j), after “under the”—

Add

“Medical Practitioners”.

(8) Section 3(3)—

Repeal

“(2)(c), (d), (da), (g) or (h) shall hold office for a period of”

Substitute

“(2)(d), (da), (g) or (h) holds office for”.

(9) After section 3(3)—

Add

“(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.”.

(10) Before section 3(3A)—

Add

“(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.”.

(11) Section 3—

Repeal subsection (3A)

Substitute

“(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)—

(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)(ha) expires, conduct an election in accordance with its regulations or procedures to elect a person to succeed that member.”.

(12) Section 3(3B)—

Repeal

“expiry of the period of office of a member of the Council holding office under subsection (2)(i)”

Substitute

“term of office of a member described in subsection (2)(i) expires”.

(13) Section 3(4), after “Council”—

Add

“who is not an ex officio member”.

(14) After section 3(5)—

Add

“(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 Permanent Secretary must, as soon as possible, on the

nomination by any lay member of the Council, appoint a person who, in the opinion of the Permanent Secretary, 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.”.

(15) Before section 3(5A)—

Add

“(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)(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.”.

(16) Section 3(5A)—

Repeal

“expiry of the office of a member holding office under subsection (2)(i)”

Substitute

“term of office of a member described in subsection (2)(i) expires”.

(17) Section 3(5A)—

Repeal

“expiry of the original term of office of the person whom he succeeds”

Substitute

“end of the unexpired term”.

(18) Section 3(5B)—

Repeal

“expiry of the period of office of a member holding office under subsection (2)(j)”

Substitute

“term of office of a member described in subsection (2)(j) expires”.

(19) Section 3(5B)(a)—

Repeal

“Election Regulation shall be conducted for the purpose of filling that vacancy;”

Substitute

“Medical Practitioners Election Regulation must be conducted to fill the vacancy; or”.

(20) Section 3(5B)(b)—

Repeal

“of any member of the Council”

Substitute

“by any member of the Council who is a registered medical practitioner”.

- (21) Section 3(5B)—

Repeal

“expiry of the original term of office of the person whom he succeeds”

Substitute

“end of the unexpired term”.

- (22) Section 3(5D), after “with the”—

Add

“Medical Practitioners”.

- (23) Section 3(6), after “by the Chief Executive”—

Add

“, or any ex officio member”.

- (24) Section 3(6)(b), Chinese text—

Repeal

“的標的”

Substitute

“所針對的人”.

- (25) Section 3(6)(c)—

Repeal

“or makes an arrangement with his creditors”

Substitute

“, or enters into a composition or arrangement with his or her creditors without paying them in full”.

- (26) Section 3(6A)—

Repeal

“an elected member or any member appointed by the Council”

Substitute

“a member of the Council, other than a member described in subsection (6)”.

- (27) Section 3(6A)(b), Chinese text—

Repeal

“的標的”

Substitute

“所針對的人”.

- (28) Section 3(6A)(c)—

Repeal

“or makes an arrangement with his creditors”

Substitute

“, or enters into a composition or arrangement with his or her creditors without paying them in full”.

- (29) Section 3(7)—

Repeal

“shall not be eligible for”

Substitute

“is not eligible for nomination, re-nomination,”.

- (30) Section 3—

Repeal subsection (8).

- (31) At the end of section 3—

Add

“(9) After a person is elected or nominated to hold an office in the Council described in subsection (2)(ga), (gb), (ha), (i) or (j), the Secretary must publish a notification in the Gazette of the person’s election or nomination.”.

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

(1) Section 3B—

Renumber the section as section 3B(1).

(2) Section 3B(1)—

Repeal

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

Substitute

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

(3) After section 3B(1)—

Add

“(2) Without limiting any other duties of a deputy secretary under this Ordinance, a deputy secretary may carry out the duties of the Secretary in respect of an inquiry under section 21.”.

6. Section 3C amended (temporary members)

(1) Section 3C(1)—

Repeal

“his duties and exercise his powers as a member of the Council”

Substitute

“the member’s duties and exercise the member’s powers”.

- (2) After section 3C(1)—

Add

“(1AA) If any member of the Council described in section 3(2)(ga) 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 Permanent Secretary 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.”.

- (3) Section 3C(1A)—

Repeal

everything after “If any” and before “for any”

Substitute

“member of the Council described in section 3(2)(gb), (ha), (i) or (j) 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”.

- (4) After section 3C(1A)—

Add

“(1B) In subsections (1), (1AA) and (1A), a reference to any member of the Council includes a person who is appointed, nominated or elected under section 3 to fill a vacancy in the office of the Council.”.

7. Section 4 amended (meetings of the Council)

- (1) Section 4—

Repeal subsections (2) and (2A)

Substitute

“(2) Except in an appeal hearing under section 20F, 20O or 20W (*appeal hearing*), or in an election petition under the Medical Practitioners Election Regulation or the Patient Organizations Election Regulation (*election petition*), at any meeting of the Council, the quorum is 13 members.

(2A) At a meeting of the Council for an appeal hearing or an election petition, the quorum is 5 members.”.

(2) Section 4(3), after “appointment”—

Add

“, nomination or election”.

(3) Section 4(4A)—

Repeal

everything after “Except for” and before “, the Council”

Substitute

“an appeal hearing and an election petition”.

(4) Section 4(5)—

Repeal

“except in an inquiry under section 21 at which he shall have only an original vote”.

8. Section 14 amended (registration)

Section 14—

Repeal subsection (5)

Substitute

“(5) Section 21 and Parts III, IV and X of the Medical Practitioners (Registration and Disciplinary

Procedure) Regulation (Cap. 161 sub. leg. E) that are capable of application to an inquiry held for the purposes of this section apply to the inquiry, as if the references to an inquiry panel in those provisions were references to the Council.”.

9. Section 14A amended (limited registration)

Section 14A(3)(a) and (7)(a)—

Repeal

“1 year”

Substitute

“3 years”.

10. Section 19B amended (power of Council to order removal of names from Specialist Register)

(1) Section 19B, heading—

Repeal

“of Council to order removal of”

Substitute

“to remove”.

(2) Section 19B(1)—

Repeal paragraph (a)

Substitute

“(a) the name of a person is ordered to be removed from the General Register under section 19, 21 or 21A; and”.

(3) Section 19B(2)—

Repeal

“and without conducting an inquiry under section 21”.

11. Section 20 amended (alterations to registers)

Section 20(2), after “Council”—

Add

“or an inquiry panel”.

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

(1) Section 20BA(2)—

Repeal

“, and having such functions as are assigned to them by this Ordinance or delegated to them by the Council”

Substitute

“this Ordinance”.

(2) Section 20BA(2)(d)—

Repeal

“the Preliminary Investigation Committee”

Substitute

“one or more Preliminary Investigation Committees”.

(3) After Section 20BA(2)—

Add

“(2A) The functions of the committees established under subsection (2) are specified by this Ordinance or delegated by the Council.”.

(4) Section 20BA—

Repeal subsection (4)

Substitute

“(4) The Council must not appoint to a committee a person in respect of whom an order has been made under section 21 or 21A at any time.”.

(5) Section 20BA(5), after “committee”—

Add

“mentioned in subsection (2)(a), (b), (c) or (e)”.

(6) Section 20BA—

Repeal subsection (11)

Substitute

“(11) A committee must not appoint to a sub-committee a person in respect of whom an order has been made under section 21 or 21A at any time.”.

13. Part IIIAAB added

After Part IIIAA—

Add

“Part IIIAAB

Assessors

20BB. Lay assessors

- (1) Subject to subsection (6), the Council may request a nominating authority to nominate a number of persons specified by the Council for appointment as lay assessors.
- (2) A person is eligible for nomination as a lay assessor only if the person—
 - (a) is not a registered medical practitioner; and

-
- (b) has the qualifications and experience required of a lay assessor.
- (3) The Council may, for the purposes of subsection (2)(b), specify requirements relating to the qualifications and experience of a lay assessor.
- (4) Subject to subsections (5) and (6), the Council must appoint a person nominated by a nominating authority under subsection (1) as a lay assessor.
- (5) The Council may not appoint a person as a lay assessor if—
- (a) in its opinion, the person does not have the qualifications or experience of a lay assessor required under subsection (2)(b); or
 - (b) the person is—
 - (i) a member of the Council;
 - (ii) undergoing a sentence of imprisonment;
 - (iii) detained in a mental hospital; or
 - (iv) an undischarged bankrupt.
- (6) The number of lay assessors nominated by a nominating authority and holding office at any time must be—
- (a) not less than the number specified in column 3 of Table 1 in Schedule 5 opposite the authority; and
 - (b) not more than the number specified in column 4 of that Table opposite the authority.
- (7) In this section—
- nominating authority*** (提名當局) means a body specified in column 2 of Table 1 in Schedule 5.

20BC. Medical assessors

- (1) Subject to subsection (6), the Council may request a nominating authority to nominate a number of persons specified by the Council for appointment as medical assessors.
- (2) A person is eligible for nomination as a medical assessor only if the person—
 - (a) is a registered medical practitioner; and
 - (b) has the qualifications and experience required of a medical assessor.
- (3) The Council may, for the purposes of subsection (2)(b), specify requirements relating to the qualifications and experience of a medical assessor.
- (4) Subject to subsections (5) and (6), the Council must appoint a person nominated by a nominating authority under subsection (1) as a medical assessor.
- (5) The Council may not appoint a person as a medical assessor if—
 - (a) in its opinion, the person does not have the qualifications or experience of a medical assessor required under subsection (2)(b);
 - (b) an order has been made under section 21 or 21A in respect of the person at any time; or
 - (c) the person is—
 - (i) a member of the Council;
 - (ii) undergoing a sentence of imprisonment;
 - (iii) detained in a mental hospital; or
 - (iv) an undischarged bankrupt.

- (6) The number of medical assessors nominated by a nominating authority and holding office at any time must be—
- (a) not less than the number specified in column 3 of Table 2 in Schedule 5 opposite the authority; and
 - (b) not more than the number specified in column 4 of that Table opposite the authority.
- (7) In this section—
- nominating authority*** (提名當局) means a body specified in column 2 of Table 2 in Schedule 5.

20BD. General provisions applicable to assessors

- (1) An assessor—
- (a) holds office for a period not exceeding 3 years as specified by the Council in the assessor's letter of appointment; and
 - (b) if re-nominated, is eligible for reappointment for a further period or periods not exceeding 3 years each on the expiry of the assessor's period of appointment or reappointment.
- (2) However, an assessor may, at any time, resign by giving notice in writing to the Chairman.
- (3) In addition, the Council may declare an assessor's office to be vacant if the assessor—
- (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 enters into a composition or arrangement with the assessor's 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 the assessor's office because 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 the assessor's duties and exercise the assessor's powers.

20BE. Amendment of Schedule 5

The Council may, by notice published in the Gazette, amend Schedule 5.”.

14. Section 20I amended (functions of Education and Accreditation Committee)

- (1) Section 20I—

Renumber the section as section 20I(1).

- (2) Section 20I(1)(e)—

Repeal the full stop

Substitute a semicolon.

- (3) After section 20I(1)(e)—

Add

“(f) to make recommendations to an inquiry panel on a referral under section 20Y(a).”.

- (4) After section 20I(1)—

Add

“(2) The Education and Accreditation Committee must act in accordance with the regulations made under section 33.”.

15. Section 20N amended (complaints against specialists)

Section 20N(1)(c) and (d)(i), English text—

Repeal

“the Preliminary”

Substitute

“a Preliminary”.

16. Section 20Q amended (functions of Ethics Committee)

(1) Section 20Q(b)—

Repeal the full stop

Substitute a semicolon.

(2) After section 20Q(b)—

Add

“(c) to make recommendations to an inquiry panel on a referral under section 20Y(a).”.

17. Section 20R amended (pronouncement of recommendations by Ethics Committee)

(1) Section 20R(1)—

Repeal

“The”

Substitute

“Except for a case referred under section 20Y(a), the”.

(2) Section 20R(4)—

Repeal paragraph (a).

18. Section 20S amended (Preliminary Investigation Committee)

(1) Section 20S—

Repeal subsection (1)

Substitute

“(1) If the Council decides to establish a Preliminary Investigation Committee, it must appoint to the Committee—

(a) 4 registered medical practitioners each of whom is—

(i) a member of the Council; or

(ii) a medical assessor; and

(b) 3 lay persons each of whom is—

(i) a lay member of the Council; or

(ii) a lay assessor.”.

(2) After section 20S(1)—

Add

“(1A) The Council must appoint—

(a) a member of a Preliminary Investigation Committee to be the chairman of the Committee; and

(b) another member of the Committee to be the deputy chairman of the Committee.”.

(3) Section 20S—

Repeal subsection (2)

Substitute

“(2) At a meeting of a Preliminary Investigation Committee, the quorum is 3 persons, at least one of whom is a member appointed under subsection (1)(b).

(2A) In addition—

- (a) the majority of the persons present at the meeting must be registered medical practitioners; and
- (b) the chairman and the deputy chairman are counted towards the majority mentioned in paragraph (a).”.

(4) Section 20S(3), English text—

Repeal

“the Preliminary”

Substitute

“a Preliminary”.

(5) Section 20S(4)—

Repeal

everything after “meeting and the” and before “to preside”

Substitute

“other members present and who form a quorum must elect a person from among themselves”.

(6) Section 20S—

Repeal subsection (5)

Substitute

“(5) A member of a Preliminary Investigation Committee—

- (a) holds office for a period not exceeding 12 months as specified by the Council in the member’s letter of appointment; and

- (b) is eligible for reappointment for a further period or periods not exceeding 12 months each on the expiry of the member's period of appointment or reappointment.”.

19. Section 20T amended (functions of Preliminary Investigation Committee and its chairman)

- (1) Section 20T(1), English text—

Repeal

“The”

Substitute

“A”.

- (2) Section 20T(1)(a)—

Repeal

“the Council”

Substitute

“an inquiry panel”.

- (3) Section 20T(1)—

Repeal paragraph (b)

Substitute

“(b) to refer a case to an inquiry panel for holding an inquiry under section 21;”.

- (4) Section 20T(2)—

Repeal

everything after “attention of” and before “first”

Substitute

“a Preliminary Investigation Committee for determining whether a referral should be made to an inquiry panel, or whether the Health Committee should be recommended to conduct a hearing, must”.

- (5) After section 20T(2)—

Add

“(2A) If a Preliminary Investigation Committee decides to exercise its function described in subsection (1)(b), it must send a written notification of the decision to the Council.”.

- (6) Section 20T(3), English text—

Repeal

“The”

Substitute

“A”.

20. Section 20U amended (Health Committee)

- (1) Section 20U(1)—

Repeal paragraph (g)

Substitute

“(g) 2 lay persons each of whom is—

- (i) a lay member of the Council; or
- (ii) a lay assessor.”.

- (2) Section 20U(3)—

Repeal

“shall be a lay member”

Substitute

“is a member appointed under subsection (1)(g)”.

21. Section 20V amended (functions of Health Committee)

(1) Section 20V(1)(a)—

Repeal

everything after “whether”

Substitute

“or not the case or matter has been investigated by a Preliminary Investigation Committee or inquired into by an inquiry panel;”.

(2) Section 20V(1)(b)—

Repeal

“matters referred to it by the Council under section 21(1)”

Substitute

“cases referred to it by an inquiry panel under section 20Y(a) or 21(1)(ivb)”.

22. Sections 20X and 20Y added

Part IV, before section 21—

Add

“20X. Appointment of inquiry panel

(1) The Council must appoint an inquiry panel for the inquiry of a case if—

(a) the Council receives a notification under section 20T(2A) informing the Council of a Preliminary Investigation Committee’s decision to refer the case to an inquiry panel; or

(b) the Court of Appeal remits the case to the Council under section 26(1A)(b)(ii).

- (2) An inquiry panel appointed under subsection (1) must consist of—
 - (a) 3 registered medical practitioners each of whom is—
 - (i) a member of the Council; or
 - (ii) a medical assessor; and
 - (b) 2 lay persons each of whom is—
 - (i) a lay member of the Council; or
 - (ii) a lay assessor.
- (3) The Council must appoint a member of an inquiry panel to be the chairperson of the panel.
- (4) If, before the proceedings of an inquiry panel are concluded, a vacancy occurs in the membership of the panel because of the death, resignation or otherwise of a member, the Council must, as soon as possible, appoint another inquiry panel to hold a new inquiry.
- (5) Subsection (4) does not apply if, when the vacancy occurs because of the circumstances mentioned in that subsection—
 - (a) the inquiry panel has decided to make an order referred to in section 21(1); but
 - (b) the order has not yet been issued.

20Y. Referral by inquiry panel

In the course of its inquiry into a case, an inquiry panel may, if it thinks appropriate—

- (a) refer the case to the Education and Accreditation Committee, the Ethics Committee or the Health Committee for consideration; or

(b) refer the case back to the Preliminary Investigation Committee concerned.”.

23. Section 21 amended (disciplinary powers of Council)

(1) Section 21, heading—

Repeal

“Council”

Substitute

“inquiry panel”.

(2) Section 21(1)—

Repeal

everything after “referred to it by” and before “is satisfied that any”

Substitute

“a Preliminary Investigation Committee in accordance with regulations made under section 33, or any case remitted by the Court of Appeal, an inquiry panel”.

(3) Section 21(1)(c)—

Repeal

“; or”

Substitute a semicolon.

(4) Section 21(1)(d)—

Repeal the comma

Substitute a semicolon.

(5) Section 21(1)(e)—

Repeal the semicolon

Substitute

“; or”.

- (6) Section 21(1)—
Repeal paragraph (f).
- (7) Section 21(1)—
Repeal
“Council may, in its discretion”
Substitute
“panel may, in its discretion, exercise one or more of the following powers”.
- (8) Section 21(1)(i)—
Repeal
“; or”
Substitute a semicolon.
- (9) Section 21(1)(ii), Chinese text—
Repeal
“醫務委員會”
Substitute
“該小組”.
- (10) Section 21(1)(ii)—
Repeal
“; or”
Substitute a semicolon.
- (11) Section 21(1)(iii) and (iiia)—
Repeal
“; or”
Substitute a semicolon.
- (12) Section 21(1)(iiib), Chinese text—

Repeal

“醫務委員會”

Substitute

“該小組”.

(13) Section 21(1)(iiib)—

Repeal

“; or”

Substitute a semicolon.

(14) Section 21(1)(iv)—

Repeal

“Council”

Substitute

“panel”.

(15) Section 21(1)(iv)—

Repeal

“; or”

Substitute a semicolon.

(16) Section 21(1)(iva)—

Repeal

“Council”

Substitute

“panel”.

(17) Section 21(1)(iva)—

Repeal

“; or”

Substitute a semicolon.

(18) Section 21(1)(ivb)—

Repeal

“; or”

Substitute a semicolon.

(19) Section 21(1)—

Repeal

“Council thinks”

Substitute

“panel thinks”.

(20) Section 21(1)—

Repeal

“Council or”

Substitute

“panel or”.

(21) After section 21(1)—

Add

“(1A) An order made by an inquiry panel under subsection (1) must be signed by the chairperson of the panel.”.

(22) Section 21(2), definition of *due inquiry*—

Repeal

“the Council”

Substitute

“an inquiry panel”.

(23) Section 21—

Repeal subsection (2A).

(24) Section 21(3)—

Repeal

“require the Council”

Substitute

“require an inquiry panel”.

(25) Section 21(3)—

Repeal

“Council may”

Substitute

“panel may”.

(26) Section 21—

Repeal subsection (4).

(27) Section 21—

Repeal subsection (4A)

Substitute

“(4A) A member of a Preliminary Investigation Committee who took part in the preliminary investigation of a complaint or information must not attend a meeting of an inquiry panel while it is inquiring into the complaint or information under this section.”.

(28) Section 21(4B)—

Repeal

“Within 14 days after the conclusion of an inquiry under this section, the Council may”

Substitute

“An inquiry panel may, within 14 days after the conclusion of an inquiry”.

(29) Section 21(4C)—

Repeal

everything after “subsection (4B),” and before “, by”

Substitute

“an inquiry panel may invite the parties to the inquiry and other persons who have appeared before it in the inquiry to appear again before it”.

(30) After section 21(4C)—

Add

“(4CA) If, before a review under subsection (4B) is concluded, a vacancy occurs in the membership of an inquiry panel because of the death, resignation or otherwise of a member, the Council must, as soon as possible, appoint another inquiry panel to conduct the review.

(4CB) Subsection (4CA) does not apply if, when the vacancy occurs because of the circumstances mentioned in that subsection, the inquiry panel—

(a) has made a determination under subsection (4D)(a); but

(b) has not yet announced the determination under subsection (4D)(b).”.

(31) Section 21—

Repeal subsection (4D)

Substitute

“(4D) On a review by an inquiry panel under subsection (4B), the panel must—

(a) make a determination as to any decision or order made in the inquiry by affirming, varying or revoking it; and

(b) announce the determination.”.

24. Section 21A amended (powers of Council in relation to fitness to practise of medical practitioners)

(1) Section 21A(1)—

Repeal

“without a due inquiry under section 21”

Substitute

“exercise one or more of the following powers”.

(2) Section 21A(1)(a) and (b)—

Repeal

“; or”

Substitute a semicolon.

(3) Section 21A(1)—

Repeal paragraph (c)

Substitute

“(c) make an order referred to in paragraph (a) or (b) but suspend its application, subject to the conditions that the Council thinks appropriate, for a period, or periods in the aggregate, not exceeding 3 years;”.

(4) Section 21A(1)(d)—

Repeal

“any such order as aforesaid and further order that such”

Substitute

“an order referred to in paragraph (a) or (b) and further order that the”.

(5) Section 21A(3)—

Repeal

“, (b) or (c)”

Substitute

“or (b)”.

25. Section 21B repealed (meetings of Council for purpose of an inquiry)

Section 21B—

Repeal the section.

26. Section 22 amended (powers of Council and Health Committee in regard to obtaining of evidence and conduct at proceedings)

(1) Section 22, heading—

Repeal

“Council”

Substitute

“inquiry panel”.

(2) Section 22(1)—

Repeal

“section 21 the Council shall have the following powers”

Substitute

“section 21, an inquiry panel has power to do one or more of the following things”.

(3) Section 22(1)(e)—

Repeal

“Council”

Substitute

“panel”.

(4) Section 22(1A)—

Repeal

“shall have the following powers”

Substitute

“has power to do one or more of the following things”.

- (5) Section 22(2)—

Repeal

everything after “may be in”

Substitute

“the form that a specified body decides and must be signed by the authorized person for the specified body.”.

- (6) Section 22(4)—

Repeal

everything after “If it appears to” and before “or the Health Committee may”

Substitute

“an inquiry panel or the Health Committee that it is necessary to do so in the interests of the complainant, the registered medical practitioner concerned in the inquiry or the hearing, or any witness concerned, the panel”.

- (7) After section 22(5)—

Add

“(6) In subsection (2)—

authorized person (授權人士)—

- (a) in relation to an inquiry panel, means the chairperson of the panel; or
- (b) in relation to the Health Committee, means the chairman of the Committee;

specified body (指明團體) means an inquiry panel or the Health Committee.”.

27. Section 23 amended (penalty for failure to give evidence)

(1) Section 23—

Repeal

“Council” (wherever appearing)

Substitute

“inquiry panel”.

(2) Section 23, Chinese text, proviso—

Repeal

“在醫務委員會”

Substitute

“在研訊小組或健康事務委員會 (視屬何情況而定)”.

28. Section 24 amended (appearance of counsel, etc.)

Section 24(2)—

Repeal

“shall not be”

Substitute

“is”.

29. Section 25 amended (orders of the Council)

(1) Section 25, heading—

Repeal

“the Council”

Substitute

“Council and inquiry panel”.

(2) Section 25—

Repeal subsection (1A)

Substitute

“(1A) If an inquiry panel makes an order under section 21(1)(v), the Registrar must immediately serve the order, together with the warning letter, on the registered medical practitioner concerned, either personally or by registered post addressed to the practitioner’s registered address.”.

(3) Section 25(2)—

Repeal

“or an order under section 21A(1)(d) is made at the same time as another order is made under section 21A(1)”

Substitute

“(*inquiry panel’s order*) or an order under section 21A(1)(d) is made at the same time as another order is made under section 21A(1) (*Council’s order*)”.

(4) Section 25(2)—

Repeal

everything after “Specialist Register”

Substitute

“—

- (a) before the expiry of 1 month after the date of service of the inquiry panel’s order or the Council’s order on the person concerned; or
- (b) in the case of an appeal made to the Court of Appeal against the inquiry panel’s order or the Council’s order under section 26, before the appeal is finally determined.”.

(5) After section 25(3)—

Add

“(3A) Section 21 and Parts III, IV and X of the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161 sub. leg. E) that are capable of application to an inquiry held for the purposes of this section apply to the inquiry, as if the references to an inquiry panel in those provisions were references to the Council.”.

30. Section 26 amended (appeals against orders of the Council)

(1) Section 26, heading—

Repeal

“the Council”

Substitute

“Council and inquiry panel”.

(2) Section 26(1)—

Repeal

“19B, 21”

Substitute

“19B(2)”.

(3) Section 26(1)—

Repeal

“an, or another, inquiry”

Substitute

“reconsideration”.

(4) After section 26(1)—

Add

- “(1A) A registered medical practitioner who is aggrieved by an order made by an inquiry panel in respect of the practitioner under section 21 may appeal to the Court of Appeal, and the Court may—
- (a) affirm, reverse or vary the order; or
 - (b) remit the case to—
 - (i) the inquiry panel (*old panel*) to hold a new inquiry; or
 - (ii) the Council for appointing another inquiry panel (*new panel*) to hold a new inquiry.”.
- (5) Section 26(3)—
- Repeal**
- “any such appeal shall be”
- Substitute**
- “an appeal under this section is”.
- (6) Section 26(3), proviso, after “25(1)”—
- Add**
- “or (1A)”.
- (7) Section 26—
- Repeal subsection (5)**
- Substitute**
- “(5) At a meeting held as a result of a case remitted by the Court of Appeal under subsection (1), the validity of the proceedings before the Council is not to be called into question only because—
- (a) a member of the Council who was present at the former meeting is not present at the current meeting; or

- (b) a member of the Council who is present at the current meeting was not present at the former meeting.
- (6) At an inquiry held as a result of a case remitted by the Court of Appeal under subsection (1A)(b)(ii) (*new inquiry*), the validity of the proceedings before the new panel is not to be called into question only because—
 - (a) a member of the old panel who was present at the former inquiry is not present at the new inquiry; or
 - (b) a member of the new panel who is present at the new inquiry was not present at the former inquiry.”.

31. Section 33 amended (regulations)

- (1) Section 33—

Repeal the heading

Substitute

“33. Power to make regulations”.

- (2) Section 33(3)(b)—

Repeal

“the Legal Adviser to the Council”

Substitute

“a legal adviser”.

- (3) After section 33(3)—

Add

“(3A) The Permanent Secretary may, by regulation, provide for the procedure and other matters in relation to

an election or appointment to an office of the Council under section 3(2)(ga), including the qualifications of candidates, the eligibility requirements for electors and subscribers for a nomination paper, the particulars of any system of voting and counting, the determination of election results and questioning of the results.”.

- (4) Section 33(4)(a)(iii)—

Repeal

“the Council”

Substitute

“an inquiry panel”.

- (5) Section 33(4)(a)(iv) and (v), English text—

Repeal

“the Preliminary”

Substitute

“a Preliminary”.

- (6) Section 33(4)(a)(vii)—

Repeal

“the Council by the Preliminary”

Substitute

“an inquiry panel by a Preliminary”.

- (7) Section 33(4)(a)—

Repeal subparagraph (viii)

Substitute

“(viii) inquiries held by the Council or an inquiry panel;”.

- (8) After section 33(4)(a)(viii)—

Add

“(viiiia) the reference of cases to and by the Education and Accreditation Committee;”.

(9) Section 33(4)(a)(ix), Chinese text—

Repeal

everything after “聆訊”

Substitute

“，以及向健康事務委員會作出及由該委員會作出的個案轉呈；”。

(10) Section 33(6), after “(3)”—

Add

“, (3A)”.

32. Section 36 added

After section 35—

Add

“36. Transitional and savings provisions for Medical Registration (Amendment) Ordinance 2018 (15 of 2018)

- (1) The transitional and savings provisions as set out in Schedule 6 have effect.
- (2) The Secretary for Food and Health may, by notice published in the Gazette, amend Schedule 6.”.

33. Schedule 2 amended (provisions with respect to committees and sub-committees established under section 20BA of this Ordinance)

(1) Schedule 2, section 2(1)—

Repeal

“, 20S(1)(g)”.

- (2) Schedule 2, English text, section 5(2)—

Repeal

“the Preliminary”

Substitute

“a Preliminary”.

34. Schedules 5 and 6 added

After Schedule 4—

Add

“Schedule 5

[ss. 20BB, 20BC &
20BE]

Assessors

Table 1

Column 1	Column 2	Column 3	Column 4
Item	Nominating authority	Minimum number of lay assessors	Maximum number of lay assessors
1.	Patient organizations	2	10

Column 1	Column 2	Column 3	Column 4
Item	Nominating authority	Minimum number of lay assessors	Maximum number of lay assessors
2.	Hong Kong Bar Association	2	10
3.	Hong Kong Council of Social Service	2	10
4.	Hong Kong Institute of Certified Public Accountants	2	10
5.	The Law Society of Hong Kong	2	10
6.	Secretary for Food and Health	2	10

Table 2

Column 1	Column 2	Column 3	Column 4
Item	Nominating authority	Minimum number of medical assessors	Maximum number of medical assessors
1.	Director	2	10

Medical Registration (Amendment) Ordinance 2018

Part 2
Section 34

Ord. No. 15 of 2018
A939

Column 1	Column 2	Column 3	Column 4
Item	Nominating authority	Minimum number of medical assessors	Maximum number of medical assessors
2.	The University of Hong Kong	2	10
3.	The Chinese University of Hong Kong	2	10
4.	Hospital Authority	2	10
5.	Academy of Medicine	2	10
6.	The Hong Kong Medical Association	2	10
7.	Hong Kong Doctors Union	2	10
8.	Hong Kong Public Doctors' Association	2	10

Schedule 6

[s. 36]

Transitional and Savings Provisions for Medical Registration (Amendment) Ordinance 2018

Part 1

Preliminary

1. Interpretation

In this Schedule—

amended Ordinance (《經修訂條例》) means this Ordinance as amended by the Amendment Ordinance;

amended Regulation (《經修訂規例》) means the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161 sub. leg. E) as amended by the Amendment Ordinance;

Amendment Ordinance (《修訂條例》) means the Medical Registration (Amendment) Ordinance 2018 (15 of 2018);

commencement (生效日期) means the commencement of the Amendment Ordinance under section 1(2) of that Ordinance;

former PIC (前偵委會) means the Preliminary Investigation Committee established under section 20BA(2)(d) of the pre-amended Ordinance;

pre-amended Disciplinary Regulation (《原有紀律處分規例》) means the Medical Practitioners (Registration and Disciplinary Procedure) Regulation (Cap. 161 sub. leg. E) as in force immediately before the commencement;

pre-amended Electoral Regulation (《原有選舉規例》) means the Medical Practitioners (Electoral Provisions) (Procedure) Regulation (Cap. 161 sub. leg. B) as in force immediately before the commencement;

pre-amended Ordinance (《原有條例》) means this Ordinance as in force immediately before the commencement.

Part 2

Certain Council Members and Assessors

2. Filling vacancy in office of member of Council under section 3(5B)(b) of pre-amended Ordinance

If, immediately before the commencement, the Secretary has sent an invitation under section 8 of the pre-amended Electoral Regulation, then section 3(5B)(b) of the pre-amended Ordinance and section 8 of that Regulation continue to apply in relation to a nomination of candidate made pursuant to the invitation.

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.

Part 3

Former PIC

5. Former PIC deemed as PIC under amended Ordinance for existing cases

- (1) This section applies if—
- (a) the Secretary has submitted any complaint, information or matter to the chairman or the deputy chairman of the former PIC under section 6 of the pre-amended Disciplinary Regulation (*existing case*); and
 - (b) immediately before the commencement—
 - (i) a decision has not yet been made to dismiss the existing case, or to refer it to the Health Committee or to direct that it be investigated further under section 6(3),

-
- (4) or (5) of the pre-amended Disciplinary Regulation;
- (ii) the chairman or the deputy chairman of the former PIC has directed that the existing case be referred to the former PIC under section 9(1) or 10(1) of the pre-amended Disciplinary Regulation for its consideration (*existing direction*), and a decision has not yet been made under section 11(8) or (9) of that Regulation in respect of the existing case; or
 - (iii) the Chairman has, under section 15(1) of the pre-amended Disciplinary Regulation, referred the existing case back to the former PIC for further consideration, and a decision has not yet been made under section 11(8) or (9) of that Regulation in respect of the existing case.
- (2) The members of the former PIC (*existing members*) may continue to consider the existing case on and after the commencement as if—
- (a) they were appointed to a Preliminary Investigation Committee established under the amended Ordinance (*deemed PIC*);
 - (b) each existing member were appointed as a member of the deemed PIC for the remainder of his or her term of office with the former PIC (*unexpired term*); and
 - (c) the chairman and the deputy chairman of the former PIC were appointed as the chairman and the deputy chairman respectively of the deemed PIC.

-
- (3) Despite subsection (2)(a), an existing member may not continue to consider any existing case beyond the expiry of—
 - (a) his or her unexpired term; or
 - (b) if the member is reappointed as a member of the deemed PIC, the term of office for which the member is reappointed.
 - (4) On and after the commencement, the provisions of this Ordinance, other than sections 20BA(5) and 20S(1), (1A), (2), (2A), (3) and (5), apply in relation to the deemed PIC, the existing members and the consideration of the existing cases—
 - (a) for all purposes; and
 - (b) in the same way as they apply in relation to a Preliminary Investigation Committee established under section 20S(1) of the amended Ordinance, its members and a case considered by that Committee.
 - (5) Anything validly done before the commencement by or in relation to the former PIC, its chairman or deputy chairman or the existing members in respect of any existing case is, on and after the commencement, taken to have been done by or in relation to the deemed PIC or its chairman, deputy chairman or members in respect of the case.
 - (6) Without limiting subsection (5)—
 - (a) the existing cases are taken to have been submitted to the chairman or the deputy chairman of the deemed PIC; and
 - (b) an existing direction is taken to be a direction to refer an existing case to the deemed PIC.

- (7) Sections 20BA(5) and 20S(1), (2), (3) and (5) of the pre-amended Ordinance apply in relation to the deemed PIC as if those sections had not been amended by the Amendment Ordinance, and accordingly, if the office of any member of the deemed PIC becomes vacant, the person appointed by the Council to fill the vacancy must be of the category described in section 20S(1) of the pre-amended Ordinance to which the member belongs.

6. Referral of existing cases back to PIC on or after commencement

- (1) This section applies if—
- (a) an existing case (within the meaning of section 5(1)(a) of this Schedule) has been referred by the former PIC to the Council for an inquiry under section 21 of the pre-amended Ordinance; and
 - (b) the case falls within the description of section 7(1)(b) or 9(1)(b)(i) of this Schedule.
- (2) If the chairperson of an inquiry panel exercises the power under section 15(1)(a) of the amended Regulation to refer the case back to a Preliminary Investigation Committee (*PIC*) by virtue of section 7(2)(b) of this Schedule, or the chairperson of the deemed panel (within the meaning of section 9(2)(a) of this Schedule) exercises that power by virtue of section 9(3) of this Schedule, then—
- (a) the deemed PIC (within the meaning of section 5(2)(a) of this Schedule) is taken to be the PIC to which the case is referred back; and

- (b) section 5 (other than section 5(1) and (6)) of this Schedule applies for all purposes in relation to the further consideration of the case by the deemed PIC.

Part 4

Inquiry by Council

- 7. **Council's inquiry yet to commence under section 21 of pre-amended Ordinance**
 - (1) This section applies if—
 - (a) a case has been referred by the former PIC to the Council for an inquiry under section 21 of the pre-amended Ordinance (*former PIC's decision*); and
 - (b) immediately before the commencement, no meeting has been held in accordance with section 21B of the pre-amended Ordinance for the purpose of conducting the inquiry.
 - (2) The former PIC's decision is taken to be a decision referred to in section 20T(2A) of the amended Ordinance, and the Council is taken to have received a notification referred to in section 20X(1) of the amended Ordinance, and accordingly, on and after the commencement—
 - (a) the Council must, as required by section 20X(1) of the amended Ordinance, appoint an inquiry panel for the inquiry; and
 - (b) the provisions of this Ordinance apply for all purposes in relation to the further conduct (including the inquiry) of the case.

8. Council's inquiry yet to commence under section 26 of pre-amended Ordinance

If the Court of Appeal has remitted a case under section 26(1) of the pre-amended Ordinance to the Council for another inquiry and immediately before the commencement, the inquiry has not yet commenced, then—

- (a) the Council must appoint an inquiry panel for the inquiry under section 20X(1) of the amended Ordinance; and
- (b) the provisions of this Ordinance apply for all purposes in relation to the further conduct (including the inquiry) of the case.

9. Ongoing Council inquiry commenced under section 21 of pre-amended Ordinance

(1) This section applies if—

- (a) a case has been referred by the former PIC to the Council for an inquiry under section 21 of the pre-amended Ordinance; and
- (b) immediately before the commencement—
 - (i) a meeting has been held in accordance with section 21B of the pre-amended Ordinance for the purpose of conducting the inquiry and no decision or order has been made under section 21(1) of the pre-amended Ordinance;
 - (ii) a decision or order has been made by the Council under section 21(1) of the pre-amended Ordinance and—

-
- (A) no review is taking place under section 21(4B) of that Ordinance and the period for reviewing the decision or order under that section has not yet expired; or
 - (B) the Council is reviewing the decision or order, but has not yet made any determination under section 21(4D) of that Ordinance;
 - (iii) the Court of Appeal has remitted a case under section 26(1) of the pre-amended Ordinance to the Council for an, or another, inquiry, and the inquiry has commenced but has not yet been concluded; or
 - (iv) the Court of Appeal has remitted a case under section 26(1) of the pre-amended Ordinance to the Council for an inquiry, and the inquiry has not yet commenced.
- (2) Despite sections 3 and 4 of this Schedule, on and after the commencement, the members of the Council and (if applicable) assessors who, immediately before the commencement, have conducted the inquiry, or have been conducting the inquiry or review (*inquirers*), may continue to conduct the inquiry or review (including a review that commences before the expiry of the period referred to in subsection (1)(b)(ii)(A)) as an inquiry panel, and may do so beyond the expiry of their term of office, as if—
- (a) they were appointed to an inquiry panel under section 20X of the amended Ordinance (*deemed panel*); and

-
- (b) the inquirer who performed the function of the president of the meeting held in accordance with section 21B of the pre-amended Ordinance were appointed as the chairperson of the deemed panel under section 20X(3) of the amended Ordinance.
- (3) On and after the commencement, the provisions of this Ordinance apply in relation to the deemed panel, the inquirers and the inquiry or review of the case—
- (a) for all purposes; and
- (b) in the same way as they apply in relation to an inquiry panel, its members and an inquiry or review under section 21 of the amended Ordinance.
- (4) Without limiting subsection (3)—
- (a) section 20X(4) of the amended Ordinance applies in relation to the inquiry conducted by the deemed panel if a vacancy occurs amongst its members;
- (b) the deemed panel may exercise any of the powers under section 21(1) of the amended Ordinance and may review its decision or order under section 21(4B) of the amended Ordinance;
- (c) section 21(4CA) of the amended Ordinance applies in relation to the review conducted by the deemed panel if a vacancy occurs amongst its members;
- (d) an appeal may be made under section 26(1A) of the amended Ordinance against an order made by the deemed panel under section 21 of the amended Ordinance;

- (e) sections 13A, 15, 16, 17 and 18 and Part IV of the amended Regulation apply in relation to the inquiry conducted by the deemed panel; and
 - (f) section 13A of the amended Regulation applies in relation to the review conducted by the deemed panel.
- (5) Anything validly done before the commencement by or in relation to the inquirers as the Council conducting the inquiry or review is, on and after the commencement, taken to have been done by or in relation to the deemed panel.
- (6) Without limiting subsection (5), a matter referred to the Ethics Committee by the inquirers under section 21(2A) of the pre-amended Ordinance is, on and after the commencement, taken to have been referred to that Committee by the deemed panel under section 20Y(a) of the amended Ordinance.

10. Remittal of cases on or after commencement for inquiry by deemed panel

If the Court of Appeal, by virtue of section 11(3) of this Schedule, exercises its power to remit a case referred to in section 11(1) or (2) of this Schedule under section 26(1A)(b)(i) of the amended Ordinance to an inquiry panel for holding a new inquiry, then—

- (a) the deemed panel (within the meaning of section 9(2)(a) of this Schedule) is taken to be the inquiry panel to which the case is remitted; and

- (b) section 9 (other than section 9(1) and (6)) of this Schedule applies for all purposes in relation to the further conduct of the case by the deemed panel.

Part 5

Appeal Against Orders in Inquiries

11. Appeal against order of Council

(1) If—

- (a) in respect of an existing case (within the meaning of section 5(1)(a) of this Schedule), an order was made by the Council under section 21 of the pre-amended Ordinance; and
- (b) immediately before the commencement, an appeal has been made to the Court of Appeal against the order under section 26(1) of the pre-amended Ordinance,

then, on and after the commencement, the appeal is taken to be made under section 26(1A) of the amended Ordinance.

(2) If—

- (a) in respect of an existing case (within the meaning of section 5(1)(a) of this Schedule), an order was made by the Council under section 21 of the pre-amended Ordinance; and
- (b) immediately before the commencement, the period provided in section 26(3) of the pre-amended Ordinance for an appeal to be made under section 26(1) of that Ordinance against the order has not yet expired,

then, on and after the commencement, an appeal against the order may be made under section 26(1A) of the amended Ordinance as if the order were an order made by an inquiry panel.

- (3) On and after the commencement, the provisions of this Ordinance apply for all purposes in relation to the further conduct (including any appeal or remittal) of the case referred to in subsection (1) or (2).”
-

Part 3

Amendments to Medical Practitioners (Electoral Provisions) (Procedure) Regulation (Cap. 161 sub. leg. B)

35. Section 4 amended (qualifications for nomination as a candidate and disqualification for election and holding office)

(1) Section 4(2)(a)—

Repeal

“of the Council”.

(2) Section 4(2)—

Repeal paragraph (b).

(3) Section 4(2)(c)—

Repeal

“3(2)(i)”

Substitute

“3(2)(ha) or (i)”.

(4) Section 4(2)(d)—

Repeal

“composition”

Substitute

“a composition or arrangement”.

36. Section 8 amended (filling of casual vacancy where unexpired period is less than 1 year)

(1) Section 8(1), after “members of the Council”—

Add

“who are registered medical practitioners”.

(2) Section 8(2)(b), after “Council”—

Add

“who are registered medical practitioners”.

(3) Section 8(4), after “members of the Council”—

Add

“who are registered medical practitioners”.

37. Section 15 amended (declaration of election result where number of candidates is same as number of vacancies)

Section 15—

Repeal

“, and unless section 25 applies, the Secretary shall”

Substitute

“and”.

38. Section 16 amended (procedure where no candidates are nominated or vacancies exceed number of candidates nominated)

Section 16(2)(a)—

Repeal

“subject to section 25,”.

39. Part VI heading amended (result of election and first election)

Part VI, heading—

Repeal

“AND FIRST ELECTION”.

40. Section 24 amended (result of election and declaration of result)

(1) Section 24(4)—

Repeal

“, 16 or 25”

Substitute

“or 16”.

(2) Section 24(4)—

Repeal

“may”

Substitute

“must”.

41. Section 25 repealed (special provisions relating to first election)

Section 25—

Repeal the section.

42. Schedule 1 amended

(1) Schedule 1, Form 2, Part II, paragraph 2—

Repeal

“and for”

Substitute

“in an”.

(2) Schedule 1, Form 2, Part II, paragraph 3—

Repeal

“or elected”.

Part 4

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

43. Section 6 amended (duties of Legal Adviser in inquiry by Council)

(1) Section 6, heading—

Repeal

“Duties of Legal Adviser in inquiry by Council”

Substitute

“Presence of legal adviser at inquiry and specified meetings”.

(2) Section 6—

Repeal subsection (1)

Substitute

“(1) A legal adviser must be present at—

(a) every meeting of the Council held for considering whether to make an order under section 19B(2) or 21A(1) of the Ordinance;

(b) every inquiry held by an inquiry panel under section 21 of the Ordinance; and

(c) every meeting of an inquiry panel held for reviewing its decision or order under section 21(4B) of the Ordinance.”.

(3) After section 6(1)—

Add

“(1A) A meeting or an inquiry mentioned in subsection (1) must not be commenced if a legal adviser is not present.”.

(4) Section 6—

Repeal subsection (2)

Substitute

“(2) A legal adviser must be present at—

(a) any appeal hearing from the decision of a committee; or

(b) a meeting of the Council held pursuant to an election petition under—

(i) the Medical Practitioners Election Regulation; or

(ii) the Patient Organizations Election Regulation.”.

44. Section 7 amended (duties of Legal Adviser in ordinary meetings of Council)

(1) Section 7, heading—

Repeal

“Duties of Legal Adviser in”

Substitute

“Presence of legal adviser at”.

(2) Section 7—

Repeal

“the Legal Adviser to the Council”

Substitute

“a legal adviser”.

- (3) Section 7—

Repeal

“section 6”

Substitute

“section 6(1)(a) and (2)”.

- (4) Section 7, English text—

Repeal

“the Legal Adviser shall”

Substitute

“the legal adviser must”.

45. Section 8 amended (advice by Legal Adviser)

- (1) Section 8, English text, heading—

Repeal

“Legal Adviser”

Substitute

“legal adviser”.

- (2) Section 8—

Repeal subsection (1)

Substitute

“(1) This section applies if a legal adviser gives advice on a question of law as to evidence, procedure or any other matter—

- (a) at a meeting or an inquiry mentioned in section 6(1);
- (b) at an appeal hearing from a decision of a committee; or

- (c) at a meeting of the Council held pursuant to an election petition under—
 - (i) the Medical Practitioners Election Regulation; or
 - (ii) the Patient Organizations Election Regulation.”.

(3) After section 8(1)—

Add

“(1A) The legal adviser must give the advice in the presence of every party to the proceedings.

(1B) If the advice is given after the inquiry panel or Council has commenced to deliberate as to its findings, every party to the proceedings must be informed of it.

(1C) If a party to the proceedings is represented by a solicitor or counsel—

(a) subsection (1A) is regarded as having been complied with in relation to the party if the advice is given in the presence of the solicitor or counsel; and

(b) subsection (1B) is regarded as having been complied with in relation to the party if the solicitor or counsel is informed of the advice.”.

(4) Section 8(2), after “where”—

Add

“an inquiry panel or”.

(5) Section 8(2)—

Repeal

“the Legal Adviser to the Council”

Substitute

“a legal adviser”.

- (6) Section 8(2)—

Repeal

“person shall”

Substitute

“solicitor or counsel must”.

46. Section 9 amended (duties of Secretary in inquiry by Council)

- (1) Section 9, heading—

Repeal

“in inquiry by Council”

Substitute

“at inquiry by inquiry panel”.

- (2) Section 9(b)—

Repeal

“Council such evidence as the Council may require”

Substitute

“inquiry panel evidence required by it”.

- (3) Section 9(d)—

Repeal

“Council in reply;”

Substitute

“inquiry panel in reply; and”.

- (4) Section 9(e)—

Repeal

“Council past records of any meeting of”

Substitute

“inquiry panel past records of any meeting of an inquiry panel or”.

- (5) Section 9(e)—

Repeal the semicolon

Substitute a full stop.

- (6) Section 9—

Repeal paragraph (f).

Part 5

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

47. Section 2 amended (interpretation)

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

Repeal

“the”

Substitute

“a”.

- (2) Section 2, English text, definition of *defendant*—

Repeal

“the Preliminary”

Substitute

“a Preliminary”.

48. Part III heading amended (proceedings preparatory to holding of an inquiry by Council or a hearing by Health Committee)

Part III, heading—

Repeal

“COUNCIL”

Substitute

“INQUIRY PANEL”.

49. Section 6 amended (receipt and submission of complaint or information or referral to chairman of Committee)

(1) Section 6(1)(a)(v)—

Repeal

“of the Council”.

(2) Section 6(1)(a)(vi), after the semicolon—

Add

“or”.

(3) Section 6(1)(a)(vii)—

Repeal

“; or”

Substitute a semicolon.

(4) Section 6(1)(c), English text—

Repeal

“the Committee”

Substitute

“a Committee”.

50. Section 7 amended (declaration of interest by members of Committee)

Section 7(1), English text—

Repeal

“the Committee”

Substitute

“a Committee”.

51. Section 8 amended (clarification and support for complaint or information)

Section 8(1) and (2), English text—

Repeal

“the Committee”

Substitute

“a Committee”.

52. Section 9 amended (reference of case to Committee)

Section 9—

Repeal subsection (1)

Substitute

- “(1) Except where section 10 or 16(1A) applies, the chairman or the deputy chairman of a Committee who receives a case under section 6 must make the directions specified in subsection (1A) if—
- (a) the case has not been dismissed under section 6(3);
 - (b) the case has not been referred to the Health Committee under section 6(4); or
 - (c) he or she has directed that the case be investigated further under section 6(5).
- (1A) The directions specified for subsection (1) are—
- (a) that the case must be referred to the Committee for its consideration; and
 - (b) that the Secretary must fix a date on which it is proposed that the Committee meets to consider the case.”.

53. Section 11 amended (consideration of case by Committee)

(1) Section 11(1), English text—

Repeal

“The”

Substitute

“A”.

(2) Section 11(2), English text—

Repeal

“by the Committee”

Substitute

“by a Committee”.

(3) Section 11(3), English text—

Repeal

“the Committee”

Substitute

“a Committee”.

(4) Section 11(4), English text—

Repeal

“The”

Substitute

“A”.

(5) Section 11(5), English text—

Repeal

“the Committee”

Substitute

“a Committee”.

- (6) Section 11(5), after “no inquiry”—
Add
“by an inquiry panel”.
- (7) Section 11(6), English text—
Repeal
“Where the Committee”
Substitute
“If a Committee”.
- (8) Section 11(7), English text—
Repeal
“the Committee may”
Substitute
“a Committee may”.
- (9) Section 11(8), English text—
Repeal
“The”
Substitute
“A”.
- (10) Section 11(8)(a) and (b)—
Repeal
“shall”
Substitute
“by an inquiry panel is to”.
- (11) Section 11(8)(c)—
Repeal
“the Council”

Substitute

“an inquiry panel”.

54. Section 12 amended (decision of Committee that no inquiry be held)

(1) Section 12, Chinese text, heading—

Repeal

“不”

Substitute

“無須”.

(2) Section 12(1)—

Repeal

“the Committee decides that no inquiry”

Substitute

“a Committee decides that no inquiry by an inquiry panel”.

(3) Section 12—

Repeal subsection (2).

55. Section 13 amended (referral of case to Council for inquiry)

(1) Section 13, heading—

Repeal

“Referral of case to Council for inquiry”

Substitute

“Fixing date for holding inquiry”.

(2) Section 13—

Repeal subsections (1) and (2)

Substitute

- “(1) If a Committee decides to refer a case to an inquiry panel for inquiry, the chairman of the Committee must—
- (a) send a written notification of the decision to the Council under section 20T(2A) of the Ordinance; and
 - (b) on the appointment of an inquiry panel by the Council under section 20X(1) of the Ordinance for the inquiry, send a written notification of the decision to the chairperson of the panel, specifying the matters—
 - (i) that the Committee identifies to be so referred; and
 - (ii) that form the basis of the charge or charges into which an inquiry is to be held.
- (2) On receipt of a notification under subsection (1)(b), the chairperson of the inquiry panel must direct the Secretary to fix a date for holding an inquiry.”.
- (3) Section 13—
Repeal subsection (3).
- (4) Section 13(4)—
Repeal
“of the receipt of a notification under subsection (1)”
Substitute
“after a direction by the chairperson of the inquiry panel under subsection (2)”.
- (5) After section 13(5)—
Add

- “(6) After the Court of Appeal remits a case under section 26(1A)(b) of the Ordinance, the chairperson of the inquiry panel concerned must direct the Secretary to fix a date for holding an inquiry.
- (7) After an appointment is made under section 13A(5), the chairperson of the inquiry panel appointed under that section must direct the Secretary to fix a date for holding an inquiry.
- (8) After the Court of Appeal remits a case under section 26(1) of the Ordinance, the Chairman must direct the Secretary to fix a date for reconsidering the case.”.

56. Section 13A added

After section 13—

Add

“13A. Declaration of interest by members of inquiry panel

- (1) This section applies to an inquiry panel that—
- (a) holds an inquiry under section 21 of the Ordinance;
 - (b) reviews its decision or order under section 21(4B) of the Ordinance; or
 - (c) holds an inquiry after the Court of Appeal remits a case under section 26(1A)(b) of the Ordinance.
- (2) If, before the opening of an inquiry by an inquiry panel or at any stage of the inquiry, the chairperson of the panel becomes aware that he or she is in any way interested in the case, the chairperson must

declare the interest to the Chairman as soon as practicable after becoming so aware.

- (3) If, before the opening of an inquiry by an inquiry panel or at any stage of the inquiry, another member of the panel becomes aware that he or she is in any way interested in the case, the member must declare the interest to the chairperson of the panel as soon as practicable after becoming so aware.
- (4) Subsections (2) and (3) have effect in relation to a review under section 21(4B) of the Ordinance as if the references to inquiry in those subsections were references to review.
- (5) If a declaration of interest is made under this section, the Council must appoint another inquiry panel to inquire into the case or review the decision or order, as the case may be.”.

57. Section 15 amended (referring back to committee)

- (1) Section 15, heading—

Repeal

“Referring back to committee”

Substitute

“Referral of cases”.

- (2) Section 15—

Repeal subsection (1)

Substitute

- “(1) If, after a case has been referred to an inquiry panel under section 11(8)(c) for inquiry, further information is subsequently produced in writing that suggests that an inquiry should not be held, the chairperson of the panel may—
- (a) refer the case back to the Committee concerned for further consideration; or
 - (b) refer the case to the Education and Accreditation Committee or the Health Committee for consideration.”.

- (3) Section 15(2)—

Repeal

“, the Health Committee or the Education and Accreditation Committee”

Substitute

“concerned, or referred to the Education and Accreditation Committee or the Health Committee”.

58. Section 16 amended (consolidation of charges and amendment of notice of inquiry)

- (1) Section 16—

Repeal subsection (1)

Substitute

- “(1) If the Secretary receives further allegations of misconduct in a professional respect against the defendant of the same nature as a case referred to an inquiry panel, the Secretary must send a written notification to the chairperson of the panel.

- (1A) On receipt of a notification under subsection (1)—

- (a) the chairperson of the inquiry panel may direct that any or all of the allegations are to be inquired into at the same inquiry against the defendant; and
 - (b) if the chairperson makes that direction, evidence relating to the allegations may be introduced at the inquiry in respect of the case even if those allegations—
 - (i) have not been referred to the Committee concerned; or
 - (ii) have not formed the subject of a determination of the Committee concerned.”.
- (2) Section 16(2)—

Repeal

“the inquiry, it appears to the Chairman that a notice of inquiry is defective, the Chairman”

Substitute

“an inquiry by an inquiry panel, it appears to the chairperson of the panel that a notice of inquiry is defective, the chairperson”.

59. Section 17 amended (documents to be available to other party)

Section 17(2)—

Repeal

“Council”

Substitute

“inquiry panel”.

60. Section 18 amended (notice to produce)

Section 18—

Repeal

“Chairman”

Substitute

“chairperson of an inquiry panel”.

61. Part IV heading amended (proceedings at an inquiry of Council)

Part IV, heading—

Repeal

“COUNCIL”

Substitute

“INQUIRY PANEL”.

62. Section 19 amended (inquiry in public or in camera)

(1) Section 19(1)—

Repeal

“the Council, an inquiry of the Council”

Substitute

“an inquiry panel, an inquiry by the panel”.

(2) Section 19(2)—

Repeal

“, the Council”

Substitute

“by an inquiry panel, the panel”.

63. Section 20 amended (adjournment of inquiry)

Section 20(1)—

Repeal

“Chairman may adjourn an inquiry”

Substitute

“chairperson of an inquiry panel may adjourn an inquiry by the panel”.

64. Section 21 amended (representation)

Section 21—

Repeal subsection (2)

Substitute

“(2) On the application of the chairperson of an inquiry panel, the Secretary for Justice may appoint a solicitor or counsel, or a legal officer within the meaning of the Legal Officers Ordinance (Cap. 87), to carry out the duties of the Secretary in respect of an inquiry by the panel.”.

65. Section 22 amended (record of proceedings)

(1) Section 22(1)—

Repeal

“The Council”

Substitute

“An inquiry panel”.

(2) Section 22(1), after “an inquiry”—

Add

“by the panel”.

- (3) Section 22(2)—

Repeal

“Chairman”

Substitute

“chairperson of an inquiry panel”.

66. Section 23 amended (opening of inquiry)

- (1) Section 23(1)—

Repeal

“the Secretary shall read the notice of inquiry to the Council”

Substitute

“, the Secretary must read the notice of inquiry to the inquiry panel”.

- (2) Section 23(2)—

Repeal

“Council such evidence as the Council may require”

Substitute

“inquiry panel evidence required by it”.

- (3) Section 23(2)—

Repeal

“the Council being satisfied as to such evidence,”

Substitute

“being satisfied as to the evidence, the panel”.

- (4) Section 23(3)—

Repeal

“Chairman”

Substitute

“chairperson of the inquiry panel”.

67. Section 24 amended (objections on point of law)

Section 24(2)—

Repeal

“Council”

Substitute

“inquiry panel”.

68. Section 25 amended (order of procedure)

(1) Section 25(1)(b)(i)—

Repeal

“Council”

Substitute

“inquiry panel”.

(2) Section 25(1)(c)—

Repeal

“, the Council shall”

Substitute

“, the inquiry panel must”.

(3) Section 25(1)(c)(i)—

Repeal

“Chairman shall”

Substitute

“chairperson of the panel must”.

- (4) Section 25(1)(c)(i)—

Repeal

“Council; and”

Substitute

“panel;”.

- (5) Section 25(1)(c)(ii)—

Repeal

“Council uphold”

Substitute

“panel upholds”.

- (6) Section 25(1)(c)(iii)—

Repeal

“Council reject the submission, the Chairman shall”

Substitute

“panel rejects the submission, the chairperson of the panel must”.

- (7) Section 25(1)(d)—

Repeal

“Council”

Substitute

“inquiry panel”.

- (8) Section 25(1)(e)—

Repeal

“address the Council”

Substitute

“address the inquiry panel”.

- (9) Section 25(1)(e)—

Repeal

“to the Council”

Substitute

“to the panel”.

- (10) Section 25(2)—

Repeal

“the Council may”

Substitute

“an inquiry panel may”.

- (11) Section 25(2)—

Repeal

“if the Council”

Substitute

“if the panel”.

69. Section 26 amended (postponement of judgment)

- (1) Section 26(1)—

Repeal

“the Council shall”

Substitute

“an inquiry panel must”.

- (2) Section 26(2)—

Repeal

“If the Council”

Substitute

“If an inquiry panel”.

- (3) Section 26(2)—

Repeal

“Council stands postponed until such future meeting of the Council as the Council”

Substitute

“panel stands postponed until a future meeting of the panel that it”.

- (4) Section 26(2)—

Repeal

“Chairman shall”

Substitute

“chairperson of the panel must”.

- (5) Section 26(2)—

Repeal

“Council in such terms as the Council may approve”

Substitute

“panel in terms approved by it”.

- (6) Section 26(3)—

Repeal

“If the Council decides not to postpone judgment, the Council shall”

Substitute

“If an inquiry panel decides not to postpone judgment, the panel must”.

- (7) Section 26(3)—

Repeal

“before the Council”

Substitute

“before it”.

- (8) Section 26—

Repeal subsection (4)

Substitute

“(4) When an inquiry panel has come to its decision under subsection (3), the chairperson of the panel must announce the decision of the panel in terms approved by it.”.

70. Section 27 amended (notice of determination of judgment)

- (1) Section 27(1)—

Repeal

“judgment of the Council”

Substitute

“judgment of an inquiry panel”.

- (2) Section 27(1)—

Repeal

“Council,”

Substitute

“panel,”.

- (3) Section 27(1)—

Repeal

“of the Council and”

Substitute

“and”.

(4) Section 27(3)—

Repeal

“the Chairman”

Substitute

“, the chairperson of the inquiry panel”.

(5) Section 27(3)—

Repeal

“Council, the position in which the case stands and the Council”

Substitute

“panel, the position in which the case stands and the panel”.

(6) Section 27(4)—

Repeal

“The Council shall”

Substitute

“The inquiry panel must”.

(7) Section 27(4)—

Repeal

“Chairman shall announce the decision of the Council in such terms as the Council may approve”

Substitute

“chairperson of the panel must announce the decision of the panel in terms approved by it”.

71. Section 28 amended (postponement of sentence)

(1) Section 28(1)—

Repeal

“decision of the Council”

Substitute

“decision of an inquiry panel”.

- (2) Section 28(1)—

Repeal

“Council shall”

Substitute

“panel must”.

- (3) Section 28(2)—

Repeal

“If the Council”

Substitute

“If an inquiry panel”.

- (4) Section 28(2)—

Repeal

“Council stands postponed until such future meeting of the Council as the Council”

Substitute

“panel stands postponed until a future meeting of the panel that it”.

- (5) Section 28(2)—

Repeal

“Chairman shall”

Substitute

“chairperson of the panel must”.

- (6) Section 28(2)—

Repeal

“Council in such terms as the Council may approve”

Substitute

“panel in terms approved by it”.

72. Section 29 amended (address in mitigation)

(1) Section 29(1)—

Repeal

“At any meeting of the Council at which sentence on a defendant is to be decided by the Council”

Substitute

“At a meeting of an inquiry panel at which sentence on a defendant is to be decided”.

(2) Section 29(1)—

Repeal

“Council may produce to the Council the records of any meeting of the Council”

Substitute

“panel may produce to it past records of any meeting of the Council or the panel (as the case requires)”.

(3) Section 29(2)—

Repeal

“the Council decides the sentence, the Chairman shall”

Substitute

“an inquiry panel decides the sentence, the chairperson of the panel must”.

(4) Section 29(2)—

Repeal

“address the Council” (wherever appearing)

Substitute

“address the panel”.

- (5) Section 29(2)—

Repeal

“Council under”

Substitute

“panel under”.

- (6) Section 29(3)—

Repeal

“The Council shall”

Substitute

“The inquiry panel must”.

- (7) Section 29(3)—

Repeal

“Chairman shall”

Substitute

“chairperson of the panel must”.

- (8) Section 29(3)—

Repeal

“Council in such terms as the Council may approve”

Substitute

“panel in terms approved by it”.

73. Section 30 amended (notice of postponement of sentence)

- (1) Section 30(1)—

Repeal

“the provisions of section 28, the decision of the Council”

Substitute

“section 28, the decision of an inquiry panel”.

- (2) Section 30(1)—

Repeal

“Council,”

Substitute

“panel,”.

- (3) Section 30(1)—

Repeal

“of the Council and”

Substitute

“and”.

74. Section 31 amended (evidence)

- (1) Section 31(2)—

Repeal

“the Council”

Substitute

“an inquiry panel”.

- (2) Section 31(2)—

Repeal

“Chairman”

Substitute

“chairperson of the panel”.

- (3) Section 31(4)—

Repeal

“The Council”

Substitute

“An inquiry panel”.

- (4) Section 31(4), English text, after “submit to”—

Add a comma.

- (5) Section 31(5)—

Repeal

“The Chairman, and members and assessors of the Council through the Chairman”

Substitute

“The chairperson of an inquiry panel, and other members of the panel through the chairperson”.

- (6) Section 31(6)—

Repeal

“The Council”

Substitute

“An inquiry panel”.

75. Section 32 amended (voting)

- (1) Section 32(1)—

Repeal

“votes of the Council on any question to be determined by it, the Chairman shall call upon the members and assessors, if any,”

Substitute

“votes of an inquiry panel on any question to be decided by it, the chairperson of the panel must call on the members of the panel”.

- (2) Section 32(1)—

Repeal

“determination of the Council”

Substitute

“decision of the panel”.

- (3) Section 32(2)—

Repeal

“Where the determination of the Council so declared by the Chairman is challenged by any member or assessor of the Council, the Chairman shall call upon each member or assessor”

Substitute

“If the decision of an inquiry panel so declared by the chairperson of the panel is challenged by any other member of the panel, the chairperson must call on each member”.

- (4) Section 32(2)—

Repeal

“and assessors (if any) of the Council”

Substitute

“of the panel”.

- (5) Section 32—

Repeal subsection (3).

- (6) Section 32(4)—

Repeal

“and assessors of the Council and the Legal Adviser to the Council may be present when the Council”

Substitute

“of an inquiry panel and legal advisers may be present when the panel”.

76. Section 33 amended (reference of case to Health Committee by Council)

(1) Section 33, heading—

Repeal

“Council”

Substitute

“inquiry panel”.

(2) Section 33(1)—

Repeal

“referred to the Council”

Substitute

“referred to an inquiry panel”.

(3) Section 33(1)(a)—

Repeal

“Chairman”

Substitute

“chairperson of the panel”.

(4) Section 33(1)(b)—

Repeal

“Council,”

Substitute

“panel,”.

(5) Section 33(1)—

Repeal

“Chairman or the Council”

Substitute

“chairperson of the panel or the panel”.

(6) Section 33(2)—

Repeal

“On the Chairman or the Council”

Substitute

“On”.

(7) Section 33(2)—

Repeal

“Chairman or the Council may”

Substitute

“chairperson of the inquiry panel or the panel may”.

(8) Section 33(4)—

Repeal

“to the Council”

Substitute

“to the inquiry panel”.

(9) Section 33(4)—

Repeal

“Council shall commence or resume”

Substitute

“panel may commence or resume the”.

77. Section 34 substituted

Section 34—

Repeal the section

Substitute**“34. Review by inquiry panel**

- (1) If, after an inquiry under section 21 of the Ordinance, an inquiry panel has decided to—
 - (a) review its decision or order under section 21(4B) of the Ordinance; and
 - (b) invite any specified person to attend the review under section 21(4C) of the Ordinance,
the chairperson of the panel must direct the Secretary to notify the specified person in writing and invite the specified person to appear before the panel at the time and place fixed for holding the review.
- (2) At the review, the inquiry panel may invite a specified person to address the panel in the order it thinks appropriate.
- (3) The inquiry panel may proceed with the review in the absence of any specified person.
- (4) After the review, the chairperson of the inquiry panel must—
 - (a) announce the panel’s latest decision in writing; and
 - (b) direct the Secretary to—
 - (i) serve a notice of the decision on the defendant; and
 - (ii) notify the complainant of the decision.
- (5) The Secretary must comply with a direction given under subsection (1) or (4).
- (6) In this section—
specified person (指明人士) means—

- (a) a party to an inquiry under section 21 of the Ordinance; or
- (b) any other person who has appeared before an inquiry panel in the inquiry.”.

78. Section 35 amended (notice of hearing by Health Committee)

- (1) Section 35(1)(c)—

Repeal

“, but”

Substitute

“and”.

- (2) Section 35(1)(c)—

Repeal

“not”.

79. Section 37 amended (order of procedure of Health Committee)

- (1) Section 37(2), after “by the Health Committee”—

Add

“of a case referred to it under section 6(4) or 11(8)(d)”.

- (2) Section 37(2), after “the chairman of the Preliminary Investigation Committee”—

Add

“concerned”.

- (3) Section 37(2)—

Repeal

“, or”

Substitute

“, and”.

- (4) After section 37(2)—

Add

“(2A) At the commencement of a hearing by the Health Committee of a case referred to it under section 20Y(a) or 21(1)(ivb) of the Ordinance or section 15(1) or 33(1), the chairman of the Health Committee must invite the following persons to present the case and to call witnesses to give oral evidence—

(a) the chairperson of the inquiry panel concerned;
and

(b) if the complainant is a registered medical practitioner and is willing to do so, the complainant.”.

- (5) Section 37(3), after “of the hearing”—

Add

“mentioned in subsection (2) or (2A)”.

- (6) Section 37(3)—

Repeal

“Council such evidence as the Council may require”

Substitute

“Health Committee evidence required by it”.

- (7) Section 37(3)—

Repeal

“the Council being satisfied as to such evidence,”

Substitute

“being satisfied as to the evidence, the Health Committee”.

- (8) Section 37(4) and (5), after “subsection (2)”—

Add

“or (2A)”.

- (9) Section 37(6)—

Repeal

“, the deputy chairman”.

- (10) Section 37(7), after “the Preliminary Investigation Committee”—

Add

“, the chairperson of the inquiry panel”.

80. Section 38 amended (finding of Health Committee)

Section 38(6)—

Repeal

“Council or the chairman of the Preliminary Investigation Committee”

Substitute

“chairman of the Preliminary Investigation Committee concerned or the chairperson of the inquiry panel concerned”.

81. Section 39 amended (direction for further hearing by Health Committee)

(1) Section 39(1)—

Repeal

everything after “by the Health Committee”

Substitute

“—

(a) if—

- (i) the Council has, since its making of a section 21A order in respect of a registered medical practitioner, received information as to the fitness to practise of the practitioner; and
- (ii) in the opinion of the Chairman, the information justifies a review of the order; or

(b) if—

- (i) a section 21A order made by the Council in respect of a registered medical practitioner has been suspended subject to compliance with specified conditions; and
- (ii) it appears to the Chairman, based on any complaint or information received, that any of the conditions has not been complied with.”.

(2) After section 39(2)—

Add

“(3) In this section—

section 21A order (第21A條命令), in relation to a registered medical practitioner, means an order made under section 21A(1) of the Ordinance as a result of a finding by the Health Committee of the practitioner's physical or mental unfitness to practise.”