

Bill No. LII of 2013

THE INDIAN MEDICAL COUNCIL (AMENDMENT) BILL, 2013

A

BILL

further to amend the Indian Medical Council Act, 1956.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Medical Council (Amendment) Act, 2013. Short title and commencement.

5 (2) It shall be deemed to have come into force on the 15th day of May, 2013.

102 of 1956. 2. In the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), for the long title, the following long title shall be substituted, namely:— Amendment of long title.

10 “An Act to provide for the constitution of the Medical Council of India and for the determination, co-ordination, maintenance and regulation of standards of medical education, the practice of medicine, maintenance of Indian Medical Register and to make endeavour in making available doctors in all States and for matters connected therewith or incidental thereto.”.

3. In section 3 of the principal Act,— Amendment of section 3.
(a) in sub-section (1),—

(i) after clause (a), the following clause shall be inserted, namely:—

“(aa) one member, to represent the Union territories by rotation, to be nominated by the Central Government;”;

(ii) in clause (b), the following provisos shall be inserted, namely:

“Provided that where there is a Health University in a State, that University shall elect one representative for every ten medical colleges affiliated to it to represent such medical colleges: 5

Provided further that a Health University with less than ten medical colleges affiliated to it, shall also be eligible to elect one representative to represent such medical colleges: 10

Provided also that such number of representatives shall be reviewed by the Central Government after every four years;”;

(iii) clause (d) shall be omitted;

(b) in sub-section (2), the following proviso shall be inserted, namely:

“Provided that no person shall hold office as the President or, as the case may be, the Vice-President for more than two terms.”. 15

Insertion of new section 3AA.

4. After section 3A of the principal Act, the following section shall be inserted, namely:—

Reconstitution of Council.

“3AA. The Central Government shall, after the commencement of the Indian Medical Council (Amendment) Act, 2013, reconstitute the Council, by notification in the Official Gazette, and publish the names of the members nominated or elected to the Council under sub-section (1) of section 3 within a period not exceeding one hundred and eighty days: 20

Provided that the Board of Governors constituted under sub-section (4) of section 3A shall continue to exercise the powers and perform the functions of the Council till the new Council is reconstituted or for such period not exceeding one hundred and eighty days, whichever is earlier.”. 25

Amendment of section 4.

5. In section 4 of the principal Act, in sub-section (1),—

(a) the words, brackets and letter “or clause (d)” shall be omitted;

(b) the words, brackets, letter and figures “and any rules so made may provide that pending the preparation of the Indian Medical Register in accordance with the provisions of this Act, the members referred to in clause (d) of sub-section (1) of section 3 may be nominated by the Central Government instead of being elected as provided therein” shall be omitted. 30

Amendment of section 7.

6. In section 7 of the principal Act,— 35

(a) in sub-section (1), for the words “five years”, the words “four years” shall be substituted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Subject to the provisions of the Act, a member, whether nominated or elected, shall hold office for a term of four years.”; 40

(c) in sub-section (6), for the words “five years”, the words “four years” shall be substituted.

Insertion of new section 9A.

7. After section 9 of the principal Act, the following section shall be inserted, namely:— 45

Functions of Council.

“9A. (1) The Council shall, subject to the provisions of the Act and rules made thereunder, take measures to determine, coordinate and maintain the

standards of medical education and practice in medicine, the Indian Medical Register and make endeavour in making available doctors in all States.

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to in sub-section (1), may, *inter alia*, provide for all or any of the following matters, namely:—

(a) lay down the standards of professional ethics in the practice of medicine;

(b) grant or withdraw permission for establishment of medical college and course of study in medical education and ensure compliance of its terms and conditions for such permission;

(c) maintain the Indian Medical Register;

(d) render advice to the Central Government or the State Government on matters relating to the medical education and practice in medicine;

(e) facilitate medical education in the institutions situated outside the country;

(f) undertake and recommend to the Central Government or the State Government such measures as may be necessary to regulate medical education in or outside the country;

(g) organise seminars, symposiums and workshops in order to promote continuous medical education and practice in medicine; and

(h) perform such other functions as may be laid down in the rules made by the Central Government.”.

8. In section 13 of the principal Act,—

Amendment of
section 13.

(a) in sub-sections (2) and (3), for the words “a citizen of India”, the words “a citizen of India or an overseas citizen of India” shall respectively be substituted;

(b) in sub-section (4A), for the words “a citizen of India”, the words “a citizen of India or an overseas citizen of India” shall be substituted;

(c) sub-section (4B) and the proviso relating thereto shall be omitted;

(d) in sub-section (4C), for the words, brackets, figures and letters “sub-sections (4A) and (4B)”, the word, brackets, figure and letter “sub-section (4A)” shall be substituted;

(e) after sub-section (5), the following *Explanation* shall be inserted, namely:—

Explanation.—For the purposes of this section, the expression “overseas citizen of India” shall have the meaning assigned to it in clause (ee) of sub-section (1) of section 2 of the Citizenship Act, 1955.’.

57 of 1955.

9. In section 14 of the principal Act, in the proviso to sub-section (1), in clause (b), the words “for the time being for the purposes of teaching, research or charitable work” shall be omitted.

Amendment of
section 14.

10. In section 21 of the principal Act,—

Amendment of
section 21.

(a) in sub-section (1), for the words “the names”, the words “the names and biometric details” shall be substituted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

'(24) The Council shall, in addition to the Indian Medical Register referred to in sub-section (1), maintain the Medical Register in electronic form containing the particulars included in the Indian Medical Register.

Explanation.— For the purpose of this sub-section, the expression, “electronic form” shall have the meaning assigned to it in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000.’ 5
21 of 2000.

Insertion of new section 30A.

11. After section 30 of the principal Act, the following section shall be inserted, namely:—

Resignation, removal and suspension of President, Vice-President or members of Council.

“30A. (1) The President, Vice-President or any member of the Council may, by notice in writing under his hand addressed to the Central Government, resign from his office: 10

Provided that the President, Vice-President or any member of the Council shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of a period of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest. 15

(2) Notwithstanding anything contained in sub-section (1), the Central Government may remove from office the President, Vice-President, or any member of the Council, who— 20

(a) has been adjudged as an insolvent; or

(b) has become physically or mentally incapable of acting as such President, Vice-President, or other member; or

(c) is of unsound mind and stands so declared by a competent court; or 25

(d) has been convicted of an offence involving moral turpitude; or

(e) has acquired such financial or any other interest in any medical institution falling within the purview of the Council, which is likely to affect prejudicially the exercise of his functions as the President, Vice-President, or a member; or 30

(f) is unable to perform or has made persistent defaults—

(i) in the performance of the duties imposed on him under this Act or has exceeded or abused his position; or

(ii) either wilfully or without sufficient cause neglects to comply with the directions issued by the Central Government under sections 33A and 33B; 35

(g) has been guilty of proved misbehaviour or his continuance in office would be detrimental in public interest.

(3) No person shall be removed from his office on the grounds specified in clause (e) or clause (f) or clause (g) of sub-section (2), unless he has been given a reasonable opportunity of being heard in the matter.”. 40

Amendment of section 32.

12. In section 32 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) In particular, and without prejudice to the foregoing power, such rules may provide for all or any of the following matters, namely:— 45

(a) the manner of election of the Council under sub-section (1) of section 4;

(b) such other functions of the Council under clause (h) of sub-section (2) of section 9A as may be laid down by the Central Government;

(c) the conditions and payment of fees for filing of an appeal before the Central Government under sub-section (2) of section 24;

5 (d) any other matter which is required to be, or may be, provided by rules or in respect of which provision is to be made by rules.”.

13. In section 33 of the principal Act, for clause (ma), the following clause shall be substituted, namely:—

Amendment of section 33.

10 “(ma) the modalities for conducting screening test under sub-section (4A) of section 13;”.

14. After section 33 of the principal Act, the following sections shall be inserted, namely:—

Insertion of new sections 33A, 33B and 33C.

15 “33A. (1) Without prejudice to the foregoing provisions of this Act, the Council shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time.

Power of Central Government to give directions.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

20 33B. (1) Where the Central Government considers it expedient so to do, it may, by order in writing, direct the Council to make any regulations or to amend or revoke any regulations already made by it, within such period as the Central Government may specify in this behalf.

Powers of Central Government to direct regulations to be made or to make or amend regulations.

25 (2) If the Council fails or neglects to comply with such order within the specified period, the Central Government may make the regulations or amend or revoke the regulations made by the Council, as the case may be, in such manner as the Central Government thinks fit.

30 33C. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, regulation or both Houses agree that the rule and regulation should not be made, the rule and regulation shall, thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.”.

Laying of rules and regulations.

Ord. 4 of 2013. **15.** (1) The Indian Medical Council (Amendment) Ordinance, 2013 is hereby repealed.

Repeal and saving.

40 (2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Indian Medical Council Act, 1956 was enacted for the purpose of reconstituting the Medical Council of India (the Council) and to provide for the maintenance of the Indian Medical Register and for matters connected therewith. The Act was amended, *inter alia*, by the Indian Medical Council (Amendment) Act, 2010 superseding the Council for one year with effect from the 15th May, 2010 and providing for the constitution of a Board of Governors of not more than seven persons to exercise the powers and to perform the functions of the Council under the said Act. Subsequently, the term of the Board of Governors was extended to one year at a time by amending the Act in 2011 and 2012 and as per the provisions of the Indian Medical Council (Amendment) Act, 2012 the Council has to be reconstituted within a period of three years from the date of its supersession, that is latest by the 14th May, 2013.

2. The Indian Medical Council Act, 1956 was amended by the Indian Medical Council (Amendment) Ordinance, 2013 to provide for the reconstitution of the Council and review the composition of the said Council so as to give representation to the Union territories and to remove the anomaly where States having larger number of medical colleges, but having formed a medical university, were having fewer seats in the Council as compared to States having fewer colleges affiliated to several Universities, by inserting a proviso in clause (b) of sub-section (1) of section 3.

3. The Council's main function as contained in the Indian Medical Council Act, 1956 is to make recommendations to the Central Government on matters relating to recognition of medical qualifications, determining the courses of study and examinations required to obtain such qualifications, inspection of examinations and maintenance of register of medical practitioners, etc. By the amendment of the said Act in 1993, the power to grant permission for establishment of new Medical Colleges, increase in admission capacity or for starting new or higher course of study or training in the established colleges was entrusted to the Central Government from the respective State Governments. For this purpose, the Council became a recommendatory body to the Central Government for taking final decisions in these matters. After reviewing the working of the Council in this area and the problems being faced, a need has been felt to empower the Central Government to give such directions to the Council wherever necessary on matters of policy and public importance and to ensure their proper compliance.

4. As Parliament was not in session and immediate action was required to be taken to extend the term of the Board of Governors of Medical Council of India beyond the 14th May, 2013 and to allow the Board to exercise powers till the Council is reconstituted and make necessary amendments to the Indian Medical Council Act, 1956, the Indian Medical Council (Amendment) Ordinance, 2013 was promulgated on 21st May, 2013.

5. The Indian Medical Council (Amendment) Bill, 2013, which seeks to replace the Indian Medical Council (Amendment) Ordinance, 2013, *inter alia*, provides for the following, namely:—

(a) to amend long title of the Indian Medical Council Act, 1956 (Act) so as to make it more comprehensive;

(b) to amend sub-section (2) of section 3 of the Act so as to provide that no person shall hold the post of President or Vice-President for more than two terms;

(c) to amend section 13 of the Act relating to recognition of medical qualification and provisional registration so as to recognise the medical

qualifications granted to the citizen of India by medical institutions in India and to extend the benefit to the overseas citizens of India;

(d) to amend section 14 of the Act which recognises the medical practice by the persons having medical qualifications granted by medical institutions in any country outside India;

(e) to insert a new section 30A in the Act relating to resignation by the President, Vice-President and Members of the Council and the power of the Central Government to remove from the office the President, Vice-President or a Member; and

(f) to insert a new section 33A in the Act relating to power of the Central Government to give directions to the Council on the matters of policy and for making any regulation.

6. The proposed amendments will make the composition of the Council compact, more representative in character, and empower the Central Government to discharge its functions effectively to ensure proper development of medical education in the country.

7. The Bill seeks to replace the aforesaid Ordinance.

NEW DELHI;
The 1st August, 2013.

GHULAM NABI AZAD

FINANCIAL MEMORANDUM

Clause 4 of the Bill seeks to insert new section 3AA, so as to reconstitute the Medical Council of India within a period of one hundred and eighty days. The proviso to section 3AA provides that the Board of Governors (BOG) shall continue to exercise the powers and perform the functions of the Council till the new Council is reconstituted or for such period not exceeding one hundred and eighty days, whichever is earlier. The proposed amendment would automatically increase the term of the office of the Board of Governors (BOG) up to the 10th November, 2013. The Chairperson and other members, other than *ex-officio* members, of the Board of Governors shall be entitled to such sitting fee and other allowances as may be determined by the Central Government. It is expected that such expenditure on sitting fee and travelling and other allowances would be minimal and will be met from the funds of the Medical Council of India. Further, as expenditure would depend on the number of meetings of the Board of Governors during the current financial year, *i.e.*, 2013-14 recurring or non-recurring expenditure cannot be anticipated at this stage.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (2) of clause 12 of the Bill empowers the Central Government to make rules for carrying out the provisions of the proposed legislation on matters relating to—(a) the manner of election of the Council under sub-section (1) of section 4; (b) such other functions of the Council under clause (h) of sub-section (2) of section 9A as may be laid down by the Central Government; (c) the conditions and payment of fees for filing of an appeal before the Central Government under sub-section (2) of section 24; (d) any other matter which is required to be, or may be, provided by rules or in respect of which provision is to be made by rules.

2. The rules to be made under the proposed legislation shall be required to be laid before the Parliament.

3. The matters in respect of which rules may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself.

4. The delegation of legislative power is, therefore, of a normal character.

*Memorandum explaining the Modifications contained in the Bill to replace the
Indian Medical Council (Amendment) Ordinance, 2013.*

The Indian Medical Council (Amendment) Bill, 2013, which seeks to repeal and replace the Indian Medical Council (Amendment) Ordinance, 2013, proposes to make the following modifications apart from modifications of consequential or drafting nature in the provisions contained in the said Ordinance, namely:—

(i) The words “in such manner as may be provided by the rules made by the Central Government” have been dropped from the proposed proviso to clause (b) of sub-section (I) of section 3 of the Indian Medical Council Act, 1956.

(ii) A new sub-clause has been inserted after clause 8(b) to omit sub-section (4B) of section 13 of the Indian Medical Council Act, 1956.

ANNEXURE

EXTRACTS FROM THE INDIAN MEDICAL COUNCIL ACT, 1956 (102 OF 1956)

An Act to provide for the reconstitution for the Medical Council of India, and the maintenance of a Medical Register for India and for matters connected therewith.

* * * * *

3. (1) The Central Government shall cause to be constituted a Council consisting of the following members, namely:—

Constitution and Composition of the Council.

* * * * *

(d) Seven members to be elected from amongst themselves by persons enrolled or any of the State Medical Registers who possess the medical qualifications included in Part I of the Third Schedule;

* * * * *

4. (1) An election under clause (b), clause (c) or clause (d) of sub-section (1) of section 3 shall be conducted by the Central Government in accordance with such rules as may be made by it in this behalf, and any rules so made may provide that pending the preparation of the Indian Medical Register in accordance with the provisions of this Act, the members referred to in clause (d) of sub-section (1) of section 3 may be nominated by the Central Government instead of being elected as provided therein.

Mode of election.

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7. (1) The President or Vice-President of the Council shall hold office for a term not exceeding five years and not extending beyond the expiry of his term as member of the Council.

Term of office of President, Vice-President and members.

(2) Subject to the provisions of this section, a member shall hold office for a term of five years from the date of his nomination or election or until his successor shall have been duly nominated or elected, whichever is longer.

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(6) Where the said term of five years is about to expire in respect of any member, a successor may be nominated or elected at any time within three months before the said term expires but he shall not assume office until the said term has expired.

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13. (1) * * * * *

Recognition of medical qualifications granted by certain medical institutions whose qualifications are not included in the First or Second Schedule.

(2) The medical qualifications granted to a citizen of India—

(a) before the 15th day of August, 1947, by medical institutions in the territories now forming part of Pakistan, and

(b) before the 1st day of April, 1937, by medical institutions in the territories now forming part of Burma, which are included in Part I of the Third Schedule shall also be recognised medical qualifications for the purposes of this Act.

(3) The medical qualifications granted by medical institutions outside India before such date as the Central Government may, by notification in the Official Gazette, specify which are included in Part II of the Third Schedule shall also be recognised medical qualifications for the purposes of this Act, but no person possessing any such qualification shall be entitled to enrolment or on any State Medical Register unless he is a citizen of India and has undergone such practical training after obtaining that qualification as may be required by the rules or regulations in force in the country granting the qualification, or if he has not undergone any practical training in that country, he has undergone such practical training as may be prescribed.

* * * * *

(4A) A person who is a citizen of India and obtains medical qualification granted by any medical institution in any country outside India recognised for enrolment as medical practitioner in that country after such date as may be specified by the Central Government under sub-section (3), shall not be entitled to be enrolled on any Medical Register maintained by a State Medical Council or to have his name entered in the Indian Medical Register unless he qualifies the screening test in India prescribed for such purpose and such foreign medical qualification after such person qualifies the said screening test shall be deemed to be the recognised medical qualification for the purposes of this Act for that person.

(4B) A person who is a citizen of India shall not, after such date as may be specified by the Central Government under sub-section (3), be eligible to get admission to obtain medical qualification granted by any medical institution in any foreign country without obtaining an eligibility certificate issued to him by the Council and in case any such person obtains such qualification without obtaining such eligibility certificate, he shall not be eligible to appear in the screening test referred to in sub-section (4A):

Provided that an Indian citizen who has acquired the medical qualification from foreign medical institution or has obtained admission in foreign medical institution before the commencement of the Indian Medical Council (Amendment) Act, 2001, shall not be required to obtain eligibility certificate under this sub-section but, if he is qualified for admission to any medical course for recognised medical qualification in any medical institution in India, he shall be required to qualify only the screening test prescribed for enrolment on any State Medical Register or for entering his name in the Indian Medical Register.

(4C) Nothing contained in sub-sections (4C) and (4B) shall apply to the medical qualifications referred to in section 14 for the purposes of that section.

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Special provision in certain cases for recognition of medical qualifications granted by medical institutions in countries with which there is no scheme of reciprocity.

14. (1) The Central Government after consultation with the Council may, by notification in the Official Gazette, direct that medical qualifications granted by medical institutions in any country outside India in respect of which a scheme of reciprocity for the recognition of medical qualifications is not in force, shall be recognised medical qualifications for the purposes of this Act or shall be so only when granted after a specified date:

Provided that medical practice by persons possessing such qualifications—

* * * * *

(b) shall be limited to the institution to which they are attached for the time being for the purposes of teaching, research or charitable work; and

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The Indian Medical Register.

21. (1) The Council shall cause to be maintained, in the prescribed manner a register of medical practitioners to be known as the Indian Medical Register, which shall contain the names of the all persons who are for the time being enrolled on any State Medical Register and who possess any of the recognised medical qualifications.

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Power to make rules.

32. (1) * * * * *

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be

made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

33. The Council may, with the previous sanction of the Central Government, make regulations generally to carry out the purposes of this Act, and, without prejudice to the generality of this power, such regulations may provide for—

Power to make regulations.

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(*ma*) the modalities for conducting screening tests under sub-section (4A), and under the proviso to sub-section (4B), and for issuing eligibility certificate under sub-section (4B) of section 13;

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further to amend the Indian Medical Council Act, 1956.

(Shri Ghulam Nabi Azad, Minister of Health and Family Welfare)