

23 AUG 2005

Bill No. LXXXVI of 2005

THE INDIAN MEDICAL COUNCIL (AMENDMENT) BILL, 2005

^
BILL

further to amend the Indian Medical Council Act, 1956.

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

1. (1) This Act may be called the Indian Medical Council (Amendment) Act, 2005.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

102 of 1956. 5 2. In the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), in section 2,—

Amendment
of section 2.

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

'(ff) "member" means the member of the Council and includes the President and the Vice-President;'

10 (ii) after clause (g), the following clause shall be inserted, namely:—

'(gg) "President" means the President of the Council;'

(iii) for clause (l), the following clause shall be substituted, namely:—

'(l) "University" means a University defined under clause (f) of section 2 of the University Grants Commission Act, 1956, and includes an institution deemed to be a University under section 3 of that Act and having a medical faculty;'

(iv) after clause (l), the following clause shall be inserted, namely:—

'(m) "Vice-President" means the Vice-President of the Council.'

Amendment
of section 3.

3. In section 3 of the principal Act,—

(a) in sub-section (1),—

(i) for clause (b), the following clause shall be substituted, namely:— 10

"(b) one member from each State or Union territory, to be elected from amongst themselves who are the members of the medical faculty of the Universities in the State or the Union territory which are awarding recognised medical qualifications:

Provided that in a State having more than ten medical colleges awarding recognised medical qualifications, one member for every such ten colleges shall be elected: 15

Provided further that such number of members shall be reviewed by the Central Government after every five years;";

(ii) for clause (c), the following clause shall be substituted, namely:— 20

"(c) one member from each State in which a State Medical Register is maintained, to be elected from amongst themselves who are the members of the State Medical Council;";

(iii) clause (d) shall be omitted;

(iv) after clause (e), the following clauses shall be inserted, namely:— 25

"(f) the Director General of Health Services, *ex officio*;

(g) the Director General (Armed Forces Medical Services), *ex officio*;

(h) the Director, All India Institute of Medical Sciences, New Delhi, *ex officio*; 30

(i) the President, National Board of Examinations, New Delhi, *ex officio*;";

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

"(2) The President and the Vice-President of the Council shall be elected by the members of the Council from amongst themselves; 35

Provided that no person shall hold office in any capacity whether as the President or the Vice-President for more than two terms."

Insertion of new
section 3A.

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

Reconstitution
of Council.

"3A. (1) The Central Government shall, as soon as possible, after the commencement of the Indian Medical Council (Amendment) Act, 2005, reconstitute the Council, and by notification in the Official Gazette, publish the names of the members nominated or elected under sub-section (1) of section 3. 40

(2) On and from the date of commencement of the Indian Medical Council (Amendment) Act, 2005, the existing Council shall stand dissolved and all the members of the Council shall vacate their offices. 45

(3) The Central Government shall appoint a Board of Administrators consisting of not more than five members headed by a Chief Administrator, who are otherwise eligible to hold the office of the members of the Council, which shall exercise the powers and perform the functions of the Council till the new Council is reconstituted in the manner provided under this Act or the expiry of six months, whichever is earlier.”

5. In section 4 of the principal Act,—

Amendment
of section 4.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) An election under clause (b) or clause (c) of sub-section (1) of section 3 shall be conducted by such authority and in accordance with such rules as may be made by the Central Government in this behalf.”;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) If the authority is unable to conduct the elections referred to in sub-section (1), within a period of three months from the date of occurrence of the vacancy, it shall record the reasons thereof and the Central Government, on being satisfied of the reasons shall, till such time the member is elected in accordance with the provisions of sub-section (1), fill the vacancy,—

(a) falling under clause (b) of sub-section (1) of section 3, by nomination of,—

(i) the Vice-Chancellor in case of a State where the University of Health Sciences has been established and in the event of his being ineligible, any eligible member from the medical faculty of that University in consultation with the State; or

(ii) an eminent member belonging to the medical faculty in case of a State or Union territory having University with such faculty in consultation with that State or the Union territory, as the case may be; and

(b) falling under clause (c) of sub-section (1) of section 3, by nomination of the person who is enrolled as a member on the State Medical Register in the concerned State,

and the member so nominated shall be deemed to have been duly elected under section 3 and shall hold office till the expiry of the term specified under sub-section (2) of section 7 or till such time the member is elected in accordance with the provisions of sub-section (1) of this section, whichever is earlier.”.

6. In section 5 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amendment
of section 5.

“(1) No person shall be eligible for nomination or election under sub-section (1) of section 3 or sub-section (1A) of section 4 unless he possesses any of the medical qualifications included in the First and the Second Schedule and Part II of the Third Schedule, and is permanently enrolled on any State Medical Register or the Indian Medical Register:

Provided that no person shall be eligible for nomination under clause (a) of sub-section (1) of section 3 unless he resides in the State concerned and where a State Medical Register is maintained in that State he is also enrolled on that Register.”.

7. In section 7 of the principal Act,—

Amendment
of section 7.

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

“(2) Subject to the provisions of this section, sub-section (1) of section 30A or section 30B, a member, other than an *ex officio* member, whether

nominated or elected, shall hold office for a term of five years from the date of issue of the notification appointing him as a member of the Council by the Central Government:

Provided that no member shall continue to hold office beyond three months after the expiry of his term of five years, unless re-nominated or re-elected.”; 5

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) A member nominated under sub-section (1A) of section 4 shall be deemed to have vacated his seat from the date of issue of the notification by the Central Government appointing his duly elected successor in accordance with the provisions of sub-section (1) of that section.”. 10

Amendment of section 10.

8. In section 10 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Executive Committee, hereinafter referred to as the Committee, shall consist of the President and the Vice-President who shall be members *ex officio*, other *ex officio* members under clauses (f), (g), (h) and (i) of sub-section (1) of section 3 and nine other members who shall be elected by the Council from amongst its members.”. 15

Insertion of new sections 30A, 30B, 30C, 30D and 30E.

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

Removal of President, Vice-President or member of Council.

“30A. (1) The Council may recommend to the Central Government for removal of the President, the Vice-President or any member on the grounds of misconduct or incapacity by a resolution passed by a majority of the total membership of the Council excluding the vacancies and a two-thirds majority of the members present and voting after having given a reasonable opportunity of being heard, and the Central Government may, after being satisfied of the grounds on which such removal is recommended, remove the President, the Vice-President or the member from the Council in accordance with such rules as may be made by it: 20 25

Provided that the Council shall, before making any recommendation for removal of a member, consider the views of a Disciplinary Committee constituted for the purpose, which shall follow such procedure as the Central Government may by rules determine. 30

(2) When the President is removed by an order under sub-section (1), during the period of such removal the powers and duties conferred and imposed on the President under this Act shall be exercised and performed by the Vice-President.

(3) Where the Vice-President is removed by an order under sub-section (1), during the period of such removal the powers and duties conferred and imposed on the Vice-President under this Act shall be exercised and performed by such person as the Central Government may appoint in that behalf from amongst the members of the Council. 35

(4) The President or the Vice-President or the member, as the case may be, shall be elected in the manner provided under this Act within the period of three months from the date on which the order of removal was issued under sub-section (1). 40

Withdrawal or removal of nominated members of Council.

30B. Notwithstanding anything contained in section 7, if the Central Government considers it to be expedient in the public interest or on the recommendation of the State Government concerned that a member nominated to the Council under clause (a) or clause (e) of sub-section (1) of section 3 should withdraw from the Council, the Central Government may give such direction and if the member refuses to comply with the direction so given, it may, by order, remove such member from the Council. 45

30C. (1) In the discharge of its functions under this Act, the Council shall be guided by such directions, as may be given to it in the public interest, by the Central Government.

Directions by
Central
Government.

5 (2) If any dispute arises between the Central Government and the Council as to whether a question relates to public interest or not, the decision of the Central Government thereon shall be final.

30D. (1) If the Central Government is of the opinion that the Executive Committee or any other committee of the Council is unable to perform or has made persistently defaults—

Power of
Central
Government
to dissolve
Executive
Committee or
any other
committee.

10 (a) in the performance of the duties imposed on it by or under this Act or has exceeded or abused its powers; or

(b) either wilfully or without sufficient cause in complying with any direction issued by the Central Government under section 30C,

15 the Central Government may, by notification published, together with a statement of reasons therefor, in the Official Gazette, dissolve the Executive Committee or such other committee:

20 Provided that before issue of such notification, the Central Government shall give a reasonable time to the Executive Committee or such other committee, as the case may be, to show cause why it should not be dissolved and shall consider the explanations and objections, if any, of the Executive Committee or such other committee.

(2) Upon the publication of a notification under sub-section (1) dissolving the Executive Committee or, as the case may be, such other committee,—

25 (a) all members of the Executive Committee, or the other committee shall, notwithstanding that their term of office had not expired, as from the date of dissolution, vacate their offices as such members;

30 (b) all powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Executive Committee or the other committee, during the period of dissolution, be exercised and performed by such person or persons as the Central Government may appoint in that behalf from amongst the members of the Council:

Provided that the term of office of the person or persons so appointed under this sub-section shall not exceed a period of six months or till the time a new Executive Committee or such other committee is constituted, whichever is earlier.

35 30E. (1) If the Central Government is of the opinion that the President or the Vice-President or the member of the Executive Committee or any other committee of the Council is unable to perform or has made persistently defaults—

Power of
Central
Government
to remove
President,
Vice-
President or
member of
Executive
Committee or
any other
committee.

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

40 (b) either wilfully or without sufficient cause in complying with any direction issued by the Central Government under section 30C,

the Central Government may remove from office the President or the Vice-President or the member, as the case may be:

45 Provided that before issue of such removal, the Central Government shall give a reasonable opportunity of being heard to the President or the Vice-President or the member, as the case may be, to show cause why he should not be removed from office and shall consider the explanations and objections, if any, of the President or the Vice-President or the member.

(2) Upon the removal from office under sub-section (1),—

(a) the President or the Vice-President or the member shall, notwithstanding that his term of office had not expired, as from the date of removal from office, vacate the office as such President or the Vice-President or member;

(b) all powers and duties which may, under the provisions of this Act, be exercised or performed by the President or the Vice-President, as the case may be, shall, during the period of removal from office, be exercised and performed by such person as the Central Government may appoint in that behalf from amongst the members of the Council: 5

Provided that the term of office of the person so appointed under this sub-section shall not exceed a period of six months or till the time a new President or the Vice-President or the member, as the case may be, is elected in the manner provided under this Act, whichever is earlier." 10

Amendment of section 32.

10. In section 32 of the principal Act,—

(a) in sub-section (1), the brackets and figure "(1)" shall be omitted; 15

(b) sub-section (2) shall be omitted.

Insertion of new sections 33A and 33B.

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

"33A. (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 within such period as it may specify in this behalf. 20

(2) If the Council fails or neglects to comply with such order within the specified period, the Central Government may itself make the regulations or amend or revoke the regulations made by the Council.

Power of Central Government to issue directions for making or amending regulations.

Laying of rules and regulations.

33B. 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 or regulation or both Houses agree that the rule or regulation should not be made, the rule or 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." 25 30

STATEMENT OF OBJECTS AND REASONS

The Indian Medical Council Act, 1956 (IMC) provides for composition of the Medical Council of India (MCI), which includes elected and nominated representatives. The composition of the Council has been reviewed to examine whether it was helping to serve the purposes intended in the light of various developments in the field of medical education. It was found that the Council has lost its representative character due to (a) large number of vacancies in the elected category; (b) States having larger number of medical colleges, but having formed a medical university, are having fewer seats in the Council as compared to States having fewer colleges affiliated to several Universities; (c) lack of interaction between the State Medical Councils and the MCI; and (d) representation was still being given to those categories which are no more in existence. It is, therefore, considered necessary to make the composition of the Council compact and representative and also empower the Central Government to ensure that large number of vacancies, particularly in the elected category remain filled. Since the composition of the revised Council is likely to be substantially different from the existing one, a new section 3A relating to reconstitution of the Council is proposed to be inserted in the IMC Act, 1956.

2. The Council's main function as contained in the IMC Act, 1956 is to make recommendations to the Central Government in matters of 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 intake capacity or for starting higher courses in the established Colleges was entrusted to the Central Government from the respective State Governments. For this purpose, the MCI 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, and also Council's accountability to the tasks entrusted to it. As in other statutory bodies, it is also proposed to make provisions for removal of members of the Council, and in specified circumstances, dissolution of the Executive Committee or any other Committee.

3. The proposed legislative measures will make the composition of the Council compact, comprehensive and representative, and empower the Central Government to discharge its functions effectively to ensure proper development of medical education in the country.

4. The present Bill is intended to achieve the above objects.

NEW DELHI;
The 16th August, 2005.

ANBUMANI RAMADOSS.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (a) of clause 5 of the Bill empowers the Central Government to make rules for conducting elections under clause (b) or clause (c) of sub-section (1) of section 3, by an authority so authorised under the rules. Similar rule making power for conducting election is available to the Central Government under the existing provisions.

2. Clause 9 of the Bill provides for insertion of a new section 30A for removal of the President, the Vice-President or a member of the Council in certain cases. It is proposed that the Central Government may frame procedural rules under which the President and the Vice-President of the Council may be removed. The Council shall, before making any recommendation for removal of a member, consider the views of the Disciplinary Committee, constituted for the purpose. It is proposed that the procedure, etc., to be followed by the Disciplinary Committee shall be determined by rules framed by the Central Government.

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

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

ANNEXURE

EXTRACTS FROM THE INDIAN MEDICAL COUNCIL ACT, 1956

(102 OF 1956)

*	*	*	*	*
2. In this Act, unless the context otherwise requires,—				Definitions.
*	*	*	*	*
(f) "University" means any University in India established by law and having a medical faculty.				
3. (1) The Central Government shall cause to be constituted a Council consisting of the following members, namely:—				Constitution and composition of the Council.
*	*	*	*	*
(b) one member from each University, to be elected from amongst the members of the medical faculty of the University by members of the Senate of the University or in case the University has no Senate, by members of the Court;				
(c) one member from each State in which a State Medical Register is maintained, to be elected from amongst themselves by persons enrolled on such Register who possess the medical qualifications included in the First or the Second Schedule or in Part II of the Third Schedule;				
(d) seven members to be elected from amongst themselves by persons enrolled on any of the State Medical Registers who possess the medical qualifications included in Part I of the Third Schedule;				
*	*	*	*	*
(2) The President and Vice-President of the Council shall be elected by the members of the Council from amongst themselves.				
*	*	*	*	*
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, 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.
*	*	*	*	*
5. (1) No person shall be eligible for nomination under clause (a) of sub-section (1) of section 3 unless he possesses any of the medical qualifications included in the First and Second Schedules, resides in the State concerned, and, where a State Medical Register is maintained in that State, is enrolled on that register.				Restrictions on nomination and membership.
*	*	*	*	*
7. (1)				
(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.				Term of office of President, Vice-President and members.
*	*	*	*	*
10. (1) The Executive Committee, hereinafter referred to as the Committee, shall consist of the President and Vice-President, who shall be member <i>ex officio</i> , and not less than seven and not more than ten other members who shall be elected by the Council from amongst its members.				The Executive Committee.
*	*	*	*	*

Power to
make rules.

32. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) All rules made under this section shall be laid for not less than thirty days before both Houses of Parliament as soon as possible after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

* * * * *

RAJYA SABHA

A

BILL

further to amend the Indian Medical Council Act, 1956

(Dr. Anbumani Ramadoss, Minister of Health and Family Welfare)