The Jammu and Kashmir Medical Registration Act, 1941

Act 4 of 1941

Keyword(s):
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THE JAMMU AND KASHMIR MEDICAL REGISTRATION ACT, 1998 (1941 A. D.)

Act No. IV of 1998

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THE JAMMU AND KASHMIR MEDICAL REGISTRATION
ACT, 1998 (1941 A. D.)

Act No. IV of 1998

[Received the assent of His Highness the Maharaja Bahadur on
1st May 1941/19th Baisakh, 1998 and published in Government
Gazette dated 2nd Sawan, 1998.]

Preamble.—Whereas it is expedient to provide for registration of
a certain class of medical practitioners in the Jammu and Kashmir State; it is hereby enacted as follows:

1. Short title.—This Act may be called the Jammu and Kashmir Medical Registration Act, 1998.

2. Extent.—It extends to the whole of Jammu and Kashmir State.

3. Commencement of Act.—This Act shall come into force on such date as the Government may notify in this behalf.

4. Definitions.—In this Act, unless there is something relugniant in the subject or context,—

(1) "the British Medical Acts" means Statutes 21 and 22, Vistoria, Chapter 90 (The Medical Act) and any Act amending the same;

(2) "Council" means the Medical Council established by this Act;

(3) "Hospitals", "asylums", "infirmaries", "dispensaries", "lying-in-hospitals" means institutions in which the methods or treatment carried on are those approved by the Medical Council established by this Act;

(4) "prescribed" means prescribed by rules or bye-laws made under this Act;

(5) "registered practitioner" means any person registered under the provisions of this Act.

1. Certain words omitted by Act IX of 1957 (These were inserted by Act XXXII of 2010.
5. Privileges of registered practitioners.—Notwithstanding anything to the contrary in any enactment, rule, bye-law, or any other provisions of law,—

(1) no certificate required by law to be given by a medical practitioner or officer shall be valid unless signed by a registered practitioner;

(2) except with the general or special sanction of the Government, no one other than a registered practitioner shall be competent to hold any appointment as physician, surgeon or other medical officer in any hospital, asylum, infirmary, dispensary or lying-in-hospital, not being an institution avowedly maintained for the purpose of medical treatment according to the Homeopathic, Ayurvedic or Unani system not supported entirely by voluntary contribution or as Medical Officer of Health.


6. Constitution of Medical Council.—(1) A Medical Council shall be established for the Jammu and Kashmir State and shall consist of 13 members including a President and a Vice-President, all of whom shall be actually residing within the State.

(2) The Council shall be appointed in the following manner:

(a) a president to be nominated by the Government:

(b) 3 members to be nominated by the Government, two of whom shall be medical practitioners not in Government employ;

(c) six members to be elected by the registered practitioners who are graduates or post-graduates in medicine or surgery, three from the province of Jammu and three from province of Kashmir;

(d) two members to be elected by registered practitioners who are licentiates of an Indian College or School of Medicine, one from the Province of Jammu and one from the Province of Kashmir;

1. Section 5-A omitted by Act IX of 1957. It was inserted by Act XXXII of 2011.
3. Substituted by Act XXXII of 2011 for “four”.
4. Clause (c) deleted and clauses (d), (e) and (f) renumbered as clauses (e), (d) and (e) respectively ibid.
5. Clause (c) substituted by Act XXIV of 1988.
(e) one member to be elected by women practitioners who are registered practitioners:

1[Provided that in the case of the first Council established under this Act, after the Commencement of the Jammu and Kashmir Medical Registration (Amendment) Act, 1966, the members to be elected under clauses (c), (d) and (e) shall be nominated by the Government.]

(3) The vice-president shall be elected by the members of the Council in the prescribed manner.

7. Qualifications of members.—No person shall be eligible to be a member of the Council unless he is a registered practitioner:

3[Provided that in the case of first appointments of members of the Council made under this Act after the commencement of the Jammu and Kashmir Medical Registration (Amendment) Act, 1966, the persons electing the members under section 6, sub-section (2), clauses (c), (d) and (e), and the members appointed, shall be persons who were registered before such commencement or are qualified to be registered under section 14, clauses (a), (b) and (c).]

8. Tenure of office of members.—The members of the Council shall hold office for a term of three years and shall be eligible for reappointment:

4[Provided that, notwithstanding anything contained in this Act, the term of office of the members of the first Council established under this Act after the commencement of the Jammu and Kashmir Medical Registration (Amendment) Act, 1966, shall, unless a shorter period is specified by the Government, be for a period of four years.]

9. Cessation of membership.—A member of the Council shall be deemed to have vacated his seat—

(1) on sending his resignation in writing to the President or Registrar;

(2) on his absence without excuse sufficient in the opinion of the Council from three consecutive meetings of the Council;

1. Proviso to section 6 2 added by Act IX of 1957.
(3) on his absence out of the State for six consecutive months;

(4) on removal of his name from the register;

(5) on his becoming mentally or physically unfit for performing his duties under this Act, or on being declared insolvent by any competent Court;

(6) on expiry of the term mentioned in section 8.

10. **Filling up vacancies.**—When the seat of any member becomes vacant, the vacancy shall be filled by election or nomination, as the case may be, in accordance with the provisions of section 6:

1[Provided that the term of office of a member elected or appointed to fill a vacancy occurring any time after the constitution of a Council, shall be the residue of the term provided for under section 8.]

11. **Registrar and other officers.**—(1) The Council shall appoint a Registrar who shall also act as Secretary of the Council and who shall also act as treasurer unless the Council shall appoint another person as treasurer. Every person so appointed shall be removable at the pleasure of the Council.

1[2] A person shall not be qualified for appointment as a Registrar unless he is possessed of any of the qualifications described in the Schedule referred to in section 14 of this Act or holds the post of Drugs Controller or an Assistant Drugs Controller in the State.

2[(3)] The Council may also employ such other persons as it may deem necessary for the purpose of this Act.

2[(4)] All persons appointed or employed under this section shall be deemed to be public servants within the meaning of section 21 of the Ranbir Penal Code.

12. **Medical register.**—It shall be the duty of the Registrar to open and maintain, in accordance with the provisions of this Act. A register to be called the Jammu and Kashmir State Medical Register and from time to time to revise the register and publish it in the prescribed manner. Such register shall be deemed to be a public document within the meaning of the Jammu and Kashmir Evidence Act, 1977.

1. Proviso to section 10 added by Act XXIV of 1968.
2. Existing sub-sections (2) and (3) re-numbered as sub-sections (3) and (4) and a new sub-section (2) inserted by Act XXXII of 1966.
13. Meetings of Council.—No business shall be transacted at a meeting of the Council unless at least five members are present. All questions, other than questions of order, which may come before the Council, shall be decided in accordance with the votes of the majority of the members present and voting at the meeting. In the case of an equality of votes the member presiding at the meeting shall have a casting vote.

Questions of order shall be decided by the member presiding at the meeting.

14. Persons who may be registered.—Every person who—

(a) is for the time being registered or qualified to be registered under the British Medical Act, or

(b) is for the time being registered or qualified to be registered in any 1[State in the Indian Union] under the Act relating to registration of medical practitioners in force in that 2[State,] or

(c) is possessed of any of the qualifications described in the Schedule,

may apply to the Registrar to be registered and on payment of the prescribed fee and on furnishing to the Registrar proof of such registration or qualification, shall be entitled to be registered, and thereupon the Registrar, subject to the proviso contained hereinafter, shall register him in the Jammu and Kashmir State Medical Register:

1[Provided that the Council may permit the registration of any person about whom it is satisfied—

(a) that he is possessed of a medical degree, diploma, or certificate of any University, Medical College or School approved by the Council, other than those described in the Schedule; or

(b) that he has been practising medicine in the State continuously for a period of not less than nine years before the commencement of the Jammu and Kashmir Medical Registration (Amendment) Act, 1966, without having fallen into disrepute about his personal conduct or professional capability and is sufficiently literate to carry on such practice without any probable danger to human life:

1. Substituted by Act XXXII of 2011 for "Part A State or States of Ajmer Coorg or Delhi" (For earlier amendment see A. L. O. 2008.)
2. Substituted by Act XXXII of 2011 for "Province"
Provided that before a person is permitted to be registered under this clause, he shall be required to produce a certificate, each, from the District Medical Officer and the Deputy Commissioner of the District in which he is practising, to the effect that he fulfils the conditions laid down in this clause; or

(c) that he has served in any capacity involving dispensing or mixing up of medicines or as Theatre Assistant in any Medical Institution run by the State or any other such Institution recognised by the Government, for a period of not less than five years before his honourable relief from service:

Provided also that the Council may refuse to permit the registration of any person who has been convicted of any such offence as implies, in the opinion of the Council, a defect of character or who after an enquiry, at which opportunity has been given to the applicant to be heard in person or by pleader, has been held by the Council to have been guilty of infamous conduct in any professional respect:

Provided further that the Registrar, on receiving an application for entry in the register from any person in respect of whom he considers that the Council may wish to exercise the power of refusal conferred by the last foregoing proviso, may refer the said application to the Council, and shall not make any entry in the register in respect of such person until the Council informs him that the entry may be made.

1[14-A. Every person registered under clause (b) or clause (c) of first proviso to section 14 shall engage the services of a registered Pharmacist for dispensing; and shall not—

(a) prescribe any dangerous drug; or

(b) issue any medical certificate for any purpose whatsoever; or

(c) issue any death certificate in any medico-legal case or otherwise.

EXPLANATION.—For purposes of this section the expression “dangerous drug” shall have the meaning assigned to it in the Dangerous Drugs Act, 1930 (Central Act 2 of 1930.)

15. Entry of new titles and qualifications in register.—If any person whose name is entered in the register obtains any title or qualification other than the title or qualification in respect of which he has been registered, he shall on payment of the prescribed fee be entitled to have an entry stating such other title or qualification made against his name in the register either in substitution of, or in addition to, any entry previously made.

16. Appeal against the decision of Registrar.—An appeal shall lie to the Council against any order of the Registrar under section 14 or section 15. The said appeal shall be preferred within three months from the date of the order appealed against.

17. Alteration of register by Council.—(1) The Council may, if it sees fit and after giving notice to the person concerned and inquiring into his objections, if any, order that any entry in the register which shall be proved to the satisfaction of the Council to have been fraudulently or incorrectly made or brought about be cancelled or amended.

(2) The Council may direct the removal altogether or for a specified period from the register of the name of any registered practitioner who has been convicted of any such offence as implies in the opinion of the Council a defect of character, or who, after an inquiry at which opportunity has been given to such registered practitioner to be heard in person or by pleader, has been held by the Council to have been guilty of infamous conduct in any professional respect. The Council may also direct that any name so removed shall be restored.

18. Procedure in inquiries and appeals.—(1) The Council may at its discretion hold an inquiry under section 14 or section 17 in camera.

(2) For the purpose of any such inquiry or of any appeal under section 16, the Council shall be deemed to be a Court within the meaning of the Evidence Act, 1977, and shall exercise all the powers of a Commissioner appointed under the Public Servants (Inquiries) Act, 1977, and such inquiries and appeals shall be conducted, as far as may be, in accordance with the provisions of section 5 and sections 8 to 20 of the Public Servants (Inquiries) Act, 1977.

19. Appeal against the decision of Council.—An appeal shall lie to the Government against every decision of the Council under section 14 or section 17. Such appeal shall be preferred within three months from the date of the Council's decision.
20. Limiting of jurisdiction of Civil Courts.—No act done in the exercise of any power conferred by this Act on the Government or the Council or the Registrar shall be questioned in any Civil Court.


22. Power of the Council to call for information regarding efficiency of teaching and to attend examinations.—The Council shall have power to request the governing body or authorities of any University, medical college or school included in, or desirous of being included in, the Schedule—

(a) to furnish such reports, returns or other information as the Council may require to enable it to judge of the efficiency of the instruction given therein in medicine and surgery and midwifery, and

(b) to provide facilities to enable any member of the Council deputed by it in this behalf to be present at the examination held by such University, college or school.

If the said body or authorities fail or refuse to comply with any such request the Government may, upon the report by the Council, remove the name of such University, medical college or school from the Schedule, or refuse to include it in the Schedule.

23. Control by the Government.—If at any time it shall appear to the Government that the Council has neglected to exercise or has exceeded or abused any power conferred upon it under this Act or has neglected to perform any duty imposed upon it by this Act, the Government may communicate the particulars of such neglect, excess or abuse to the Council; and, if the Council fails to remedy such neglect, excess or abuse, within such time as may be fixed by the Government in this behalf, the Government may, for the purpose of remedying such neglect, excess or abuse, cause any of the powers and duties of the Council to be exercised and performed by such agency and for such period as the Government may think fit.

24. Penalty for falsely pretending to be a registered practitioner.—Any person who falsely pretends to be a registered practitioner, whether any person is actually deceived by such pretence or not, or who voluntarily and falsely assumes or uses any title or description or any additional to his name implying that he holds a degree, diploma, licence
or certificate conferred, granted or issued by any authority specified in the Schedule shall on conviction by a Judicial Magistrate of the first class be punishable with a fine which may extend to three hundred rupees, or with imprisonment which may extend to six months, or with both.

25. Cognizance of offence.—No Court shall take cognizance of an offence punishable under this Act, except upon complaint made in this behalf.

26. Power to make rules and bye-laws.—(1) The Government may, after previous publication, make rules for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, the Government may make rules:

(i) for the election of members to the Council under section 6 and 7;

(ii) for the election of the vice-president of the Council;

(iii) to regulate the procedure at an inquiry held under section 14 or section 17;

(iv) for the institution, hearing and disposal of appeals under section 16 or section 17;

(v) for the compilation or publication of the register;

(vi) to fix the amount of fees to be levied under this Act;

(vii) for the disposal of fees received under this Act.

(3) The Council may, with the previous sanction of the Government, make bye-laws—

(i) for convening of meetings of the Council;

(ii) for the conduct of business at such meetings;

(iii) for the appointment, control, pay and allowances of the establishment employed under section 11.

1. Certain words omitted by Act IX of 1957. These were inserted by Act XXXII of 2011.
2. Substituted by Act XL of 1966 for "Magistrate".
3. Added by Act XXXII of 2011.
THE SCHEDULE

(Vide section 14)

1. Recognised medical qualifications granted by medical institutions in any State in the Indian Union which are included in the First Schedule of the Indian Medical Council Act, 1933 (see Appendix A.)

2. Recognised medical qualifications granted by medical institutions outside India which are included in the Second Schedule of the Indian Medical Council Act, 1933 (see Appendix B.)

3. A diploma or certificate granted by the Government of a State in the Indian Union or the Government of Burma to any person trained in a medical college or school declaring him to be qualified to practise medicines, surgery and midwifery or to perform the duties of a military assistant surgeon, hospital assistant or sub-assistant surgeon.

4. The holders of certificates, diplomas or licences granted by the following examining bodies to practise medicines, surgery and midwifery:

   (i) The Punjab State Medical Faculty.
   (ii) The State Medical Faculty of West Bengal.
   (iii) The College of Physicians and Surgeons of Bombay.
   (iv) The Board of Examiners, Madras Medical College, Madras.
   (v) The U. P. State Board of Medical Examinations or State Medical Faculty.
   (vi) The Bihar and Orissa Medical Examination Board.
   (vii) The Assam Medical Examination Board.
   (viii) The Central Provinces Medical Examination Board.
   (ix) King Edward Hospital Medical School, Indore.
   (x) The Berar State Board of Medical Examination.
   (xi) The Burma Medical Examination Board, Rangoon.

5. Bachelor of Medicines and Bachelor of Surgery and Licentiate of Medicines and Surgery of the Osmania University.

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1. Now Indian Medical Council Act (102 of 1956.)
### APPENDIX—A

**Recognised medical qualifications granted by medical institutions in any State in the Indian Union.**

<table>
<thead>
<tr>
<th>Medical institution</th>
<th>Recognised medical qualifications</th>
<th>Abbreviation for registration</th>
</tr>
</thead>
<tbody>
<tr>
<td>University of Allahabad</td>
<td>Bachelor of Medicine M. B. B. S., All. and Bachelor of Surgery.</td>
<td></td>
</tr>
<tr>
<td>University of Bombay</td>
<td>Licentiate in Medicine L. M. S., Bom. and Surgery. Bachelor of Medicine M. B. B. S. Bom. and Bachelor of Surgery.</td>
<td></td>
</tr>
<tr>
<td>University of Lucknow</td>
<td>Bachelor of Medicine and M. B. B. S., Lucknow. Bachelor of Surgery.</td>
<td></td>
</tr>
<tr>
<td>University of Patna</td>
<td>Bachelor of Medicine and M. B. S., Pat. Bachelor of Surgery</td>
<td></td>
</tr>
</tbody>
</table>

### APPENDIX B

**Recognised medical qualifications granted by medical institutions outside India.**

<table>
<thead>
<tr>
<th>Country</th>
<th>Qualifications</th>
</tr>
</thead>
<tbody>
<tr>
<td>United Kingdom</td>
<td>Registra@ble qualifications admitting primarily to the Medical Register granted by licensing bodies in the United Kingdom as shown in Table 'F' set out in the Medical Register printed and published from time to time under the direction of the General Council of Medical Education and Registration of the United Kingdom in pursuance of the Medical Acts 1858 and 1886.</td>
</tr>
<tr>
<td>Other countries</td>
<td>Title</td>
</tr>
<tr>
<td>----------------</td>
<td>--------------------------------</td>
</tr>
<tr>
<td><strong>Nova Scotia</strong></td>
<td></td>
</tr>
<tr>
<td>Nova Scotia Provincial</td>
<td>D. M. S.</td>
</tr>
<tr>
<td>Medical Board.</td>
<td>M. D. M.</td>
</tr>
<tr>
<td>Dalhousie University</td>
<td>L. M. S.</td>
</tr>
<tr>
<td>Prince Edward Island</td>
<td>M. S.</td>
</tr>
<tr>
<td>Medical Council. *</td>
<td>L. M. S.</td>
</tr>
<tr>
<td>CEYLON.</td>
<td>L. M. S.</td>
</tr>
<tr>
<td>Ceylon Medical College*</td>
<td>M. B.</td>
</tr>
<tr>
<td>HONGKONG.</td>
<td>M. D.</td>
</tr>
<tr>
<td>University of Hong Kong</td>
<td>I. M. S.</td>
</tr>
<tr>
<td><strong>MALTIA.</strong></td>
<td>M. D.</td>
</tr>
<tr>
<td>Royal University of Malta</td>
<td>**</td>
</tr>
<tr>
<td>New fondland Medical</td>
<td>M. B.</td>
</tr>
<tr>
<td>Board **</td>
<td>Ch. B.</td>
</tr>
<tr>
<td><strong>NEW ZEALAND.</strong></td>
<td>M. B.</td>
</tr>
<tr>
<td>University of New Zea-</td>
<td>Ch. M.</td>
</tr>
<tr>
<td>land</td>
<td>M. D.</td>
</tr>
<tr>
<td><strong>UNION OF SOUTH AFRICA</strong></td>
<td>**</td>
</tr>
<tr>
<td>University of South Africa **</td>
<td>**</td>
</tr>
<tr>
<td>University of Cape Town **</td>
<td>**</td>
</tr>
<tr>
<td><strong>UNION OF SOUTH AFRICA</strong></td>
<td>**</td>
</tr>
<tr>
<td>University of Witwaters-</td>
<td>M. B.</td>
</tr>
<tr>
<td>rand, Johnneshburgd **</td>
<td>Ch. M.</td>
</tr>
<tr>
<td>STRAITS SETTLEMENTS</td>
<td>M. B.</td>
</tr>
<tr>
<td>AND FEDERATED MALAY STATES.</td>
<td>**</td>
</tr>
<tr>
<td>The King Edward VII</td>
<td>L. M. S.</td>
</tr>
<tr>
<td>College of Medicine,</td>
<td>L. M. S.</td>
</tr>
<tr>
<td>Singapore *</td>
<td>L. M. S.</td>
</tr>
</tbody>
</table>

**The qualification must be included in Table (1) of the British Medical Register as published from time to time by the General Council of Medical Education and Registration of the United Kingdom.**

**When granted on or before the 31st October, 1937.**
<table>
<thead>
<tr>
<th>Other countries</th>
<th>Title</th>
<th>Nature of qualification as stated in diplomas</th>
<th>Abbreviations</th>
</tr>
</thead>
<tbody>
<tr>
<td>AUSTRALIA</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>South Australia—University of Adelaide</td>
<td>M.B.</td>
<td>-do-</td>
<td>U. Adelaide.</td>
</tr>
<tr>
<td>Victoria</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>University of Melbourne**</td>
<td>M.B.</td>
<td>-do-</td>
<td>U. Melbourne</td>
</tr>
<tr>
<td>BURMA—University of Rangoon CANADA</td>
<td>M.B.B.S</td>
<td>Medicine and Surgery</td>
<td>U. Rangoon.</td>
</tr>
<tr>
<td>Alberta</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>College of Physicians and Surgeons of the Province of Alberta</td>
<td>Member M.D.</td>
<td>-do-</td>
<td>C.P. and S. Alta</td>
</tr>
<tr>
<td>University of Alberta</td>
<td></td>
<td>-do-</td>
<td>U. Alberta.</td>
</tr>
<tr>
<td>Manitoba</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>College of Physicians and Surgeon of the Province of Manitoba</td>
<td>Member M.D.M.</td>
<td>-do-</td>
<td>C.P. and S. Man.</td>
</tr>
<tr>
<td>University of Manitoba</td>
<td></td>
<td>-do-</td>
<td>U. Man.</td>
</tr>
<tr>
<td>North West Territories</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>College of Physicians and Surgeons of the Province of North West Territories (when held in conjunction with Licence of the College of Physicians and Surgeons of the Province of Saskatchewan or the Province of Alberta)</td>
<td>Member</td>
<td>-do-</td>
<td>C.P. and S. N. W. Terr.</td>
</tr>
</tbody>
</table>

*The qualification must be included in Table I of the British Medical Register as published from time to time by the General Council of Medical Education and Registration of the United Kingdom.**When granted on or before the 31st October, 1937.