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PART IV—Bills introduced in the West Bengal Legislative Assembly; Reports of Select Committees presented or to be presented to that Assembly; and Bills published before introduction in that Assembly.

GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT

Legislative

NOTIFICATION

No. 359-L.—16th March, 2012.—The Governor having been pleased to order, under rule 66 of the Rules

of Procedure and Conduct of Business in the West Bengal Legislative Assembly, the publication of the following Bill, together with the Statement of Objects and Reasons and the Financial Memorandum which accompany it, in the *Kolkata Gazette*, the Bill, the Statement of Objects and Reasons and the Financial Memorandum are accordingly hereby published for general information:—

Bill No. 1 of 2012

THE WEST BENGAL MEDICAL COUNCIL (TEMPORARY SUPERSESSION) (AMENDMENT) BILL, 2012.

**A
BILL**

to amend the West Bengal Medical Council (Temporary Supersession) Act, 1985.

WHEREAS it is expedient to amend the West Bengal Medical Council (Temporary Supersession) Act, 1985, for the purposes and in the manner hereinafter appearing;

West Ben. Act
XXXVII of 1985.

It is hereby enacted in the Sixty-third Year of the Republic of India, by the Legislature of West Bengal, as follows:—

Short title and commencement.

- (1) This Act may be called the West Bengal Medical Council (Temporary Supersession) (Amendment) Act, 2012.
- (2) It shall be deemed to have come into force on the 13th day of February, 2012.

*The West Bengal Medical Council (Temporary Supersession)
(Amendment) Bill, 2012.*

(Clauses 2-5.)

Amendment of
section 4 of
West Ben. Act
XXXVII of 1985.

2. In section 4 of the West Bengal Medical Council (Temporary Supersession) Act, 1985 (hereinafter referred to as the principal Act),—

- (1) in the marginal heading, for the word “supersession”, the word “reconstitution” shall be substituted;
- (2) in the first line, for the words “supersession of the Council”, the words “reconstitution of the *ad hoc* Council” shall be substituted.

Omission of
section 5.

Amendment of
section 5A.

3. Section 5 of the principal Act shall be omitted.

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

“(1) Notwithstanding anything contained in this Act,—

- (a) the State Government shall, at any time, if it considers necessary so to do, by notification published in the *Official Gazette*, reconstitute the *ad hoc* Council which shall consist of not more than ten persons as its members, who shall be persons of eminence and of unimpeachable integrity in the fields of medicine and medical education, and who may be either nominated members or members, *ex officio*, to be appointed by the State Government, one of whom shall be named by the State Government as the President of the *ad hoc* Council:

Provided that the aggregate period for which the *ad hoc* Council may be reconstituted shall not exceed three years:

Provided further that one-half of the members of the *ad hoc* Council shall constitute the quorum for its meetings:

Provided also that the *ad hoc* Council shall have the liberty of co-opting more number of members;

- (b) the aggregate period of supersession of the Council under section 3 shall be deemed to have been extended for the period for which the *ad hoc* Council is reconstituted or till the Council is reconstituted in accordance with the provisions of the Act, whichever is earlier.”.

Insertion of new
sections 7A and
7B after section 7.

5. After section 7 of the principal Act, the following sections shall be inserted:—

“Constitution of the
Penal and Ethical
Cases Committee.

7A. (1) The *ad hoc* Council may enquire into complaint against any of its registered Medical Practitioners either *suo motu* or on the basis of any complaint made to the *ad hoc* Council, as also all pending cases, in respect of infamous conduct in any professional respect of the concerned Medical Practitioner or Practitioners, as the case may be.

(2) The *ad hoc* Council may appoint the Penal and Ethical Cases Committee for causing preliminary investigation on the complaint referred to under sub-section (1).

(3) The Penal and Ethical Cases Committee appointed under sub-section (2) shall consist of the following:—

- (a) one member of the *ad hoc* Council, who shall act as Chairman of the Penal and Ethical Cases Committee;
- (b) three registered Medical Practitioners with this Council, one of whom shall be expert in the concerned field; and
- (c) the Registrar of the Council.

*The West Bengal Medical Council (Temporary Supersession)
(Amendment) Bill, 2012.*

(Clause 6.)

Constitution of
Executive Committee.

7B. (1) The *ad hoc* Council shall constitute an Executive Committee which shall consist of the following:—

- (a) the President of the *ad hoc* Council;
- (b) three members of the *ad hoc* Council selected from amongst themselves; and
- (c) the Registrar of the Council.

(2) The Executive Committee shall perform such functions as may be delegated to it by the *ad hoc* Council.”.

Repeal and
saving.

6. (1) The West Bengal Medical Council (Temporary Supersession) (Amendment) Ordinance, 2012, is hereby repealed.

West Ben. Ord. I
of 2012.

(2) Notwithstanding such repeal, anything done or any action taken under the West Bengal Medical Council (Temporary Supersession) (Amendment) Ordinance, 2012 shall be deemed to have been validly done or taken under this Act.

STATEMENT OF OBJECTS AND REASONS.

The Bengal Medical Act, 1914 (Ben. Act VI of 1914), provides for the registration of medical practitioners and for matters connected therewith in the State of West Bengal. It also provides for the constitution, function and powers of the Council (West Bengal Medical Council).

2. The original Act came into force long years back. This Act was amended after the Indian Constitution came into force. The West Bengal Legislative Assembly passed a Bill entitled “the West Bengal Medical Council Bill, 2009” in the year 2010 and the same has been referred to the Hon’ble Governor of West Bengal for his kind assent. However, the said Bill is yet to be assented.

3. Section 4 of the Bengal Medical Act, 1914, provides for the constitution of the West Bengal Medical Council. In terms of the said section, the West Bengal Medical Council consist of the members nominated by the State Government, *ex officio* members and elected members. Furthermore, section 11 of the said Act provides that the terms of office of a member of the Council nominated or elected under section 4 shall be five years. The Council was last constituted in the year 2005. Thus, it is evident that the reconstitution of the Council and holding the elections have been lying overdue. Due to unavoidable circumstances, the election for constituting the new Council is yet to be notified. Thus for all practical purposes, the Council is technically unable to discharge its powers, functions and obligations.

4. Till the elections for reconstituting the Council is held, it has been felt necessary that an Ordinance may be promulgated for superseding the Council by an *ad hoc* Council comprising persons of eminence and of unimpeachable integrity in the fields of medicine and medical education, and who may be either nominated members or members, *ex officio*, and the said *ad hoc* Council would enjoy the powers and functions of the Council to ensure smooth functioning of the State Medical Council in an appropriate manner. Since the West Bengal Medical Council (Temporary Supersession) Act, 1985, was enacted for the purposes of providing for the supersession of the West Bengal Medical Council and for carrying on of its administration during the period of supersession, it has been felt necessary to amend that Act suitably for the purposes, as aforesaid.

*The West Bengal Medical Council (Temporary Supersession)
(Amendment) Bill, 2012.*

5. As the West Bengal Legislative Assembly was not in session, and as it was necessary to take immediate action in the matter, an Ordinance, namely, the West Bengal Medical Council (Temporary Supersession) (Amendment) Ordinance, 2012, was promulgated.

6. The Bill seeks to replace the said Ordinance by an Act of the State Legislature.
7. The Bill has been framed with the above objects in view.

KOLKATA,
The 15th March, 2012.

MAMATA BANERJEE,
Member-in-charge.

FINANCIAL MEMORANDUM.

There is no financial implication involved in giving effect to the provisions of the Bill.

KOLKATA,
The 15th March, 2012.

MAMATA BANERJEE,
Member-in-charge.

By order of the Governor,

B. K. SRIVASTAVA,
*Secy.-in-charge to the Govt. of West Bengal,
Law Department.*