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**MEDICAL ACT 1977**

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**ANALYSIS**

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## MEDICAL

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No. 98 of 1977

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### AN ACT to amend the Medical Act 1959.

[30 November 1977]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Medical Act 1977*.

Short title,  
citation, and  
commencement.

(2) The *Medical Act 1959*\*, as subsequently amended, is in this Act referred to as the Principal Act.

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\* No. 80 of 1959. For this Act, as amended to 1966, see Appendix A to the Annual Volume of Statutes for 1966. Subsequently amended by No. 24 of 1967, No. 52 of 1968, No. 30 of 1972, Nos. 21 and 61 of 1973, and No. 16 of 1974.

(3) This Act shall commence on a day to be proclaimed.

**Interpretation.**

**2** Section 3 of the Principal Act is amended—

(a) by inserting before the definition of “ Council ” the following definition:—

“ ‘ committee of assessors ’ means a committee of assessors appointed under section 9A; ”;

(b) by inserting after the definition of “ Council ” the following definition:—

“ ‘ intern ’ means a person—

(a) who holds a recognized primary qualification or recognized primary qualifications in both medicine and surgery; and

(b) who, during the period between his graduation and his entitlement to full registration under this Act, is responsible, under the direction and supervision of the senior medical staff, for the medical care of patients in a hospital; ”; and

(c) by inserting after the definition of “ jurisdiction ” the following definition:—

“ ‘ medical call service ’ means a practice, arrangement, or method whereby it is arranged by or on behalf of a registered medical practitioner that a person who needs or desires medical attention during the practitioner’s absence shall be attended by another registered medical practitioner; ”.

**Medical Council.**

**3** Section 4 of the Principal Act is amended by omitting subsection (5) and substituting the following subsection:—

“(5) The functions and duties of the Council are—

(a) to ensure that medical services of a high standard of competence and conduct are provided by registered medical practitioners;

(b) the maintenance of a high standard of qualification as a requirement for the granting of registration under this Act;

(c) the assessment of the suitability of the qualifications, experience, and good character of applicants for registration under this Act;

- (d) the granting of full registration, limited registration, and provisional registration to persons who possess the qualifications specified in Part III for registration of the appropriate kind;
- (e) the maintenance of a register as provided in section 10;
- (f) the investigation of complaints and charges of breaches of this Act against registered medical practitioners and the imposition of penalties for those breaches; and
- (g) the other functions and duties vested in or imposed on the Council by this Act.”.

**4** After section 9 of the Principal Act the following section is inserted:—

“ 9A—(1) The Council may appoint a committee of assessors to determine—

Power of Council to appoint committees of assessors for certain purposes.

(a) for the purposes of section 19 (1) (c), whether or not an applicant for registration; or

(b) for the purposes of section 28A, whether or not a registered medical practitioner,

is medically fit to practise.

“(2) A committee of assessors shall be composed of registered medical practitioners, whether or not they are members of the Council.

“(3) A committee of assessors shall, after making the determination for which it was appointed, furnish the Council with a certificate of its finding.”.

**5** Section 12 of the Principal Act is amended—

Annual registrations.

(a) by omitting paragraph (b) of subsection (1) and substituting the following paragraph:—

“(b) furnish to the Council in writing particulars of his address and such particulars as are prescribed concerning—

- (i) the nature of his practice;
- (ii) the place or places at which he conducts his practice;
- (iii) his registration as a medical practitioner in any other part of the Commonwealth; and

(iv) any additional qualifications that he has gained since he was registered under this Act or last furnished particulars pursuant to this paragraph, whichever is the later.”; and

(b) by omitting from subsection (2) the words “ the fee is ” and substituting the words “ that fee and the prescribed fee for the late renewal of registration are ”.

**6** Section 14 of the Principal Act is repealed and the following sections are substituted:—

Full registration  
of persons  
holding  
recognized  
primary  
qualifications.

“ 14—(1) A person is qualified for full registration if—

(a) he satisfies the Council that he has completed an adequate graded course of medical and surgical study of at least 5 years’ duration in a school of medicine acceptable to the Council;

(b) he holds a recognized primary qualification in both medicine and surgery obtained by examination after the completion of such a course of study as is referred to in paragraph (a); and

(c) he has the necessary experience.

“(2) For the purposes of this Act, the recognized primary qualifications are those declared by the Governor, by order made on the recommendation of the Council, to be recognized primary qualifications for those purposes.

“(3) The necessary experience required for the purposes of subsection (1) is—

(a) experience in both medicine and surgery to the satisfaction of the Council gained as a post-graduate intern during a period of, or periods amounting in the aggregate to, at least 12 months in one or more approved hospitals as a resident medical officer;

(b) experience of a nature approved by the Council gained during lawful practice elsewhere than in this State during a continuous period of at least 3 years; or

(c) experience in practice gained in satisfactory service in any appointment or appointments (whether in this State or elsewhere) such as, in the opinion of the Council, confer experience in practice not less extensive than that referred to in paragraph (a).

“(4) No service of a person as a resident medical officer in an approved hospital shall be taken account of for the purposes of subsection (3) (a) unless that person has obtained from the governing body of that hospital a certificate certifying that that service was performed and completed to the satisfaction of that governing body.

“(5) In this section, ‘an approved hospital’ means a hospital approved by the Council for the purposes of this section.

“14A A person who does not hold a recognized primary qualification in both medicine and surgery is qualified for full registration if—

Full registration of persons holding qualifications other than recognized primary qualifications.

(a) he satisfies the Council that he has completed an adequate graded course of study in medicine and surgery of at least 5 years’ duration acceptable to the Council;

(b) he holds a primary qualification in both medicine and surgery—

(i) obtained by examination after the completion of such a course of study as is referred to in paragraph (a) and conferred by a university or other body; and

(ii) recognized in the country in which that body is situated as qualifying the holder to practise medicine and surgery in that country;

(c) he has passed a preliminary examination in medicine and surgery held in the Commonwealth or elsewhere and conducted in the English language, as is approved by the Council;

(d) he has passed a qualifying examination held in the Commonwealth and conducted in the English language—

(i) as is approved by the body known as the Conference of Presidents of Medical Boards of Australia; and

(ii) of a standard and scope not less than the standard and scope of the examination conducted by the Foreign Practitioners Qualification Committee established under the *Medical Practitioners Act* 1970 of the State of Victoria or an examination deemed by the Council to be equivalent to the first-mentioned examination if that committee ceases to exist or ceases to conduct that examination;

- (e) he has the necessary experience within the meaning of section 14 (3); and
- (f) he has obtained in the Commonwealth, if required by the Council, additional experience to the satisfaction of the Council in such branch or branches of medicine, and during such period, or such periods amounting to an aggregate, not exceeding 12 months, as the Council may determine.”.

Limited  
registration  
of persons  
holding  
recognized  
qualifications.

**7** Section 15 of the Principal Act is amended by inserting in subsection (2) (b), after the word “employed”, the words “as an intern”.

Training, &c.,  
for qualification  
as T.L.M.S.

**8** Section 16 of the Principal Act is amended by omitting from subsection (1) the words “or limited registration under section fourteen or” and substituting the words “under section 14 or section 14A or limited registration under”.

Registration  
of persons  
qualifying, or  
training for  
qualification,  
as T.L.M.S.

**9** Section 17 of the Principal Act is amended by inserting after subsection (3) the following subsection:—

“(3A) A person who is granted full registration pursuant to subsection (3) is required to pay the prescribed fee for the grant of that registration in addition to any annual registration fee that may be payable by him.”.

Limited  
registration  
for special  
purposes.

**10** Section 18 of the Principal Act is amended by inserting in subsection (1), after the word “person”, the words “holding such qualifications as it deems appropriate”.

Grant of  
registration.

**11** Section 19 of the Principal Act is amended—

- (a) by transposing the word “and” at the end of paragraph (a) of subsection (1) to the end of paragraph (b) of that subsection;
- (b) by adding at the end of that paragraph the following paragraph:—
  - “(c) that he is medically fit to practise.”; and
- (c) by inserting after that subsection the following subsection:—
  - “(1A) Where a committee of assessors is appointed to make a determination for the purposes of subsection (1) (c), the Council is bound by the certificate of the committee’s finding furnished to the Council under section 9A (3).”.

**12** Section 21 of the Principal Act is amended—

Temporary  
registration  
by committee  
of the Council.

(a) by omitting from subsection (2) the word “Where” and substituting the words “Subject to subsection (2A), where”; and

(b) by inserting after that subsection the following subsection:—

“(2A) An applicant for registration under this section shall attend personally before the committee considering his application for the purpose of proving facts and giving evidence in respect of matters relevant to the consideration of his application.”.

**13** Section 23 of the Principal Act is amended—

Registration of  
qualifications.

(a) by omitting paragraph (b) of subsection (1); and

(b) by omitting paragraph (a) of subsection (2).

**14** Section 24 of the Principal Act is amended by omitting from subsection (1) the words “censure or reprimand” and substituting the words “so inform”.

Inquiries into  
professional  
conduct.

**15** After section 28 of the Principal Act the following section is inserted:—

“28A—(1) Where the Council is satisfied that a registered medical practitioner is medically unfit to practise, it may, subject to this section, suspend his registration for such period as it thinks proper or remove his name from the register.

Medical  
unfitness to  
practise.

“(2) Where a committee of assessors appointed to make a determination for the purposes of this section furnishes the Council with a certificate under section 9A (3) that states that the registered medical practitioner named in it is medically unfit to practise, the Council shall proceed to determine in accordance with section 29E whether it should exercise the powers conferred on it by this section in respect of the practitioner.”.

**16** Section 29G of the Principal Act is amended by omitting subsection (3).

Appeals to  
Supreme Court.

**17** Section 29H of the Principal Act is amended—

Restoration to  
the register.

(a) by omitting from subsection (3) the words “section twenty-eight” and substituting the words “section 28 or section 28A”; and

(b) by adding at the end the following subsections:—

“(5) Where the Council restores to the register the name of a person whose name has been removed from the register pursuant to section 28 or section 28A, or where the period of his suspension pursuant to section 28 or section 28A has expired, the Council may impose any conditions that, having regard to the mental condition or state of health of that person, it thinks necessary to impose limiting or otherwise qualifying or affecting the manner in, or places at which, that person may practise.

“(6) The Council may from time to time, either of its own motion or on the application of the person concerned, vary or revoke a condition imposed by it under subsection (5).

“(7) Where the Council is satisfied that a person has failed to comply with a condition imposed under subsection (5) in relation to his practice, the Council may remove his name from the register or suspend his registration for such period as it thinks proper.”.

Fees.

**18** Section 36 of the Principal Act is amended by omitting from subsection (2) (b) the words “ section twenty-four ” and “ section twenty-six ” and substituting respectively the words “ section 29D ” and “ section 29G ”.

Medical practitioners to notify Council in certain cases.

**19** Section 37 of the Principal Act is amended by inserting in subsection (1), after the words “ that Act,” the words “ or a medical recommendation within the meaning of the *Alcohol and Drug Dependency Act 1968*,”.

Regulations.

**20** Section 40 of the Principal Act is amended—

(a) by inserting after the word “ may ”, the words “, on the recommendation of the Council,”; and

(b) by adding at the end the following subsections:—

“(2) Without prejudice to the generality of subsection (1), the regulations may make provision for or with respect to—

(a) the duties and responsibilities of registered medical practitioners participating in or making use of a medical call service;

(b) the control and regulation of medical call services, including prescribing the standards to be observed and the areas in which those services may be operated or used; and

(c) such other matters and things that are necessary or desirable to be prescribed to ensure that medical call services operate effectively and efficiently.

“(3) Regulations made for the purposes of this section may impose penalties, not exceeding \$500, in respect of contraventions of the regulations.”.

**21** The first Schedule to the Principal Act is repealed.

Repeal of  
first Schedule.

**22** The third Schedule to the Principal Act is repealed and the following Schedule is substituted:—

New third  
Schedule.

### “ THE THIRD SCHEDULE

(Section 36)

“MATTERS IN RESPECT OF WHICH FEES MAY BE PRESCRIBED

1. Granting of registrations.
2. Granting of full registration pursuant to section 17 (3) to persons holding limited registration.
3. Annual registration fees under section 12.
4. Restoration of registrations under section 12 (4).
5. Renewals of limited registrations under section 17.
6. Extensions of periods for which limited registrations under section 18 are to remain in force.
7. Fee for late payment of annual registration fee.
8. Registration of additional qualifications.”.

**23** Any qualifications that, immediately before the commencement of this Act, are special qualifications for the purposes of section 23 of the Principal Act shall, on that commencement, be deemed to have been declared to be registrable additional qualifications under that section.

Transitional  
provision.

